

A meeting of the Board of Governors of the Federal Reserve System was held in Washington on Thursday, August 31, 1939, at 10:30 a. m.

PRESENT: Mr. Eccles, Chairman  
Mr. Ransom, Vice Chairman  
Mr. Szymczak  
Mr. Davis  
Mr. Draper

Mr. Morrill, Secretary  
Mr. Carpenter, Assistant Secretary  
Mr. Thurston, Special Assistant to the Chairman  
Mr. Thomas, Assistant Director of the Division of Research and Statistics  
Mr. Piser, Senior Economist in the Division of Research and Statistics

Mr. Morrill stated that Mrs. Victrin Pattillo, stenographer in Mr. Szymczak's office, who resigned effective at the close of business on July 31, 1939, and Mr. George P. Hitchings, Economic Assistant in the Division of Research and Statistics, who resigned effective August 31, 1939, both to accept positions with the Federal Reserve Bank of New York, had taken annual leave in an amount equal to approximately eight and nine days, respectively, more than they had earned up to the date of their resignation and that it was recommended, because of Mrs. Pattillo's long service and because of the fact that they were transferring to the Federal Reserve Bank of New York, that these employees be not required to refund amounts equal to their respective salaries for the period of the unearned leave.

Mr. Hitchings' resignation was accepted and Mr. Morrill's recommendations were approved unanimously.

8/31/39

-2-

Mr. Morrill then referred to a letter received by the Board under date of August 22, 1939, from Mr. F. W. Hoover, General Manager of the Welfare and Recreational Association of Public Buildings and Grounds, which association operates under contract with the Board the cafeteria and dining rooms in the Board's building, stating that the manager of the cafeteria (Miss Goddard) had asked permission to cash personal checks for members of the Board, which authority was immediately granted to her; that the general ruling of the association was that no personal checks would be cashed without responsibility on the part of the employee cashing them, except in cases where the cafeteria managers are informed that they may cash checks for certain officials without assuming this personal responsibility, and that it was felt that some official of the Board should indicate the individuals for whom the Board will accept this responsibility. Mr. Morrill stated that arrangements have been made under which checks of members of the Board and the staff can be cashed by the F.R.B. Federal Credit Union between 10:00 a.m. and 3:00 p.m. on pay days and between 4:00 and 5:00 p.m. on other regular week days, and that there did not seem to be any necessity for an arrangement to be made under which Miss Goddard would cash such checks.

Mr. Morrill was authorized to advise Mr. Hoover that the Board did not wish to request an arrangement by which the manager of the cafeteria would cash checks and that it might be stated by Miss Goddard to anyone presenting checks to be cashed that such service was being provided by the F.R.B. Federal Credit Union.

8/31/39

-3-

At this point Messrs. Thurston, Thomas and Piser left the meeting and the action stated with respect to each of the matters herein-after referred to was then taken by the Board:

The minutes of the meeting of the Board of Governors of the Federal Reserve System held on August 30, 1939, were approved unanimously.

Memorandum dated August 28, 1939, from Mr. Van Fossen, Assistant Chief of the Division of Bank Operations, recommending that, for the reason stated in the memorandum, Mrs. Flora S. Devereux, a clerk in the Division, be granted not to exceed sixty-one days additional advance sick leave with pay beginning September 1, 1939.

Approved unanimously.

Letter to Honorable Frank A. Cardillo, Deputy Commissioner of the United States Employees' Compensation Commission, reading as follows:

"Reference is made to your letters of July 22 and August 25, 1939, regarding the case of Royal Murphy, in which you ask whether the Board of Governors has decided to secure a policy of workmen's compensation insurance under the District of Columbia Workmen's Compensation Act.

"In the circumstances, it seems desirable to state more fully the legal considerations which the Board has regarded as having a bearing upon the matter and the steps which the Board has taken in view of its understanding of the matter.

