Minutes of actions taken by the Board of Governors of the Federal Reserve System on Monday, June 13, 1949. The Board met in the Board Room at 2:30 p.m.

PRESENT: Mr. McCabe, Chairman
Mr. Eccles
Mr. Szymczak
Mr. Draper
Mr. Evans
Mr. Vardaman

Mr. Carpenter, Secretary
Mr. Sherman, Assistant Secretary
Mr. Morrill, Special Adviser
Mr. Thurston, Assistant to the Board
Mr. Riefler, Assistant to the Chairman
Mr. Vest, General Counsel
Mr. Leonard, Director, Division of Bank Operations
Mr. Millard, Director, Division of Examinations
Mr. Townsend, Solicitor
Mr. Young, Associate Director, Division of Research and Statistics
Mr. Smith, Special Counsel

Chairman McCabe stated that this meeting had been called at Mr. Evans' request and in accordance with the discussion at the meeting on June 3, 1949, to afford an opportunity to Mr. Evans to make a statement with respect to questions that had been raised in connection with the Clayton Act proceeding against Transamerica Corporation and members of the Board to ask such questions and make such observations as they might desire.

Mr. Evans then made a statement substantially as follows:

"When the matter of my having a short recess in the

"Transamerica case appeared to be likely, I considered then that it would be a good opportunity for me to come back to Washington and to make a general report to the Board upon the developments to date in the case. I did not then have in mind, nor do I now, that such a report would in any way discuss the merits or the demerits of the case. Certainly, it is not my intention to discuss the evidence in the case. Because of that I asked Mr. Eccles to be present thinking he would be interested in what I had to say.

"As I understand my responsibility, it is to supervise the making of the formal record and when that has been completed to file with the Board my recommended decision based upon that record. At that time I have no doubt various questions will arise as to the correctness of many or all of the rulings I have made during the course of the hearings.

"I am glad now I decided to come back to Washington. The reports which have reached me on the Coast regarding various matters which appear to have been called to the Board's attention in connection with the Transamerica case have been very disturbing to me -- disturbing for the reason that I am definitely of the opinion that the net effect of all of these discussions could undermine the effective handling of the case. I had my secretary send me copies of the Board's agenda and of course I received copies of the Board's minutes and various memoranda that have been submitted to the Board since my departure from Washington. All of these leave me with the impression that I have misconceived the notion of my responsibility in the case. As I said before, it was my understanding -- and certainly the impression of my legal adviser -- that until the formal record has been made in the case the Board has assigned the handling of this case to me.

"Apparently, discussion has taken place here at the Board in relation to a number of matters. These include the question of subpoena powers, the matter of bank holding company examination reports, substitution of someone else to act in my capacity, whether and when I should discuss these matters with the Board, and certain memoranda relating to the attitude of the Comptroller's office in connection with the Board's request that the Comptroller cooperate along certain lines in the case. Inasmuch as the last mentioned matter is one with which I do not

"have any individual familiarity, I called the Board's Solicitor, Mr. Townsend, last week and asked him to secure copies of these memoranda from my secretary and to prepare a report to the Board upon their contents. He has handed me that report and I have it here. I am going to have it made a matter of record. I should like Mr. Townsend to read that report now."

At this point, Mr. Townsend read the memorandum which he had prepared at Mr. Evans' request under date of June 10, 1949, as follows:

"On Monday, June 6, 1949, Governor Evans called me from Iowa and, among other things, told me to obtain from Miss Westman copies of the two memoranda from Governor Vardaman to the Board, dated April 25, 1949. He instructed me to read these memoranda and to submit to the Board my comments thereon. They are as follows.

"These memoranda deal, in the main, with the letter from the Comptroller of the Currency to Chairman McCabe, dated February 24, 1949. This is the letter in which the Comptroller, among other things, notified the Chairman that the Comptroller's Office was unable to comply with the request of the Board to authorize the national bank examiners to testify in the Transamerica proceedings concerning the interstate activities of the various national banks in the Transamerica group. In these memoranda Governor Vardaman makes various points touching upon this letter in one way or another, and I will take them up separately. For purposes of convenience I shall refer to the two-page memorandum as the first memorandum and the other one as the second memorandum.

