

Minutes of actions taken by the Board of Governors of the Federal Reserve System on Thursday, December 8, 1949. The Board met in the Board Room at 2:40 p.m.

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

Mr. Carpenter, Secretary
Mr. Sherman, Assistant Secretary
Mr. Corkhum, Minutes Clerk
Mr. Morrill, Special Adviser
Mr. Thurston, Assistant to the Board
Mr. Leonard, Director, Division of Bank Operations
Mr. Vest, General Counsel
Mr. Millard, Director, Division of Examinations
Mr. Smith, Special Counsel

Mr. Vardaman stated that he had asked that Mr. Smith be present at this meeting for the purpose of informing the Board of the procedure in the Clayton Act proceeding against Transamerica Corporation, and at his request Mr. Smith explained the procedure which it would be necessary to follow in accordance with the Board's Rules of Procedure when the case had reached a stage where the hearing had been completed and the Hearing Officer had prepared his recommended decision. Mr. Smith referred to the fact that under the Board's rules Counsel for each party could file exceptions to the recommended decision or to the admission or exclusion of evidence and briefs in connection therewith, and that it was likely that such exceptions would be very numerous. He pointed out that oral argument regarding the points raised could be permitted by the

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Board and that, after the matter was submitted to the Board in this way, a considerable period of time, possibly several months, would be necessary for the staff to review the entire matter and submit any desired comments or recommendations to the Board. He also explained the possibility that, in the event the Board should reach the conclusion that evidence excluded on an important point should have been admitted, it might be necessary to remand the case to the Hearing Officer for the admission of such evidence.

Following Mr. Smith's statement, there was a brief discussion of the matter and it was understood that the specific procedure to be followed would depend upon developments, some of which could not be ascertained at this time.

Mr. Vardaman then stated that in a recent conversation with Mr. L. M. Giannini, President, Bank of America National Trust and Savings Association, San Francisco, the latter said that in an earlier conference he had been given to understand by Chairman McCabe that the only way Transamerica Corporation, Bank of America National Trust and Savings Association, or any bank connected with the Transamerica group could communicate with the Board was through the Board's Solicitor. He also said that he told Mr. Giannini that there was no fixed channel through which he had to communicate with him (Mr. Vardaman), that Mr. Giannini had the legal right to make

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any proposal to him as a member of the Board that he wished to make, that upon receipt of such communication, he would turn it over to the Board to be handled within the discretion of the Board, but that Mr. Giannini did not need to feel that before talking with a member of the Board he would have to talk with Mr. Townsend or anyone else.

Mr. Szymczak stated that Mr. Giannini came in to see him on Tuesday of this week after talking with Chairman McCabe, the appointment having been arranged while Mr. Giannini was in Chairman McCabe's office. He also said that, in reporting his talk with the Chairman, Mr. Giannini made it clear he was not "raising a white feather", but since it would take so long to complete the proceeding against Transamerica and was so expensive to the Corporation and the Board, and inasmuch as Transamerica had disposed of approximately half of its holdings of the stock of Bank of America National Trust and Savings Association, he thought some disposition of the case could be made, but that he had come away from his talk with Chairman McCabe with the impression that if there was anything to discuss along this line it would have to be taken up with the Board's Solicitor.

Mr. Szymczak added that Mr. Giannini also raised the question whether the Board might change the position it had taken with the Office of the Comptroller of the Currency that during the Clayton Act proceeding that office should not permit the conversion of Transamerica owned

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banks into branches of Bank of America, and that he (Mr. Szymczak) had responded that he could not discuss any phase of the case.

Mr. Draper stated that he had had no communication of any kind from Mr. Giannini.

Chairman McCabe then made substantially the following statement:

My office received a call from Mr. Giannini's local office on Monday of this week asking for an appointment. I was very busy on Monday and could not see him then and an appointment was made for him for 3:00 p.m. on Tuesday, December 6.

During the first twenty minutes the conversation was on a very broad basis. We talked of the Douglas Committee hearings, of my philosophy on bigness and monopoly, and of various other general subjects. The conversation was on a very friendly basis. I told him I had discussed with Mr. Stewart, Counsel for Transamerica, before the hearing in the Clayton Act proceeding commenced, my philosophy about the responsibility of the leaders in private life and industry.

