Minutes of actions taken by the Board of Governors of the Federal Reserve System on Thursday, November 20, 1952. The Board met in the Board Room at 10:00 a.m.

PRESENT: Mr. Martin, Chairman
Mr. Szymczak
Mr. Vardaman
Mr. Mills
Mr. Robertson

Mr. Carpenter, Secretary
Mr. Sherman, Assistant Secretary
Mr. Kenyon, Assistant Secretary
Mr. Vest, General Counsel
Mr. Bethea, Director, Division of Administrative Services
Mr. Allen, Director, Division of Personnel Administration
Mr. Solomon, Assistant General Counsel

Governor Vardaman reported that in accordance with the understanding at an executive session of the Board he had discussed informally with the Attorney General a letter addressed to the Board on September 22, 1952, by Mr. Holmes Baldridge, Assistant Attorney General, concerning funds amounting to approximately $3.8 million held on deposit in the registry of the United States Court for the Northern District of Ohio, Eastern Division, pending disposition of two civil actions. The letter stated that it was desired to transfer these funds to the Federal Reserve Bank of Cleveland for safekeeping and investment and reinvestment thereof in Treasury bills as the parties might from time to time direct, subject to final disposition of the actions and final order of the Court disposing of the funds. It also stated that the Department of Justice believed it to be better that this money be deposited with the Federal Reserve Bank than that

it be deposited in a commercial bank or banks.

Governor Vardaman said that the Attorney General advised him yesterday that he had issued instructions to his staff that funds of this character should be deposited with commercial banks unless the matter was brought to his attention and he took it up with the Board. Governor Vardaman said that the recent request apparently had resulted from a disagreement among the lawyers involved, who favored various commercial banks and, in the circumstances, joined with the Court in suggesting that the funds be deposited with the Federal Reserve Bank. He also stated that as far as the Department of Justice was concerned, the particular case referred to in the letter of September 22, 1952, could be considered closed.

At this point Governor Evans joined the meeting.

Before this meeting there had been sent to the members of the Board a memorandum dated November 12, 1952, from Governor Mills stating that in accordance with the request of the Board at the meeting on July 29, 1952, he had considered with members of the staff the applicability of the Federal Employees' Compensation Act to the Board's employees and that, for reasons stated, it was his recommendation that the question of the applicability of the statute to the Board's organization be not raised at this time. The memorandum also recommended that the Board agree (1) that in the event of serious injury or death of an employee

in line of duty the Board would take whatever steps might be necessary to assist the employee or his dependents in presenting the matter to the Bureau of Employees' Compensation of the Department of Labor for the purpose of ascertaining their rights under the law, and (2) that as long as the Federal statute was held not to be applicable to the Board the present insurance policy with the Liberty Mutual Insurance Company be continued.

There was a general discussion of the problem presented in the memorandum but no conclusions were reached and it was understood that the matter would be considered again at a subsequent meeting of the Board.

Governor Robertson referred to the discussion at the meeting of the Board on October 29, 1952, regarding bank holding company legislation and to the understanding at that time that no steps should be taken pending further consideration of the position which the Board should take with respect to such legislation. He stated that he felt he should advise the representatives of the Independent Bankers Association and American Bankers Association and the holding company official with whom he conferred earlier why they had not received copies of the bank holding company bill which he had indicated to them that he would prepare as a "target" bill, and he presented a letter which he proposed to send to them for that purpose.

Following a discussion, it was understood that there would be no objection to Governor Robertson's sending the letters.

Secretary's Note: Pursuant to the above, the following letter was sent by Governor

Robertson to Mr. James S. Peters, President of the Independent Bankers Association, Manchester, Georgia, on November 21, 1952, along with similar letters to Mr. J. O. Brott, General Counsel of the American Bankers Association, Washington, D. C., and Mr. J. Cameron Thompson, President of Northwest Bancorporation, Minneapolis, Minnesota:

"Last summer when I met with you and other representatives of the Independent Bankers Association and representatives of the American Bankers Association concerning proposals for bank holding company legislation, I agreed to try to draft a proposed bill which would put into statutory language the principles expressed in Chairman Martin's letter to Congressman Spence and my testimony before the House Banking and Currency Committee last June. It was contemplated that that draft could be used as a target to facilitate the formulation of your own views with respect to the most desirable form of legislative action in this field.