"In the first two paragraphs of the first memorandum reference is made to the fact that, notwithstanding the Comptroller's letter to Chairman McCabe was dated February 24th, Governor Vardaman (and presumably other members of the Board) did not see a copy of it until some time in April. The only information I have which may throw light on this matter is the following:

"The letter was received at the Board after I left by car to travel to San Francisco for the resumption of the Transamerica hearings. It bears a stamp: 'Received

"'in Chairman's Office February 28, 1949'". From the Chairman's office the letter was sent to Mr. Carpenter's office, from which point it was sent, in my absence, to Howland Chase. (Enclosed with the letter were certain certified copies of material from the Comptroller's files, including applications of Bank of America N. T. & S. A. to branch the various banks in California previously purchased by Transamerica, which were to be introduced in evidence during the hearings.) Upon receiving the letter Howland did exactly as I would have done had the letter been handed to me -- he promptly saw Chairman McCabe, showed him the letter, and discussed the matter fully with him. It will be remembered that Chairman McCabe had had repeated discussions with the Comptroller and others respecting the subject matter of the letter from Mr. Delano. The Chairman told Howland that, while in his judgment it probably would do no good, he would make one last effort to persuade the Comptroller to change his mind. Having thus gone over the letter with Chairman McCabe, Howland then shipped the letter and its enclosures, together with other material for use in the Transamerica proceedings, to San Francisco to await my arrival.

"I arrived in San Francisco late in the day of March 14th. The next day I met with Howland and discussed the matter of the Comptroller's letter with him. We decided that, before taking any steps to obtain expert witnesses, we would first ascertain whether in the pending negotiations with counsel for Transamerica there was any disposition on their part to stipulate the underlying facts respecting the issue of interstate commerce. The hearings were recessed from March 28th to April 11th to enable counsel to continue such stipulation negotiations. These soon demonstrated the futility of further negotiations and on March 25th I telephoned Washington and talked with Messrs. Morrill and Thomas regarding the matter of obtaining expert witnesses to testify respecting the interstate character of the commercial banking system. On the same day Mr. Thomas prepared a memorandum outlining the substance of our conversation and pointing out to the Board that I desired to have a conference in Washington with members of the Board's staff and hoped particularly to have Dr. Goldenweiser present, as well as such others as might be helpful in formulating plans for proving this issue of the case. This memorandum was circulated first to the Personnel Committee and then among the members of the Board.

"I flew into Washington on Friday, April 1st. Oliver

"Wheeler of the San Francisco Bank flew to Washington on Sunday, April 3rd. We had meetings on the subject of expert testimony on Monday and Tuesday, April 4th and 5th, at which time it was concluded, subject to Board approval, to have Dr. Goldenweiser testify in the case. On April 21st the Board formally approved the employment of Dr. Goldenweiser for this purpose.

"The third and fourth paragraphs of the first memorandum are as follows:

> 'The Comptroller's letter apparently reiterates a position which the Comptroller has taken all along, in connection with his examiners testifying in the Transamerica hearings. He bases his position partially on a case decided by the Court of Appeals in 1939.
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> 'If the Comptroller's letter does in fact simply reiterate a position previously taken, was not the Board's Solicitor, Mr. Townsend, on notice prior to the determination of this Board to hold these hearings that he could not count on the testimony from the Comptroller's examiners, and that he could not obtain consent and cooperation of the Comptroller in the use of the reports of examination.'

"In commenting upon these paragraphs I should like to say that it was my impression from the very inception of the Transamerica proceedings that all of the Board Members as well as all of the staff who were concerned with the case, including myself, were extremely aware of the possibility that the Comptroller might not see fit to make his examiners available to testify in the case. To that extent I, like all of the others, was 'on notice' of that possibility. It was this very uncertainty about the Comptroller's attitude which led to so many discussions over the months between representatives of the Board and the Comptroller's Office. These commenced at least as early as September 15, 1948, when Governor Clayton and members of the Board's staff met with Messrs. Upham and Anderson of the Comptroller's staff, Mr. Irwin Wright, Chief National Bank Examiner of the Twelfth Federal Reserve District, and Messrs. Cook (Director) and Oppegard (Counsel) of the Federal Deposit Insurance Corporation. At this meeting I outlined to those present all of the developments in the case up to that time. During the meeting I pointed out that, in developing the interstate commerce issue in the case, it