After about twenty minutes, Mr. Giannini said he would like to talk about the applications pending before the Comptroller of the Currency for branching a number of banks. He said that on the advice of the Comptroller, he had withdrawn his letter of September 20, 1949, suggesting a conference between counsel for the Comptroller, the Board, and Transamerica Corporation, but that he was still bothered by the question because he did not want to stop the ordinary activities of Transamerica because of the Clayton Act proceeding. I said that in regard to a specific thing of that kind, my advice to him would be to discuss it with the Board's Solicitor, Mr. Townsend. I told him I could not discuss the hearing with him, that the branching of Transamerica owned banks involved a legal question, and that I would advise him to discuss that question with Mr. Townsend who was the best informed person on it. Mr. Giannini questioned whether Mr. Townsend would give unbiased consideration to such a matter and I told

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him that I wanted to make one thing clear -- that I had seen Mr. Townsend in operation, both as an advocate and in a judicial capacity, and had found he was very fair minded and judicial minded. I then said to Mr. Giannini I could not urge him too strongly to follow what I felt in my mind was the proper procedure.

He brought up the building-up of Transamerica Corporation and Bank of America by his father, and the question that had been raised whether he, as his father's successor, would adopt any different policies. He said he did not want me to think that his father and he differed in philosophy, nor did he want us to feel that they were scared about this case. I said that the thing that I wanted to drive home with him was that he was going to get a fair hearing when he came before the Board, that there was nothing punitive about the Clayton Act proceeding, that it would be considered completely on its merits, and that I did not believe there was a Board member that had his mind made up on it. I told him again that I could not discuss the case with him.

Finally, he worked around again to the branches, stating that the branching of the banks would not affect the case. I said I could not discuss that with him and that my suggestion was that he go to the Board's Solicitor. He then brought up the letter to the Comptroller again and said his thought was that their counsel and that of the Comptroller and the Board could get together. I said again, "You have asked for my opinion and I am saying to you my advice to you is to follow my suggestion". I also said, "You have never asked for an appointment with me that I have rejected, and so far as our personal relations were concerned, we would maintain them on a friendly basis". He said he appreciated that and then he brought this question of branches up again. I said, "I have advised you, Mario, what I think is your proper procedure". He then suggested that I talk it over with the Board and write him a letter. I told him that my advice was that if he was in Washington sometime in the future he come in to see me and that if there was any change in the point of view I had expressed, I would then let him know, but I did not say I would take the matter up with the Board.

I gathered from the language he used that he felt it would be desirable if some way could be found to settle the case. I got by inference from what he said that he

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would like to settle it. I said that I understood his position very well and that I understood one of his directors had already called to see Mr. Townsend which I thought was all right.

After reporting the foregoing discussion, Chairman McCabe stated that he would like to have a clear understanding as to what should be said if Mr. Giannini or other representatives of Transamerica came back again. He also suggested that the Board should channel through one person all contacts with representatives of Transamerica having to do with the Clayton Act proceeding.

Mr. Vardaman stated that he could not agree with that procedure if the Board's representative was the Solicitor.

Chairman McCabe then suggested that the contacts be channeled through one member of the Board and Mr. Vardaman stated that he would agree to that procedure.

Following a discussion, upon motion by Mr. Szymczak, it was agreed unanimously that if Mr. Giannini or other representative of his organization came to Washington to see a member of the Board or its staff on a matter relating to the Clayton Act proceeding, they would be referred to Chairman McCabe.

Question was then raised as to what the Board's position would be if Mr. Giannini again requested that the Board release the Comptroller of the Currency from the position he had taken at the Board's request that he would not approve, during the Clayton Act proceeding, applications for the conversion of Transamerica owned

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banks into branches.

Chairman McCabe stated that he would still feel that the best procedure would be for Mr. Giannini to take the matter up with the Board's Solicitor.

In the ensuing discussion the members present agreed that the Board could not change the position that it had taken on this point, and Messrs. Vest and Smith were requested to prepare for consideration by the Board a draft of statement which the Chairman might use if Mr. Giannini should bring the question up again.

There was also a discussion of what Chairman McCabe would say in the event Mr. Giannini or any other representative of Transamerica Corporation should present some other proposal relating to the Clayton Act proceeding, and it was the consensus that the Chairman should listen to the representative's presentation and then bring the matter before the Board for determination of the procedure to be followed in the consideration of the proposal. However, at Chairman McCabe's suggestion no action was taken in this connection with the understanding that Mr. Morrill would report to Mr. Evans the discussion at this meeting and the consensus of the members of the Board as stated immediately above and that if Mr. Evans had no objection it would be approved at a subsequent meeting of the Board for the guidance of the Chairman in any future discussions with Transamerica representatives.

