

Minutes of actions taken by the Board of Governors of the Federal Reserve System on Thursday, February 3, 1949.

PRESENT: Mr. Eccles, Chairman pro tem.  
Mr. Szymczak  
Mr. Draper  
Mr. Evans  
Mr. Clayton

Mr. Carpenter, Secretary  
Mr. Sherman, Assistant Secretary  
Mr. Morrill, Special Adviser  
Mr. Thurston, Assistant to the Board

Minutes of actions taken by the Board of Governors of the Federal Reserve System on February 2, 1949, were approved unanimously.

Letter to Honorable Kenneth C. Royall, Secretary of the Army, reading as follows:

"In connection with the performance of Government contracts, including contracts awarded by the Department of the Army, banks have been financing contractors through loans secured by assignments taken under the provisions of the Assignment of Claims Act of 1940 of moneys due and to become due under the contracts involved. As you know, such assignments of claims were the principal type of collateral security taken by banks in financing war contractors under the Regulation V guaranteed loan program during World War II.

"It is understood that contracts of the Department of the Army contain, among other provisions, an article relating to price revision under which the contracting officer may require the contractor, after completion of the contract, to negotiate for a reduction of the contract price. The article provides that 'the Government shall retain from amounts otherwise due the contractor, or the contractor shall repay to the Government if paid to him, any amount by which the contract price is found \* \* \* to exceed a fair and reasonable price, as the contracting officer may direct.'

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"One of the Federal Reserve Banks has advised the Board that a commercial bank in its district has requested the Office of the Comptroller General for a decision on the question whether, under the above-mentioned price revision article, a bank which is assignee of claims under a Government contract may be required to repay to the Government amounts determined to be 'overpayments' as the result of a price revision. The question also arises whether, before full payment is made, the Government may retain amounts otherwise due on the contract in making payments to the bank as assignee. In either event, of course, the effectiveness of the assignment as collateral for the bank's loan would be impaired.

"It is understood that the Comptroller General's office has stated that it has no jurisdiction to render a decision in this matter unless requested by the head of a Government department or a disbursing officer and has suggested therefore that the matter be taken up with the Department of the Army.

"In view of the importance of this matter to banks engaged in the financing of Government contractors, we shall greatly appreciate it if you will ask the Office of the Comptroller General for a decision of that Office on the question presented, which may be stated as follows: Where claims under a Government contract have been assigned to a bank, would the price revision article of the contract be regarded as authorizing the Government to retain amounts otherwise due on the contract in making payments to the assignee bank, or, where full payment has been made, to require repayment by the bank of amounts previously paid to it by the Government?"

Approved unanimously, together  
with letter to Mr. Slade, Vice President  
of the Federal Reserve Bank of  
San Francisco, reading as follows:

"This refers to your letter of January 22, 1949, with enclosures, regarding a question which has been raised as to the effectiveness of an assignment of claims under a Government contract as collateral security for bank loans to contractors for the armed services, in view of the price revision article inserted in Government contracts which authorizes the

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"Government to retain, or to require repayment, of amounts due under a contract where the contract price is found to exceed a fair and reasonable price.

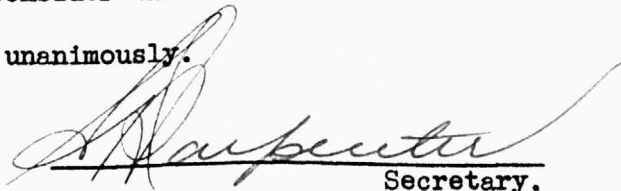
"For your information in this connection, there is enclosed a copy of a letter which the Board is today addressing to the Honorable Kenneth C. Royall, Secretary of the Army, asking that this question be submitted by him to the Office of the Comptroller General for a decision. We shall of course advise you of any further developments in this matter."

Letter to Honorable Edwin C. Johnson, Chairman, Committee on Interstate and Foreign Commerce, United States Senate, prepared in accordance with the action at the meeting on January 28, 1949, reading as follows:

"This refers to your letter of January 25, 1949, in which you advise that your Committee will appreciate receiving any comments that this Board may care to offer regarding S. 236, a bill 'To clarify and formulate a consistent and coordinated national policy with respect to transportation costs in interstate commerce; to strengthen the antitrust laws of the United States and to provide for their more effective enforcement; and to promote competition by permitting sellers to have access to distant markets.'

"This bill involves the legality of certain pricing practices in interstate commerce in the light of recent decisions of the Supreme Court of the United States but does not appear to affect the monetary and credit functions or other activities with which the Federal Reserve System is directly concerned. In the circumstances, the Board has no comments to offer concerning this proposed legislation, but we appreciate the opportunity afforded by your letter to consider the matter."

Approved unanimously.

  
Secretary.

Approved:

  
Chairman pro tem.