Minutes for November 3, 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.

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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 the Board of Governors of the Federal Reserve System

on Monday, November 3, 1958. The Board met in the Board Room at 10:00 a.m.

PRESENT: Mr. Balderston, Vice Chairman
Mr. Szymczak
Mr. Mills
Mr. Robertson
Mr. Shepardson
Mr. Sherman, Secretary
Mr. Fauver, Assistant Secretary
Mr. Hackley, General Counsel
Mr. Masters, Director, Division of Examinations
Mr. Molony, Special Assistant to the Board
Mr. Sammons, Associate Adviser, Division of International Finance
Mr. Solomon, Assistant General Counsel
Mr. Nelson, Assistant Director, Division of Examinations
Mr. Davis, Assistant Counsel

Branch applications of The Michigan Bank, Detroit, Michigan

(Item No. 1). Prior to the meeting there had been distributed copies of a letter dated October 30, 1958, from Mr. John C. Hay, President, The Michigan Bank, advising the Board of further developments in connection with its application for approval of the establishment of two branches and requesting a further conference with the members of the Board on this matter.

The letter stated the Bank had exercised one of its options and contemplated taking up the other in the near future to purchase properties on which the branches were to be located, this having been done to protect the sites pending disposition of the issue. It reiterated the bank's belief that there was no economic or legal justification for denial of its request for approval of the branches and requested the conference so that either the question could be resolved or agreement reached for its submission for judicial determination in a form of proceeding which would be mutually satisfactory.
Mr. Hackley stated that the Legal Division felt in the light of possible litigation that it was desirable to grant the bank's request for an additional conference. He thought the record should show fully a statement of the bank's views as well as the views of the Board at this stage and recommended that a reply be sent to the bank fixing a date for such a meeting and enclosing copies of a memorandum of comment on Michigan Bank's October 16 letter, to which full reply had not yet been made. He would also request the bank to submit further information on the facts and legal aspects of the question from its point of view. He then read a suggested reply.

Mr. Masters stated that if the Board was going to abide by its original decision and insist upon common stock for the raising of additional capital, it behooved the Board to develop the strongest reasons possible for requiring such action. He noted the Michigan Bank could have sold preferred stock before it applied for the branches, in which case the adequacy of capital could not have been an issue. Therefore, he thought that the Board should review the matter carefully before another conference to make absolutely certain that its position was well founded.

Governor Szymczak said he thought the Board had already done this.

Mr. Hackley said he assumed considerable attention had been given to the points Mr. Masters was raising although perhaps more could be done to develop the Board's position. He thought the current letter emphasized the legal position more than the other. In his opinion, the legal position
could be defended in this case, although it was more difficult than
the one involved in the Old Kent matter. In a conference such as the
bank was requesting, he assumed the discussion would go further than
the legal question and would get into the question of use of preferred
stock.

Governor Balderston inquired whether Mr. Hackley's proposed
reply would attempt to elicit from the Michigan Bank whether it was
questioning the Board's authority to require additional capital or whether
it was challenging the Board's authority to specify the form of
capital to be provided. To this Mr. Hackley replied that the purpose
of the letter would be to get from the bank a clear statement on both
of these points. Also, the question of judgment as to whether capital
was now adequate might come up.

Governor Szymczak said he thought the bank had already agreed
that more capital should be added for the operation of additional
branches and that it thus would be foreclosed from raising this point.

Mr. Solomon pointed out that such statements were made orally
and that this point was not clear on the record.

Mr. Hackley said that the bank admitted the need for additional
capital but that it contended that the Board had no authority to determine
the form.

Governor Mills observed that the procedure outlined by Messrs.
Hackley and Masters seemed to be in line with the majority position of
the Board. One question in procedure to be raised was the status to be
accorded the meeting; that is, whether it would be an informal conference
like the preceding one or would be raised to the level of a hearing which would necessitate a court-stenographer and the making of a complete record which would stand up in court.