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Mr. Vardaman stated that his opposition to referring to the Board's Solicitor any proposal for settlement of the Clayton Act proceeding which might be made by representatives of Trans-america Corporation was based on his understanding that Mr. Evans and the Solicitor had both stated at a formal meeting of the Board that they hoped the Board would not consider any compromise settlement of the case, but that the case would be prosecuted to the bitter end because of the principles involved and the precedents to be established. He felt, therefore, that because of the position which they had taken, Mr. Evans and Mr. Townsend were not the proper men to have the respondents sent to to discuss a compromise, and he added that if this were not correct, he would like to have Mr. Evans so indicate in the record.

Secretary's Note: When Governor Evans saw Governor Vardaman's foregoing statement in the Minutes, he requested that the following statement be inserted in order to clarify the record:

At the Board meeting on November 4, 1949, I discussed the Transamerica proceedings, and the Secretary's report of my statement at that meeting is both concise and accurate. As that statement indicates, I made a general report to the Board upon the proceedings to date and discussed the probable future length of the proceeding. In doing so, I called the attention of the Board to the two fundamental issues which seemed to me to have emerged as the principal issues in the case, those being the issue of whether banking is interstate commerce and whether Transamerica's expansion in the banking field had resulted in a tendency to monopoly.

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In thus reporting to the Board at the November meeting, I was not taking the position and it is not my position that a satisfactory settlement of the Trans-america case might not be obtained. I have always recognized the possibility of a settlement. Most cases of this kind offer that possibility. In fact, I have been aware for some time that overtures have been made on behalf of Transamerica looking towards a possible settlement. The only fault which I have found with such overtures has been the apparent desire on the part of those making them to avoid doing so in the customary and proper manner.

So far as my attitude concerning a settlement is concerned, it may be stated very simply. The Board's fundamental responsibility in this case is to the public. For almost ten years the Board, along with other agencies of the Government, has questioned whether the Transamerica bank expansion policy is in the public interest. The allegations in the complaint are premised upon the Board's opinion that, if the allegations were proven after hearing of the case, they would justify the issuance of a corrective order under the Clayton Act. It is my view that any settlement of this case should take full cognizance of the issues of fact and law which have been developed in the course of the hearings. In my judgment, only by such a settlement will the public interest be adequately protected.

As for the procedural method of obtaining such a settlement, it is my opinion that nothing short of a consent decree entered in a Federal court would offer an effective means for carrying out the Board's responsibility. Many cases instituted by the Department of Justice under the anti-trust laws are settled in this manner. Experience has amply demonstrated that agreements which do not have the force of judicial sanction are not a satisfactory method of settling such cases. A consent decree, such as that which the Board obtained in the Chereton case under Regulation W, would, in my judgment, be the most logical and effective means of carrying out an agreement with Transamerica.

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So far as Governor Vardaman's reference to Mr. Townsend is concerned, Mr. Townsend advises me that he has on several occasions discussed the possibilities of a settlement; that he has taken the position that a settlement of the case was entirely possible; and that he and Chairman McCabe, with whom he discussed the matter, were in complete agreement that any authentic offer of settlement, through proper channels, should receive prompt and sympathetic consideration.

Mr. Townsend also advises me that shortly before the conclusion of the Christmas recess of the hearings, Mr. Wallace Mein, a director of Bank of America N.T. & S.A., called upon him at the Board's offices and offered to help in any way possible to bring about such a settlement. When Mr. Mein stated to Mr. Townsend that he, Mr. Mein, did not have authority to represent Transamerica, Mr. Townsend suggested that Mr. Mein convey to Transamerica officials the suggestion that a formal proposal of settlement would receive the very serious consideration of the Board. Mr. Townsend informs me that Mr. Mein has not again been in touch with him regarding this matter.

Chairman McCabe suggested that a discussion of this matter be deferred until Mr. Evans and Mr. Townsend returned to Washington later this month.

At this point Mr. Smith withdrew and Mr. Eccles, Mr. Nelson, Director of the Division of Personnel Administration, and Mr. Daniels, Technical Assistant in the Division of Bank Operations, came into the meeting.

Reference was made to a memorandum prepared by Mr. Daniels under date of December 7, 1949, with respect to reserves for contingencies of the Federal Reserve Banks, a matter to be discussed with the Presidents when they meet with the Board on Wednesday, December

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14, 1949. The memorandum presented background information concerning the additions to such reserves and raised the following questions in connection therewith: (1) Should the deductions which have been made each quarter since June 1948 before computing interest payments to the Treasury on Federal Reserve notes be continued? (2) Should the \$40,000,000 set aside from the earnings this year be restored to earnings and thus be paid in part to the Treasury and in part transferred to surplus of the Federal Reserve Banks? (3) Is there continuing need for the retention in reserves for contingencies of the \$40,000,000 transferred to that account in 1948?