"During the period between 1914, when the Board was created, and 1938, it was assumed by the Board that its employees were entitled to the benefits of the Federal Employees' Compensation Act, and several letters from

8/31/39

-4-

"your Commission during this period indicate that it shared the same view. Under date of May 6, 1938, however, your Commission addressed a letter to the Board stating that the Commission had reached the conclusion that the Board 'can hardly be regarded as exclusively a branch of the Federal Government.' The letter also emphasized the fact that the employees of the Board are not paid from Federal funds.

"On May 12, 1938, the Board replied that while it was not disposed to raise any question at that time with regard to the conclusion of your Commission that the employees of the Board were not entitled to the benefits of the Federal Employees' Compensation Act, the Board was not in accord with the view that the Board was not 'exclusively a branch of the Federal Government' because the Attorney General of the United States had held that the Board 'is a board or establishment of the Government'. The reply of your Commission to this letter did not question the Governmental character of the Board but said that the employees of the Board did not meet another test applied by your Commission in determining whether an employee is entitled to the benefits of the Act, namely, the receipt of salary from Federal funds, in view of the amendment to section 10 of the Federal Reserve Act of 1933 providing that the funds of the Board shall not be construed to be Government funds or appropriated moneys. For the reasons hereinafter stated, the Board then felt that no useful purpose would be served by prolonging the correspondence. However, your letter of July 22, 1939, raises a question which was not previously discussed, namely, whether the District of Columbia Workmen's Compensation Act is applicable to a Government establishment such as the Board.

"The opinion of the Attorney General of the United States, referred to above, was written in response to a request by the Secretary of the Treasury for an opinion (a) as to whether the accounts of the Board's funds were subject to audit by one of the auditors of the Treasury Department, and (b) 'as to the status of the Federal Reserve Board, particularly with reference to the Treasury Department.'

"The Attorney General decided that the Board's funds were 'public moneys' within the meaning of the auditing statutes 'for the following reasons, among others:

'(1) The assessments are levied by a board whose members in respect of appointment, tenure, duties, and

8/31/39

-5-

"compensation meet all the requirements of the definition of "public officers" and "officers of the United States".

'(2) The assessments are levied by such officers pursuant to the provision of a Federal statute and are devoted to the payment of official salaries and the expenses of this official board. \* \* \*,

"In connection with the second question, the Attorney General made the following statement:

'Consideration of the history of the Federal reserve bank act, of the general scheme of the whole act, of the functions to be performed by the Federal Reserve Board, and of the method of their performance, leads me to the clear opinion that the board is an independent board or Government establishment.'

"It is therefore clear that the Attorney General was of the opinion that the members of the Board were 'public officers' and 'officers of the United States', that the funds of the Board 'are devoted to the payment of official salaries and the expenses of this official board' and that the Board is 'an independent board or Government establishment'.

"The duties and functions of the Board are exclusively Governmental in character. It is no more a private enterprise than the Interstate Commerce Commission or the Office of the Comptroller of the Currency, both of which, like the Board, perform supervisory and regulatory functions in their respective fields, but which like the Board do not lend money or engage in any activities which are in any sense private. The fact that section 10 of the Federal Reserve Act was subsequently amended to provide that the Board's funds 'shall not be construed to be Government funds or appropriated moneys' does not alter the conclusion of the Attorney General. As indicated above, the opinion makes it clear that his conclusion that the Board is a Government establishment was not based upon the fact that the Board's funds were public moneys, but, on the contrary, he concluded that those funds were public moneys because the Board was a Government establishment. Consequently, the amendment of section 10 does not affect his opinion that the Board is a Government establishment and that its members are officers of the United States.

"Furthermore, the amendment itself negatives any implication that it was the intention of Congress to alter the Governmental status of the Board or to make the employment and compensation of its members and employees

8/31/39

-6-

"subject to an act which is applicable to private employers. The above-quoted clause was a part of a provision inserted in section 10 in 1933, reading as follows:

'At meetings of the Board the Secretary of the Treasury shall preside as chairman, and, in his absence, the governor shall preside. In the absence of both the Secretary of the Treasury and the governor the vice governor shall preside. In the absence of the Secretary of the Treasury, the governor, and the vice governor the Board shall elect a member to act as chairman pro tempore. The Board shall determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid, and may leave on deposit in the Federal Reserve banks the proceeds of assessments levied upon them to defray its estimated expenses and the salaries of its members and employees, whose employment, compensation, leave, and expenses shall be governed solely by the provisions of this Act, specific amendments thereof, and rules and regulations of the Board not inconsistent therewith; and funds derived from such assessments shall not be construed to be Government funds or appropriated moneys.'

