A meeting of the Board of Governors of the Federal Reserve System was held in Washington on Monday, October 23, 1939, at 11:30 a. m.

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

Mr. Morrill, Secretary
Mr. Bethea, Assistant Secretary
Mr. Carpenter, Assistant Secretary
Mr. Clayton, Assistant to the Chairman

The action stated with respect to each of the matters hereinafter referred to was taken by the Board:

The minutes of the meeting of the Board of Governors of the Federal Reserve System held on October 20, 1939, were approved unanimously.

Telegram to Mr. McLarin, First Vice President of the Federal Reserve Bank of Atlanta, stating that the Board approves the establishment without change by the bank on October 21, 1939, of the rates of discount and purchase in its existing schedule.

Approved unanimously.

Memorandum dated October 16, 1939, from Mr. Goldenweiser, Director of the Division of Research and Statistics, recommending that, for the reasons stated in the memorandum, the salary of Miss Helen R. Grunwell be increased from $2,000 to $2,400 per annum, and that her title be changed from draftsman to chief draftsman; and that

the salaries of Miss Helen A. Lupton and Miss Grace R. Sahm, draftsmen, be increased from $1,800 to $2,100 and from $1,900 to $2,000 per annum, respectively, all effective as of November 1, 1939. The recommendations had been approved by the Board's Personnel Committee.

Approved unanimously.

Memorandum dated October 20, 1939, from Mr. Morrill recommending that, for the reason stated in the memorandum, Peter W. Beers, page, be promoted, effective immediately, to the position of supply clerk, with salary at the rate of $1,380 per annum, effective November 1, 1939, and that Lewis W. Shollenberger be appointed as a page in the Secretary's Office, with salary at the rate of $1,080 per annum, effective as of the date upon which he enters upon the performance of his duties after having passed satisfactorily the usual physical examination. The recommendations had been approved by the Board's Personnel Committee.

Approved unanimously.

Letter to Mr. Young, Vice President of the Federal Reserve Bank of Chicago, reading as follows:

> "In your letter of October 5, transmitting certain documents in connection with the admission of the Exchange State Bank, Lanark, Illinois, to membership in the System, you gave an explanation as to why the bank had been admitted to membership without having complied with the provisions of condition of membership numbered 5, which reads as follows:
>
> '5. Prior to admission of such bank to membership, the directors shall review the compensation paid to directors, officers and employees and shall make such adjustments therein

"'as may be considered appropriate by the Federal Reserve Bank of Chicago in the light of the bank's obligation to the holders of deferred certificates of deposits; and, so long as the deferred certificates remain outstanding, any material increase in such compensation shall have the prior approval of the Federal Reserve Bank.'

"When the application for membership was approved it was with the distinct understanding that the salary matter referred to would be cleared up satisfactorily prior to admission to membership, and it is rather surprising, therefore, as Mr. Paulger, Chief of the Board's Division of Examinations, indicated in his conversation with you, to learn that the bank was admitted to membership not on the basis of an adjustment which had actually been made in a manner satisfactory to the Federal Reserve Bank, but merely on promises of officers of the bank that they would call a meeting of the board of directors at which consideration would be given to adjustment of the salary in question. It is understood that you have assured Mr. Paulger that a satisfactory adjustment of the salary in question will be effected within a short time, and it is requested that you keep the Board advised as to the developments.

"It is requested, also, that if, in the future, a departure from the requirements of the conditions appears desirable, the matter be submitted to the Board for determination before the bank is admitted to membership."

Approved unanimously.

Letter to Mr. Young, Vice President of the Federal Reserve Bank of Chicago, reading as follows:

"The June 30, 1939, condition report of the Gary-Wheaton Bank, Wheaton, Illinois, shows 'None' against item 33(b), 'Other obligations, not included in liabilities, which are subordinated to claims of depositors and other creditors', but the amount $126,634.94 has been endorsed in pencil on the report below the item and marked 'Sub. O.K. IMC'. Although not entirely clear, it is assumed

"that the endorsement was made at your bank because of the fact that the published statement contains the following footnote appended to the caption 'Capital':

> '*The bank has outstanding $126,634.94 of Deferred Certificates, payable solely out of future net profits, if and when such future net profits are earned, (future net profits are operating profits plus recoveries, less charge-offs and proper provision for reserves) representing contributions to the bank and subordinated to all deposit and creditor liabilities but payable before any distribution to stockholders as such.'