"was possible to follow one of two methods, namely, to use expert witnesses or to use bank examiners, but that I felt the most effective presentation would be by the latter method. Governor Clayton gave a report of this meeting to the Board on September 20, 1948, at which time he also stated that he had talked with Mr. Delano on the telephone about the matter. Subsequently, Governor Clayton and I attended the meeting of the State Supervisors in Louisville on September 22 and 23, 1948, where we saw the Comptroller and again talked with him about the matter. It was during that trip, I believe, that Chairman McCabe also mentioned the subject to Secretary Snyder and possibly to Mr. Delano, although I am not sure about the latter. On October 4, 1948, I flew to San Francisco for a meeting with the Chief Examiner of each of the three supervisory agencies. At the conclusion of that meeting both the Chief National Bank Examiner and the Chief Federal Deposit Insurance Corporation Examiner stated that the information requested by way of testimony was neither confidential in character nor would impose any undue hardship upon their offices to prepare. They promised to wire their respective agencies in Washington to that effect, and I sent a wire to Governor Clayton covering the meeting. On October 14th, and at the request of the Chairman, I drafted a memorandum outlining the precise testimony we desired to obtain from the national bank examiners. This memorandum was sent by the Chairman to the Comptroller under date of October 18, 1948, a copy also being sent by him to Edward H. Foley, Jr. In December of last year, just prior to Christmas, both Chairman McCabe and I talked over the telephone with Mr. Delano on the subject. At that time I got the very distinct impression from Mr. Delano that, given a few weeks to work the matter out, he would probably advise us of the willingness of his office to cooperate. And at various other times, when Mr. Delano was at the offices of the Board either in connection with the foreign branch applications of Bank of America or in connection with meetings respecting bank holding company legislation, Chairman McCabe or Governor Clayton or I would bring up the subject of examiner testimony. Until the receipt of the letter of February 24th it was obvious, to me at least, that the Comptroller had not made up his mind on the subject, although I leaned to the view that he would ultimately give a favorable answer.

"So far as the above paragraphs from Governor Vardaman's

"memorandum refer to the use of bank examination reports in the hearing I wish to state that I have never at any time requested permission from the Comptroller of the Currency to make use of bank examination reports in connection with the Transamerica hearing. This is so because it was never my intention to make use of bank examination reports in the course of the trial. Nor have I done so. There was placed into the record certain special information obtained by the national bank examiners directly at the Board's request in connection with the Board's examination of Transamerica Corporation under the provisions of Section 5144 of the Revised Statutes. This information, however, is of a non-confidential nature, being related solely to certain facts demonstrating that the Bank of America performs a variety of unusual services to the banks and other companies in the Transamerica group.

"Paragraph 6 of the first memorandum and Paragraphs 2, 3 and 4 of the second appear to be interrelated and they will be considered together. Paragraph 6 of the first memorandum reads as follows:

> 'I also would like the Chairman to furnish the Board an explanation from the Solicitor as to why he advised the Board to proceed with these hearings if he knew prior to such hearings that he could not count on the testimony of the national bank examiners and could not gain the Comptroller's permission to use the reports of examination in the hearings.'

"Paragraphs 2, 3 and 4 of the second memorandum are as follows:

> 'It is now apparently certain that the Board's case will not have the benefit of testimony from the National Bank Examiners; nor can the Board use in evidence confidential information obtained from the reports of examination by the National Bank Examiners. I, as one member of the Board, had been assured by the Solicitor, or to say the least, had been allowed by him to assume without correction from him, that the Board's case would be benefited by the testimony of the National Bank Examiners and by use of the reports of examination by the National Bank Examiners.
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> 'Apparently there was no intention to inform the Board of the final definite refusal of the Comptroller of the Currency to cooperate in this case; and the Solicitor without Board authority or even

"'informing the Board has determined to endeavor to prove his case by the use of witnesses other than the National Bank Examiners, and by introducing information from the National Bank Examination Reports without consent of the Comptroller of the Currency, and over his implied objection.

'I submit that this is a vital change in the procedure of the case about which the Board should have been consulted before such change was put into effect.'

"The substance of these paragraphs seems to be that, in recommending that the Board institute the Clayton Act case against Transamerica, I ignored the fact that the Comptroller might not make his examiners available to testify in the case and that thereafter, when he did so decide, I attempted to conceal this fact from the Board and, without Board authority, set about to prove the Board's case by other witnesses and by use of bank examination reports.

