

A meeting of the Board of Governors of the Federal Reserve System was held in Washington on Monday, January 29, 1940, at 10:30 a.m.

PRESENT: Mr. Eccles, Chairman (latter part of meeting)
Mr. Ransom, Vice Chairman
Mr. Szymczak
Mr. Davis (latter part of meeting)
Mr. Draper

Mr. Morrill, Secretary
Mr. Bethea, Assistant Secretary
Mr. Carpenter, Assistant Secretary
Mr. Thurston, Special Assistant to the
Chairman
Mr. Wyatt, General Counsel
Mr. Goldenweiser, Director, Division of
Research and Statistics
Mr. Gardner, Senior Economist in the
Division of Research and Statistics

Mr. Gardner stated that Chairman Eccles, Mr. Goldenweiser and he met on Saturday, January 27, 1940, with Messrs. Gaston, Assistant Secretary, White, Director of Monetary Research, Bernstein, Assistant General Counsel, and H. Merle Cochran, Technical Assistant to the Secretary, of the Treasury Department, in accordance with the arrangement agreed upon at the meeting of the Board on January 28, 1940, for a discussion of the differences between the Treasury and Board representatives relating to the Inter-American Bank, and that as a result of the discussion it was fully agreed that the Federal Reserve System is as much an arm of the Government as the Treasury, that the draft of the statutes which had been prepared by the Treasury representatives for the proposed bank, which places the ownership and direction of the

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bank in the hands of the Government, does not preclude the selection of the Board, the Treasury, or any other agency of the Government as the body which will participate in the ownership and direction of the bank's affairs, and that the actual method by which this participation will be determined remained to be decided.

Following the return of the Board's representatives, Mr. Gardner said, the suggestion was made that a letter be sent to Mr. Berle, Assistant Secretary of State, advising him of the conclusions of the conference and that in accordance with that suggestion he (Mr. Gardner) had prepared a draft of such a letter.

Chairman Eccles entered the meeting at this point and stated that it was understood at the conference that he would call Mr. Gaston today after the Board meeting and advise him whether the understanding reached at the conference was agreeable to the Board.

Mr. Gardner read the draft of letter prepared by him and stated in that connection that it was also agreed at the conference that there was an implication in the draft of the statutes as prepared by the Treasury representatives that the central banks were excluded from the ownership and management of the proposed bank, that the implication was created by the reference in the statutes to the central banks as something apart from their respective Governments, and that the Treasury representatives agreed that the draft of statutes should be changed to eliminate this implication.

During the discussion of this point Messrs. Davis, Clayton,

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Assistant to the Chairman, and Dreibelbis, Assistant General Counsel, joined the meeting.

Mr. Ransom stated that Mr. Wyatt had been asked to participate this afternoon in a conference of representatives of the legal divisions of the Treasury, the State Department, and the Board for the purpose of considering certain of the legal aspects involved in the organization of the Inter-American Bank and that he had raised the question whether he should feel free to suggest at the conference that the bank might be organized as an Edge Act corporation.

Mr. Wyatt said that this question was presented by the suggestion that it might be desirable to organize the bank without action by Congress, that inquiry had been made of him whether there was in existence a statute under which the bank could be organized, that he had looked into the matter, and that, while Section 25(a) of the Federal Reserve Act which provides for the organization of foreign banking corporations did not fit the case exactly, the bank could be organized under that statute if certain changes were made in its application to the proposed bank by the convention which would be ratified by the Senate.

The opinion was expressed and concurred in by the members of the Board present that it would be undesirable to attempt to create the proposed bank in any other manner than by Congressional action and that Mr. Wyatt should state that, while the bank might be organized as an Edge Act corporation, he knew the members of the Board would not

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favor that course being followed.

In a further discussion the draft of letter prepared by Mr. Gardner was changed to read as follows:

"On the morning of January 27 I met with Mr. Gaston, Assistant Secretary of the Treasury, and several members of the staff of the Board and the Treasury with a view to reaching a common understanding with regard to ownership and control of the proposed Inter-American Bank. The sense of the meeting appeared to be that the by-laws of the bank now under consideration in sub-committee one of the Inter-American Economic and Financial Advisory Committee provided for a government-owned and controlled bank, but that it left entirely open the question as to what branch or agency of the government should subscribe to shares of the bank or appoint the United States director and his alternate. Congress or the President might act directly or select as the agency for dealing with the bank the Treasury, the Board of Governors of the Federal Reserve System, or some other agency or combination of agencies of the government.