"A draft of such bill has been completed. However, it is the feeling of the Board of Governors, in which I concur, that if a copy thereof were to be sent to you and to the representatives of the American Bankers Association, in accordance with the understanding at the time of the conference aforementioned, the draft would in all likelihood be considered by some people as an attempt on the part of the Board of Governors to decide the form of proposed legislation.

"You know, I am sure, that this would be an erroneous position, since the Board of Governors is firmly of the opinion that the origination and enactment of legislation in this field is solely within the province of Congress. In arriving at its decision, Congress will want the benefit of the considered judgment of interested persons and agencies, especially to the extent that there are conflicting points of view. The Federal Reserve does not wish to be placed in the position of trying to unduly influence anyone to adopt its point of view, for it believes that the greatest value is to be derived by Congress from forthright expressions of different points of view.

"Consequently, although we are always willing to consult with you or other representatives of the Independent Bankers

"Association, or with any representatives of the American Bankers Association or any other interested persons for the purpose of developing our views and furnishing information which might facilitate the formulation of your own views, we do not now contemplate submitting to you a draft of our views in bill form. It is probable that if the Banking and Currency Committee of either the House or the Senate deems it appropriate to consider legislation of this type during the next session of Congress, it will propose a bill of its own which can be used for target purposes just as well as one which we might propose."

Before this meeting there had been sent to the members of the Board copies of a memorandum dated October 6, 1952, from Mr. Crosse, Assistant Vice President of the Federal Reserve Bank of New York, prepared in response to the Board's letter of August 18, 1952, to Mr. Sproul, President of the New York Bank, requesting a survey of the banks controlled by Marine Midland Corporation, a holding company affiliate, to assist the Board in determining what action it should take with respect to any future applications having to do with branches, mergers, and voting permits involving Marine Midland Corporation or banks controlled by the Corporation. The approach of the study was from the viewpoint of endeavoring to establish administrative guides as to the extent that expansion might be permitted without raising the question of a tendency toward monopoly.

Governor Robertson stated that Mr. Bayard F. Pope, Chairman of the Board of Marine Midland Corporation, had requested an appointment

with him this afternoon, that although no applications had been received by the Board, it was understood that applications for the establishment of two additional branches by State member banks in the Marine Midland group had reached the Federal Reserve Bank of New York and at least three other branch applications which would require Board approval were contemplated, and that Mr. Pope presumably desired to discuss this situation. Governor Robertson inquired what position he should take in his conversation with Mr. Pope, that is, whether he should say to him that the Board would not look with favor upon any applications involving further expansion by the group or whether he should say that any applications, if submitted, would be considered by the Board in the light of the facts involved, including any tendency toward undue concentration in the control of banking facilities in the areas concerned.

Governor Robertson said that he did not consider the study by the New York Bank as helpful as it might have been since it reviewed the competitive position of Marine Midland group banks according to New York State banking districts and counties, whereas he felt that the extent of a holding company's operations should be judged by looking at the areas where the banks and branches were located or proposed to be located. In that connection he reviewed the banking situation in the communities where it was understood Marine Midland group banks were contemplating the establishment of additional branches, three of which would be de novo branches and two

of which would involve the take-over of existing banks. Governor Robertson went on to say that he had also reviewed the memorandum submitted to Governor Evans under date of December 13, 1951, by Mr. Hodge, General Counsel of the Federal Reserve Bank of Chicago, and Mr. Shay, Assistant Counsel of the Board, concerning the status of Marine Midland Corporation under section 7 of the Clayton Act. He thought the statement in that memorandum to the effect that in 18 western-central counties of the State of New York banks in the Marine Midland group had 34 per cent of the commercial bank deposits was not a fair test as the memorandum tended to create the impression that the counties in question were contiguous whereas in actuality they were not.

