

A meeting of the Board of Governors of the Federal Reserve System was held in Washington on Thursday, February 12, 1942, at 11:30 a.m.

PRESENT: Mr. Eccles, Chairman
Mr. Ransom, Vice Chairman
Mr. Szymczak
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 herein-after referred to was taken by the Board:

The minutes of the meeting of the Board of Governors of the Federal Reserve System held on February 11, 1942, were approved unanimously.

Memorandum dated February 10, 1942, from Mr. Nelson, Assistant Secretary, recommending (1) that Jefferson J. Larson, an elevator operator, be transferred to the page force without change in his present temporary status but with an increase in his salary from \$1,200 to \$1,260 per annum, effective February 16, 1942, and (2) that Donal H. Phillips and Carl J. Gellogg be appointed on a temporary basis for an indefinite period as elevator operators in the Secretary's Office, each with salary at the rate of \$1,200 per annum, effective as of the date upon which each enters upon the performance of his duties after having passed satisfactorily the usual physical examination.

Approved unanimously.

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Memorandum dated February 10, 1942, from Mr. Nelson, Assistant Secretary, recommending (1) that Mary A. Deuterman be appointed as a junior file clerk in the Secretary's Office on a temporary basis for a period of six months, with salary at the rate of \$1,260 per annum, effective as of the date upon which she enters upon the performance of her duties after having passed satisfactorily the usual physical examination, with the understanding that if her work is satisfactory during the six months' period a further recommendation will be made that her appointment be made permanent and her salary increased to \$1,440 per annum, (2) that the temporary appointments of Betty J. Strickler and Hazel L. Simpson, junior file clerks, be made permanent and their salaries increased from \$1,260 to \$1,440 per annum, effective February 16, 1942, and (3) that the salary of Ruth E. Dewey, junior file clerk, be increased from \$1,440 to \$1,500 per annum, effective February 16, 1942.

Approved unanimously.

Memorandum dated February 9, 1942, from Mr. Nelson, Assistant Secretary, recommending that Emmett M. Dial be appointed as a guard in the Secretary's Office on a temporary basis for an indefinite period, with salary at the rate of \$1,380 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, with the understanding that if his work is satisfactory during the first six months

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of his appointment a further recommendation will be submitted that his salary be increased to \$1,500 per annum.

Approved unanimously.

Memorandum dated February 10, 1942, from Mr. Nelson, Assistant Secretary, recommending that the Board contribute to the Reserve Board Club an amount not to exceed \$75.00 a month for the purpose of paying for the services of an attendant in the Club library and recreation room. The memorandum stated that if the Board approved the recommended contribution the Reserve Board Club proposed to employ Miss Jeanne Tydings at a salary of \$75.00 per month, with the understanding that she would keep the recreation room open from 10:00 a.m. to 5:00 p.m. on weekdays and from 10:00 a.m. to 1:00 p.m. on Saturdays.

Approved unanimously.

Letter to Mr. Sanford, Secretary of the Federal Reserve Bank of New York, reading as follows:

"Referring to your letter of February 9, 1942, the Board of Governors approves the reappointment of Messrs. Arthur G. Nelson, Edward J. Noble, William H. Pouch, and Francis B. Reynolds as members of the Industrial Advisory Committee for the Second Federal Reserve District, each to serve for a term of one year beginning March 1, 1942.

"It is noted that, due to the small volume of applications for loans being considered by the Committee, no appointment has been made to fill the vacancy caused by the death of Mr. Herman K. Beach."

Approved unanimously.

Letter to Mr. Drinnen, First Vice President of the Federal

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Reserve Bank of Philadelphia, reading as follows:

"Referring to your letter of February 6, 1942, the Board of Governors approves, for the period January 1, 1942 to April 30, 1942, the payment of a retainer fee at the rate of \$2,500 per annum to the firm of MacCoy, Brittain, Evans and Lewis.

"In accordance with the procedure set forth in the Board's letter dated September 6, 1941, S-312, approval is given for the payment of a retainer fee to the same date as that for which the payment of officers' salaries has been approved. It is, therefore, assumed that when approval is requested for the payment of officers' salaries for the year beginning May 1, 1942, a request will be included for payment of a retainer fee for counsel for the same period.

"In reviewing the statement showing the name and salary of each employee of your Bank as of January 1, 1941, and January 1, 1942, submitted with your letter, it is noted that the salary of Mr. Earl W. Harris, Clerk A, Accounting Department, is shown as \$2,520, which is \$300 in excess of the maximum salary provided in the personnel classification plan for this position. It is also noted that an employee in the Collection Department is shown with the title General Clerk-A.

