

A meeting of the Federal Reserve Board was held in Washington on Thursday, December 6, 1934, at 3:30 p. m.

PRESENT: Mr. Eccles, Governor
Mr. Thomas, Vice Governor
Mr. Hamlin
Mr. Miller
Mr. James
Mr. Szymczak

Mr. Morrill, Secretary
Mr. Bethea, Assistant Secretary
Mr. Carpenter, Assistant Secretary

The Board acted upon the following matters:

Telegrams dated December 6, 1934, from Mr. McAdams, Secretary of the Federal Reserve Bank of Kansas City, and Mr. Sargent, Secretary of the Federal Reserve Bank of San Francisco, both advising that, at meetings of the boards of directors today, no changes were made in the banks' existing schedules of rates of discount and purchase.

Without objection, noted with approval.

Memorandum dated December 4, 1934, from Mr. Morrill, Secretary, recommending that, in order to provide offices for the Division of Securities Loans, the Board authorize the rental of five adjoining rooms, comprising a total of 1,323 square feet, on the seventh floor of the Shoreham Building, at a cost of \$2.50 a square foot per annum, and on the basis of the Board's present leases with the Shoreham Investment Company. The memorandum stated that all alterations, including the removal of three partitions and the insertion of two doors, are to be made by the management of the Shoreham Building

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without cost to the Board.

Approved.

Telegram to Mr. Walsh, Federal Reserve Agent at the Federal Reserve Bank of Dallas, referring to the application of the "First State Bank of Canyon, Texas", Canyon, Texas, for permission to withdraw immediately from membership in the Federal Reserve System, and stating that the Board waives the usual requirement of six months' notice of intention to withdraw and that, accordingly, upon surrender of the Federal reserve bank stock issued to the First State Bank of Canyon, the Federal Reserve Bank of Dallas is authorized to cancel such stock and make a refund thereon.

Approved.

Letter to Mr. Newton, Federal Reserve Agent at the Federal Reserve Bank of Atlanta, reading as follows:

"Receipt is acknowledged of your letter of November 28, 1934, regarding the American Bank & Trust Co., New Orleans, Louisiana, which was last examined by your examiners and examiners for the State Banking Department as of December 9, 1933.

"In view of the fact that the bank was examined as of August 15, 1934, by national bank examiners in connection with an application for conversion into a national bank, and that the application for conversion has been filed with the Comptroller of the Currency, it is believed that in this instance an exception can be made to the general policy of requiring at least one regular examination of each State member bank during each calendar year. In the circumstances, therefore, it seems appropriate that you delay arrangements for participation by your examiners in the examination of the American Bank & Trust Co., until after January 1, 1935. It is assumed, however, that if the conversion is not effected within a reasonable time, the bank will be examined by your examiners, either independently or in cooperation with the State authorities."

Approved.

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Letter dated December 5, 1934, approved by five members of the Board, to Mr. Stevens, Federal Reserve Agent at the Federal Reserve Bank of Chicago, reading as follows:

"Receipt is acknowledged of Mr. Young's letter of November 26, 1934, in regard to the absorption of the Farmers Savings Bank, Blairsburg, Iowa, a nonmember bank, by the 'Williams Savings Bank', Williams, Iowa, a member bank.

"In view of the comparatively small amount of deposit liabilities assumed, and the fact that the bulk of the assets acquired consisted of cash, it seems apparent that there has been no material change in the character of the business of, or in the scope of the corporate powers exercised by, the member bank, and the Board, in accordance with your recommendation, will interpose no objection to the transaction.

"It is understood that you will forward to the Board, when available, copies of any contract or agreement which may have been entered into by the respective banks, together with an opinion by your counsel as to the legality of the transaction. It is assumed, of course, that the absorption has had the approval of the State Banking Department."

Approved.

Letter dated December 5, 1934, approved by five members of the Board, to Mr. O'Connor, Comptroller of the Currency, reading as follows:

"In accordance with your recommendation, the Federal Reserve Board approves a reduction in the common capital stock of 'The Morganfield National Bank', Morganfield, Kentucky, from \$100,000 to \$75,000 pursuant to a plan which provides that \$20,000 of the released capital shall be used to eliminate losses and other substandard assets, and that \$5,000 shall be distributed to the shareholders of the bank, all as set forth in your memorandum of November 24, 1934."

Approved.

Letter dated December 5, 1934, approved by five members of the Board, to Mr. Walsh, Federal Reserve Agent at the Federal Reserve Bank of Dallas, reading as follows:

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"This refers to your letter dated November 7, 1934, regarding the issuance of a voting permit to Armour and Company to vote the stock which it owns or controls of the Stockyards National Bank, Fort Worth, Texas, for the purpose of placing such bank in voluntary liquidation.