It was Governor Robertson's opinion that the Board should consider any applications which might be received from Marine Midland group banks according to the standards used in considering any application for a new bank or branch, including the needs of the community for banking facilities, and that, if these factors seemed favorable and in addition it did not appear that any undue concentration of banking resources in the area in the hands of Marine Midland group banks would result, the Board would be justified in acting favorably upon the applications. He also felt that Mr. Pope should be informed that the Board would want to look closely into any further expansion in the area around Buffalo, New York.

During the course of Governor Robertson's comments, Mr. Chase, Assistant Solicitor, entered the room.

At the request of Chairman Martin, Mr. Vest made a statement in which he said that it was difficult to comment on the legal aspects of the situation without having a specific application before the Board. He brought out that the Board has the power to pass on applications by State member banks for the establishment of branches and since no particular criteria for passing on such applications were set forth in the law, it seemed reasonable to assume that the Board would consider many of the things that it would consider in connection with applications for membership in the System and applications for voting permits, including the competitive situation in the area, as well as the philosophy and policy of the antitrust laws. He thought the Board would be justified in denying applications in cases where there was evidence of an undue concentration of banking resources in any given section of the country which it might want to take into account. He also thought that, if the Board should turn down an application on the grounds that there was an undue concentration of banking resources in the area, the question might arise whether the Board should look into the question whether section 7 of the Clayton Act had been violated or whether there was a tendency toward monopoly. Mr. Vest pointed out that the Board was under no legal compulsion to follow such an examination of the circumstances by instituting a proceeding, but he felt that it might find itself in an inconsistent position, depending on the facts, if it did not do so. He concluded by

expressing the view that there would seem to be merit in the Board's awaiting the decision of the courts in the Clayton Act proceeding against Transamerica Corporation before instituting any other proceeding.

Mr. Chase agreed generally with the views expressed by Mr. Vest and also with Governor Robertson's point of view that even if the Clayton Act were not in existence, the Board would want to deny an application where it believed that the granting of such application would tend to produce an undue concentration of banking resources in a particular area.

Governor Evans said that while he would not want to pass on the legal problem involved, he would like the record to show that, in his opinion, the Board should defer action on any further applications for branches by banks controlled by Marine Midland Corporation until the proceeding against Transamerica Corporation had been decided by the courts because he thought that the decision might furnish a yardstick which could be applied more effectively than anything available to the Board at the present time. Governor Evans recalled that in December 1951, when the Board approved the issuance of a general voting permit to Marine Midland Corporation covering its stock in The National Chatauqua County Bank of Jamestown, Jamestown, New York, he advised Mr. Pope, with the Board's permission, of the reasons why he voted against the issuance of that permit, and Mr. Pope therefore was fully aware of his position.

Governor Szymczak stated that his position was similar to that expressed by Governor Robertson, while Governor Mills stated that where a transaction involving the take-over of an existing bank and the establishment of a branch was legally permissible and there were no other adverse factors, it seemed to him that it would be questionable whether the Board should prevent the transaction even though each successive approval might bring the day closer when there would be a tendency toward monopoly. As he understood the law and the type of supervisory responsibility vested in the Board, Governor Mills did not see how the Board would be justified in standing between the buyer and the seller.

Governor Vardaman doubted whether it would be advisable for the Board to delay action on applications submitted to it until such time as a court decision had been rendered in the Transamerica proceeding, it being his view that each application should be acted upon according to its merits without regard to the position taken by the Board in the Transamerica case. He also felt that the Board should give careful consideration to the attitude of the State banking authorities with regard to any particular application for the establishment of a branch.

