

Minutes for October 22, 1958

To: Members of the Board

From: Office of the Secretary

Attached is a copy of the minutes of the Board of Governors of the Federal Reserve System on the above date.

It is not proposed to include a statement with respect to any of the entries in this set of minutes in the record of policy actions required to be maintained pursuant to section 10 of the Federal Reserve Act.

Should you have any question with regard to the minutes, it will be appreciated if you will advise the Secretary's Office. Otherwise, if you were present at the meeting, please initial in column A below to indicate that you approve the minutes. If you were not present, please initial in column B below to indicate that you have seen the minutes.

	A	B
Chm. Martin	<u> </u>	x <u> </u>
Gov. Szymczak	x <u> </u>	<u> </u>
Gov. Vardaman ^{1/}	<u> </u>	x <u> </u>
Gov. Mills	<u> </u>	x <u> </u>
Gov. Robertson	<u> </u>	x <u> </u>
Gov. Balderston	x <u> </u>	<u> </u>
Gov. Shepardson	x <u> </u>	<u> </u>

^{1/} In accordance with Governor Shepardson's memorandum of March 8, 1957, these minutes are not being sent to Governor Vardaman for initial.

Minutes of a meeting of the available members of the Board of Governors of the Federal Reserve System on Wednesday, October 22, 1958.

The meeting was held in the Board Room at 10:00 a.m.

PRESENT: Mr. Balderston, Vice Chairman
Mr. Szymczak
Mr. Shepardson

Mr. Sherman, Secretary
Mr. Kenyon, Assistant Secretary
Mr. Fauver, Assistant Secretary
Mr. Hackley, General Counsel
Mr. Masters, Director, Division of Examinations
Mr. Solomon, Assistant General Counsel
Mr. Chase, Assistant General Counsel
Mr. Holahan, Supervisory Review Examiner, Division
of Examinations
Mr. Powell, Special Counsel

Continental Bank case. Messrs. Hackley and Solomon were present with the understanding that they would not participate in the discussion but would be available for the purpose of advising the Board with regard to procedural matters as opposed to matters involving the prosecution of the case.

Mr. Powell stated that he wished to discuss a procedural problem that had arisen because of certain decisions handed down by the courts of the United States since January 1958. The problem related to the demand made by Respondent through its Counsel to inspect the confidential sections of reports of examinations of the Continental Bank and Trust Company made as of March 1956 and October 1956. The open sections of these reports were introduced as exhibits in the proceeding and shortly after the hearing started Counsel for Respondent made the demand for

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permission to inspect the confidential sections. The request was referred by the Hearing Examiner to the Board which ruled adversely, stating that "for reasons of public policy, including the necessity for maintaining the confidentiality of this kind of information, Respondent should be denied the confidential sections of these two reports of examination." Mr. Powell said that the reports of examination contained the basic facts concerning the condition of the bank on which the whole case was being tried, and that many pages of expert testimony focused on the facts in those two reports. The proceeding, he said, could not have been carried on without the benefit of the reports of examination and might have to be dismissed if the reports and testimony thereon should be stricken from the record.

Mr. Powell then presented a summary of the court decisions to which he had referred. In effect they appeared to hold that the doctrine stated by the Supreme Court in Jencks v. United States, 353 U.S. 657, is applicable not only to criminal proceedings but also to civil proceedings and administrative hearings. In the Jencks case the Supreme Court held that the criminal action must be dismissed if the Government refused to permit the accused to inspect confidential reports in the Government's possession touching upon the subject matter of testimony of witnesses against the accused.

It was understood that copies of Mr. Powell's memorandum would be made available to all of the members of the Board. A copy has been placed in the Board's files.

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Mr. Powell expressed the view that the position of Respondent in this matter would probably be upheld by the Court of Appeals of the District of Columbia if the case should be appealed to that Court.

Mr. Masters stated that if the decisions referred to by Mr. Powell would have the effect of shattering precedent to the extent that apparently would be the case, it might be necessary to take a completely new position with respect to the disclosure of confidential sections of examination reports and also to reconsider the value of such sections to bank supervisory authorities. He said that the Division of Examinations was not concerned so much about the specific request made by Continental as about the precedent that would be created.

Mr. Powell stated that the time schedule in the case was such that a decision by the Board some time next week would be satisfactory.

Mr. Balderston then stated to him that the matter would be taken up formally by the Board when a quorum was present and after there had been an opportunity to read Mr. Powell's memorandum concerning the court decisions. Because of a question that had been raised during the discussion, it was understood that the Division of Examinations would ascertain whether it is the practice of the Federal Reserve Bank of San Francisco to furnish the confidential sections of reports of examination of Utah State member banks to the Utah State banking authorities.

Mr. Powell then withdrew from the meeting along with all of the members of the staff except Messrs. Sherman, Kenyon, and Fauver.

Eligibility of director for reappointment. Governor Balderston reported an informal inquiry from President Erickson of the Federal Reserve

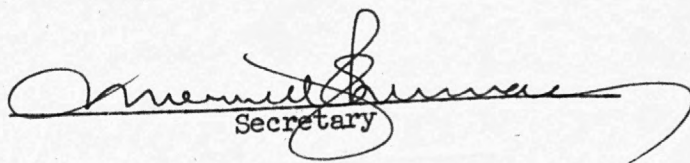
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Bank of Boston concerning the eligibility for reappointment as a Class C director of Mr. Harvey P. Hood, whose current appointment expires at the end of 1958. Mr. Hood served as a Class B director from January 1, 1951, to December 31, 1955, and on January 1, 1956, he began his service as a Class C director. Mr. Erickson had indicated to Governor Balderston that reappointment of Mr. Hood, if this were possible, would help to meet a problem of lack of continuity resulting from the number of changes in the composition of the Board of Directors.

A review of the facts of the case revealed that Mr. Hood could not be considered eligible for reappointment under either the Board's current policy of rotation of directors or the provisions contained in the pending Financial Institutions Act, and it was understood that Governor Balderston would advise Mr. Erickson informally.

The meeting then adjourned.


Secretary