"It is understood that the Fort Worth National Bank, Fort Worth, Texas, has taken over the affairs of the Stockyards National Bank, and that representatives of the two banks have inquired of you concerning the procedure to be followed in obtaining a surrender and cancelation of the stock in the Federal Reserve Bank of Dallas owned by the Stockyards National Bank. You state that it is your view that the Stockyards National Bank should be placed in voluntary liquidation and that thereafter the proceedings outlined in F.R.B. Form 86 should be taken, and you request to be advised whether the Federal Reserve Board concurs in your view. Assuming that there has not been a consolidation of the two national banks, and that the Stockyards National Bank continues to exist as a separate corporate entity after its affairs have been taken over by the Fort Worth National Bank, it is the opinion of the Board that the procedure outlined in your letter is appropriate under the circumstances.

"The Federal Reserve Board agrees with the opinion of your counsel that the stock of the Stockyards National Bank owned or controlled by Armour and Company could not be voted in favor of voluntary liquidation of the bank unless such company obtained a voting permit authorizing it to vote the shares for such purpose. However, since Armour and Company will not be a holding company affiliate of any member bank after the liquidation of the Stockyards National Bank, the Federal Reserve Board will not require it to file all of the information and exhibits usually required of holding company affiliates in connection with an application for a voting permit. Consideration will be given to the issuance of a voting permit to the company authorizing it to vote the shares of stock which it owns or controls of the Stockyards National Bank for the purpose of placing such bank in voluntary liquidation, upon the filing by the company of a properly executed application consisting of F.R.B. Form P-1 together with Exhibit A and Exhibit C, F.R.B. Form P-2.

"The above mentioned application and exhibits include the agreements which section 5144 of the Revised Statutes of the United States, as amended, requires the holding company affiliate to execute as a part of its application for a voting permit. The Federal Reserve Board has no authority to waive the execution of such agreements, but you may inform Armour and Company that such agreements will cease to be binding upon it as soon as it ceases to be a holding company affiliate of a member bank. You may also advise Armour and Company that the

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"Board will not require it to furnish Exhibit L, F.R.B. Form P-3, in connection with consideration of the issuance of a limited voting permit to the company for the purpose of placing the Stockyards National Bank in voluntary liquidation. The company should be advised, however, that the Board reserves the right to require additional information, if this appears to be necessary in connection with consideration of the application. The company should also be informed that the Board will defer consideration of such a limited voting permit until an application is received, and consequently is unable to state at this time whether such a permit will be issued.

"It will be appreciated if you will advise Armour and Company and the Stockyards National Bank of the Board's views regarding the matter."

Approved.

Memorandum dated November 28, 1934, from Mr. Smead, Chief of the Division of Bank Operations, submitting a copy of Form 107, semi-annual report of earnings and dividends of State member banks, and recommending that the changes indicated on the form be incorporated in the form to be used in rendering reports for the six months ending December 31, 1934. The memorandum stated that it is understood that corresponding changes are being made by the office of the Comptroller of the Currency in the form of earnings and dividends report to be used by national banks.

Approved.

Letter to the Federal reserve agents at all Federal reserve banks, reading as follows:

"The Federal Reserve Board has given consideration to the replies received to its telegram of July 14, 1934, Trans 2036, with regard to expenses of the members of the industrial advisory committees.

"As you know, section 13b (d) of the Federal Reserve Act, as amended, reads in part as follows:

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"Each member of such committee shall be actively engaged in some industrial pursuit within the Federal Reserve district in which the committee is established, and each such member shall serve without compensation but shall be entitled to receive from the Federal Reserve bank of such district his necessary expenses while engaged in the business of the committee, or a per diem allowance in lieu thereof to be fixed by the Federal Reserve Board."

"While the Board is sympathetic to the suggestion that the members of the industrial advisory committees should receive a compensation for their services, it is clear from the provision of section 13b referred to above that the law contemplates that the services rendered by the members of the committees shall be without compensation and that any per diem fixed by the Federal Reserve Board should be in lieu of necessary expenses, and, therefore, should bear some relationship to such expenses. Accordingly, the Federal Reserve Board has approved the reimbursement of members of the industrial advisory committees as follows: (1) A member engaged on business for the committee in the city in which his place of business is located may be reimbursed for the actual expenses incurred by him, (2) A member engaged on business for the committee outside the city in which his place of business is located may be paid a per diem of \$10.00 a day plus actual transportation expenses, or, if he so elects, may be reimbursed for the actual expenses incurred by him."

