

Minutes of actions taken by the Board of Governors of the Federal Reserve System on Tuesday, September 6, 1949. The Board met in the Board Room at 10:00 a.m.

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

Mr. Carpenter, Secretary  
Mr. Sherman, Assistant Secretary  
Mr. Thurston, Assistant to the Board  
Mr. Riefler, Assistant to the Chairman  
Mr. Vest, General Counsel  
Mr. Smith, Special Counsel  
Mr. Hodge, Technical Adviser

Mr. Szymczak stated that in accordance with the action of the Board at its meeting on August 30, 1949, arrangements had been made to give a dinner to representatives of central banks who will be in attendance at the Fourth annual meetings of the International Bank for Reconstruction and Development and the International Monetary Fund in Washington in September, that the dinner would be given in the Pan-American Room of the Statler Hotel at 7:00 p.m. on Monday, September 12, 1949, and that it was planned that in addition to the visiting central bankers, the members of the Board and a few invited members of the staff would be present.

Reference was made to the exception and appeal from the ruling of the Hearing Officer filed by attorneys for Transamerica Corporation under date of August 29, 1949. Mr. Evans stated that he had

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read the draft of a suggested statement and order prepared by Counsel, copies of which had been sent to all the members of the Board on August 31, 1949, and that he was completely satisfied with the proposed statement.

Mr. Vardaman stated that before considering the proposed reply he would like to know whether Mr. Clayton had filed with the Chairman or the Secretary's Office a statement along the lines discussed at the meeting on July 19, 1949, of the reasons for his refraining from participating in the consideration of matters relating to the Transamerica case.

Upon being informed that the statement had not been filed, Mr. Vardaman moved that Chairman McCabe be requested to ask Mr. Clayton for such a statement to be filed with the Board prior to the next meeting at which any matters relating to the Transamerica case were considered. He added that he was extremely reluctant to consider the pending matter until Mr. Clayton had made his position clear, that he would do so as a courtesy to Mr. Evans who would be here only a few days, but that he would not take part in any other matters pertaining to the Transamerica case until the suggested statement had been filed.

Following a discussion, Mr. Vardaman's motion was put by the Chair and carried.

Mr. Evans took no part in the discussion or action on this motion for the reason that he was not familiar with the background of the motion.

At Chairman McCabe's request Mr. Carpenter then read the

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exception and appeal from the ruling of the Hearing Officer and the draft of proposed statement and order prepared by Counsel. He also read a memorandum dated September 2, 1949, and received this morning from Mr. Stewart, Counsel for Transamerica, prepared in response to a memorandum filed by Mr. Townsend, Solicitor for the Board, dated August 31, 1949.

At this point Mr. Szymczak referred to a luncheon meeting which he had with Mr. L. M. Giannini and Mr. Roland Pierotti of the Bank of America National Trust and Savings Association as recorded in a memorandum from him dated August 24, 1949, during which, in addition to discussing the formation of an Edge Act corporation by Bank of America National Trust and Savings Association to handle the foreign business of the bank, Mr. Giannini stated that Mr. Townsend, Solicitor for the Board, had said upon several occasions during the Clayton Act hearing that if Transamerica did not control the Bank of America there would be no case against Transamerica. Mr. Giannini inquired, Mr. Szymczak said, whether the Board would feel the same way about the case, to which inquiry Mr. Szymczak responded that he did not know Mr. Townsend had made such a statement, that the Board had not considered the subject, and that he could offer no opinion as to how the Board would feel about the matter. He went on to say that Mr. Giannini then asked him what it was the Board wanted to accomplish by the proceeding and that he

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(Mr. Szymczak) told Mr. Giannini that if he had any questions pertaining to the case, his counsel should take them up with the Board's Solicitor. Mr. Szymczak also said that on the morning of August 26 he called Deputy Comptroller of the Currency Robertson on the telephone and reported to him the luncheon conversation of August 24 with Messrs. Giannini and Pierotti, especially the part about capital requirements of Bank of America and the Edge Act corporation, and that in the afternoon Mr. Robertson said that Mr. Giannini was over to see Comptroller of the Currency Delano that morning, that in their conversation Comptroller Delano and Mr. Giannini discussed how to dispose of the Clayton Act case, and that it was indicated that Transamerica would want their counsel, Mr. Stewart, to talk with Mr. Vest and Mr. Lynch, General Counsel of the Treasury. Mr. Szymczak added that he reported these conversations to the other members of the Board (except Mr. Clayton who was out of town, but to whom he subsequently reported the conversations) and to Mr. Morrill, Special Adviser, Mr. Vest, Mr. Riefler, Mr. Smith, and Mr. Townsend, and that on the basis of Mr. Giannini's comments and the information received from Mr. Robertson it was probable that Transamerica interests shortly would approach the Board concerning a settlement of the case.