In the ensuing discussion, reference was made to the Board's telegram to the Presidents of all Federal Reserve Banks dated November 25, 1949, expressing the view that there was no need to make a deduction from earnings for transfer to reserve for contingencies covering the fourth quarter of this year and there was a discussion of the question whether all or any part of the \$40 million set aside from Reserve Bank earnings thus far during 1949 should be restored to earnings. It was the consensus that this sum should be transferred to reserves for contingencies at the end of the year and that the matter should be discussed with the Presidents at the meeting on December 14. There was no discussion of the third question referred to above.

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Mr. Daniels withdrew at this point.

Reference was then made to a memorandum dated December 8, 1949, from Mr. Thomas, Economic Adviser to the Board and Mr. Millard, Director of the Division of Examinations, with respect to quarterly reports submitted by the Federal Reserve Banks pursuant to the Board's letter of January 27, 1947, (S-953), which the Presidents' Conference at its meeting in November of this year requested be discussed at the next joint meeting of the Board and the Presidents. The memorandum contained the following recommendations: (1) That the form and content of the quarterly reports be simplified and that only the highlights of developments in each district be reported henceforth (possibly a maximum of two or three pages). (2) That the function of gathering facts and opinions revert to the bank examiners and bank and public relations officers; that research staffs function only on a consultative basis and as participants in any round table discussions held for the purpose of summarizing the information collected. (3) That the practice of submitting detailed or analytical questions from the Board in connection with this report be discontinued, such questions as may be submitted from time to time being limited in scope and nature to the original concept of the report; inquiries on specific details or on matters which might require extensive analysis to be transmitted by separate letters as the occasion demands.

Messrs. Szymczak and Vardaman withdrew during the foregoing discussion.

Mr. Carpenter stated that these recommendations substantially

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were in accord with the suggestions made by the Presidents' Conference.

The foregoing recommendations were approved unanimously.

Reference was made to a memorandum from the Personnel Committee dated November 16, 1949, recommending that J. R. Van Fossen, formerly Assistant Director of the Division of Bank Operations who retired on December 31, 1948, and who was retained as a consultant in that Division during the year 1949, be appointed as a consultant for an additional period of one year on a part-time basis beginning January 1, 1950, at a fee of \$1,200 per annum, payable on a bi-weekly basis. The memorandum had been circulated among the members of the Board before Mr. Evans left for the West Coast and he and Mr. Vardaman had indicated that they did not wish to vote to approve the memorandum.

Following a discussion, upon motion by Mr. Draper, it was agreed that Mr. Van Fossen would be retained for the year 1950 under the terms outlined in the memorandum from the Personnel Committee, with the understanding that the Board's action was based on the unusual circumstances involved and would in no way establish a precedent for any case that might arise in the future. Mr. Vardaman voted "no" on this motion.

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

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Minutes of actions taken by the Board of Governors of the Federal Reserve System on December 7, 1949, were approved unanimously.

Memorandum dated December 7, 1949, from Mr. Bethea, Director of the Division of Administrative Services, recommending that the resignation of Miss Eleanor Simmonds, a stenographer in that Division be accepted to be effective, in accordance with her request, at the close of business December 22, 1949.

Approved unanimously.

Memorandum dated December 6, 1949, from Mr. Leonard, Director of the Division of Bank Operations, recommending an increase in the basic salary of Mrs. Charlotte A. Kelly a statistical clerk in that Division, from \$2,650 to \$2,730 per annum, effective December 11, 1949.

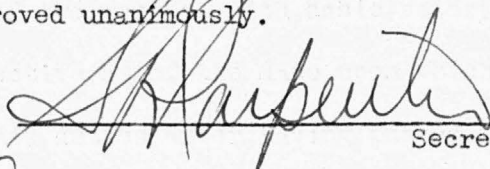
Approved unanimously.

Letter to The Honorable, The Comptroller of the Currency, Treasury Department, reading as follows:

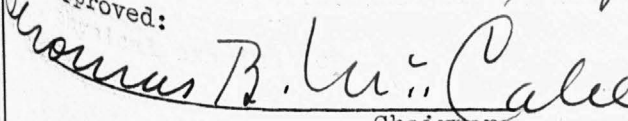
"It is respectfully requested that you place an order with the Bureau of Engraving and Printing supplementing the order of June 20, 1949, for printing Federal Reserve notes of the Federal Reserve Bank of St. Louis in the amount and denomination stated below:

Denomination	Number of sheets	Amount
\$50	18,000	\$10,800,000"

Approved unanimously.


Secretary.

Approved:


Chairman.