Chairman Martin commented that in the case of an application for the establishment of a branch in an area where there were no banking facilities, the position that the Board should take would seem to be fairly

well indicated. He also suggested that Governor Robertson might say to Mr. Pope that any future applications by banks in the Marine Midland group would be scrutinized very carefully by the Board.

Following further discussion, it was understood that Governor Robertson would talk with Mr. Pope in the light of the views expressed at this meeting.

Governor Evans called attention to a memorandum dated November 11, 1952, from the President to the heads of executive departments and agencies which stated that a limited air raid drill in the Federally-occupied buildings in the Metropolitan area of Washington had been scheduled for the early part of December and directed that each department and agency participate in the drill.

Governor Evans said that the drill was scheduled for December 12, 1952, during regular working hours, and that the Board's staff was going ahead with plans for participation in the drill.

Reference was made to the suggestion of the Federal Advisory Council at its meeting with the Board on November 18, 1952, that the Board's study of the impact of the excess profits tax on commercial banks be carried forward through the year 1952.

It was agreed unanimously that the study should be carried forward along the lines suggested by Mr. Horbett,

Assistant Director of the Division of Bank Operations, at the meeting of the Board on November 17, 1952, with the understanding that this proposed procedure would be subject to such revisions as seemed appropriate after further study by the Division of Bank Operations and discussions with the other Federal bank supervisory agencies.

At this point all of the members of the staff except Messrs. Carpenter, Sherman, and Kenyon withdrew from the meeting and the following additional actions were taken by the Board:

Minutes of actions taken by the Board of Governors of the Federal Reserve System on November 19, 1952, were approved unanimously.

Letter to Mr. Leach, Chairman, Conference of Presidents of the Federal Reserve Banks, reading as follows:

"The Board suggests that there be included in the agenda for the next Presidents' Conference, scheduled to be held early in December, the question of borrowings by member banks from the Federal Reserve Banks under circumstances which indicate that one of the purposes of the borrowings, even though not the principal one, might be that of increasing 'borrowed capital' for the purpose of lessening or avoiding excess profits taxes. As you know, this subject was discussed at the February and September Conferences.

"In its letter of April 19, 1945 (S-843, F.R.L.S. #5129), the Board suggested that, because of the possibility that some member banks might borrow for the purpose of reducing excess profits taxes, any unusual application for discount facilities be reviewed to determine whether the application was consistent with the proper needs of the bank for replenishing reserves.

"Reinstitution of the excess profits tax in 1950 and the big increase in borrowings suggest that there is greater need than ever for close scrutiny of discount applications. Substantial borrowings that result from tax considerations could cause serious interference with Federal Reserve monetary and credit policies.

"At the forthcoming Conference, the Presidents might discuss how their respective Banks attempt to determine, when considering a given discount application, whether the member bank's borrowings appear to be substantially influenced by a desire to lessen or avoid excess profits taxes, or whether for any other reason it is making an undue use of Federal Reserve credit. The discussion might suggest standards to be followed and kinds of information useful for such determinations, such as continuity of and increase in a member bank's borrowings; relationship of its Federal Reserve borrowings to its required reserves and capital account in recent months or over the past year; extent of other borrowings; and changes in the bank's deposits, loans, and investments associated with occasions for borrowing."

Approved unanimously.

Letter to The Wolfeboro National Bank, Wolfeboro, New Hampshire, reading as follows:

"The Board of Governors of the Federal Reserve System has given consideration to your supplemental application for fiduciary powers, and grants you authority to act, when not in contravention of State or local law, as executor, assignee, and receiver. The exercise of these powers, in addition to those heretofore granted to act as trustee and registrar of stocks and bonds, shall be subject to the provisions of the Federal Reserve Act and the regulations of the Board of Governors of the Federal Reserve System.

"This letter will be your authority to exercise the fiduciary powers granted by the Board pending the preparation of a formal certificate covering such authorization, which will be forwarded to you in due course."

Approved unanimously, for transmittal through the Federal Reserve Bank of Boston.

Secretary