Mr. Vardaman stated that he disagreed with the suggestion that Mr. Giannini or his counsel should take such a matter up with

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the Board's Solicitor and that he (Mr. Vardaman) felt that the Board had no right to designate any agent or any single member of the Board as a channel through which the Board must be approached. He also stated that he felt that if Transamerica wished to make any representations they should be made to the Board or to the Chairman of the Board for presentation to the other members of the Board.

There was a discussion of this point, and Chairman McCabe suggested that while it had been indicated to representatives of Transamerica that they were free to communicate with the Board at any time, it was logical that any representation by Transamerica looking toward a settlement of the case should be discussed informally with the Board's Counsel.

Mr. Evans suggested that he and Mr. Townsend be kept fully informed of any such representations and that any proposed settlement of the case be clearly set forth in writing so that any settlement reached would be effective in finally disposing of the questions relating to the Transamerica group which had confronted the Board for the past several years.

Mr. Vardaman then suggested that the Board hear from Counsel on the question whether the Board should reverse its action of July 19, 1949, referring to the Hearing Officer the motion to dismiss filed by attorneys for Transamerica under date of July 8, 1949, as

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well as the date on which hearings were to be resumed. He added that at the meeting on July 19 he felt that the Board should have heard arguments on the motion to dismiss, that he still felt this should be done, and that the day set by the Hearing Officer for resumption of hearings (September 19) allowed Transamerica an inadequate time to prepare its defense.

Mr. Evans stated that he assumed that the first part of Mr. Vardaman's suggestion was answered by the action of the Board in referring to him the motion to dismiss and that in setting the time for resumption of the hearing he felt that, having in mind that the complaint was filed in June 1948, ample time had been allowed. He also said that in conducting the hearing he had been very liberal in allowing recesses and that he would allow further recesses if that seemed necessary or desirable. He added that he had read carefully the memorandum sent by Mr. Vardaman to the individual members of the Board under date of August 31, 1949, and that he did not think the points covered therein, including the possible effects of the death of Mr. A. P. Giannini on the preparation of Transamerica's case, were sufficient grounds for extending the date for resumption of the hearings.

Chairman McCabe then called upon Mr. Smith who reviewed the four courses of action considered by the Board in disposing of the motion to dismiss filed by Transamerica on July 8, 1949. He

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stated that the Board had a right to refer the motion to the Hearing Officer for handling and disposition as had been done with the understanding that if the Hearing Officer felt the motion should be granted he would make a recommendation to that effect to the Board, and if after having heard the evidence thus far presented he felt the motion should be denied, the Board could rely on his judgment. Mr. Smith added that he felt the course followed was entirely consistent with previous decisions in the case and was a reasonable position for the Board to have taken under the circumstances.

Continuing, Mr. Smith stated that the questions presented to the Board by the exception and appeal filed under date of August 29, 1949, were, in effect, the same as those decided in referring the motion to dismiss to the Hearing Officer. He said that the authority of the Board was clear, that it had complete power to allow the exception and appeal and to vacate the order of the Hearing Officer denying the motion to dismiss, or that it had authority to deny the exception and appeal on the grounds that interlocutory appeals were not provided for by the Board's rules of procedure or the Administrative Procedure Act. On the question of the date for continuing the hearings, Mr. Smith said there was a basis for arguing that Rule IV of the Rules of Procedure authorized an appeal to the Board from any decision of the Hearing Officer in that regard but that there was



