

Minutes for January 6, 1960

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, please initial below. If you were present at the meeting, your initials will indicate approval of the minutes. If you were not present, your initials will indicate only that you have seen the minutes.

Chm. Martin

Gov. Szymczak

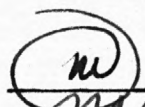
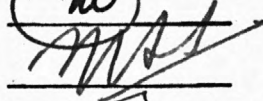
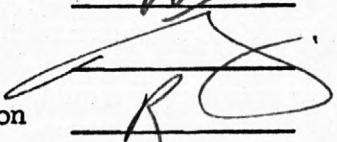
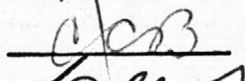
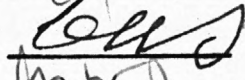
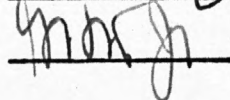
Gov. Mills

Gov. Robertson

Gov. Balderston

Gov. Shepardson

Gov. King

Minutes of the Board of Governors of the Federal Reserve System
on Wednesday, January 6, 1960. The Board met in the Board Room at 9:30 a.m.

PRESENT: Mr. Martin, Chairman
Mr. Balderston, Vice Chairman
Mr. Szymczak
Mr. Mills
Mr. Robertson
Mr. Shepardson
Mr. King

Mr. Sherman, Secretary
Mr. Molony, Assistant to the Board
Mr. Fauver, Assistant to the Board
Mr. Hackley, General Counsel
Mr. Solomon, Director, Division of Examinations
Mr. Hexter, Assistant General Counsel
Mr. O'Connell, Assistant General Counsel
Mr. Landry, Assistant to the Secretary

Oral argument on First Bank Stock application. This meeting of the Board had been called by Chairman Martin to consider a telephone message from Mr. Hansen, an attorney representing three banks in the St. Paul area that had objected to the First Bank Stock Corporation's application to acquire stock of Eastern Heights State Bank of St. Paul, Minnesota, concerning which oral argument had been set by the Board for today.

At the request of the Chairman, Mr. Sherman related that Mr. Hansen had called his office on January 5, leaving word that he was about to board a plane enroute to Washington, D. C. and that he planned to attend the oral argument on January 6 at which time he would make a statement on behalf of the banks he represented opposing First Bank Stock's application.

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After noting that there was an apparent misunderstanding on the part of some persons as to the distinction between an oral argument and a hearing, Chairman Martin called upon Mr. Hackley for his views as to the legal considerations involved.

Mr. Hackley said that there were two arguments in favor of permitting Mr. Hansen, as well as Mr. DuBois of the Independent Bankers' Association, who previously had indicated a desire to make a statement at the oral argument, to make such statements: (1) It would meet the desire of the Board to hear comments or arguments helpful in reaching a decision, and (2) there was no explicit prohibition against such a procedure in either the Board's rules or in statutory law. On the other hand, there were several arguments against permitting statements by persons other than legal parties to the case: (1) First Bank Stock Corporation, the applicant, had adhered to the principles of the Administrative Procedure Act in requesting oral argument in this case; (2) the applicant was no doubt relying upon the Board's rule that only legal parties to the proceeding would be allowed to make a statement during the oral argument; (3) it was doubtful that any useful information would be added to the record by statements from the two gentlemen concerned since each had appeared and expressed his views at the hearing in this case which took place on April 7, 8, and 9, 1959; (4) a precedent might be set for future oral argument proceedings with the effect of protracting them unduly; (5) since the Hearing Officer had ruled during

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the hearing previously referred to, that neither Mr. DuBois nor Mr. Hansen was a party to the proceedings, their participation in the oral argument without advance notice having been given to the applicant could constitute legal grounds on which the applicant could attack the Board in the event of an appeal from the Board's decision.

Commenting that the arguments against permitting Messrs. DuBois and Hansen to make statements at the oral argument were persuasive, Chairman Martin asked what the Board's legal position would be if the applicant (First Bank Stock) were to indicate that it had no objection to their making statements.

Mr. Hackley said that this would tend to mitigate against such action becoming a precedent. If, on the record, the applicant indicated that he raised no objection, he certainly could not subsequently attack the Board on this point in the event of an appeal from a Board decision.

Chairman Martin then asked whether, even if the applicant did not object, the judgment of the Legal Division would be that permission for Mr. Hansen to make a statement would in any way weaken the Board's position in the case of a court review of its decision.

Mr. Hackley said that if the applicant did not object, he did not think permitting either Mr. DuBois or Mr. Hansen to appear would weaken the Board's position in any way, and Mr. O'Connell noted that the applicant would be the only party that could object.

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Chairman Martin next inquired whether it would be the considered judgment of the Legal Division that the wiser course would be not to have either Mr. DuBois or Mr. Hansen participate in the oral argument, and to this question Mr. Hackley said that he believed the Legal Division would take the view that it would be preferable if they did not participate.