Approved.

Letter to Mr. Curtiss, Federal Reserve Agent at the Federal Reserve Bank of Boston, reading as follows:

"Receipt is acknowledged of your letter of November 26, 1934, inclosing a copy of a letter dated November 23 from Mr. Albert M. Creighton, Chairman of the Industrial Advisory Committee of the First Federal Reserve District, with regard to the appointment of alternate members of the Industrial Advisory Committee, and requesting the Board's views as to the legal effectiveness of such appointments."

"In connection with the suggested appointment of alternate members of the Industrial Advisory Committee in another Federal reserve district the Board has taken the position that, in view of the fact that section 13b (d) of the Federal Reserve Act, as amended, does not authorize the appointment of alternate members, and also in view of the requirement that the committee be composed of not less than three nor more than five members, it is not believed that alternates for members of the

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"committee legally may be appointed.

"The Board is in agreement with the suggestion that it would be unfortunate to have the work of the Committee unfavorably affected by frequent changes in the personnel of the Committee resulting from resignations because of contemplated absence. It is hoped that no such changes will become necessary and that it will be possible for the members of the Industrial Advisory Committee to work out a procedure which will enable them to arrange their affairs and the work of the Committee so that there will be a minimum of interruption or delay in the handling of the applications submitted to the Committee for consideration."

Approved.

Letter to Mr. Irland McK. Beckman, Deputy Secretary of Banking, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, reading as follows:

"This refers to your letter of October 27, 1934, on behalf of the Secretary of Banking of the Commonwealth of Pennsylvania regarding the right of the Federal Reserve Board to grant permission to a national bank located in the State of Pennsylvania to exercise fiduciary powers where the common capital stock of such bank is less than the common capital and the surplus of State institutions with fiduciary powers, but where the aggregate amount of the capital stock and surplus required for the organization of such State institutions, plus where the aggregate amount of the capital stock and surplus of such national bank, including both its common and preferred stock, is at least equal to the aggregate amount of capital stock and surplus required for the organization of State institutions with fiduciary powers.

"Section 11(k) of the Federal Reserve Act, which authorizes the Federal Reserve Board to grant permission to national banks to exercise fiduciary powers, contains among other provisions the following:

"In passing upon applications for permission to exercise the powers enumerated in this subsection, the Federal Reserve Board may take into consideration the amount of capital and surplus of the applying bank, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the community to be served, and any other facts and circumstances that seem to it proper, and may grant or refuse the application accordingly: Provided, That no permit shall be

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"issued to any national banking association having a capital and surplus less than the capital and surplus required by State law of State banks, trust companies, and corporations exercising such powers.

"You will observe that, under this provision, a national bank having 'a capital and surplus' not less than the capital and surplus required of State institutions exercising fiduciary powers is eligible to receive permission from the Federal Reserve Board to exercise fiduciary powers provided, of course, that it complies with the other requirements of law. The Board feels that under the provisions of section 11(k) quoted above, it may properly grant fiduciary powers to a national bank which has at least the amount of capital stock required for the organization of State institutions with fiduciary powers, together with an aggregate amount of capital stock and surplus equal to the aggregate amount of capital stock and surplus required of such State institutions provided that, in any case, the national bank shall have an adequate amount of surplus, in view of all the circumstances involved in the particular case, and that the condition of the bank in other respects shall warrant the granting of the fiduciary powers applied for.

"It has been noted that under the laws of the State of Pennsylvania a prescribed amount of 'common' capital stock is required for the organization of State institutions with fiduciary powers. In this connection, attention is called to the fact that section 303 of the Act of Congress of March 9, 1933 (48 Statutes at Large, 1) provides in part that 'the term "common stock" as used in this title means stock of national banking associations other than preferred stock issued under the provisions of this title. The term "capital" as used in provisions of law relating to the capital of national banking associations shall mean the amount of unimpaired common stock plus the amount of preferred stock outstanding and unimpaired'. In view of this provision of law applicable to national banks, the Board feels that, in determining whether a national bank is eligible to receive permission to exercise fiduciary powers under the provisions of section 11(k) of the Federal Reserve Act, both the common capital stock and the preferred capital stock of the national bank may be included in computing whether or not the bank has the required amount of 'capital'. In this connection, it is the opinion of the Board that the provision of section 11(k) of the Federal Reserve Act heretofore quoted has reference to the amount of capital required and does not have reference to any particular class of capital stock.