"These suggestions seem to me to be at complete variance with the facts. In the first place, the question of whether or not the Comptroller's Office would or would not cooperate in the case was never for a moment a matter of decisive importance in reaching my own conclusion to recommend to the Board that the present proceedings be instituted. Nor have I so stated to the Board or to any member of the Board. When, on October 31, 1947, the Board directed the Legal Division to undertake an investigation to determine whether a Clayton Act proceeding should be instituted against Transamerica, it did so because I was not then in a position to advise the Board as to what facts could be proved in such a proceeding, having particularly in mind the limitations which might result because of the absence of the subpoena power. It was my job to find out what facts could be proved, and I satisfied myself during the course of the investigation that all of the facts necessary to prove the basic issues involved in such a proceeding could and would be provable therein despite the absence of the subpoena power. My conviction on that subject has not been altered in any way since I made my report to the Board. In presenting the results of my investigation to the Board I did not undertake to spell out in detail the methods by which the various items of proof would find their way into the formal record. I assumed that this was a matter which properly belonged in the domain of trial technique rather than legal substance, and that as to such trial technique the Board relied upon my

"experience as assurance of the ultimate result. In any event, the sole question before the Board at that time was whether the facts disclosed by the investigation constituted just cause for the institution of the proceeding, looking towards a formal record.

"But that I did reckon with the possibility of a refusal by the Comptroller to permit his examiners to testify is a matter of record on at least two occasions. The first was at the meeting of the representatives of the Comptroller's Office and the Federal Deposit Insurance Corporation on September 15, 1948, hereinabove referred to. There, as stated above, I definitely pointed out alternative methods for proving the issue of interstate commerce. Governor Vardaman did not attend that meeting, however; nor did he attend the Board meeting of September 20, 1948, at which Governor Clayton reported to the Board upon the September 15th meeting.

"The second record was made by me at a Board meeting at which Governor Vardaman was present, although it probably escaped his recollection at the time he wrote the two memoranda of April 25th. This was at the Board meeting of August 24, 1948, during which the matter of securing the cooperation of the Comptroller was discussed. The minutes of that meeting contain the following excerpt:

> 'Mr. Vardaman expressed the view that the Board should be prepared to carry out the Clayton Act proceeding against Transamerica without asking the assistance of the Comptroller of the Currency or the Treasury. The reason for his position on this point was that the Treasury had not cooperated with the Board in its efforts to curb the expansion of the Transamerica group and Mr. Vardaman did not think the Board should expect cooperation in the future.
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> 'Mr. Townsend stated that <u>while it would be possible to develop the information that the Board would need from other sources</u>, it would be difficult to do so and he hoped that it would be possible to get the information from the office of the Comptroller. The advantage of such a procedure, he said, would be that it would indicate during the hearing that the Board and the Comptroller were in agreement with respect to the Clayton Act proceeding.'

"The notion that I intended not to inform the Board of the final decision of the Comptroller and proceeded without authority to use witnesses other than bank examiners is I think completely answered by the fact that, first, the Chairman of the

"Board already knew all about the Comptroller's letter before I saw it, and, second, when I was apprised of the Comptroller's decision, I sought the approval of the Board, through Messrs. Morrill and Thomas, to obtain the services of Dr. Goldenweiser as an expert witness, which approval was formerly given by the Board on April 21, 1949.

"The other paragraphs of the two memoranda do not seem to require comment."

Mr. Evans then made a further statement which was substantially as follows:

"I think the testimony of the economists at the hearing was not only a good thing from the standpoint of the Board but also a good thing from the standpoint of the public because of its educational value. As to the hearings in California, they have gone along quite like they did here in Washington. There has been no particular audience interest in the hearings; there was never a time when the hearing room was more than two-thirds full. It has been interesting but there is a constant wear and tear about it that no one can escape. As to the quarters for the hearings, they are equal to, if not superior to, what we had for the hearing in the Board's building. As you know, the Federal Reserve Bank did not want to have the hearing in the Bank building, and in the beginning none of the Bank's officers or employees attended the hearing. Later some of them, including President Earhart, attended some sessions.

"There are two or three other things I want to discuss which may be of help if the Board ever again embarks on a project of this kind. The living quarters that have been found are nice but not as nice as you or I would be accustomed to in Washington. They are adequate for our needs and we could not have gotten along without them. Mr. Townsend could not have gotten along without his apartment as a place to hold meetings with the bankers who came to San Francisco to appear as witnesses. I think that if another occasion arose calling for such arrangements the Board should have someone from the Secretary's office or some other appropriate member of the staff go out and make the necessary arrangements.