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also a basis for saying that the rules did not give such authority and that if the Board held that it might hear an appeal from a ruling issued by the Hearing Officer it opened the way for appeals on any and every such ruling. Therefore, he said, he construed the rules of procedure as not intended to allow appeal from a ruling of the Hearing Officer but that they did allow the respondent to file a motion which would bring a matter to the attention of the Board. He made the further statement that while opinions on the point might differ, he did not feel that a refusal at this time to extend the date for resumption of the hearing beyond September 19, 1949, could, as a matter of law, be said to be unreasonable or would fail to give the respondent a fair hearing, because it could not now be known how many recesses might be taken, and that if there was error in fixing September 19 as the date for resumption of the hearing that error might be corrected by recesses granted in the future. He added, in response to a question from Chairman McCabe, that the question whether the Board should sustain the Hearing Officer's ruling on this point or extend the date for the resumption of the hearings was a matter of judgment on the part of the Board but that he (Mr. Smith) was of the opinion that the time allowed the respondent was somewhat short and that an extension should be granted.

Mr. Szymczak then moved that the Board issue the statement and order as prepared by Counsel and read at this meeting in response to the exception and appeal filed by Transamerica under date of August 29, 1949.



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Mr. Vardaman moved, as a substitute for Mr. Szymczak's motion, that the Board allow the exception and appeal filed by Transamerica under date of August 29, 1949, and that it hear oral argument on the motion to dismiss filed under date of July 8, 1949.

Mr. Vardaman's substitute motion was put by the Chair and lost, Mr. Vardaman voting "aye" and Messrs. McCabe, Szymczak, Draper, and Evans voting "no".

Mr. Szymczak's motion was then put by the Chair and carried, Messrs. McCabe, Szymczak, Draper, and Evans voting "aye" and Mr. Vardaman voting "no".

Mr. Szymczak then moved that the statement and order referred to above be issued with the understanding that as the Clayton Act proceeding progresses Mr. Evans will be liberal in granting such further recesses as may be justified by developments in the case.

Mr. Evans said he would be glad to be guided by such an understanding.

Mr. Vardaman moved that as a substitute for Mr. Szymczak's motion, the Board extend for 60 days from September 19, 1949, the date for the resumption of the hearing.

Mr. Vardaman's substitute motion was put by the Chair and lost, Mr. Vardaman voting "aye" and Messrs. McCabe, Szymczak, Draper, and Evans voting "no".

Mr. Szymczak's motion was then put by the Chair and carried, Messrs. McCabe,

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Szymczak, Draper, and Evans voting "aye" and Mr. Vardaman voting "no".

Mr. Vardaman requested that his dissent be shown on the statement and order to be issued by the Board, and it was understood that the statement and order would be revised to include the dissent.

During the foregoing discussion, Messrs. Thomas and Young, Director and Associate Director, respectively, of the Division of Research and Statistics, entered the meeting.

At this point Messrs. Smith and Hodge withdrew, and Mr. Eccles and Mr. Nelson, Director of the Division of Personnel Administration, joined the meeting.

Before this meeting there had been circulated among the members of the Board a memorandum from the Personnel Committee dated August 24, 1949, transmitting memoranda from Messrs. Nelson and Vest dated August 15 and July 28, 1949, respectively, with respect to supplemental retirement allowances for Presidents of Federal Reserve Banks having short terms, such allowances to be paid directly by the employing bank independently of the Retirement System of the Federal Reserve Banks. The memorandum from Mr. Nelson outlined a plan for supplemental payments which would assure a president who retired after attaining age 65 and completing ten or more years of service a combined pension-annuity from the Retirement System and payment from the employing Bank of not less than \$10,000 a year, and stated that

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this would be along the lines recommended by the Conference of Chairmen of the Federal Reserve Banks at its meeting on May 28-30, 1949. In commenting on the memorandum, Mr. Szymczak stated that the Personnel Committee felt that the plan would accomplish the purposes which the Chairmen had in mind and that the question presented for consideration by the Board was whether in accordance with the recommendation by Mr. Vest in his memorandum of July 28, 1949, the matter should be submitted formally to the Bureau of Internal Revenue for an opinion as to whether the plan would endanger the tax exempt status of the Retirement System of the Federal Reserve Banks.