"The report of examination of the subject bank as of May 29, 1939, page 1, indicates that on that date there were outstanding $141,622.20 of deferred depositors' certificates and $34,800 of shareholders' certificates of capital contribution. According to information submitted at the time the bank applied for membership, the deferred depositors' certificates must be retired before any distribution may be made to stockholders as such and are payable out of segregated assets and net earnings; and after the retirement of the depositors' certificates the shareholders' certificates, plus accrued interest at the rate of 6 per cent per annum, must be paid before any dividends may be paid to stockholders as such.

"It is assumed that the amount $126,634.94 shown in the footnote to the June 30, 1939, published statement represents merely the balance of the outstanding depositors' certificates, i.e., that the amount does not include the shareholders' certificates amounting to $34,800 plus interest accrued to June 30, 1939. It is suggested, therefore, that the bank be advised to show against item 33(b) of future reports on form F.R. 105 and published statements the total of its outstanding depositors' certificates and shareholders' certificates plus accrued 6 per cent interest on the latter certificates, or that the footnote which it has been using be modified so as to disclose not only the deferred depositors' certificates but the shareholders' certificates and accrued interest thereon. If there appears to be any reason why in your opinion the bank should not be requested at this time to so modify future reports, kindly advise the Board thereof before taking the matter up with the bank."

Approved unanimously.

Letter to Mr. Clerk, First Vice President of the Federal Reserve Bank of San Francisco, reading as follows:

"This refers to your letter of August 21, 1939, transmitting the request of Transamerica Corporation for reconsideration of the question whether the readily marketable assets required by subsection (c) of section 5144 of the Revised Statutes of the United States must be assets other than bank stocks. Receipt is also acknowledged of your letter of October 2 in connection with this matter. Enclosed herewith is a letter addressed to Mr. John M. Grant, President of Transamerica Corporation, advising him concerning the matter. It will be appreciated if you will transmit the letter to Mr. Grant. A copy is enclosed for your files.

"In transmitting the enclosed letter, please bring to Mr. Grant's attention the comments concerning the last annual report filed by Transamerica Corporation with the Securities & Exchange Commission which were contained in the Board's letter of August 1, 1939, dealing with this matter."

Approved unanimously, together with the letter to Mr. John M. Grant, President of Transamerica Corporation, reading as follows:

"This refers to your letter of August 19, 1939, addressed to the Federal Reserve Bank of San Francisco, and to the letter of September 7, 1939, addressed to the Board by Mr. Charles W. Collins, counsel for your Corporation, requesting the Board's reconsideration of its opinion that the readily marketable assets required by subsection (c) of section 5144 of the Revised Statutes of the United States must be assets other than bank stock.

"At the outset, the Board wishes to point out that its expression of its opinion concerning this question was prompted by the fact that your Corporation's reports to its shareholders, the Securities & Exchange Commission, and the Board at the end of last year indicated that your Corporation was acting upon a contrary interpretation of the law and the Board believed that it was in the interests of sound administration to give your Corporation the advantage of its views promptly in order to avoid any mis-

"understanding. The Board has been glad to receive a statement of the arguments in support of your Corporation's position and to thoroughly reconsider the question involved. After such reconsideration, the Board does not feel that a reversal of the opinion previously expressed is warranted but, in order that you may better understand the basis for that opinion, the Board's views are being set forth in some detail in this letter.

"Subsections (b) and (c) of section 5144 were originally enacted as a part of the Banking Act of 1933. Subsection (b), which has not been amended, states the general rule that after June 16, 1938, any holding company affiliate holding a voting permit -

> '(1) shall possess, and shall continue to possess during the life of such permit, free and clear of any lien, pledge or hypothecation of any nature, readily marketable assets other than bank stock in an amount not less than 12 per centum of the aggregate par value of all bank stocks controlled by such holding company affiliate, which amount shall be increased by not less than 2 per centum per annum of such aggregate par value until such assets shall amount to 25 per centum of the aggregate par value of such bank stocks; and (2) shall reinvest in readily marketable assets other than bank stock all net earnings over and above 6 per centum per annum on the book value of its own shares outstanding until such assets shall amount to such 25 per centum of the aggregate par value of all bank stocks controlled by it'. (Underscoring supplied)

