A meeting of the Board of Governors of the Federal Reserve System was held in Washington on Monday, August 12, 1940, at 2:30 p.m.

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

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

Mr. Ransom reviewed briefly the status of the proposed bill now pending before Congress relating to foreign accounts with Federal Reserve Banks and stated that it was possible that the bill may be called up for consideration this week. He also said that the bill, in addition to providing that the disposal by a Federal Reserve Bank of property in accordance with the provisions of the bill shall constitute a complete discharge and release of any liability of the Federal Reserve Bank with respect to such property, contains a further provision that no Federal Reserve Bank shall be subject to any suit or other proceeding in court as a consequence of any action taken by such bank or with respect to any property disposed of in accordance with the provisions of the bill; that there is some likelihood that objection will be made to the bill because of the latter provision; and that inasmuch as the first provision referred to would relieve

the Federal Reserve Banks from liability it was suggested that, in the event it appears that the bill might not be passed with the provision in question, Mr. Williams, Assistant Counsel, would be authorized to suggest to the proper parties that it be eliminated from the bill. Mr. Ransom added that the Federal Reserve Bank of New York would prefer to have the provision taken out of the bill, and that he would prefer to have it eliminated rather than to have the bill defeated.

In a discussion with respect to the reasons for the provision Mr. Wyatt stated that it had been inserted in the bill because (1) it constituted the clearest ground for sustaining the constitutionality of the legislation, and (2) the provision also stated that no court shall have jurisdiction to restrain or enjoin a Federal Reserve Bank from making payment, transfer or delivery, or other disposition of property in accordance with the provisions of the bill, which was believed to be desirable to prevent a situation arising in which property held by Federal Reserve Banks might be tied up in litigation. Mr. Wyatt added, however, that he agreed with Mr. Ransom's position and would prefer to eliminate the provision if its presence in the bill would result in the legislation not being passed.

At the conclusion of the discussion, upon motion by Mr. Davis, the matter was referred to Mr. Ransom with power to act in accordance with his suggestion.

There was then presented a draft of a letter to Mr. Delano, Comptroller of the Currency, prepared in accordance with action taken at the meeting of the Board of Governors on August 9, 1940, and reading as follows:

"Mr. Ransom has advised the Board of Governors of his telephone conversation with Mr. Upham on August 7 in which the latter stated that your office had concluded not to make a Fall call for reports of condition of national banks but requested to be advised whether the Board had any reason for urging that the call be made.

"In view of the fact that it has been the practice of the Board of Governors to make calls on State member banks for reports of condition as of the same dates that the Comptroller of the Currency makes calls on national banks and also of the Board's authority to call for reports from all member banks if it deems it necessary to do so, the Board will appreciate being advised more particularly as to the reasons why your office wishes to omit the Fall call this year.

"In this connection the suggestion is offered that it would be helpful if arrangements could be made for representatives of your office and the Board of Governors to confer before decisions are reached as to future calls."

Upon motion by Mr. Davis the letter was approved unanimously.

Reference was made to a letter dated August 1, 1940, from James C. Stone, a Class C Director of the Federal Reserve Bank of Cleveland, in which it was stated that Mr. Stone had accepted appointment as Chairman of the Republican Finance Committee in Kentucky for the purpose of raising funds to perfect an organization for the coming presidential election, that upon inquiry he had been advised by officers of the Federal Reserve Bank of Cleveland that he could not retain this position while remaining a director of the Federal Reserve Bank of Cleveland, and that, therefore, it was with genuine regret that he was compelled to tender to the Board of Governors his resignation as a director of the Cleveland Bank. The matter was considered in the light of the resolution adopted by the Board on December 23, 1915, which stated that persons serving as members of political party committees could not

consistently with the spirit and underlying principles of the Federal Reserve Act serve as directors of Federal Reserve Banks, and it was agreed that, inasmuch as the resolution had continued in effect without modification, the only course open to the Board in the circumstances was to accept the resignation.

Accordingly, the Secretary was requested to prepare for consideration by the Board, a draft of a letter to Mr. Stone advising of the acceptance of his resignation.