"I was a little disturbed when I heard about the change in the travel allowances, for one reason only. I have traveled abroad and I know how important it is to have these things settled beforehand. So I worked out my memorandum of

"December 15, 1948, saying what I thought the arrangements should be. After I had worked up the memorandum, I got some help on it from Mr. Carpenter and Mr. Thurston so that the procedure would work smoothly. I also spoke to the Board members about it, and had them initial it. The idea was mine and no one else has any responsibility for it. While the hearings in San Francisco were in progress, I learned that it had been changed and I just do not think the Board can do things that way. Such inconsistent actions are not proper. If anyone else is ever assigned a job as difficult as this I hope you won't do it again.

"As far as our press coverage is concerned, I understand that clippings are sent to you every day. The papers have been amazingly interested in the hearings. It is headline news on the financial page every day. The hearings are not only fully reported but well reported. Apparently the public is interested, although they don't attend the hearings.

"I wonder if the Board has gotten a clear picture of the magnitude of this operation. This hearing is probably the most important hearing that has ever been held in the history of banking in America. You are dealing with the largest bank holding company in the world. Some of the questions that will be settled when this comes to a conclusion will probably be more important than the simple question the Board has raised as to whether there was a violation of the Clayton Antitrust Act. I hope the Board will think about that a little. Before this has run its course it is going to be very important in the economy of this country.

"As to the future conduct of the hearings, we are going to reopen on the morning of July 5, and as I understand it, the Board's case is coming to a conclusion very shortly. I have invoked the cumulative evidence rule which is a rule against needless repetition of the same thing. If I have erred badly in the admission of evidence it is probably that I have done what I said at the outset I was going to do: err on the side of too much rather than too little evidence.

"As to the length of the hearings, I will hasten them as much as I can and still be certain of having treated Transamerica as fairly as I have tried to treat the Board in their presentation of the case.

"Messrs. Townsend and Chase are returning to San Francisco immediately to continue their work on the case. Therefore, if the members of the Board have any questions on the conduct of the hearings, I would appreciate their asking them before I leave for San Francisco around the first of

"July. At the proper time, I want to say something to the Board and the Federal Reserve Banks about the fine service that members of the staff of the Board and the Banks have performed in connection with the case.

"The arrangement to have Mr. Morrill act as liaison for the Board in its contacts with us while we are in San Francisco is very good and I hope it will be continued.

"The job the Board assigned to me has been a trying one and I hope it will result in an honest record. When the hearings have been completed I will work up a report and submit it to the Board. Between now and that time the Board would be well advised not to discuss the matter very much because you do not want to put yourselves in the position of studying the case until my report has been submitted to you. I do not mean by that that you should not read the transcripts of the hearing which are sent to you currently. I do mean that it should not raise such questions as whether it should go to Congress to request the subpoena power and other questions which will only make the conduct of the hearing more difficult and may well undermine the whole hearing.

"I will be glad to answer questions on the conduct of the case, but I want to make it very clear that I am not discussing the merits of the case. I have not discussed the merits of the case with anyone here or on the West Coast and I do not intend to do so until my report is completed."

In response to a question from Chairman McCabe, Mr. Evans stated that he hoped the hearing could be concluded early in September of 1949 but that that was only a guess.

Chairman McCabe then raised the question as to whether there would be any objection to having Mr. Townsend outline the steps that Transamerica Corporation might take in the way of offering legal obstruction to the progress of the case, and Mr. Smith stated that such a question was perfectly permissible as it would amount simply to asking Mr. Townsend to prognosticate the timing of the case. The other members of the Board who were present were in agreement

that this was a proper and desirable question to ask Mr. Townsend.

Mr. Young withdrew from the meeting at this time.

Mr. Townsend then commented upon the various steps that might be taken to delay or postpone the hearing, expressing the view that the earliest date by which the hearing might be expected to be concluded would be by September as suggested by Mr. Evans, and it was more than likely that it would take longer. Mr. Townsend added that Mr. Stewart, Counsel for Transamerica, had stated at the hearing that upon the conclusion of the presentation of the Board's case he would file a motion to dismiss the complaint, that the disposition of that motion would take a few days, that Mr. Stewart had said he would want two or three months to prepare his case, and that, as shown by the statement of Mr. Stewart that he would want to go from one city to another for the production of witnesses, there were indications that a great deal of evidence would be offered. In these circumstances, Mr. Townsend thought the hearing could take from two to six months.

There was a discussion of the steps that would be followed after the hearing and leading up to any order that the Board might issue in the proceeding. During this discussion, Mr. Szymczak raised the questions (a) how a motion to dismiss the complaint might be addressed by Transamerica Corporation and how it should be disposed of from a procedural standpoint, and (b) what procedure should be

followed if Transamerica offered a settlement of the case.