"This morning the Board of Governors held a meeting to consider my report on the meeting in Mr. Gaston's office. It was the Board's opinion that the understanding of the provisions of the proposed by-laws of the bank reached in Mr. Gaston's office was satisfactory. The Board believes, however, that it would be helpful in avoiding any misunderstanding in the sub-committee and in the main committee to which the proposed statutes of the bank are being submitted if you could find an occasion for stating that you interpret these statutes as leaving open for later decision by each government concerned the question what agency of the government, including in this term central banking authorities, shall subscribe the capital or select the director and alternate for each country.

"It was also agreed at the meeting in Mr. Gaston's office that the by-laws of the bank, especially the provisions governing the bank's powers, would be amended so as to remove any implication inconsistent with the broad spirit of the understanding reached."

The letter was approved unanimously with the understanding that Chairman Eccles would read it over the telephone to Mr. Gaston to ascertain whether he had any comments to make with respect to the letter and that the Chairman

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would state to Mr. Gaston that it was the opinion of the members of the Board that the organization of the bank should be accomplished by legislative action.

At 11:30 a.m. the meeting recessed and reconvened at 3:00 p.m. with the same attendance as at the morning session except that Messrs. Goldenweiser and Gardner were not present and Messrs. Paulger and Cagle, Chief and Assistant Chief respectively of the Division of Examinations, and Mr. Clerk, First Vice President of the Federal Reserve Bank of San Francisco, were in attendance.

At the request of the Board Mr. Clerk discussed some of the important features of the condition of the Bank of America National Trust & Savings Association, San Francisco, California, and certain practices of the management of the bank and its affiliated companies, which had been subject to criticism, and outlined some of the requirements which he felt might be imposed on the bank in the event it should apply for membership as a State institution.

During the ensuing discussion Chairman Eccles stated that nothing further had been heard from the Comptroller of the Currency with respect to the suggestion that representatives of the Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency undertake to formulate a program for presentation to the bank, and it was unanimously agreed that the Board should continue with the formulation of its own program of procedure.

Mr. Morrill stated that Mr. Clerk was of the opinion that it

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would be desirable to have available additional information with respect to the history of carrying values of the bank premises acquired during the last ten years in connection with the merger of banks with the national institution and that the staff would like to know whether there would be any objection on the part of the Board to Mr. Clerk sending to President Day of the Federal Reserve Bank of San Francisco a request that the information be obtained from the national bank as a part of the information desired by the Bank in order to prepare itself to comply with the request of the Bank of America for information as to the requirements that would be imposed in connection with an application for membership.

The members present agreed that there was no objection to such a request.

Mr. Clerk stated that it was understood that Mr. O. K. Cushing, special counsel for the national bank, was coming to Washington to urge the position that the converted bank would not have to apply for membership on the ground that its membership as a national bank would automatically continue. Chairman Eccles suggested that Mr. Cushing be advised, if he presented the question, that the Board did not agree with that position, that it would be necessary under the law for the converted bank to apply for membership in the usual manner, and that should the bank make it definitely known that it desired to be advised of the conditions upon which membership would be granted the Board would be glad to discuss the matter with the senior officers of the bank.

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This suggestion was agreed to unanimously.

Chairman Eccles stated that this afternoon he read over the telephone to Mr. Gaston, Assistant Secretary of the Treasury, the letter approved by the Board this morning with respect to the Inter-American Bank and stated to Mr. Gaston that the Board did not wish to be committed in the matter unless it was definitely understood that the establishment of the bank would be accomplished by Congressional action as it was felt that this procedure was absolutely essential in order that the support that the bank must have in order to succeed might be forthcoming. Mr. Gaston replied, Chairman Eccles said, that he was of exactly the same opinion.

At this point Messrs. Thurston, Wyatt, Paulger, Cagle and Clerk left the meeting and the action stated with respect to each of the matters hereinafter 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 January 26, 1940, were approved unanimously.

The minutes of the meeting of the Board of Governors of the Federal Reserve System held on January 27, 1940, were approved and the actions recorded therein were ratified unanimously.

Letter to Mr. D. W. Bell, Under Secretary of the Treasury, reading as follows:

"This refers to your letter of December 28, 1939, relating to the question whether United States Savings

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"Bonds may be used by a national bank in complying with the following provisions of section 11(k) of the Federal Reserve Act and the provisions of the Board's Regulation F pursuant thereto:

' ... Funds deposited or held in trust by the bank awaiting investment ... shall not be used by the bank in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Board of Governors of the Federal Reserve System.