"Before the Board acted upon the applications of the banks referred to in your letter--Northwestern National Bank

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"in Philadelphia, South Philadelphia National Bank of Philadelphia, and the Bethlehem National Bank--it obtained full information with regard to the requirements of the laws of the State of Pennsylvania for the organization of State institutions with fiduciary powers and, in view of the considerations discussed herein, reached the conclusion that it might properly grant those banks permission to exercise fiduciary powers, and no further action is required by the Board in order that such banks may exercise the fiduciary powers granted to them. The Board also knows of no reason why it should not hereafter grant trust powers to other national banks located in the State of Pennsylvania under similar circumstances provided, of course, that in any particular case all of the other circumstances involved warrant the granting of the fiduciary powers applied for.

"The Board desires to cooperate to the fullest extent possible with the State authorities in connection with the granting to national banks permission to exercise fiduciary powers, and has given the circumstances involved in the applications for fiduciary powers of national banks located in the State of Pennsylvania most careful consideration. It is believed that the views here set forth with respect to the capital and surplus required of national banks applying for permission to exercise trust powers are in accordance with the requirements of section 11(k) of the Federal Reserve Act, and also are in accord with the substance of the requirements of the laws of the State of Pennsylvania applicable to the organization of State institutions with trust powers.

"In connection with your inquiry it may be noted that prior to the time when the Board had occasion to consider the applications of the national banks located in the State of Pennsylvania referred to above, it considered, in the case of a national bank located in another State, circumstances similar to those involved in the cases of the national banks located in Pennsylvania and decided that it might properly grant trust powers to a national bank in such circumstances.

"You have stated that your office has taken no action in connection with the exercise of fiduciary powers by the Northwestern National Bank in Philadelphia, the South Philadelphia National Bank of Philadelphia, and the Bethlehem National Bank, and it is not entirely clear to the Board what action your office feels would be necessary with reference to these cases. However, you may be interested in the following views expressed by the Federal Reserve Board in a letter of February 14, 1930, addressed to a national bank located in a State other than the State of Pennsylvania which had received permission to exercise fiduciary powers under the provisions

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"of section 11(k) of the Federal Reserve Act, with reference to whether it was required to obtain the permission of State authorities before exercising such powers:

"Your letter of February 4th addressed to the Comptroller of the Currency with reference to the right of the Bank of _____, to act as administrator has

been referred to the Federal Reserve Board for reply. In 1927, the Federal Reserve Board granted permission to the

Bank to act as administrator and in certain other fiduciary capacities. It appears that this national bank has now entered a suit as administrator for a deceased coal miner and that the right of the Bank to appear as administrator in this suit has been attacked on the ground that this national bank has never been granted a permit by the State of _____ to act as administrator. You inquire whether it is necessary for the Bank to obtain permission from the State of _____ to act in this capacity.

"The right of a national bank to exercise trust powers is derived from the laws of the United States and not from the laws of any particular State. In Section 11(k) of the Federal Reserve Act, Congress has set out at length the circumstances and conditions under which a national bank may exercise trust powers. Congress, however, has not prescribed as one of such conditions that a national bank must obtain the permission of the State in which it is located before it exercises fiduciary powers. Under these circumstances I am clearly of the opinion that it is not necessary for a national bank which desires to exercise trust powers in accordance with the provisions of Section 11(k) of the Federal Reserve Act to obtain the permission of the State in which it is located before it exercises these powers. The basic reasons which lead up to this conclusion together with citations of authorities may be briefly summarized for your information as follows:

"It is well settled by the decisions of the Supreme Court of the United States that an act of Congress within a field covered by its constitutional power fully appropriates that field and is the supreme law of the land (McCulloch v. Maryland, 4 Wheat. 316; Northern Pacific Railway Company v. North Dakota, 250 U.S. 135; Smith v. Alabama, 124 U.S. 465; and Mondu v. N.Y. N.H. and H.R.C. 223 U.S. 1.) It is also well settled that Congress has complete constitutional power to establish and regulate national banks (McCulloch v. Maryland, supra; Osborne v. Bank, 9 Wheat. 738; Davis v. Elmira Savings Bank, 161 U.S. 275; Farmers Bank v. Dearing, 91 U.S. 29; Easton v. Iowa, 188 U.S. 220; and Van Reed v. Peoples National Bank, 198

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"U.S. 554). The Supreme Court of the United States, after carefully considering its decisions above cited has further held that the Act of Congress granting trust powers to national banks (section 11(k) of the Federal Reserve Act) is constitutional and cannot be nullified or controlled by State authority (First National Bank v. Fellows, 244 U.S. 416 and Burns National Bank v. Duncan, 265 U.S. 17.)