Mr. Hackley agreed that there was much to be said for the complete record approach presented by Governor Mills.

Governor Robertson said the situation had the appearance of a fishing expedition on both sides which should be avoided if at all possible. He said he would acknowledge the letter and then say that although the Board saw no need for a further hearing, it was nonetheless willing to have such a conference if the bank was prepared to present additional facts or arguments; secondly, he would express surprise that the bank had gone ahead with the acquisition of property without waiting until a permit for the branches had been approved.

Mr. Hackley pointed out that the bank's letter had been careful to make clear that it was taking up these options only to hold the place.

Governor Shepardson said he thought the Board should go ahead with an additional meeting in some form although he was not sure that there was a great deal of difference in the present proposal of the bank for a conference and its original request. He agreed, however, that the Board should be certain of its own arguments and that these should be fully explored and developed before going into another conference with representatives of the bank.
At this point, Governor Robertson reminded the Board that it had acted on this matter once and then reaffirmed the original action on October 14. He was concerned, therefore, by comments to the effect that more study was needed. He agreed, however, that the arguments for and against should be set forth as clearly and distinctly as possible.

Governor Szymczak said he took the same position as Governor Robertson. The Board had gone into this matter on several occasions and it was accepted that there were minority views both on the Board and its staff. The basic policy question, however, as to the use of preferred stock had been settled a long time ago. The only exception to the general rule was for emergency situations and the present case did not fit that pattern.

Mr. Hackley said the only matter before the Board now was a procedural one as to whether the request for a conference would be approved. He suggested that if the meeting was held, there would be another opportunity for the Board to consider the merits.

Governor Balderston said it was his own feeling that a court would not look askance at such a conference but that on the contrary it would consider it a reasonable and proper thing to do.

As to timing, Mr. Hackley suggested that there were two considerations. The date should be early enough to avoid the appearance of delay and it should allow reasonable time for preparation of material. With these in mind, Governor Robertson suggested that the Secretary's
Office fix an appropriate date for the conference allowing about 10 days for the preparation of a statement by the Michigan Bank and allowing the Board's staff about 10 days for the consideration of such a statement.

Thereupon, it was unanimously agreed that a letter would be sent to the Michigan Bank in the form attached to these minutes as Item No. 1, and it was understood that the Secretary's Office would advise the Board when a convenient time had been agreed upon.

At this point, Mr. Johnson, Director, Division of Personnel Administration, entered the meeting.

Training program for junior Foreign Service officers. Prior to the meeting there had been circulated a memorandum from Governor Szymczak dated October 21, 1958, recommending that the Board approve for a one-year trial period the assignment to the Board of a junior Foreign Service officer from the Department of State for the purpose of giving him an opportunity to learn some of the operational aspects of central banking which would be helpful to him in analyzing and reporting economic developments in foreign countries. The salary and other expenses of the trainee would be borne by the State Department. The memorandum recommended that responsibility be divided among the Divisions of International Finance, Research and Statistics, and Personnel Administration, and the Office of the Controller, with the primary responsibility in the first of these divisions. Governor Szymczak explained that the development of this training program had been in
process for some time and if adopted its results would benefit both
the Board of Governors and the Department of State.

Thereupon, the Board approved unanimously the program, as
recommended by Governor Szymczak, on a trial basis for one year, after
which continuance would be subject to review by the Board. A copy of
Governor Szymczak's memorandum containing details of the plan approved
by the Board was placed in the Board's files.

Following the discussion of this item, Messrs. Johnson and
Sammons left the meeting.

Request for oral argument by First Bank Stock Corporation
(Item No. 2). Prior to the meeting there had been distributed copies
of a memorandum by Messrs. Solomon and Davis dated October 30 presenting
a request by the First Bank Stock Corporation for oral argument in
connection with determinations requested by that corporation under
Section 4(c)(6) of the Bank Holding Company Act.