Mr. Ransom stated for the information of the other members of the Board that during the course of this meeting Mr. Harrison, President of the Federal Reserve Bank of New York, called him on the telephone to state that Governor Towers of the Bank of Canada, following a meeting between him and the Secretary of the Treasury, had called at the New York Bank and advised that the Secretary of the Treasury had stated that he would be pleased to have the Canadian Government open an account with the Federal Reserve Bank of New York as fiscal agent of the Treasury, and that Governor Towers wanted to know what procedure should be followed in order to open such an account. Mr. Ransom added that President Harrison thought that Governor Towers would address a letter to the Treasury stating that the Canadian Government desired to open such an account, that this would probably be followed by a letter from the Treasury to the Federal Reserve Bank of New York requesting that the same kind of an account be opened for the Canadian Government as had previously been opened for the British Government, and that it was

also desired that there be opened a gold account under Section 14 of the Federal Reserve Act which would require approval of the Board of Governors. The New York Bank, Mr. Ransom said, was drafting a communication to the Board of Governors covering the developments outlined above and would forward it to the Board when prepared.

At this point Messrs. Thurston, Wyatt and Goldenweiser 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 August 10, 1940, were approved unanimously.

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

> "This refers to your letter of August 2, 1940 enclosing a copy of a memorandum from your Counsel with regard to the form of certificate of deposit proposed to be used by the City National Bank of Winston-Salem, North Carolina.
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> "The certificate provides that the principal is payable to the registered holder on presentation of the certificate 'on the last day of any _____ period after date'. The blank in the quoted phrase is to be filled in with a period agreed upon by the parties, such as 90 days, six months, or other period, and the rate of interest payable on the certificate will be fixed in accordance with the supplement to Regulation Q, i.e., if a six months' period - 2-1/2 per cent, and if a 90 day period - 2 per cent. The certificate is payable at the specified time, however, only if, prior thereto, written notice of a stated number of days has been given by either party to the other; and, if the certificate is not matured for payment or called at the end of any period as provided in the certificate, it is automatically renewed from period to period until it is so matured or

"called. Checks for accrued interest are mailed to the registered holder on June 30 and December 31 of each year.

"Several questions are suggested with reference to the certificate in question. The first is with regard to the provision for successive renewals without requiring the presentation of old certificates and the issuance of new ones. This feature does not prevent the deposit from being considered a time deposit within the meaning of Regulation Q for, if the period named in the certificate is six months when the deposit is made, it is a six months' certificate and, if not called in at the end of the first period, it would after such six months' period automatically become again a six months' certificate. Although a period of notice by one party to the other is required before payment, the certificate is in no event payable except at the end of the specified periods. The case is somewhat similar to the classification as time deposits of postal savings funds payable at the end of successive periods of 30 days, which is covered by the ruling of the Board published in the 1933 Federal Reserve Bulletin, at page 768.

"The certificate provides that the principal is payable only on presentation of the certificate but contemplates the payment of interest by semiannual checks to the registered holder. The provisions of Regulation Q are not specific on the question whether the interest on a time certificate of deposit may be paid only on presentation of the certificate; but, in the opinion of the Board of Governors, the fact that interest is payable by check to the registered holder without presentation of the certificate does not prevent the deposit from being classified as a time deposit.

"The question has also been suggested whether the provision for the payment of interest on June 30 and December 31, irrespective of the maturity of the certificate, might result in a payment of a rate slightly in excess of the rate mentioned in the supplement to Regulation Q compounded quarterly. For example, if a deposit were made on June 1 and the period of successive renewals were 90 days, interest accrued through June 30 would be paid on that date. If the certificate with accrued interest at the date of payment were paid at the end of the first 90 days, the net yield on the investment, assuming that the depositor redeposited the interest paid him on June 30, would be slightly more than the specified rate

"compounded quarterly. In order for this to take place, however, it would be necessary for the depositor to make a new deposit in the bank of the interest he received on June 30 and presumably obtain another certificate. This would seem to be an independent transaction requiring a new agreement between the bank and the depositor and, accordingly, it does not appear that the rate of interest paid on a certificate of the kind in question would exceed the maximum permitted by the supplement to Regulation Q.

"In the circumstances, it is the Board's opinion that a deposit evidenced by such a certificate may be properly classified as a time deposit within the meaning of Regulation Q."

Approved unanimously.

Letter to Mr. Hamilton, President of the Federal Reserve Bank of Kansas City, reading as follows:

"In your letter of July 17, 1940 you presented the question whether Mr. George W. Holmes, Mr. L. C. Chapin, and Mr. Arthur A. Dobson, may continue to serve both The First National Bank of Lincoln and The First Trust Company of Lincoln, in view of the provisions of the Clayton Act.