There followed a discussion of the proposed arrangement, which would involve a contract between the employing bank and the individual concerned, and the reasons for such an arrangement as well as the recommendation of Mr. Vest that it be submitted to the Internal Revenue Bureau for an opinion before adoption. During the discussion, question was raised as to the advisability of adopting any plan, it being stated that studies by the Chairmen's Conference Committee indicated that the present retirement plan of the Federal Reserve Banks was more liberal than most other retirement systems and that if individual cases arose in which the retirement allowance seemed inadequate, consideration could be given by the directors of the Federal Reserve Bank and by the Board at the time of retirement to whether such allowance should be supplemented by

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a special contribution.

Following a discussion, upon motion by Mr. Draper, it was agreed unanimously that the matter be referred back to the Personnel Committee for further consideration with the understanding that the Committee would again report to the Board.

Chairman McCabe then referred to a letter from the Budget Bureau dated August 18, 1949, regarding the proposed letter to Senator Maybank, Chairman of the Senate Banking and Currency Committee, transmitted to the Bureau of the Budget for comment on August 11, 1949, with respect to S. 2340, a bill which would require (1) that membership on the Board be bi-partisan and (2) that functions of the Board with respect to internal management, its relationship with Congress, and the execution of policy be performed by the Chairman. The letter from the Budget Bureau stated that there would be no objection to the submission of the proposed letter to the Senate Banking and Currency Committee but that the provisions of S. 2340 which relate to the functions of Chairmen of regulatory commissions were in accord with the program of the President.

There followed a discussion whether the proposed letter should be sent, during which it was suggested that Chairman McCabe discuss the matter informally with Mr. Pace, Director of the Budget, and report his discussion to the Board at a meeting next week.

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This suggestion was approved unanimously.

Mr. Szymczak stated that during a discussion at the meeting on August 30, 1949, of topics to be submitted to the Federal Advisory Council for consideration at its meeting on September 18-20, Mr. Vardaman suggested that the Council be asked to discuss to what extent personnel from commercial banks might serve as members of foreign missions arranged by the System. Mr. Szymczak also said that the suggestion had been carried over for discussion at this meeting when all members of the Board could be present.

Mr. Vardaman stated that he felt the question should be submitted for the reason that he was interested in promulgating throughout the world the principles of private banking and he felt inclusion of private bankers on such missions might assist in accomplishing this objective.

Mr. Evans said he would be opposed to submitting the topic for the reason that many of the large commercial banks that would be in a position to furnish personnel for such missions had branches or other interests abroad and the disinterestedness of their contribution to a mission would be open to question.

Following a discussion, Mr. Vardaman moved that the question be added to the agenda for the meeting of the Federal Advisory Council.

Mr. Vardaman's motion was put by the Chair and lost, Mr. Vardaman voting "aye" and Messrs. McCabe, Eccles, Szymczak, Draper, and Evans voting "no".

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Chairman McCabe then stated that he would like to discuss informally with the members of the Federal Advisory Council the question of the executive pay bill, H.R.1689, now before Congress.

Following a discussion, Chairman McCabe's suggestion was approved, and it was agreed that a background memorandum should be handed to the members of the Council with the informal statement that the Board would like to have the views of the Council as to the salaries that should be provided in the bill for the members of the Board in the light of the salaries contemplated by the legislation for officials of other departments and agencies of the Government.

Mr. Vardaman referred to a memorandum prepared by Mr. Barton, Assistant Counsel of the Federal Reserve Bank of Chicago, for Mr. Young, President of that Bank, under date of July 29, 1949, with respect to the applicability of the Michigan General Sales Tax to materials purchased for the addition to the Detroit Branch building. It was stated that the contract for the addition had been let and that it included \$54,000 which would cover the estimated amount of the tax that would have to be paid by the contractor.

Mr. Vardaman suggested that an attempt be made to find a means whereby payment of the sales tax could be avoided so that this additional amount would not be a charge against the \$10 million authorization of Congress for the construction of branch buildings of Federal Reserve Banks.

Following a discussion, the matter was referred to Mr. Vest with the understanding that he, in consultation with Mr. Leonard, would consider Mr. Vardaman's suggestion.

Before this meeting there had been circulated among the members

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of the Board a memorandum from Mr. Nelson dated July 28, 1949, which recommended (1) that the present policy with respect to outside business and teaching activities be continued, with the understanding that such activities not interfere with the performance of the duties of the employee in his position with the Board, and that the employee not take any position which might embarrass the Board in the conduct of its operations, (2) that no objection be raised to any employee accepting nominal compensation for such outside business or teaching activities, and (3) that the practice of obtaining reports each year on such activities be continued and reviewed by the Personnel Committee.