The First Bank Stock matter involved the question of whether
the exempted provisions of Section 4(c)(6) of the Bank Holding Company
Act are applicable to the ownership of shares of (1) a corporation
engaged principally in the business of purchasing and servicing
instalment paper of kinds eligible for investment by the holding
company's subsidiary banks, and (2) an insurance agency whose operations
had some relationship to the activities of the holding company's sub-
subsidiary banks. Because of the importance of the case and since there
appeared to be no sound reason for refusing the request the Legal Division recommended that the Board grant First Bank Stock's request for oral argument.

It was stated that similar issues were involved in cases concerning three other bank holding companies (Northwest Bancorporation, Otto Bremer Company, and Bank Shares) and that it might be desirable from the Board's point of view to have the hearing examiner's reports in all these cases sufficiently in advance of oral argument in the First Bank Stock matter to permit the Board to consider all four cases together. The other three cases would not be ready for Board action before January, however, and it was suggested that the Board issue an order at the present time granting First Bank Stock's request for oral argument but deferring the fixing of the time for oral argument until a later date.

Mr. Solomon stated that if First Bank Stock should object to this course of action he would feel the Board should proceed in the near future with the oral argument. However, there was nothing to indicate that the company's position would be jeopardized by a delay since it would continue to operate as at present. Therefore, he felt the company would not object to the procedure suggested.

Thereupon, the Board approved the issuance of an order granting the request of First Bank Stock Corporation for an oral argument regarding the Board's determinations pursuant to Section 4(c)(6) of the Bank Holding
Company Act in the form attached to these minutes as Item No. 2, with the understanding that the hearing examiner and the applicant would be appropriately advised.

At this point, Mr. Davis withdrew from the meeting.

Procedure regarding approval of mergers and branches in New York State (Item No. 3). Prior to the meeting there had been distributed copies of a letter dated October 22 from Mr. George A. Mooney, Superintendent of Banks of the State of New York, commenting on the Board's letter of October 14, 1958, to the Federal Reserve Bank of New York, a copy of which had been sent to Mr. Mooney, and which outlined the Board's understanding of the agreement reached with Mr. Mooney and members of his staff at a meeting on September 26, 1958. Mr. Mooney took exception to one of the principal features of the agreement as outlined in the Board's letter, which had indicated that upon receipt of an application for approval of a merger or establishment of a branch from the New York Federal Reserve Bank, the Board would await the decision of the State Banking Board before acting on the application. Mr. Mooney's recollection of the agreement was that when the New York Reserve Bank forwarded the application with an indication of a favorable view of his department, the Board would review the matter informally and inform the New York Banking Department of its preliminary views on the application, prior to any formal action by either agency.
Distributed with Mr. Mooney's letter was a memorandum dated October 30, 1958, from the Division of Examinations stating that while the minutes on September 26 did not clearly define the procedure, the Division of Examinations had gained the same impression as Mr. Mooney did from the discussion. In explaining his Division's memorandum, Mr. Masters stated that the Board had several alternatives: First, it could stay with the position outlined in its letter of October 14, which actually reflected little change from the past procedure except that it would bring into the picture an understanding that notice to applicants would be withheld until both agencies had taken formal action. A second alternative would be for the New York Reserve Bank to submit to the Board an application with an indication of the intended favorable recommendation of the State Banking Department to its State Board, with the understanding that the Board of Governors would give preliminary consideration and inform the State Banking Department of its tentative views before either the Board or the State authorities took formal action -- a somewhat cumbersome procedure but one consistent with Mr. Mooney's request. Third, the New York Bank could forward an application based on the indicated views of the State Banking Department. If such views were favorable, the Board could act finally, but subject to, and conditioned upon, a favorable action by the State Banking Board. This procedure, Mr. Masters said, was the one recommended by the New York Bank.
Governor Robertson said he was most sympathetic to the problem which Mr. Mooney faced but that technically until the State Banking Board, as distinguished from the Banking Department, had acted there was no case to bring before the Reserve Board. Furthermore, since he did not believe that action by the State Banking Board was a mere formality, it would not be proper to make the Reserve Board action contingent upon an action by the State Banking Board which could then overrule the Reserve Board. Therefore, he would vote to reaffirm the position taken in the letter of October 14.