Chairman Martin then said that, having gotten the Legal Division's judgment on the legal questions, he wanted to say that from the public relations standpoint there were advantages in not denying persons an opportunity to speak when they had views on a question such as that under discussion.

Mr. Hackley commented that he did not think it would be vital to the legal position of the Board in any way if the Board in the circumstances of this case, whether for public relations reasons or otherwise, should permit Mr. Hansen or Mr. DuBois to make a statement at the oral argument under the conditions that had been suggested, namely, that it would be made clear they had no legal right to make a statement but that since the applicant had indicated that he would not object to their doing so, and assuming the applicant would have an opportunity to make a rebuttal statement, the Board was permitting them to present a statement during the oral argument.

Mr. Hackley also noted that this would be his view even though neither Mr. DuBois nor Mr. Hansen had filed a written request in accordance with the provisions in the Board's Rules of Organization.

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Governor King raised the question whether if the Board was going to do this it would be desirable to find out informally in advance of the oral argument whether the applicant had any objection to Mr. Hansen's making a statement.

Governor Mills said that in his opinion the Board should stand on the appropriate legal grounds. He would be fearful of any arrangement that could be construed as an "under the table" agreement.

In the ensuing discussion, there was general agreement that any discussion of this point with the applicant or Mr. Hansen should be on the record. The discussion also turned to the question of what procedure might be followed in the event Mr. Hansen and Mr. DuBois were present at the beginning of the oral argument and indicated they desired or expected to participate.

At the conclusion of the discussion, Chairman Martin said that he contemplated opening the meeting by stating that it was for the purpose of an oral argument before the Board that had been granted pursuant to an application by First Bank Stock Corporation in accordance with the Board's Rules of Procedure, and that the Board was prepared to hear from the applicant in the course of an hour. There was no indication of disagreement with the procedure indicated by Chairman Martin.

The meeting then recessed and reconvened in Room 1202 at 10:15 a.m., with the same attendance as at the close of the earlier session except

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that Messrs. Molony, Fauver, and Landry were not present.

Secretary's Note: This session of the Board was called in the course of the meeting to hear oral argument from counsel for First Bank Stock Corporation in connection with its application relating to the acquisition of stock in Eastern Heights State Bank of St. Paul, Minnesota. In the opening remarks of the meeting to hear oral argument, Mr. Horace R. Hansen, an attorney representing three banks in St. Paul that were objecting to the granting of approval to the First Bank Stock Corporation application, had requested that he be given an opportunity to speak. After Chairman Martin had stated on the record that under the Board's Rules only parties to the proceeding had a right to speak at the oral argument and that the Board concurred in the Hearing Examiner's ruling that neither Mr. Hansen nor Mr. DuBois was a party to the proceeding, the Chairman had inquired of Mr. Coleman, President of First Bank Stock Corporation, whether the latter would object to Mr. Hansen's being given an opportunity to make a statement. Governor Mills had suggested that the Board meet in executive session to consider this request.

Chairman Martin said that while he was fully aware of the point Governor Mills had raised regarding the position of Mr. Coleman in being asked whether he would object to Mr. Hansen's making a statement, he also was aware of the fact that the Board had a public relations problem when it came to denying interested persons an opportunity to express their views on a matter such as that involved in First Bank Stock Corporation's application. He noted that Mr. Coleman in his remarks at the outset of the meeting for oral argument apparently assumed that Mr. Hansen was going to make a statement and had assumed that he or his attorney would have an opportunity for rebuttal.

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Governor Mills said he felt this procedure reversed a decision reached in a previous Board meeting without prior counsel with members of the Board.

Chairman Martin responded that he did not look upon the situation that way, in view of the discussion by the Board at 9:30 this morning; he thought he was proceeding in accordance with the discussion at that time.

Governor Robertson stated that he thought the Chairman had proceeded along the lines that the Board discussed at this morning's meeting, at which time he had not heard any comment by any Board member in opposition to proceeding in this manner.

Chairman Martin noted that the reason for the 9:30 meeting this morning was to discuss Mr. Hansen's plan to speak at the oral argument, as a result of which the Board was faced with the difficult problem from the public relations standpoint of whether to deny Mr. Hansen an opportunity to make a statement. The public relations aspect of the matter was of importance for the Board, the Chairman said, and he had tried to preserve the Board's legal position by his remarks that the Board concurred with the position taken earlier by the Hearing Examiner that neither Mr. Hansen nor Mr. DuBois was a legal party to this case. His comment that the Board would consider suspending its Rules of Procedure as they might apply to this case if the applicant did not object had been

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accompanied by a clear indication to the applicant that if he did object, the Rules would be applied. He then called upon Mr. Hackley for comment on the legal aspects of this problem.

Mr. Hackley said that the recess that had been called was in his opinion desirable from the Board's standpoint since it indicated on the record that, after receiving Mr. Hansen's request to appear and having a preliminary discussion, the Board had recessed the oral argument for the purpose of considering whether the Rules should be "suspended" or otherwise modified in this case. This not only made apparent the applicability of the Board's Rules, but it also showed on the record that under those Rules only parties to a case were legally entitled to participate in oral argument.