"The information which has been submitted to the Board is to the effect that the trust company does not receive deposits within the meaning of section 3(c) of Regulation L, and that the national bank is not exercising trust powers except that it is trustee under one indenture securing certain debentures all of which are held by the Public Works Administration.

"In the circumstances, the Board has decided that the relationships described in the first paragraph of this letter are not prohibited by section 8 of the Clayton Act."

Approved unanimously.

Memorandum dated August 7, 1940, from Mr. Wyatt, stating that, pursuant to the action taken by the Board on July 17, he and Mr. Chase, Assistant Counsel, had a conference on August 5 with the Corporation

Counsel for the District of Columbia with respect to the proposed taxation of the Federal Reserve building, and that in the light of that discussion it was recommended:

"1. That a letter be addressed to the Commissioners of the District of Columbia requesting an opportunity to present the Board's views on this subject at an informal conference. (A draft of a letter for this purpose is attached.)

"2. That, if it appears during the conference with the Commissioners that there is some possibility of obtaining a reversal of their action by this means, a written brief be filed and a further decision awaited.

"3. That, if it appears during the conference with the Commissioners that they would be unlikely to reverse their action on their own motion, they be asked whether they would be willing to abide by an opinion of the Attorney General on these questions.

"4. That the Board's representatives be authorized to decide during the conference whether to submit the matter on the basis of a written brief filed by this office or whether to ask the Commissioners to defer any further action until an opinion can be obtained from the Attorney General.

"5. That, if the decision of the District Commissioners after reconsidering the matter is adverse, or if it appears that it is unwise to await an adverse decision, the President be requested to obtain an opinion from the Attorney General on these questions."

The recommendations were approved unanimously, together with the proposed letter to the Commissioners of the District of Columbia which read as follows:

"Under date of July 17, 1940, the Assessor for the

"District of Columbia addressed a letter to the Board stating that, under a recent opinion of the Corporation Counsel, the Commissioners of the District of Columbia had directed his office to place the Federal Reserve Building and lot (lot 805 in square east of 87 and lot 812 in square east of 88) on the taxable list and he accordingly submitted tax bills for the fiscal years 1938, 1939 and 1940 in the total amount of $200,985.86 and advised that if these bills were paid on or before September 1, 1940 no interest charges would accrue, but that if they were not paid by that date interest charges would accrue at the rate of 1 per cent per month as provided by the law.

"Under date of July 19, 1940, the Acting Water Registrar for the District of Columbia addressed a letter to the Board stating that, at a meeting held on July 12, 1940, the Commissioners of the District of Columbia had approved a recommendation of the Corporation Counsel that the opinion of the Corporation Counsel approved January 7, 1938 exempting the Board from the payment of charges for water be revoked and that the Water Registrar be directed to remove the Federal Reserve Building from the list of those entitled to the free use of water.

"The opinion of the Corporation Counsel and the action of the Commissioners in directing the sending of these communications evidently were based upon a doubt as to the status of the Board as an establishment of the Government of the United States, since it is universally recognized that property of the Government is not subject to taxation and that the Government is entitled to the free use of water in the District of Columbia.

"The Board's status as a board or independent establishment of the Government of the United States was settled by an opinion rendered by the Attorney General of the United States under date of November 16, 1914 (30 Op. Att. Gen., 308) and has been generally recognized ever since. Any attempt, therefore, to collect taxes from the Board or to charge the Board for the use of water would raise questions of fundamental importance which have been regarded as settled for over a quarter of a century.

"The Board understands that the Corporation Counsel expressed some doubt that the assessment of taxes on the Board's building would be held valid if litigated but he apparently felt that this doubt should be resolved in favor of the validity of the assessment until and unless otherwise determined by legislation or litigation.

"The Board feels that it would be desirable to settle these questions without resort to litigation or legislation, if possible, and, therefore, requests an opportunity to present its views on this subject to the Commissioners of the District of Columbia in an informal conference at a mutually convenient date to be fixed by the Commissioners and that, in the meantime, any further action with respect to the taxation of the property or the making of charges for the use of water be held in abeyance."

Thereupon the meeting adjourned.

Chester Morrill
Secretary.

Approved: M S Eccles
Chairman.