'In the event of the failure of such bank the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the bank.'

"You called attention to the provisions of Treasury Department Circular No. 530 to the effect that United States Savings Bonds are not transferable and are not suitable for use as collateral for loans (subject to an exception not pertinent here). You suggested that, if a bank does set aside such bonds for the purpose described above, possible difficulties might result in the event that a receiver is appointed for the bank, since the Treasury Department would not be in a position to recognize the receiver as acting in the behalf of the trust department of the bank.

"The Board's ruling arose out of an inquiry by a national bank as to whether, in the opinion of the Board, United States Savings Bonds might be used to secure funds of trusts it is administering which are deposited in its own banking department under the provisions of law above quoted and the Board's regulation. In considering this inquiry, the Board had in mind the fact that, when securities are set aside in the trust department in compliance with the above provisions of law, the national bank, the only corporate entity involved, continues to have title to and possession of the securities. Through book entries and the placing of securities in the custody of designated officers of the bank pursuant to its by-laws or a resolution of its board of directors, there is an earmarking or segregation of the securities as assets held for the protection of the trusts in the event of the bank's insolvency, but there is no transfer of legal title or possession from the bank. When a receiver is appointed for a national bank, he takes charge of and liquidates the trust department as well as other departments of the bank. Securities set aside in the trust department pursuant to the above described requirement are

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"collected or sold by him as receiver of the bank and the proceeds are applied in settlement of the claims of the trusts. It is understood that in the event United States Savings Bonds are used for this purpose the receiver would request and be entitled to payment of such bonds as the receiver of the bank; and the Treasury Department would have no reason to consider what disposition is made of the proceeds. In such a case, it is the view of the Board that, despite the restrictions upon the transferability of the bonds, the courts would recognize the lien and require the receiver to use the proceeds to repay trust funds deposited by the bank in its banking department or otherwise used in its business.

"As stated above, the Board's original ruling in this matter arose out of an inquiry from an individual bank and the Board has not published the ruling. However, in its letter of November 8, 1939 (S-190), to which you referred, it advised the Federal Reserve banks of its views in order that they might be in a position to advise anyone that might make inquiry of them. It is believed that the position taken by the Board is correct; but if, after consideration of the matter in the light of the comments contained herein, you still feel that it is undesirable from the standpoint of the Treasury Department for United States Savings Bonds to be so used, the Board will undertake to advise the banks accordingly."

Approved unanimously.

Memorandum dated January 20, 1940, from Mr. Dreibelbis, Assistant General Counsel, submitting correspondence sent to the Board by the Federal Reserve Bank of Boston in which the Board was advised that the Federal Reserve bank had opened a temporary one-way account with the Commonwealth Bank of Sidney, Australia, to facilitate the payment for Australian wool sold in the American market. The memorandum referred to the circular on procedure with respect to foreign relations of Federal Reserve banks (X-9774) which gives the Federal Reserve banks, under certain conditions, blanket authority to open one-way accounts for

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foreign central banks, and suggested that the standard form of agreement, adapted to the purpose for the temporary account, be executed to cover the arrangement made by the Boston bank and called attention to the fact that the other Federal Reserve banks were not being offered a participation in the account at this time because of its temporary character.

It was understood that the Secretary's office would call Mr. Young, President of the Federal Reserve Bank of Boston, and suggest that a formal agreement be executed eliminating any provisions of the standard form of agreement that are clearly not applicable in this case.

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

"Reference is made to your letter of January 8, 1940, and enclosures, presenting for the consideration of the Board the question whether the Worcester Morris Plan Banking Company, Worcester, Massachusetts, is a 'bank' within the meaning of section 8 of the Clayton Act, since if the Company is not a 'bank', the statute is not applicable to directors or officers of the Company who are serving as directors or officers of member banks of the Federal Reserve System.

"The opinion of your Assistant Counsel which you enclose reaches the conclusion that this company possesses substantially identical powers and is operating in substantially the same manner as the Morris Plan Company of Rhode Island and The Morris Plan Company of Springfield, both of which the Board has ruled are not banks within the meaning of the Clayton Act. The opinion points out that, although this company has availed itself of the provisions in the first part of Chapter 172A of the laws of Massachusetts so as to be authorized to call itself a 'Banking Company', all Morris Plan companies in Massachusetts are subject to the remaining provisions of Chapter 172A (except section 9 relating to rates of interest on loans) whether or not they have availed themselves of the

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"provisions authorizing them to include the word 'banking' in their corporate names. The opinion concludes that substance rather than form should be controlling in determinations of this kind; and there would seem to be no doubt but that the Board should not be governed solely by the name of an institution in determining the applicability of a Federal statute.