Governor Robertson recalled that in the particular case which Mr. Mooney cited as a cause of embarrassment, the State Banking Board had not only acted but had announced its action before the position of the Reserve Board was known.

Governor Balderston stated that he shared this view and that while the Board should be sympathetic and avoid embarrassment where possible, such policy should not be extended to saving Mr. Mooney embarrassment with his own Banking Board at the expense of compromising this Board's position.

Governor Mills said he agreed with the views of Governor Robertson which credited fully the statement by Mr. Mooney that the State Banking Board had primacy in these matters. He thought the action suggested by Governor Robertson would meet that test because the State Banking Board must act first.

Only in rare instances would there be conflicts and even these could be minimized with better liaison between the staffs of the New York...
Banking Department, the New York Reserve Bank, and the Board.

Governor Szymczak also agreed that the Board should stand on its initial position. At the same time he thought the reply might well express the Board’s regret that there had been a misunderstanding and offer to talk with Mr. Mooney again if he felt it desirable.

Following the discussion, it was unanimously agreed that the Board would adhere to the position indicated in its letter of October 14 with the understanding that a letter would be prepared and sent to Mr. Mooney over the signature of the Vice Chairman expressing the Board’s views in accordance with the above discussion.

Secretary’s Note: A copy of the letter mailed to Mr. Mooney, Superintendent of Banks of the State of New York, under date of November 7, 1958, is attached to these minutes as Item No. 3.

Messrs. Molony, Masters, Hackley, Solomon, and Nelson then withdrew from the meeting.

Leave of absence for New York Reserve Bank staff member (Item No. 4). Prior to the meeting there had been distributed copies of a letter dated October 28, from the New York Reserve Bank advising the Board that in response to a request from Day & Zimmermann, Inc., Philadelphia, Pennsylvania, it was making available to that company the services of Mr. Merlyn N. Trued, Chief of the Foreign Research Division of the Bank, on a leave of absence without pay basis for a period of one year beginning November 24, 1958.
11/3/58

Mr. Trued would go to Viet-Nam as a member of a team of engineers and specialists to advise the Industrial Development Center of Viet-Nam. Also distributed was a memorandum from Mr. Marget dated October 30 recommending that the Board of Governors interpose no objection.

Accordingly, the Board unanimously approved a letter to the Federal Reserve Bank of New York in the form attached to these minutes as Item No. 4.

Thereupon the meeting adjourned.

Secretary's Notes: Acting under authority in connection with their special assignment regarding computing and charting matters, Governors Balderston, Mills, and Shepardson approved today the letter attached to these minutes as Item No. 5, to Leon, Weill, and Mahony, New York, New York, regarding the Alwac 800 computer contract between the Board and Wegematic Corporation (formerly Alwac Corporation).

During the day telegrams were received from the Federal Reserve Banks of Boston and Kansas City advising that the directors of those Banks had established, subject to approval by the Board of Governors, rates of 2-1/2 per cent on discounts for and advances to member banks under sections 13 and 13a of the Federal Reserve Act, 3 per cent on advances under section 10(b), 4 per cent on advances to individuals, partnerships, and corporations other than member banks under the last paragraph of section 13, and other rates in the Banks' existing schedules without change. Pursuant to the authority given by the Board on October 27, 1958, the Secretary advised the Boston and Kansas City Banks by telegram of the approval of these rates, effective November 4, 1958.

All Federal Reserve Banks and branches were notified by telegram, a press statement was issued in the usual form, and arrangements were made for publication of a notice in the Federal Register.
AIR MAIL

Mr. John C. Hay,
President,
The Michigan Bank,
Guardian Building,
Detroit 26, Michigan.