As to the Board's legal position, Mr. Hackley said that if the Board wished to stand by its Rules he was satisfied that no legal right of Mr. Hansen would in any way be violated by denying him an opportunity to make a statement at the oral argument. On the other hand, if the Board should decide in the interest of public relations to make an exception under its Rules and permit Mr. Hansen to make a statement, such procedure would not in Mr. Hackley's opinion have an adverse legal effect on the Board's position and perhaps would not be a dangerous precedent for the future. It was assumed, of course, that the Board would voluntarily give First Bank Stock Corporation an opportunity for

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rebuttal following any comments that Mr. Hansen might make. Mr. Hackley went on to say that, if Mr. Hansen were permitted to participate and Mr. DuBois also sought to make a statement, it was difficult for him to see how the Board could refuse Mr. DuBois that privilege.

Mr. O'Connell stated that he agreed completely with Mr. Hackley's views on the legal position of the Board in the event it decided to permit Mr. Hansen to make a statement. With respect to Mr. DuBois, Mr. O'Connell noted that the latter voluntarily had taken the position in the discussion this morning that he was barred from participating in the case but that he felt Mr. Hansen, as a representative of banks located in the immediate area of Eastern Heights State Bank, had a significant interest in the matter. Mr. O'Connell also said that he felt Mr. Coleman had now placed himself on the record at a point where it would be unobjectionable for Mr. Hansen to make a statement provided it was understood that the Board reserved the right to strike any comments that did not look strictly to material in the record of this case.

Chairman Martin then inquired as to how the Board wished to proceed, noting that he would expect to make a statement on the record that clearly showed the Board's decision and the basis for it in relation to its Rules of Procedure.

Mr. Hackley suggested that, rather than to state that the Rules were suspended, it would be desirable to say that the Board on the

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initiative of Mr. Hansen and with the concurrence of Mr. Coleman was permitting Mr. Hansen to make a statement for the limited purpose of presenting in the oral argument further comments with respect to matters already in the record.

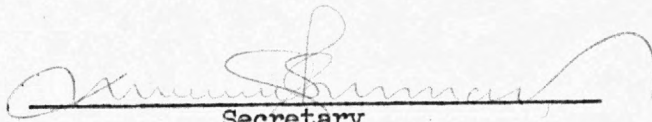
Chairman Martin then again asked how the Board members wished to proceed.

Governor Mills stated that in his judgement this was a matter of fundamental and precedential importance and that he would wish to be recorded as averse to permitting any statement by Mr. Hansen in connection with the oral argument.

The other Board members having indicated that they would favor permitting Mr. Hansen to make a statement for approximately 15 to 20 minutes under the conditions earlier stated by Chairman Martin, it was understood this procedure would be followed.

The meeting then adjourned.

Secretary's Note: Pursuant to the understanding reached at its meetings on December 30, 1959, and January 4, 1960, the Board today sent a wire to all Reserve Bank Presidents quoting its statement handed to the press this afternoon relating to Reserve Bank income and expenses for 1959. This wire is attached as Item No. 1.


Secretary

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TELEGRAM
LEASED WIRE SERVICE

Item No. 1
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BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON

January 6, 1960.

TO THE PRESIDENTS OF ALL FEDERAL RESERVE BANKS

For your information, statement to be handed to press about 3:30 p.m.E.S.T. this afternoon for immediate release is quoted below:

Preliminary figures received from the Federal Reserve Banks indicate that during the year 1959 their current earnings amounted to \$886 million, an increase of \$144 million compared with 1958. Earnings on U. S. Government securities were \$123 million more than in 1958, reflecting the combined effect of substantial increases in average yield and average holdings. Earnings from discounts for member banks were \$28 million, compared with \$7 million in 1958.

Current expenses in 1959 were \$144 million, \$7 million more than in 1958, leaving current net earnings of \$742 million, up \$137 million from 1958. Net additions to current net earnings amounted to \$98 million, resulting almost entirely from the discontinuance of certain reserves for contingencies. With such additions, net earnings were \$840 million before dividends and payments to the U. S. Treasury.

Payments of statutory dividends to member banks amounted to \$23 million. Payments to the U. S. Treasury as interest on Federal Reserve notes totaled \$911 million. These payments consisted of all net earnings after dividends and after provision for building up surplus to 100 per cent of subscribed capital at those Banks where surplus was below that amount, and, in addition, the excess portion of surplus at those Banks where the surplus account exceeded the level of subscribed capital (which is twice paid-in capital).

The 1959 payments to the Treasury reflect a conclusion reached by the Board, after consultation with the Federal Reserve Banks, that the maintenance of a surplus at the level of subscribed capital would be appropriate in the light of present circumstances. It was therefore decided to change the recent practice of adding approximately 10 per cent of the annual net earnings of the Federal Reserve Banks to the surplus accounts, and to pay to the Treasury the amounts by which the surplus accounts exceeded subscribed capital.

(Signed) Merritt Sherman

SHERMAN