"It is understood that the Company sells fully paid investment certificates in any amount from \$50 to \$5,000, the maximum amount to any one person; that, although it may and does in practice redeem such certificates on demand, such certificates are not negotiable, the registered owner thereof is required to sign a receipt therefor on the back of such certificate, and such certificates are subject to the right of the Company to require ninety days' written notice of withdrawal; that, although it is authorized to do so, the Company does not issue so-called installment investment certificates representing accounts opened for the purpose of purchasing fully-paid investment certificates on an installment basis, but issues installment certificates only in cases where they are pledged immediately for payment of a loan or other indebtedness to the Company; that it does not permit partial withdrawals from installment investment certificate accounts, although the whole of any amount paid thereon may be withdrawn providing the indebtedness for which the certificate was pledged is otherwise satisfied, and ninety days' written notice may be required for such withdrawal; that the Company pays interest only on fully-paid investment certificates, the same being paid by check semi-annually; that the major portion of the Company's transactions consists of making loans not in excess of \$1,000 secured by co-makers or other collateral, and the purchasing of conditional sale contracts or leases from dealers, all of which are payable in weekly or monthly installments, the Company averaging about twenty-five loan or conditional sale transactions per day, and payments on hypothecated installment certificates averaging between 500 and 600 per day; that the daily cash on hand carried in the Company's office amounts to about \$10,000, of which amount \$1,000 is kept on hand to pay fully-paid investment certificates, nothing being set aside to pay installment investment certificates; that the entire time of one clerk and most of the time of another is required to handle receipts on installment investment certificates which are pledged for loans and that about one-half of one clerk's time is used for transactions involving fully-paid certificates; that withdrawals on full-paid investment certificates average between six and ten weekly; that the Company does not

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"issue cashier's checks or drafts; that the Company does not accept deposits or maintain any form of so-called checking account service, but receives money in connection with the issue of investment certificates; that the Company is not authorized by law to transact, and does not transact, a trust business; that it does not offer safety deposit facilities to the public; that it transacts no escrow or agency business for the public; that it does not buy or sell securities for customers; that it is not a member of any clearing house association; that its business hours are not identical with those of banking institutions operating in the community, its hour of closing extending one hour beyond the closing hour of such banking institutions; that, although it is subject to the supervision of and examination by the Commissioner of Banks of Massachusetts, so also are cooperative banks, credit unions and small finance companies in the State; and that the general public regards the Company as a lending or finance corporation operating primarily in the installment lending field and not as a bank of deposit.

"As the Board stated in its letter of October 19, 1939, (S-189-a), the question whether or not a particular institution is a 'bank' within the meaning of section 8 of the Clayton Act is often a perplexing one, and in view of the great variety of financial institutions in this country there must necessarily be cases where even slight variations in the facts will produce different results. The subject case is a clear illustration of the difficulty to which the Board had reference since, although the operations of the Worcester Morris Plan Banking Company appear to be very similar to, if not identical with those of The Morris Plan Company of Springfield, Massachusetts, which the Board, in its letter of December 28, 1939, to Vice President Paddock, ruled was not a 'bank' within the meaning of section 8 of the Clayton Act, the former is authorized to use the words 'banking company' in its corporate name. However, since the powers and activities of the Worcester Morris Plan Banking Company and its methods of conducting business appear to be identical in all essential respects with those of The Morris Plan Company of Springfield, the Board, on the basis of the facts set forth above, is of the opinion that the Worcester Morris Plan Banking Company, Worcester, Massachusetts, is not now a 'bank' within the meaning of section 8 of the Clayton Act."

Approved unanimously.

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Telegram to Mr. Day, President of the Federal Reserve Bank of San Francisco, reading as follows:

"Robert A. Brant, Secretary of Title Insurance and Trust Company, Los Angeles, has written Board regarding effect of Clayton Act on four directors. One of them, Harry J. Bauer, is serving California Bank, and subsection 3(c) of Regulation L as amended by R-587 may possibly be applicable. As to other three directors, in view of President's veto of bill S.2150, Board sees no reason at this time for further extending date by regulation. Please advise Mr. Brant."

Approved unanimously.

Thereupon the meeting adjourned.

Chester Morrie
Secretary.

Approved:

W. A. ...
Chairman.