Dear Mr. Hay:

This is in response to your letter of October 30, 1958, with further reference to your application for approval by the Board of the establishment of two branches of your bank, which was the subject of the Board's letter of August 20, 1958, a meeting on September 5 between representatives of the Board and your bank, your letter of October 16, and the Board's letter and telegram of October 20.

In your letter of October 30, you state that you continue to believe that "there is no economic nor any legal justification" for denial of your request, and you suggest that there is a "question of law" involved which, unless a satisfactory solution can be found, should be submitted for judicial determination. Your letter also requests that a further conference be arranged between representatives of the Board and your bank for the purpose of reviewing this matter.

The question of law which you believe to be involved is not described in your letter. It is assumed that you may refer to the authority of the Board, in determining whether to approve or disapprove the establishment of a branch by a State member bank, to consider the adequacy of the capital structure of the member bank, including not only the amount of the bank's capital but also its nature and form, e.g., the fact that part of the capital consists of preferred stock. As indicated in the Board's letter of October 20, it is the Board's view that it has such authority under the law; and, in fact, the Board has discharged its responsibilities in this respect for many years. The question whether a State member bank has capital adequate to warrant the approval of the establishment of branches is a question of judgment in the light of the facts of the particular case.
Mr. John C. Hay

It is questionable whether any further discussion of this matter would be profitable. However, in the light of your request, and assuming that you wish to present additional facts and arguments, the Board will be glad to arrange a conference for that purpose, and it is suggested that such a conference be scheduled for Monday, November 24, 1958, at 2:30 p.m., at the Board's building. Please advise whether that time will be convenient to you.

In the meantime, in order to facilitate discussion of the matter at that conference, it will be appreciated if you will submit by November 17 a full and precise statement with respect to the question of law that you believe to be involved, together with any further views you may wish to express regarding the factual aspects of this matter.

There is enclosed for your information a memorandum commenting on some of the views expressed in your letter of October 16 regarding certain aspects of this matter.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

Enclosure
CERTAIN COMMENTS ON LETTER OF OCTOBER 16, 1958, FROM MR. JOHN C. HAY, PRESIDENT, THE MICHIGAN BANK, DETROIT, MICHIGAN, TO BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

The June 30, 1959, estimate of The Michigan Bank's capital position in the letter of October 16, 1958, appears to be based on an optimistic estimate of earnings which is not entirely consistent with the indications by representatives of the Bank on September 5 that they did not anticipate substantial increases in the deposits of the Bank in the near future.

The letter of October 16 urges that the dividends on the preferred stock would be a relatively small part of the Bank's annual earnings, and also that the inclusion of preferred stock in the Bank's capital would make it easier rather than more difficult to sell additional stock at some future date. These views, somewhat like the estimate of earnings, appear to be based at least in part on an unstated assumption that only relatively favorable conditions need to be considered as a possibility which may confront the Bank. It is hoped, of course, that such an assumption would turn out to be correct, and this memorandum does not mean to suggest that there are necessarily any adverse factors on the immediate horizon. On the other hand, it must be recognized that an important function of bank capital is to be available to meet adverse eventualities which everyone hopes will not occur but which must be taken into account as a possibility.

Should such a situation develop, the difference in nature between preferred and common stock would be of particular importance. The amount of the dividend on the preferred stock would then be of less significance than a prior claim of the preferred stock on assets and a veto power of the preferred stock over the issuance of similar stock.

The letter of October 16 states that neither common nor preferred stock has a claim on bank earnings. As indicated in the Board of Governors' letter of October 20, 1958, this is correct only in a technical legal sense, since management would in practice be under substantial pressure to pay dividends on preferred stock. Some indication of this pressure appears from the statement in the letter of October 16 that "if the preferred dividends were not paid for a year's period, such stock would then simply have voting rights on a par with common", and from the strong desire, already indicated by representatives of the Bank at the September 5 discussion, by the controlling stockholders of the Bank to retain such control.
The reference to preferred stock in the Board's regulations was discussed in the Board's letter of October 20, 1958.