"The first three sentences quoted above, referring to the Secretary of the Treasury, were later amended, but the last sentence, which provides that the employment and compensation of the employees of the Board shall be governed solely by the provisions of the Federal Reserve Act and the regulations of the Board, remains unchanged. This provision was enacted five years after the enactment of the District of Columbia Workmen's Compensation Act, and therefore it seems clear that this provision should govern the matter, because under well-established principles of statutory construction a later enactment of specific application supersedes an earlier enactment dealing generally with the subject.

"In the circumstances, the Board felt that it was clear that its employees were not subject to the District of Columbia Act which, to quote from your letter of July 22, 'applies with respect to the injury or death of persons in private employment in the District of Columbia rather than of employees of the Federal Government.' Accordingly, immediately upon receipt of your Commission's first letter of May 6, 1938, advising of its opinion that the Federal statute was not applicable to its employees, the

8/31/39

-7-

"Board undertook to consider what action it might take in order to accord its employees protection similar to that given by those acts, and, after consulting various insurance companies, it obtained a policy which provides its employees with exactly the same benefits as those which are provided by the District of Columbia Compensation Act. That policy is now in full force and effect.

"Accordingly, although your Commission is of the opinion that the Federal statute is not applicable to the employees of the Board and the Board is of the opinion that the District of Columbia statute is not applicable, nevertheless the employees of the Board are fully protected."

Approved unanimously.

Letter to the Organization Committee of the "Farmers Bank",  
Clay, Kentucky, stating that, subject to conditions of membership num-  
bered 1 to 3 contained in the Board's Regulation H and the following  
special conditions, the Board approves the bank's application for mem-  
bership in the Federal Reserve System and for the appropriate amount  
of stock in the Federal Reserve Bank of St. Louis:

- "4. Such bank shall make adequate provision for depreciation in its banking house and furniture and fixtures.
  - "5. At the time of its admission to membership, such bank shall have paid-up and unimpaired capital stock of not less than \$25,000 and a surplus of not less than \$15,000, and shall have assets and liabilities substantially the same in amount and character (with due allowance for changes arising from the ordinary course of business) as shown in the pro forma statement set out on page 1(b) of the report of examination of the Farmers National Bank made as of June 13, 1939, by examiners for the Federal Reserve Bank of St. Louis."

The letter also contained the following additional comments:

"Since the application for membership was made on behalf of the Farmers Bank prior to its organization, it

8/31/39

-8-

"is requested that, in connection with the acceptance of the conditions of membership prescribed by the Board, the board of directors of the State bank ratify the action which has been taken in its behalf in making application for membership in the Federal Reserve System."

Approved unanimously, together with a letter to Mr. Martin, President of the Federal Reserve Bank of St. Louis, reading as follows:

"The Board of Governors of the Federal Reserve System approves the application made on behalf of the 'Farmers Bank', Clay, Kentucky, a State institution being organized to succeed the Farmers National Bank of Clay, for membership in the Federal Reserve System, effective if and when the successor bank is duly authorized to commence business by the appropriate State authorities and is entitled to the benefits of insurance under section 12B of the Federal Reserve Act, subject to the conditions prescribed in the enclosed letter which you are requested to forward to the organizers of the proposed institution. Two copies of such letter are also enclosed, one of which is for your files and the other of which you are requested to forward to the Director of Banks for the Commonwealth of Kentucky for his information.

"As you know the proposed bank is not eligible for membership in the System unless it is entitled to the benefits of deposit insurance. The Board has received a copy of a letter dated August 29, 1939, from the Federal Deposit Insurance Corporation to Mr. Hearin, a copy of which is enclosed, setting forth the conditions upon which the State bank has been approved for deposit insurance. We will advise you promptly upon receipt of advice from the Federal Deposit Insurance Corporation that such conditions have been complied with and arrangements may then be made for completion of the bank's admission to membership.