Mr. Evans stated that if the dismissal motion was not addressed to him as hearing officer but was sent to the Board, he assumed that the Board would refer it to him for disposition and that he would make his ruling under the authority which he understood he had as hearing officer. In response to a question from Mr. Vardaman as to why he would rule upon such a motion at this time whereas the entire Board had considered the motions of Transamerica dated December 7, 1948, for dismissal, Mr. Evans stated that having been designated as hearing officer with the responsibility for making a report to the Board with his recommendations, and having heard the presentation of the case on behalf of the Board, he felt it was his responsibility to pass upon any intervening motions such as a motion to dismiss for failure to establish a case. He added, however, that he would not wish to take the responsibility of deciding such a motion if it seemed to be a close decision, but that if in his opinion the evidence supported a decision clearly one way or the other, he would expect to dispose of it as hearing officer.

In response to a question, Mr. Smith stated that he felt the Board should have the benefit of advice of the hearing officer on such a motion and on all factual questions in the case. He added that no one was in as good a position to tell the Board of the record as was the hearing officer and he suggested that in the event Transamerica filed a motion to dismiss, three possible courses of action could be followed by the Board. First, the Board could hear the motion itself.

In his opinion, Mr. Smith said, that procedure would be impracticable since it would require that all members of the Board read the entire record and reach independent conclusions in order to dispose of the matter, whereas the hearing officer was already familiar with the record and could do the job better and in a much shorter time than could the other members of the Board. Second, he said that the Board could refer the motion to the hearing officer with authority for him to dispose of the motion, and third, it could refer the motion to the hearing officer with a direction that he report his recommendation to the Board. In commenting upon this proposal, Mr. Smith stated that he felt that whatever method was followed, it should give Counsel for Transamerica Corporation and the Solicitor of the Board opportunity to file briefs with respect to the motion but he did not feel that the Board could be required to hear oral argument, although he thought it would be wise to do so.

Mr. Evans stated that there was a question of time involved in handling such a motion, that in anticipation of the motion he had discussed the matter with Mr. Hodge, his technical legal adviser, and that he was under the impression that he as hearing officer could hear the motion, could decide whether there would or would not be oral argument, and how much time could be taken in presenting the matter. He added that he would not expect to refer such a motion to the Board at all unless he was in some doubt as to the decision

that should be made.

There followed a discussion of the authority given to the hearing officer in the Board's Order of December 6, 1948, during which Chairman McCabe suggested that Mr. Vest and Mr. Smith discuss the matter with Mr. Evans and Mr. Hodge, with the understanding that the matter would be discussed again before Mr. Evans left for San Francisco.

Mr. Evans stated that this procedure was agreeable to him, and it was understood that it would be followed.

There was some further discussion of the second question raised by Mr. Szymczak, but no conclusions were reached.

Mr. Vardaman then stated that he felt there was nothing in his memoranda of April 25, 1949, that implied that Mr. Townsend was trying to conceal anything from the Board, that in fact the letter from the Office of the Comptroller of the Currency dated February 24, 1949, concerning which he had raised a question, had been received in Chairman McCabe's office and had then been transmitted to the Secretary's office from which it had been sent to the Solicitor's office which had sent it to Mr. Townsend in San Francisco, and that he did not feel that Mr. Townsend was to be criticized for handling the letter as he did, as he had a right to proceed exactly as he did. Mr. Vardaman stated that Mr. Draper had referred to the fact that he (Mr. Draper) missed the wise advice and counsel of Mr. Evans at meetings of the Board, and he hoped that as soon

as the proceedings in California were completed Mr. Evans might return speedily to Washington so that the Board might have the advantage of his services here. The suggestion which Mr. Draper made was in no sense a criticism of Mr. Evans' handling of the case.

With respect to the question of requesting subpoena power from Congress, Mr. Vardaman stated that he disagreed with the view expressed by Mr. Evans that it was not a practicable proposal, that if as stated in his memorandum the lack of subpoena power was hampering the presentation of the evidence, the Board owed it to itself, Transamerica, and the Congress to call the matter to the attention of Congress so that it could remedy the defect.

Mr. Evans stated that he disagreed with Mr. Vardaman, that he felt there was nothing to be gained by raising the question at this time, that the case had been proceeding without this authority, that everyone knew that the Board did not have the authority and that it would have been impracticable to ask Congress to consider giving the authority at the present session.

