

A meeting of the Board of Governors of the Federal Reserve System was held in Washington on Saturday, September 14, 1940, at 10:30 a.m.

PRESENT: Mr. Szymczak
Mr. McKee

Mr. Morrill, Secretary
Mr. Bethea, Assistant Secretary

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

Letter to the "Commercial National Bank in Nacogdoches", Nacogdoches, Texas, reading as follows:

"The Board of Governors of the Federal Reserve System has given consideration to your application for fiduciary powers, and grants you authority to act, when not in contravention of State or local law, as executor, administrator, guardian of estates, assignee, receiver, or in any other fiduciary capacity in which State banks, trust companies or other corporations which come into competition with national banks are permitted to act under the laws of the State of Texas, the exercise of all such rights to be subject to the provisions of the Federal Reserve Act and the regulations of the Board of Governors of the Federal Reserve System.

"This letter will be your authority to exercise the fiduciary powers granted by the Board pending the preparation of a formal certificate covering such authorization, which will be forwarded to you in due course."

Approved unanimously.

Letter to Honorable Robert F. Wagner, Chairman, Banking and Currency Committee of the Senate, reading as follows:

"This is in response to your letter of September 13, 1940 requesting the views of the Board of Governors of the Federal Reserve System on S. 4340, 'A bill to

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"assist in the national-defense program by amending sections 3477 and 3737 of the Revised Statutes to permit the assignment of claims under public contracts'.

"The bill would amend sections 3477 and 3737 of the Revised Statutes by adding at the end of each such section a new paragraph permitting the assignment of a claim of \$3,000 or more upon the United States, to a bank, trust company, or other financing institution, including any Federal lending agency, subject to certain stated conditions.

"Section 3477 of the Revised Statutes makes assignments of claims against the United States null and void unless they are made after the claims have been allowed and warrants issued; and, with like effect, section 3737 prohibits the transfer of any contract or order. Section 3477, which dates back to 1846, was enacted solely for the protection of the Government; but it is so strictly worded and has been so strictly construed that an attempted assignment which does not comply with the exact terms of the statute has been held void even as between the assignor and the assignee, so that it confers no rights in the assignee as against a trustee in bankruptcy of the assignor. National Bank of Commerce v. Downie, 218 U. S. 345. As a consequence, banks and other lending agencies which might otherwise be willing to extend credit to finance the performance of contracts with the Government are unable to rely upon assignments of amounts payable under such contracts as security, because they would find themselves in the position of general creditors of the contractors in the case of bankruptcy even though the funds which they advanced may have made the fulfillment of the contracts possible.

"There are many manufacturers and other businesses, particularly the smaller ones, which may be deterred from bidding on contracts arising out of the program for national defense because they have inadequate amounts of working capital and may encounter difficulties in financing the performance of such contracts. If such businesses could offer security in the form of assignments of claims against the Government growing out of such contracts, they would in many instances be able to obtain the necessary credit from their own local banks and other financing institutions, which have large amounts of idle funds awaiting employment. In many

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"instances such credit could be obtained more simply and quickly from local institutions than from the lending agencies of the Government, whose commitments usually have to be passed upon in Washington.

"With respect to a proposal of a similar character, the Federal Advisory Council, established under section 12 of the Federal Reserve Act, has advised the Board of Governors as follows:

'The Council believes this suggested amendment to the law especially important at this time, since the Government's preparedness program whenever put into effect will result in the necessity of placing large orders for materials of all kinds. Many small and medium sized business enterprises would be in a better position to accept and execute Government orders if they were able to use assignments of their claims against the Government as collateral for loans.'

"It is believed, therefore, that the enactment of this bill would facilitate financing the performance of Government contracts, would encourage additional business concerns to bid for such contracts and, by increasing the number of bidders, would tend to expedite, and reduce the cost of, the defense program.

"For these reasons, the Board of Governors of the Federal Reserve System believes that the enactment of the bill S. 4340 is desirable and in the public interest."

Approved unanimously.

Thereupon the meeting adjourned.

Robert M. Hoover
Secretary.

Approved:

W. S. Ayres
Member.