

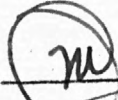
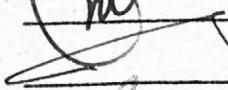
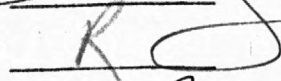
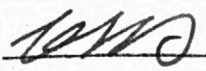
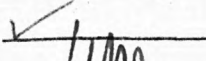
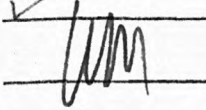
Minutes for July 2, 1963

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	<u></u>
Gov. Mills	<u></u>
Gov. Robertson	<u></u>
Gov. Balderston	<u>CCB</u>
Gov. Shepardson	<u></u>
Gov. King	<u></u>
Gov. Mitchell	<u></u>

Minutes of the Board of Governors of the Federal Reserve System on Tuesday, July 2, 1963. The Board met in the Board Room at 10:00 a.m.

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

Mr. Sherman, Secretary
Mr. Kenyon, Assistant Secretary
Mr. Fauver, Assistant to the Board
Mr. Solomon, Director, Division of Examinations
Mr. Hexter, Assistant General Counsel
Mr. O'Connell, Assistant General Counsel
Mrs. Semia, Technical Assistant, Office of the Secretary
Mr. McClintock, Supervisory Review Examiner, Division of Examinations

Discount rates. The establishment without change by the Federal Reserve Bank of Atlanta on July 1, 1963, of the rates on discounts and advances in its existing schedule was approved unanimously, with the understanding that appropriate advice would be sent to that Bank.

Report on competitive factors (Norfolk-Suffolk, Virginia). There had been distributed a draft of report to the Comptroller of the Currency on the competitive factors involved in the proposed merger of National Bank of Suffolk, Suffolk, Virginia, into Virginia National Bank, Norfolk, Virginia.

During discussion, Governor Mills remarked that the situation presented by this merger proposal seemed generally similar to that involved in certain previous cases that had come before the Board. In

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Suffolk the local banks were able to take care of the normal credit needs of the community, but there were some larger businesses that had to go outside the community. Accordingly, it would seem appropriate, from that standpoint, for Virginia National, with its larger lending capacity, to be represented in Suffolk. At the same time, this would expose the remaining local banks to competition that it might be difficult for them to meet. He mentioned this because it was important for the Board's reasoning to be basically consistent in decisions and competitive factor reports, even though there were nuances and shades of difference from case to case that deserved attention. He regarded the report now under consideration as taking a position generally consistent with the line of reasoning expressed in previous cases, and therefore would approve it.

The report was then approved unanimously for transmission to the Comptroller of the Currency. The conclusion of the report read as follows:

There is virtually no direct competition existing between Virginia National Bank and National Bank of Suffolk. However, Virginia National, as the second largest bank in the State and the dominant institution in the eastern section of Virginia, attracts correspondent business from a wide region and solicits accounts from large national and regional corporations that operate in the service areas of both banks.

Consummation of the proposed merger would alter the banking structure in Suffolk and represent a potential threat to the ability of any remaining local bank to continue to offer effective competition. It would also further concentrate banking resources in Virginia.

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Report on S. 1666 (Item No. 1). There had been distributed a memorandum dated June 28, 1963, from the Legal Division in connection with a request from Chairman Eastland of the Senate Committee on the Judiciary for a report on S. 1666, a bill "To amend section 3 of the Administrative Procedure Act, . . . to clarify and protect the right of the public to information and for other purposes." The memorandum summarized and commented on the provisions of the bill, the most questionable of which, from the Board's standpoint, were thought to be the deletion from the present law of the right of a Government agency to withhold from publication or from public inspection certain types of information that the agency determined to require secrecy in the public interest or required for good cause to be held confidential, and a provision that would require every agency with more than one member to keep a record of the individual votes of each member in every proceeding and to make such record available for public inspection "except to the extent required to protect the national defense."

The striking of the present provision of law under which an agency may determine that final orders, opinions, and matters of official record are "required for good cause to be held confidential" apparently would subject matters such as the following to the proposed disclosure requirements: applications or requests for approval of branch establishments; for permission to maintain reduced reserves; and for approval of investments in bank premises.

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The memorandum concluded with a recommendation that the Board's report, while expressing general approval of the stated purpose of the legislation, also express the view that enactment of certain of the provisions could substantially hinder the Board's ability effectively to perform functions required by law and, at the same time, could visit harmful economic and personal consequences upon a portion of the public body intended to be served and aided by the proposed legislation. A draft of letter to Chairman Eastland reflecting the Legal Division's recommendation was attached to the memorandum.

After Mr. O'Connell, at the request of the Board, had commented on the significance and consequences of the proposed legislation, Governor Robertson raised the question whether the Board should put itself in the position of complaining about a requirement for disclosure of individual votes.