Mr. Vardaman said he did not agree that the conduct of the hearing was the sole responsibility of Mr. Evans as hearing officer, that he felt the responsibility was on the Board, and that any member should raise at any time any question that occurred to him. He said he intended to continue to do that, and that if and when he addressed a memorandum relating to the case it would be addressed

to the Board and the Board could refer it to the hearing officer.

Mr. Evans said he was in fundamental disagreement with Mr. Vardaman on that matter, that it was his understanding that the Board placed full responsibility on him by designating him as hearing officer, that he did not expect to discharge that responsibility in "rubber stamp" fashion, that he felt the Board owed him its support in the conduct of the case, and that he did not want to go back to San Francisco and be harassed with questions. He added that any questions should be submitted to Mr. Morrill for transmission.

Mr. Evans also stated that with respect to the handling of the reports of examination of Transamerica Corporation he had made a decision which arose in the course of the hearing, that he had made it in the light of the Board's policy of not making such reports available to holding companies, but that he would have no objection, if the Board should so decide, to changing Board policy with respect to future reports of examination.

Mr. Draper stated that he had made a chance remark at one of the meetings of the Board suggesting that it was unfortunate that so much time had to be spent away from Washington by Mr. Evans in connection with the hearing, but that after discussion, it did not seem practicable to have a substitute hearing officer and that the matter was dropped. He also said that the suggestion was not prompted by any thought that the case was not being well handled

by Mr. Evans as hearing officer.

Chairman McCabe stated that in serving as hearing officer in the Clayton Act proceeding, Mr. Evans not only had the good will of the Board but also its complete support and admiration in the way he was handling the case, that the Board and its staff were solidly behind him and the others who were working on the case, that he (Chairman McCabe) appreciated, in the light of his experience in business, the feeling that might have been aroused on the Pacific Coast because of difficulties in handling matters at long distance, and that, therefore, he wished to apologize for any misunderstandings that might have developed.

Mr. Vardaman said that he concurred in what the Chairman had said, but that he had no apologies to offer, and he had followed a procedure which he thought would be most constructive for the record and which would help rather than hinder the hearing. He also said that if his actions had been misunderstood, he was sorry because he was as much behind the case as anyone.

At the conclusion of the discussion, Mr. Szymczak said that it was important that all questions with respect to the case that any member of the Board might have be discussed and settled before Mr. Evans returned to San Francisco.

At this point, Messrs. Vest, Leonard, Millard, Townsend, and Smith withdrew, and the action stated with respect to each of the matters hereinafter referred to was taken by the Board:

Minutes of actions taken by the Board of Governors of the

Federal Reserve System on June 9, 1949, were approved unanimously.

Minutes of actions taken by the Board of Governors of the Federal Reserve System on June 10, 1949, were approved and the actions recorded therein were ratified unanimously.

Telegram to the Federal Reserve Bank of Cleveland stating that the Board approves the establishment without change by that Bank on June 10, 1949, of the rate of discount and purchase in its existing schedule.

Approved unanimously.

Memorandum dated June 13, 1949, from Mr. Draper recommending that the resignation of Mrs. Mary V. Dellatorre, a stenographer in Mr. Draper's office, be accepted to be effective, in accordance with her request, at the close of business June 10, 1949.

Approved unanimously.

Memoranda dated June 13, 1949, from Mr. Young, Associate Director of the Division of Research and Statistics, recommending appointments to the staff of that Division as indicated below, effective as of the dates upon which the appointees enter upon the performance of their duties after having passed the usual physical examination:

Name	Title	Salary	Duration of Appointment
Miss Anne D. Maguire	Clerk	$2,284.00	Temporary Indefinite
Miss Patricia H. Richardson	Clerk	2,498.28	Temporary Indefinite

Approved unanimously.

Memorandum dated June 10, 1949, from Mr. Leonard, Director of the Division of Bank Operations, recommending that Miss Doris

McTeer be appointed on a permanent basis as a clerk-typist in that Division, with an increase in basic salary from $2,284 to $2,350 per annum, effective June 26, 1949.

Approved unanimously.

Letter to Mr. McCormick, Federal Reserve Agent at the Federal Reserve Bank of Richmond, reading as follows:

"In accordance with the request contained in Mr. Leach's letter of June 9, 1949, the Board of Governors approves, effective July 1, 1949, the payment of salaries to the following members of the Federal Reserve Agent's staff at the rates indicated:

Name	Title	Annual Salary
	Baltimore Branch	
Shipley, Eugene L.	Federal Reserve Agent's Representative	$5,280
Stewart, Alfred A., Jr.	Federal Reserve Agent's Representative	5,460"

Approved unanimously.