"As originally enacted, subsection (c) contained two provisos modifying the general rule laid down by subsection (b). Such provisos have not been amended. The first, dealing with a special class of holding company affiliates, provides that the general rule shall not apply if the statutory liability upon the bank stock controlled by a holding company affiliate is carried through to the shareholders of the holding company affiliate and that in such a case the holding company affiliate after June 16, 1938, -

> 'shall be required only to establish and maintain out of net earnings over and above 6 per centum per annum on the book value of its own

"'shares outstanding a reserve of readily marketable assets in an amount of not less than 12 per centum of the aggregate par value of bank stocks controlled by it'. (Underscoring supplied)

"The second proviso permits the assets required by section 5144 to be used by the holding company affiliate for replacement of capital in banks affiliated with it and for losses incurred in such banks. This proviso is applicable both to assets required under subsection (b) and to those required under the first proviso in subsection (c).

"As hereinafter noted, subsection (c) was amended in 1935 by the addition of a third proviso, and this proviso gives special treatment to the establishment of a reserve against bank stocks not subject to double liability and controlled by a holding company.

"The object and basic rule of all statutory interpretation is to ascertain the meaning and intention of the legislature. As pointed out by your counsel, the meaning and intention of the legislature unquestionably must be sought first in the language of the statute itself and if the language is plain and free from ambiguity and expresses a single, definite, and sensible meaning, that meaning must be accepted. The significance which may be attached to use of different language in the same connection in different parts of a statute is recognized. It must not be forgotten, however, that in interpreting the provisions of a statute, the statute must be considered as a whole and particular phrases or provisions must be construed in the light of the context. Furthermore, where any ambiguity exists, a statute should be construed according to its spirit and reason and not in a manner which will thwart or contravene the manifest purpose of the legislature.

"The language of the pertinent statutory provisions is at least fairly susceptible to the interpretation that the assets required by subsection (c) must be assets other than bank stocks. Considering the above quotation from subsection (c) as a whole, instead of isolating the words 'readily marketable assets' from the context, it is implicit that the required reserve shall be something different and separate and apart from the bank stocks controlled by the holding company affiliate. Moreover, when subsections (b) and (c) are read together, the ordinary

"understanding is that the assets required by subsection (c) shall meet the same qualifications as those required by subsection (b) and that the phrase 'reserve of readily marketable assets' is simply a convenient and natural back-reference in a statute in which obviously there was no attempt made to use that precision which might have been desirable in order to forestall claims of technical loop-holes in the law.

"It is apparent from the statutory provisions themselves, and clearly demonstrated by their legislative history, that subsections (b) and (c) were originally enacted to provide assets which would be available to discharge the statutory liability with respect to bank stocks controlled by holding company affiliates, the evasion of such liability being considered one of the principal evils of group banking. With respect to that class of holding company affiliates which was dealt with in the first proviso of subsection (c), the reasoning of Congress appears to have been that while the shareholders of such a holding company affiliate could be looked to primarily for the discharge of the statutory liability, it was not unreasonable to require that, if the holding company affiliate should have earnings in excess of a reasonable return, assets should be acquired for that purpose. A secondary use for the assets required by subsections (b) and (c) was recognized by Congress when it granted holding company affiliates permission to use them to make contributions to affiliated banks.

"Since the purposes of the requirements in subsection (b) and those in subsection (c) were identical, it is unreasonable to attribute to Congress the intention to require different types of assets. Even though it be conceded, as you have argued, that the purposes differed because the sole purpose of the requirement in subsection (c) was to provide assets which might be used to make contributions to affiliated banks, an intention to require different types of assets is equally unreasonable since the type of assets needed would not be affected by the fact that the assets were to be used to aid banks in difficulties rather than to satisfy creditors of the banks after their failure.

"A reserve composed of bank stocks clearly is not suitable for the accomplishment of either of the purposes described above and to hold that bank stocks would satisfy the requirement of subsection (c) would defeat the purposes

"of the requirement. The efficacy of a reserve composed of the stock of the bank which has failed or is in difficulties should require no comment.