"If it is assumed that it is necessary for a national bank to obtain the permission of the State in which it is located before it exercises trust powers pursuant to the provisions of Section 11(k) of the Federal Reserve Act, the State could control or nullify the right of national banks to exercise such powers by refusing to grant its permission or by granting its permission upon such conditions as it saw fit. The Supreme Court of the United States, however, in the two cases last above cited has held that a State has no authority to do this.

"I wish to call your special attention to the case of Burns National Bank v. Duncan, which is cited above. The Burns National Bank of St. Joseph, Missouri, which had received permission from the Board to exercise trust powers, was appointed executor by a citizen of Missouri and after the death of the testator, the bank applied to the proper probate court for letters testamentary, but was denied appointment on the ground that by the laws of Missouri national banks were not authorized to act as executors. This ruling of the lower court was sustained by the Supreme Court of Missouri, but upon appeal to the Supreme Court of the United States, the State courts were reversed. The Supreme Court of the United States held that the Burns National Bank was entitled to act as executor, regardless of whether it was so authorized to act by the State of Missouri. In so holding the Supreme Court said:

" * * * whatever may be the State law, national banks having the permit of the Federal Reserve Board may act as executors if trust companies competing with them have that power."

and
" * * * the State can not lay hold of its general control of administration to deprive national banks of their power to compete that Congress is authorized to sustain."

"In view of this decision of the Supreme Court, it is clear that a national bank desiring to exercise trust powers in accordance with the provisions of Section 11(k) of the Federal Reserve Act need not obtain the permission of the State in which it is located before exercising such powers.

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"The right of national banks to exercise trust powers has also been considered by the Supreme Court of the United States and courts of the various States in a number of other cases. In the decisions of these cases, the right of a national bank to exercise trust powers has been discussed by the courts at considerable length and I believe that the following cases would be of particular interest and assistance to you:

First Nat. Bank v. Fellows, 244 U.S. 416;

In Re Stanchfield's Estate (Wis.) 178 N.W. 310;

In Re Mollineaux (N.Y.) 179 N.Y.S. 9;

Hamilton et al. v. State (Conn.) 110 Atl. 54;

Carpenter v. Aquidneck Nat. Bank (R.I.) 125 Atl. 358;

In Re Turner's Estate (Pa.) 120 Atl. 701.'

"The Board does not know of any reason why it should make any change in its views as heretofore expressed and quoted above."

Approved.

Letter to Mr. Stevens, Federal Reserve Agent at the Federal Reserve Bank of Chicago, reading as follows:

"This will acknowledge receipt of your letter of October 25 in which you call to the Board's attention, for their advice and ruling, the question raised in a letter from Mr. H. A. Schlick, a dealer in securities, of Milwaukee, Wisconsin. It appears from his letter that Mr. Schlick is not a member of a national securities exchange.

"If Mr. Schlick is a broker or dealer who transacts a business in securities through the medium of any member of a national securities exchange, section 7 (c) of the Securities Exchange Act of 1934 makes his business subject to the provisions of Regulation T of the Federal Reserve Board. If he is not such a broker or dealer (and is not a member of a national securities exchange), this regulation does not affect him. Whether or not Mr. Schlick is such a broker or dealer must be determined on the basis of a fuller knowledge of the facts in the case.

"If Mr. Schlick is subject to Regulation T, there is nothing in the regulation which requires that his plan for the sale of exempted securities on a partial payment plan be discontinued. With respect to registered, non-exempted securities, there is nothing which requires that such plan be discontinued provided that in every case the initial payment is large enough, or enough additional collateral is deposited, so that Mr. Schlick will not be extending credit in excess of

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"the amount permitted under the regulation. It may be noted that on most high-grade registered bonds a customer would be required at the present time to make an initial payment of 25 per cent. In the case of a municipal bond or other exempted security, the regulation does not set any minimum which the broker or dealer must require as an initial payment.

"For the information of the Board, and for purposes of study, we should be glad to have you obtain from Mr. Schlick, or from any others carrying on the same type of business, any further details that would throw light upon the distinctions between this type of business and the business of dealing on margin as this term is commonly understood."

Approved.

There were then presented the following applications for changes in stock of a Federal reserve bank:

	<u>Shares</u>	
<u>Application for ORIGINAL Stock:</u>		
<u>District No. 8.</u>		
The First National Bank in Staunton, Staunton, Illinois	45	45
<u>Application for SURRENDER of Stock:</u>		
<u>District No. 8.</u>		
Bank of Waldron, Waldron, Arkansas	12	12

Approved.

Thereupon the meeting adjourned.

Approved:

Robert Morice
Secretary.

W. C. ...
Governor.