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

"In accordance with the request contained in your letter of June 8, 1949, the Board approves the designation of C. C. Bloomquist, formerly an assistant examiner for the Federal Reserve Bank of Minneapolis, as a special assistant examiner for the Federal Reserve Bank of Minneapolis."

Approved unanimously.

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

"Reference is made to your letter of June 7, 1949, regarding the request of The Cleveland Trust Company,

"Cleveland, Ohio, for a second six months' extension of time within which the establishment of its proposed branch in University Heights, Ohio, may be accomplished under the approval granted by the Board of Governors on July 27, 1948.

"In view of your recommendation, the Board extends to January 27, 1950, the time within which establishment of the branch may be accomplished."

Approved unanimously.

Letter to the Presidents of all Federal Reserve Banks, reading as follows:

"In March 1947, the Legislature of the State of South Dakota amended an existing provision of law with respect to exchange charges so as to prohibit any such charges on checks of $10 or less. The text of the statute is as follows:

'6.0421. Any drawee bank in this state may charge exchange for remitting by draft the proceeds of checks presented to the drawee bank for payment by or through any bank, banker, trust company, Federal Reserve Bank, post office, express company, or any agent of any of the foregoing, which charges shall not exceed the following amounts per check; On checks of Ten Dollars or less, no charge; on checks over Ten Dollars, ten cents a hundred or fraction thereof, with a maximum charge of One Dollar on any one check.

'No exchange charge shall be made, however, when the check does not bear an out of town endorsement. All checks drawn on said banks shall, if they bear out of town endorsements, be payable at the option of the drawee bank, by draft drawn on the reserve deposits of said drawee bank when any such check is presented by or through any bank, banker, trust company, Federal Reserve Bank, post office, express company, or collective agency, or agents of any of the foregoing.'

"This has given rise to the question whether the Federal Reserve Banks should handle checks in amounts of $10 or less drawn on nonpar banks in that State.

"Prior to its meeting on April 21, 1949, the Committee on Collections solicited the views of all Federal Reserve Banks in this matter, and also asked whether they are now accepting these items. The replies show that the Reserve Banks are about equally divided on the question, also that only two Reserve Banks are now accepting such checks for collection. The Committee took no formal action on this topic, but it was understood that the matter would be brought to the attention of the Board of Governors.

"The Check Collection circulars of all Federal Reserve Banks contain the uniform paragraph that checks drawn on or payable at a nonmember bank which is not included in the currently effective Par List will not be received either as cash items or as non-cash items by any Federal Reserve Bank. Under the terms of these circulars, no checks drawn on nonpar banks in South Dakota, regardless of amount, may be accepted for collection. However, section 3 of Regulation J provides for the receipt by a Federal Reserve Bank of any 'checks' drawn on nonmember banks of its district which are collectible at par in funds acceptable to it. The regulation does not require that the bank on which the check is drawn be on the Par List or that such bank pay all checks at par, but it merely prohibits the receipt of any 'check' drawn on a nonmember bank which can not be collected at par.

"Apart from the requirements of Regulation J, the Board would be inclined to feel that the Federal Reserve Banks should handle these checks as a service to their member banks. However, it is not unmindful of the undesirable features inherent in such a practice, such as (1) it might not be in the interest of promoting par clearance of checks, (2) an additional burden might be placed upon the personnel of check departments in watching for amounts, (3) it might be regarded as inconsistent with the refusal to handle checks on nonpar banks where a customer, perhaps with the bank's consent, has imprinted some legend to the effect that the check is collectible at par, (4) the check routing symbol program would be partially ineffective, and (5) the possibility of legislation similar to the South Dakota law being enacted in other states, which would further complicate the check collection procedure, particularly if the size of checks payable at par under such legislation was not uniform.

"The Board does not feel that, if these checks are to be handled, any change need be made in the existing provision

"in the Check Collection circulars of the Federal Reserve Banks with respect to handling checks for banks not on the Par List. It would be sufficient and preferable to insert an appropriate notation in the Par List under the heading 'South Dakota' to the effect that 'Checks of $10 or less on all other banks are also collectible at par.'

"The Board would appreciate the benefit of your reaction to the general problem, as well as to the suggested manner of handling it if it is decided that checks of $10 or less on South Dakota nonpar banks should be received by all Federal Reserve Banks."

Approved unanimously.

S. R. Carpenter
Secretary.

Approved:

Thomas B. McCabe
Chairman.