"In connection with the amendment to subsection (c) in 1935 which added a new proviso stating that the provisions of that subsection, rather than those of subsection (b), shall apply to all holding company affiliates with respect to bank stocks controlled by them as to which there is no statutory liability, the Senate Committee on Banking and Currency and the House members of the Conference Committee construed subsection (c) as requiring a reserve of assets other than bank stock, their reports describing the effect of the amendment as follows:

> 'It amends section 5144 of the Revised Statutes by relieving a holding company affiliate, to the extent that the shares of bank stock owned by it are not subject to statutory liability, from the requirements of subsection (b) of section 5144 which requires a holding company affiliate to maintain and possess readily marketable assets other than bank stock in an amount not less than 12 percent of the aggregate par value of all such stock controlled by the affiliate, and requires it to increase such amount by 2 percent per annum until such amount equals 25 percent of the par value of such bank stock. In lieu of the foregoing requirement, any such holding company affiliate, to the extent that the shares of bank stock held by it are not subject to statutory liability, is only required to maintain a reserve out of net earnings above 6 percent of such readily marketable assets in an amount equal to 12 percent of the par value of bank stocks controlled by it.' (Senate Report No. 1007, p. 18; House Report No. 1822, p. 54; 74th Cong., 1st Sess.) (Underscoring supplied)

"The same construction also was clearly indicated by the provisions of section 26(d) of the Revenue Acts of 1936 and 1938 granting holding company affiliates a credit for income tax purposes for earnings or profits devoted 'to the acquisition of readily marketable assets other than bank stock in compliance with section 5144', and by the

"Senate Committee on Finance in its report relating to the former Act (Senate Report No. 2165, p. 14, 74th Cong., 2nd Sess.)

"Without further extending this letter by arguing the question whether the rules requiring strict construction of penal statutes and grants of power to officers are applicable to the statutory provisions under consideration, it may be pointed out that, in any event, statutes must not be construed so strictly as to defeat the manifest intention and purpose of the legislature.

"Subsections (b) and (c) unquestionably present many problems of construction both for holding company affiliates and for the Board. In the discharge of its responsibility, the Board must endeavor to administer the law reasonably and in accordance with its intent and purposes and it trusts that it may have the cooperation of holding company affiliates through their efforts to comply with the law in like manner."

Letter dated October 21, 1939, to Mr. Harrison, President of the Federal Reserve Bank of New York, prepared in accordance with the action taken at the meeting of the Board on October 17, 1939, and reading as follows:

"On March 22, 1939, the Board of Governors authorized the Federal Reserve Bank of New York to make advances of not to exceed $20,000,000 outstanding at any one time to the Bank for International Settlements secured by gold actually in transit to New York on the terms and conditions outlined in your cable No. 247 of November 28, 1934, any such advances to bear interest at the discount rate in effect at your bank.

"The Board understands that no advances have been made by your bank to the Bank for International Settlements under this authority and unless there are reasons which would make the continuance of the authority desirable it will be terminated with the understanding that should further negotiations for such loans be opened by the Bank for International Settlements the New York Bank and the Board of Governors will give consideration to the matter in the light of the then existing conditions.

"It will be appreciated, therefore, if you will advise the Board whether you see any objection to the termination of the authority."

Approved unanimously.

Memorandum dated October 17, 1939, from Mr. Bethea, Assistant Secretary, stating that a canvass of the Divisions of the Board's staff had been made in order to determine whether they would require additional funds for non-personal services to carry them through the last quarter of the current year and that memoranda had been submitted recommending that the budgets of the various Divisions be increased as follows:

Division	Account	Increase requested	
Legal	Telephone & telegraph		$75
Research & Statistics	Printing & binding	$1000	
	Stationery & supplies	400	
	Books & subscriptions	200	1600
Security Loans	Telephone & telegraph		75
Fiscal Agent	Furniture & equipment	200	
	Printing & binding	100	300
			$2050

The memorandum also stated that on the basis of information presently available, the approval of the foregoing recommendations would not increase the total expenditures for non-personal services in the respective Divisions during 1939 beyond the aggregate amounts originally authorized for such services.

The recommendations were approved unanimously.

Thereupon the meeting adjourned.

Chester Morrill
Secretary.

Approved:
M. S. Eccles
Chairman.