"Before issuing stock in the Federal Reserve Bank of St. Louis to the new State institution, you are requested to satisfy yourself that its capital stock of \$25,000 has been paid in, and that the organization papers and all agreements and contracts entered into between it and the Farmers National Bank of Clay covering the purchase of assets from, and the assumption of liabilities

8/31/39

-9-

"of, that bank and any and all other agreements and contracts between such bank and the stockholders and/or directors or other individuals or concerns, incident to the organization of the new State institution, have been considered by your counsel and that he is satisfied as to their legal aspects. It is requested that a copy of the opinion of your counsel given in this connection, together with copies of any such agreements and contracts and a copy of the bank's charter, be forwarded to the Board as soon as possible. It is requested also that the Board be furnished with a copy of the resolution of the board of directors of the State institution ratifying the action taken in its behalf in making application for membership in the Federal Reserve System."

Letter to Mr. Rounds, Vice President of the Federal Reserve  
Bank of New York, reading as follows:

"Reference is made to your letter of August 30, 1939, advising that the Central Trust Company, Rochester, N. Y., has completed arrangements for the readjustment of its capital structure and the introduction of \$430,000 new capital. You advise that the program includes the following features:

1. Sale of preferred stock with a par value of \$750,000, retirable at \$1,500,000, underwritten by the Reconstruction Finance Corporation.
2. Simultaneously therewith the retirement of the \$1,170,000 capital debentures now held by the Reconstruction Finance Corporation.
3. Reduction in the par value of the 30,000 shares of common stock now outstanding from \$20 to \$10 a share.
4. Sale of 10,000 additional shares of common stock to stockholders at \$10 a share; the sale to be underwritten by the officers and directors of the bank.

"In view of the circumstances, and in accordance with your recommendation, the Board approves a reduction from \$600,000 to \$300,000 in the common stock of the Central Trust Company, Rochester, N. Y., provided the capital account is increased through the introduction of \$430,000 of new capital funds, no part of the funds released by

8/31/39

-10-

"the reduction of common capital is returned to shareholders, and your counsel is satisfied as to the legal aspects of the plan."

Approved unanimously.

Letter to Mr. Dillistin, Assistant Vice President of the Federal Reserve Bank of New York, reading as follows:

"Further reference is made to your letter of August 18, 1939, with respect to the question submitted to you by the Baldwin National Bank and Trust Company, Baldwin, New York, as to whether transfers may be made from the savings accounts of certain depositors to so-called FHA mortgage accounts in their names, pursuant to the written orders of the depositors but without the presentation, at the time the transfers are made, of the pass books evidencing such savings accounts.

"It is understood that the national bank is servicing a large number of mortgage loans which are insured by the Federal Housing Administration; that in connection with the making of such loans the mortgagors open savings accounts with the bank and deliver to it written authorizations to charge their respective savings accounts for the amounts due monthly in respect of their mortgages. The amounts thus charged to their savings accounts are credited to so-called FHA mortgage accounts in their names, and amounts so credited are used to pay the monthly installments due on the mortgages for principal, interest, premiums for mortgages, insurance, service charges, taxes, ground rents and assessments. The savings accounts pass books are not presented to the bank, but the bank sends monthly advices to the mortgagors of the amounts charged to their savings accounts and the mortgagors send their savings deposits pass books to the bank quarterly for the entry therein of the debits to their savings accounts.

"Although the amounts charged to the savings account are credited to the so-called FHA mortgage account of the mortgagor, the transaction is essentially a payment by the bank out of the savings account to a third party, because under the agreement between the mortgagor-depositor and the bank, the amounts thus debited to the savings accounts and credited to the FHA mortgage accounts are no longer under the control of the mortgagor-depositor

8/31/39

-11-

"but are merely in transit to the ultimate recipients of the amounts constituting the monthly payments due under the mortgage.