In the discussion that ensued, it was observed that the point raised by Governor Robertson, that is, concerning the disclosure of votes, was linked to the question of the views that the Board might express in regard to the provisions of the proposed legislation relating to disclosure of agency actions. After consideration of the latter point, there appeared to be general agreement that there were certain types of actions, particularly in the bank supervisory area, where public disclosure could be detrimental to the interest of the parties concerned and to the public interest. The suggestion was made, therefore, that the part of

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the proposed letter dealing with the provisions of the bill pertaining to disclosure of agency actions might be clarified and strengthened, with the use of examples, so as better to define those kinds of Board actions where a mandatory requirement for public disclosure would be adverse to considerations of the public interest. Governor Robertson indicated that he would be satisfied if this were done and if the portion of the proposed letter relating to disclosure of votes were tied back to the discussion of the requirements of the bill relating to disclosure of agency actions.

Subject to the understanding that the language of the draft letter would be clarified and strengthened along the lines suggested by the foregoing discussion and that account also would be taken of certain other editorial suggestions, the sending of the letter was approved unanimously.

Secretary's Note: The letter was sent to Chairman Eastland on July 11, 1963. A copy is attached as Item No. 1.

Announcement of Board decisions. During discussion of the preceding item, it was noted that approval of the establishment of State member bank branches was not made the subject of public announcement at the time of Board action. Announcement was made at the time an approved branch had begun operations; however, there was sometimes a considerable lag between the Board's approval of the establishment of the branch and the announcement that the branch had begun operations.

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Comment was made that, if it were known that the Board had approved the establishment of a branch, a bank that might also be contemplating applying for the establishment of a branch in the same location might be saved a great deal of work. This raised the question whether the Board would also want to announce the receipt of branch applications. It was suggested, however, that before adopting a procedure of announcing either receipt of or approval of branch applications, it might be well if the views of the Federal Reserve Bank Presidents were solicited. It was further suggested that it would be well to review the various types of actions taken by the Board, especially those in the bank supervisory area, to determine whether there were others, in addition to branch applications, on which it might be desirable or undesirable to issue public announcements.

There being general agreement with the foregoing suggestions, the staff was requested to review the questions involved in extending the area of public announcements.

Application of First Colorado Bankshares (Item No. 2). There had been distributed a draft of letter granting the request of Counsel for Protesting Banks in connection with the application of First Colorado Bankshares, Inc., Englewood, Colorado, that the Board receive as part of the record a Reply Brief filed one day beyond the time permitted by the Board's Rules of Practice for Formal Hearings.

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The letter was approved unanimously; a copy is attached as Item No. 2.

The meeting then adjourned.

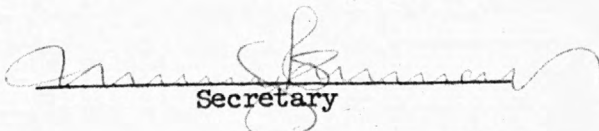
Secretary's Notes: Governor Shepardson today approved on behalf of the Board the following items:

Letter to the Federal Reserve Bank of Minneapolis (attached Item No. 3) approving the appointment of Robert V. Groe, Gordon L. Lindstrom, and Ronald W. Wright as examiners.

Letter to the Federal Reserve Bank of Dallas (attached Item No. 4) approving the designation of George C. Cochran, III, as special assistant examiner.

Memorandum from Mr. Molony, Assistant to the Board, recommending an increase in the basic annual salary of Ruth E. Morris, Secretary, Board Members' Offices, from \$6,465 to \$6,910, effective August 1, 1963.

Governor Shepardson today noted on behalf of the Board a memorandum advising that application for retirement had been filed by Nancy B. Kelly, Secretary, Board Members' Offices, effective August 1, 1963.



Secretary



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

Item No. 1
7/2/63

OFFICE OF THE CHAIRMAN

July 11, 1963

The Honorable James O. Eastland,
Chairman, Committee on the Judiciary,
United States Senate,
Washington 25, D. C.

Dear Mr. Chairman:

This is in response to your letter of June 14, 1963, requesting a report by the Board on S. 1666, a bill "To amend section 3 of the Legislative*Procedure Act . . . to clarify and protect the right of the public to information and for other purposes."

The Board views favorably the stated Congressional purpose underlying S. 1666. When access to information to which the public is entitled is foreclosed by agency action based upon existing provisions of law, remedial legislation appears warranted. However, as set forth hereafter in the section-by-section analysis of the bill, the Board believes that several of the proposed provisions are unduly severe in their requirements and could ultimately thwart the bill's purpose. The Board favors the provisions of proposed subsection (a) of section 3 relating to publication in the Federal Register of a description of agency organizational structure, sources of information, and of procedures or methods by which agency functions are channeled and determined, including a statement of current rules of practice and procedure and of the substantive rules adopted as authorized by law. These provisions appear to clarify and make more explicit existing requirements of section 3 of the Act, to which the Board currently adheres.

Proposed subsection (b) would impose upon agencies requirements (1) for making available, for public inspection and copying, various materials specified in the subsection, and (2) for maintaining for public inspection and copying a current index of these materials. Excepted from these requirements are materials (1) exempted by statute from disclosure, or (2) specifically exempted from disclosure by Executive Order in order to protect the national defense, or (3) relating solely to the agency's internal employment rules and practices. It is noted that there are not made applicable to the disclosure requirements of subsection (b) two exceptions from disclosure now provided for in section 3 of the Act in respect to generally the same

* Should have read Administrative Procedure Act.