Mr. Vardaman stated that he had asked that the memorandum be discussed at this meeting because he felt that the matter should be considered by all of the members of the Board, that he was opposed to permitting employees of the Board to engage in any outside business activities, and that any exception to such a policy should be authorized only by the Board.

There followed a discussion of the outstanding instructions with respect to reporting outside business activities and teaching engagements and the development of the present arrangement over a period of years.

At the conclusion of the discussion,  
Mr. Nelson's recommendation was approved,  
Mr. Vardaman voting "no".

A memorandum from the senior staff dated August 15, 1949, had been circulated among the members of the Board before the meeting suggesting a policy to be followed in the future regarding membership of Board employees on committees of outside organizations. Mr. Vardaman



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stated that he had asked that this matter be considered at this meeting and, as in the case of outside business and teaching activities, he was opposed to membership by members of the Board's staff on any committees of outside organizations.

Following a discussion, a memorandum of policy was approved in the following form, with the understanding that a copy would be furnished to each employee of the Board, Mr. Vardaman voting "no".

"Inquiry has been made of the Board as to the extent to which members of the Board's staff might appropriately serve as members of committees or similar groups of professional, business, civic and other organizations.

"It is the opinion of the Board that such service is compatible with the policy adopted by the Board in connection with outside business and teaching connections and could be undertaken by members of the staff to the extent permitted by the principle underlying that policy, that is, that it is important that officers and employees of the Board refrain from being placed in any position which might embarrass the Board in the conduct of any of its operations, or result in any questions being raised as to the independence of their judgment or their disinterestedness in the discharge of their official responsibilities or their ability to perform their duties satisfactorily.

"Accordingly, the statement contained in the memorandum sent to employees of the Board under date of March 24, 1948, has been amended to cover this point as well as to state the Board's policy with respect to articles for publication and talks by Board employees, and to set forth the understanding that has been in effect for a number of years with respect to political activity on the part of members of the staff.

"A copy of the revised statement is attached."

The statement enclosed with the above memorandum was as follows:

"With respect to outside business affiliations and teaching activities of officers and employees of the Federal Reserve Banks, and members of the Board's staff, the Board has expressed the view that such connections should be made by those occupying responsible positions only with the approval of the Board whenever a member of its own

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"staff was involved and only with the approval of the appropriate committee or officers of a Federal Reserve Bank whenever an officer or employee of the Federal Reserve Bank was involved. The pertinent parts of a letter written to the Federal Reserve Banks on this subject are quoted below:

'For many years the Board has taken the position that the good conduct and repute of the Federal Reserve System require that officers and employees occupying responsible positions in the Federal Reserve Banks shall give their entire time and attention to the affairs of the Banks and not be identified with any outside business interests. Stated as a general principle, it is important that officers and employees of a Federal Reserve Bank refrain from being placed in any position which might embarrass the Federal Reserve Bank in the conduct of any of its operations or result in any questions being raised as to the independence of their judgment or their disinterestedness in the discharge of their official responsibilities or their ability to perform satisfactorily all of the duties of their positions.

'Question as to the applicability of this policy to teaching commitments has been raised and it has been urged that there is a definite distinction between the outside business connections contemplated by the above statement of policy and purely educational work, and that there should be no objection to an officer or a member of the research staff of a Federal Reserve Bank having a teaching connection with a university which is also helpful in enabling him to keep in touch with current developments in his field and in establishing and maintaining relations between the Bank and the university which would be of advantage to the Bank. The Board is in agreement that such instances, as well as other teaching connections which are closely related to the work of the Federal Reserve Banks, such as A.I.B. classes, should not be regarded as coming within the scope of the policy stated above, provided; (a) the teaching engagement is clearly secondary and in keeping with employment by the Reserve Bank, and (b) the teaching engagement does not interfere with the work of the Reserve Bank.