"In view of the facts stated above, it is clear that the payment is not made 'upon presentation of the pass book', and the question is presented whether the transaction complies with the provision of section 1(e)(2) of Regulation Q with respect to savings deposits that

'Withdrawals are permitted in only two ways, either (i) upon presentation of the pass book, through payment to the person presenting the pass book, or (ii) without presentation of the pass book, through payment to the depositor himself but not to any other person whether or not acting for the depositor.'

"You refer to the ruling contained in the Board's letter of June 22, 1936 (X-9627) to the effect that a transfer may properly be made by a member bank from the savings account of a depositor to his checking account upon the written order of the depositor but without the presentation of the savings deposit pass book. In the present case you point out that the mortgagor-depositor could accomplish the same result as is accomplished by the existing arrangement by following the procedure described in X-9627 and by giving the bank a further order to pay the required amount out of his checking account; but you suggest that it would not be desirable to require a member bank to make these additional entries on its books merely in order to achieve technical compliance with the requirements of the definition of 'savings deposit' in Regulation Q.

"It seems proper in a case like the present one to consider the essential nature and purpose of the transaction as well as its form. One of the typical purposes for which savings accounts are maintained is the accumulation of funds with which to pay off a mortgage. In the present case the savings accounts are maintained for that purpose, and each depositor gives the bank a written order to pay off his mortgage out of his savings account at the time when his savings account is opened and as a part of the same transaction. As stated in the Board's letter of February 8, 1936 (X-9489), the requirement that the savings pass book must accompany a check payable to a third party is designed to prevent the drawing of more than one

8/31/39

-12-

"check at a time against a savings account and the use of a savings account as an ordinary checking account; but it does not appear that any such abuse is involved in the present arrangement. While the order given by the depositor provides for several transfers at regular periodic intervals, it appears that all of the transfers are for the same purpose and are made in pursuance of the same order.

"Accordingly, the Board is of the opinion that the handling of the periodic payments in the manner described above is not in violation of Regulation Q.

"It is hardly necessary to point out that the present ruling is based upon the facts of this particular case, and that a different result might be reached in another case with facts bearing a superficial resemblance to those discussed herein."

Approved unanimously.

Letter to Honorable Preston Delano, Comptroller of the Currency,  
reading as follows:

"Enclosed is a copy of a letter of August 18, 1939, from First Service Corporation, Minneapolis, Minnesota, addressed to the Federal Reserve Bank of Minneapolis and referred by it to the Board, relating to the waiver of the requirement for the submission of reports of affiliates by member banks. The Board's views concerning this matter are expressed in a proposed letter to the Federal Reserve Bank of Minneapolis, a copy of which is enclosed; but before transmitting this letter, the Board will appreciate advice from you with respect to whether, as indicated by an informal discussion with a representative of your office, you concur in the views expressed therein."

Approved unanimously, together with the following letter to Mr. Swanson, Vice President and Secretary of the Federal Reserve Bank of Minneapolis, with the understanding that the letter to Mr. Swanson would not be mailed until advice is received from the Comptroller of the Currency as to whether that office concurs in the views expressed therein:

8/31/39

-13-

"This refers to your letter of August 19, 1939, transmitting an inquiry of August 18, 1939, from First Service Corporation, Minneapolis, Minnesota, relating to the application of the Board's waiver of the requirement for the submission of reports of affiliates by State member banks where a bank makes loans to an affiliate pursuant to a contract under which the Commodity Credit Corporation agrees to purchase the loans if they comply with the requirements of that corporation and are tendered to it within the period prescribed.

"In answer to the first part of the inquiry, it is the Board's view that such loans constitute indebtedness of the affiliate to the bank which must be considered in determining whether the submission of reports of the affiliate is required. It is understood that the Comptroller of the Currency construes his waiver of the requirement for the submission of reports of affiliates by national banks in the same manner.

"With respect to the second part of the inquiry, it is assumed that you have called attention to those provisions of the waiver which relate to the submission of reports where an affiliate is indebted to a bank on the report date."

Thereupon the meeting adjourned.

Fraser Morrell  
Secretary.

Approved:

W. C. Meuler  
Chairman.