"Our records do not indicate that the salary of Mr. Harris, or the establishment of the position General Clerk-A in the Collection Department, has been approved by the Board of Governors. Your advice regarding these matters will be appreciated."

Approved unanimously.

Telegram to the Presidents of all Federal Reserve Banks, except Chicago, reading as follows:

"In connection with proposed Amendment No. 3 to Regulation W, Board will be giving consideration to application of bracketing principle to (1) clocks and watches, (2) radio receiving sets (not phonographs or combinations), (3) sewing machines, and (4) refrigerators. Proposed requirements in all these cases are maximum credit value of 80

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"per cent for lower bracket and 66-2/3 per cent for higher bracket. Proposed breaking points as follows: for clocks and watches \$25, for radios \$35, for sewing machines \$85, and for refrigerators \$175. General considerations governing selection of proposed breaking points have been that lower bracket shall include (1) models suitable to meet essential requirements of typical buyer in lower income group without unduly limiting his field of choice and (2) models now being produced to some extent by each of leading manufacturers. Your opinion is desired as to desirability of using bracketing principle in general, as to its applicability to enumerated articles, and as to proposed breaking points. You are at liberty to confer with such consultants as you may select. Suggest that these should include manufacturers of radios, sewing machines, and refrigerators if there are any important manufacturers of these articles in your district. It is important that your reply should reach Board before noon Thursday, February 19. It will be appreciated if the Reserve Banks and trade will treat proposals and discussions as matters not for publication or press release."

Approved unanimously, together with a similar telegram to Mr. Young, President of the Federal Reserve Bank of Chicago, requesting him to give copies of the telegram to Messrs. Brown and Lichtenstein, President and Secretary, respectively, of the Federal Advisory Council.

Letter to Mr. Wallace, Counsel of the Federal Reserve Bank of Richmond, reading as follows:

"This is a belated answer to your letter of October 30, 1941, asking certain questions about Regulation W. We must apologize for the delay, for which there is no explanation except that for some unknown reason the correspondence was mislaid.

"Your questions related to the Board's letter dated October 27, 1941 (S-380), which was designed to give some information on the way in which Interpretation W-51 should be applied. The Board did not wish to publish all of the

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"correspondence included in S-380 as a ruling but has no objection to the use, by you, of any material contained therein for the purpose of answering inquiries.

"Attention should, perhaps, be called to the fact that the test of Ruling W-51 depends upon the heat the furnaces or units are designed to produce. This means that there is reference to a rating by the manufacturer of the capacity of his product. Once this rating has been determined in connection with any type or model of furnace or unit, the dealer, the finance company, and the bank make reference to such ratings for purposes of applying the regulation. The purpose of the letter to the stoker manufacturers association was to show them how 'actual net output' is to be calculated in the case of stokers. This means, of course, that the particular conditions surrounding any given installation are not to be taken into consideration.

"As you suggested, the B.t.u. content of coal varies in different parts of the country and the heat obtained in a given installation using one type of coal will be greater than in another where the B.t.u. content of the coal is different. Nevertheless, it would have been very difficult to require the manufacturers to rate their products for the different kinds of coal and have the rules apply depending upon the coal to be used. This would be even more difficult in areas where several kinds of coal are available. In order to have a particular model either subject to the regulation or not subject to the regulation uniformly throughout the country, it was necessary to select an average coal and say that its B.t.u. content be used for calculation with respect to every model.

"In the various branches of the heating industry certain standards have been established for use in calculating the efficiency of the particular type of unit. There is heat loss in the combustion process and also heat loss in the boiler and radiation system. These are matters which, in the usual case, are familiar to engineers for the manufacturers involved and they have established standards by common agreement among the companies. If one company tended to rate its products extravagantly, it would be much to the interest of the other manufacturers and the association to see that the ratings were brought into line.

"In the case of stokers the 65 per cent efficiency is a figure recognized by the industry and can be applied

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"generally. The piping and pick-up factor of 1.466 is also a standard accepted in the heating field which should be generally applied, in the case of hot water and steam heating systems employing cast iron boilers. This figure was used for purposes of the stoker case because that would be the commonly used heating plant for stokers. There is no objection to using these figures in answering inquiries where the circumstances are as described. The advertisement which you enclosed seemed clearly to indicate that an improper method of calculation had been used in arriving at the rating of the product advertised. It is believed that you will be able to give the manufacturer the necessary information to enable him to correct the error."

Approved unanimously.

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

"This refers to your letter of January 28, 1942, enclosing a copy of a letter received by you from the Industrial Mortgage Company of Grand Rapids, Michigan, stating that it is considering the purchase of the entire business of a small loan company and that they are advised that the management of this company has not complied in any way with Regulation W since its effective date.