'In the review of this policy, other questions

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"have arisen about outside activities of members of the research staffs. Some time ago the Board had occasion to consider the question of the propriety of a member of the research staff receiving substantial pay for preparing for a semipublic agency a study peculiarly in the field of Federal Reserve interests. The Board expressed the view that an important principle was involved, namely, that a full-time employee or officer of a Reserve Bank should not receive pay from another source for work being, or which should be, done by the Reserve Bank as part of its public service, and that, in the case in question, if the study were one that the Bank, as such, should make, it should be done by the Bank without charge to the other agency, except possibly for out-of-pocket expenses. It may be added that frequently the person involved would not be called upon to render the outside service if he were not in position to utilize information and material accumulated in the conduct of the affairs of the Bank.

'The policy with respect to outside engagements applies only to officers and to full-time regular employees. It may not necessarily apply to individuals engaged as consultants on a fee basis, to those engaged as part-time employees, or to those employed for temporary periods, such as during vacations or for work on specific projects. Such cases should be considered individually by the Reserve Banks in the light of the general principle involved.....

'It is expected that reports now being made to the boards of directors of the Federal Reserve Banks regarding indebtedness and outside business activities of officers and employees occupying responsible positions will be continued... In no event should an officer or an employee occupying a responsible position undertake any outside business activity or teaching engagement without first obtaining the approval of the appropriate committee or officer of the Bank.'

"The Board appreciates the desirability of a member of the staff keeping in touch with developments in his chosen profession and that at times he may be called upon to serve

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"on a committee or other similar group of an organization in that field. The Board would not regard such service as inconsistent with employment with the Board so long as it would not result in any embarrassment to the Board or in questions as to the employee's disinterestedness in the discharge of his official responsibilities or his ability to perform his work for the Board satisfactorily. In no event, however, should a member of the staff accept membership on a committee under circumstances which might be understood or interpreted as indicating that he was serving on the committee as a representative of the Board. Should membership on a committee or similar group of an outside organization involve payment to the staff member of a fee, honorarium, or other form of compensation for services rendered, the service would constitute an outside business connection and should be handled accordingly.

"No business or teaching activities should be undertaken by any employee of the Board until the matter has been reviewed with the head of the division under whose supervision he works, and, in the case of officers and employees occupying responsible positions, the approval of the Personnel Committee obtained. Likewise, before an employee accepts an office or membership on an important committee of an outside business or professional organization the matter should be presented to the head of his division. If at any time there appears to the division head to be any question as to the propriety of the service he will submit the matter to the Personnel Committee of the Board.

"It is the view of the Board that, to the extent that it can be done without interfering with the work of the Board, the members of the staff should feel free to write articles for professional and technical publications, and to give talks before technical, educational, professional, and other groups, on the Federal Reserve System and its functions. This is desirable as a means of bringing about a better understanding of the Federal Reserve System by bankers and by the public. However, staff members should receive no fee, honorarium, or other compensation for such articles or talks. The approval of the Personnel Committee should be obtained before accepting an invitation to speak or to write an article for publication, and such articles or talks should be submitted in each case to Mr. Thurston, either in text or oral outline if no text is prepared.

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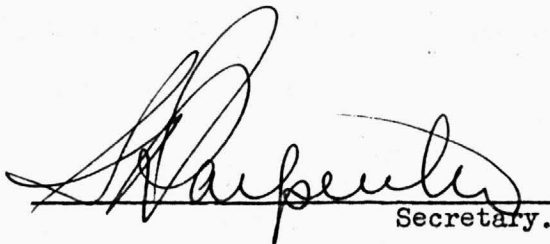
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"In the past the Board has not issued any formal instructions to the staff with respect to political activity or the holding of political or public office. However, attention has been called from time to time to the provisions of the Hatch Act, which cover this matter, and it has always been understood that the members of the staff would not participate in political campaigns or the collection of assessments of a political character or otherwise engage in political activity except to the extent permitted by the Hatch Act. As far as the Board knows, this understanding has never been violated and it is mentioned at this time solely for the purpose of bringing it to the attention of the members of the staff so that they can keep it in mind."

At this point Messrs. Riefler, Vest, Thomas, Nelson, and Young 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 August 30, 1949, were approved unani-  
mously.

Minutes of actions taken by the Board of Governors of the Federal Reserve System on August 31, 1949, September 1, 2, 1949, were approved and the actions recorded therein were ratified unani-  
mously.

  
Secretary.

Approved:

  
Chairman.