Since the Board of Governors, in its consideration of the Bank's application for these branches, had understood that the premises for the branches were to be leased rather than owned by the Bank, and hence would not involve any investment of Bank funds, the apparent indication to the contrary in the letter of October 16 would seem to raise further question regarding adequacy of capital.
ORDER GRANTING REQUEST FOR ORAL ARGUMENT

This matter coming on this day for consideration on the request of Applicant for Oral Argument in this matter, it is ORDERED that:

1. The request of Applicant for Oral Argument is granted, said Oral Argument to be set down for such time and such place as shall hereafter be fixed by the Board.

This 3rd day of November, 1958.

By order of the Board of Governors.

(Signed) Merritt Sherman

Merritt Sherman, Secretary.

(SEAL)

Washington, D. C.
November 3, 1958.
November 7, 1958.

Mr. George A. Mooney,  
Superintendent of Banks,  
New York State Banking Department,  
100 Church Street,  

Dear Mr. Mooney:

In Chairman Martin's absence I have taken up with the members of the Board your letter to him of October 22, 1958, with respect to the procedure to be followed in the consideration of applications for approval of mergers and the establishment of branches. The Board has asked me to express its regret that any misunderstanding resulted from discussion of this matter with you on September 26.

After further consideration of this matter in the light of the comments contained in your letter of October 22, the Board has again expressed the belief that the procedure outlined in its letter of October 14, 1958, to Mr. Crosse, a copy of which was sent to you, is the most practicable one in all the circumstances.

Experience has produced very few instances of disagreement regarding the merits of applications which are submitted by State member banks to the New York State Banking Board and to the Board of Governors. It would seem that any possible embarrassment either to the New York State Banking Board or to the Board of Governors could be avoided under the arrangement outlined previously if public announcement of action taken on a particular case was withheld until both parties had reached a decision. Recognizing that primary responsibility for supervision of State banks rests with the New York State Banking Department, the Board of Governors is reluctant to take any position on pending applications of the kind under discussion until the State Banking Board has acted.

Very truly yours,

(Signed) C. Canby Balderston

C. Canby Balderston,
Vice Chairman.
November 3, 1958

Mr. William H. Braun, Jr.,
Secretary,
Federal Reserve Bank of New York,
New York 45, New York.

Dear Mr. Braun:

This is in reply to your letter of October 28, 1958, regarding the proposed leave of absence without pay for a period of one year beginning November 24, 1958, for Mr. Merlyn N. Trued in order to permit him to accept an assignment with Day & Zimmermann, Inc., to advise the Industrial Development Center in Viet-Nam.

The Board of Governors interposes no objection to this leave of absence for Mr. Trued.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.
Edward J. Leon, Esq.,
Leon, Weill & Mahony,
9 East 40th Street,

Dear Mr. Leon:

This is with reference to your letter of October 28 regarding the Alwac 800 computer contract between the Board and Wegematic Corporation (formerly Alwac Corporation).

On July 21, 1958 the Board sent duplicate registered letters to Alwac Corporation in New York City and Hawthorne, California, requesting a prompt reply looking toward settlement of the Corporation's liability to the Board for breach of said contract. Mr. Holmquist responded to the Board's letter on August 17, and a meeting was held with him on August 21. At that meeting Mr. Holmquist stated that he would get in touch with the Board again early in September.

No further word having been received by September 11, the Board wired Mr. Holmquist on that date. On October 6 Mr. Mahony of your firm wrote the Board, stating that you had just received the Board's telegram of September 11, that Mr. Holmquist was out of the city but was expected to return within ten days, and that you would take up the matter with him promptly upon his return. Your letter of October 28 now requests the Board to "defer action in this matter until the 20th of November."

In accordance with your request, the Board intends to defer action until that date. Attention is directed to the fact that by November 20 four months will have elapsed since the July 21 letter, and unless by December 1 a satisfactory settlement is in prospect, the Board will place its claim in the hands of the United States Department of Justice for appropriate legal action.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.