"You state that in a telephone conversation you advised the Industrial Mortgage Company against making the purchase, and it is believed that this advice is sound. In view of the provisions of section 3(a), the Industrial Mortgage Company would be violating the Regulation if it received any payments on nonconforming paper purchased from the other company; and although it might be possible to devise some arrangement whereby the Industrial Mortgage Company and its officers would be insulated from violations resulting from receipt of such payments, your bank, of course, would not wish to undertake to devise it. Possibly the Industrial Mortgage Company could purchase the physical equipment, good will, and other assets of the company, including any conforming paper, and not acquire the nonconforming paper. However, it would seem that the advice which you gave was sufficient."

Approved unanimously.

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Telegram to Mr. Gilmore, Assistant Cashier of the Federal Reserve Bank of St. Louis, reading as follows:

"Retel tenth Board feels that shortness of time between now and release date of revised and reprinted regulation would preclude proper study and editing necessary to a reprint of all applicable rulings. Board will prepare an interpretation like W-108 calling attention to those interpretations or parts thereof made obsolete by the new amendment. This should be ready for release simultaneously with revised and reprinted regulation."

Approved unanimously.

Telegram to Mr. Swanson, Vice President of the Federal Reserve Bank of Minneapolis, reading as follows:

"Your wire February 4. Apparently father could borrow from bank on 18 months' basis with Statement of Necessity to retire obligation with finance company. Transfer of equity to father was apparently permissible both under section 8(a)(1) (of Regulation W) and W-72, but after transfer to father has been completed section 8(a)(1) is not available to father."

Approved unanimously.

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

"Board agrees that section 8(a)(1) (of Regulation W) is applicable in circumstances described in your letter February 7."

Approved unanimously.

Letter to Mr. Hitt, First Vice President of the Federal Reserve Bank of St. Louis, reading as follows:

"This refers to your letter of January 29, 1942,

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"requesting information in connection with recent newspaper accounts of an amendment to an Internal Revenue regulation relating to taxation of stock dividends. It appears that the principal facts involved in this matter are substantially as follows:

"In the case of Eisner v. Macomber, 252 U.S. 189, decided in 1920, the Supreme Court of the United States held that a stock dividend which merely evidences a transfer of an accumulated surplus to the capital stock account of a corporation and takes nothing from the property of the corporation and adds nothing to that of the shareholder is not subject under the Constitution to a tax on income.

"Subsequent regulations of the Bureau of Internal Revenue attempted to spell out what types of stock dividends were not income under the Supreme Court's decision and the types that were income and taxable as such. However, on November 15, 1940, Internal Revenue Regulations 103, issued under the Revenue Act of 1939, were amended so as merely to provide that:

'A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall be treated as a dividend to the full extent that it constitutes income to the shareholders within the meaning of the Sixteenth Amendment to the Constitution.'

"Subsequently, similar amendments were made to Internal Revenue Regulations 94 issued under the Revenue Act of 1936 and Internal Revenue Regulations 101 issued under the Revenue Act of 1938. These amendments were issued under date of January 19, 1942.

"It is understood that the case of Sprouse v. Commissioner of Internal Revenue, 122 Fed. (2) 973 (C.C.A. 9th Circuit, October 22, 1941) is now before the Supreme Court of the United States on a petition for certiorari filed by the Commissioner of Internal Revenue on January 21, 1942.

"The amendment of January 19, 1942 to the Internal Revenue regulations and the case now before the Supreme Court are apparently steps taken by the Bureau of Internal Revenue in an effort to obtain a reversal of the Supreme Court decision in Eisner v. Macomber and to obtain a ruling from the Court that stock dividends are taxable as income. The purpose of the amendment to the regulation would appear to be to avoid an argument before the Supreme Court

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"based on statements in the regulation that certain types of stock dividends are not taxable as income.

"If the Bureau of Internal Revenue should be successful in obtaining a reversal of the ruling in Eisner v. Macomber, it would seem desirable at that time to consider its effect on the question of converting surplus accounts in banks into capital stock and to consider what amendments should be made to the revenue laws exempting from taxation stock dividends deemed desirable by bank supervisory authorities. It is assumed that in the event of a reversal of Eisner v. Macomber, consideration will be given to what amendments to existing laws are appropriate with respect to their application to past transactions of banks as well as other corporations.

"We hope that the above brief outline of the situation will give you the information you need to answer the inquiry you have before you and any others you may receive."

Approved unanimously.

Thereupon the meeting adjourned.

Chester Morris

Secretary.

Approved:

W. C. ...

Chairman.