The Honorable James O. Eastland -2-

agency matters. First, no exception is made for cases where there is involved "any function of the United States requiring secrecy in the public interest" (emphasis added). (At present, this exception is applicable to the entire section 3 of the Act.) Second, the proposed subsection (b) would deny to an agency a right to determine that for good cause found, agency materials shall be held confidential.

The Board considers unduly restrictive those provisions that would authorize withholding of information as to matters involving any function of the United States only if such matters required secrecy to protect the national defense, and then only if specifically exempted by Executive Order. As concerns the Board, the limited nature of the exemption proposed would result in there being made public factual data of an extremely confidential nature such as would be involved in proceedings relating to the termination of membership of a State bank in the Federal Reserve System, the revocation of a voting permit of a holding company affiliate, or suspension of a member bank from use of the credit facilities of the Federal Reserve System. The Board believes that the public interest would not be served by an absolute requirement of public disclosure in all such cases.

The Board is also concerned over the proposed change from existing law which would rescind the right of agencies to hold information confidential "for good cause found". This right, granted by section 3(b) of the Administrative Procedure Act, has been vital to the Board's effective performance of statutory functions relating to supervision and regulation of commercial banks. Many of the Board's actions in these respects, either responsive to applications and requests or initiated by the Board, necessarily rely upon information obtained by bank examination or from other equally confidential sources. The Board's authority to exercise its judgment in regard to making public or not certain information has enabled the Board to function without concern that information bearing upon the financial condition or management of a supervised institution might be publicly disclosed and thereby injure the institution or those served by it.

The relationships that exist between banks and their customers, giving rise to the vital importance of public confidence in these banks, could, in the Board's opinion, be jeopardized by uncontrolled public access to the types of information mentioned. The Board believes that its disclosure practices, pursuant to the present provisions of section 3 of the Administrative Procedure Act, afford reasonable and adequate public access to the Board's opinions, orders, rules, statements of policy, and interpretations.

Proposed subsection (c) requires prompt availability of agency records and provides exceptions similar, with minor variation, to those provided in subsection (b). Withheld, however, as from

The Honorable James O. Eastland

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subsection (b), are the two exceptions to disclosure, earlier discussed, as provided by the present section 3 of the Act. For the reasons earlier stated, the Board opposes the omission from the proposed subsection (c) of exceptions considered by the Board to be both necessary and equitable.

The Board has no objection to the provisions in that subsection that would enable a complainant to secure a Federal court order compelling production of agency records or information improperly withheld. However, it is believed that consideration should be given to a change in the provision that, as presently worded, would permit, without stated exception, assessment against the agency of the cost and reasonable attorneys' fees of a complainant who sought a Federal court order for production of records. It would be more equitable, in the Board's view, to permit such assessment against the agency only if the agency has failed to justify its action in withholding records or information sought.

Subsection (d) would require every agency with more than one member to keep and to make available for public inspection the individual votes of each member in every proceeding "except to the extent required to protect the national defense". The Board presently publishes the votes of individual members in respect to many actions that fall within the Act's definition of "agency proceeding", and the Board does not oppose the principle of vote disclosure underlying the proposed requirement. However, as to those proceedings of the Board in respect to which the disclosure requirements proposed in subsections (b) and (c) have herein been opposed, it is obvious that making available for public inspection a record of the individual votes of Board members would be equally objectionable, particularly in cases where public knowledge of the fact of a Board proceeding could be as damaging as knowledge of the circumstances and results thereof.

Accordingly, the Board believes that the interests of the public will be served best by a provision that would permit non-disclosure of the votes of Board members "for good cause found".

Sincerely yours,

(Signed) Wm. McC. Martin, Jr.

Wm. McC. Martin, Jr.



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

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Item No. 2
7/2/63

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

July 2, 1963.

D. Monte Pascoe, Esq.,
Ireland, Stapleton, Pryor & Holmes,
1700 Broadway,
Denver 2, Colorado.

Re: Application of First Colorado
Bankshares, Inc., BHC-69

Dear Mr. Pascoe:

This acknowledges your letter of June 27, 1963, enclosing a Certificate of Service of Reply of Protesting Banks to Applicant's Proposed Findings of Fact and Brief in the above-entitled matter. Your letter advises that the Reply Brief was filed one day beyond the time permitted by the Board's Rules of Practice. Pursuant to Section 263.9(c) you request special permission of the Board for receipt of the Reply Brief as a part of the record in this proceeding.

Pursuant to your request, Protesting Banks' Reply Brief is received as part of the record. A copy of this reply is being transmitted to Hearing Examiner London and to Mr. David Butler, Counsel for Applicant.

Very truly yours,

(Signed) Kenneth A. Kenyon

Kenneth A. Kenyon,
Assistant Secretary.



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.

Item No. 3
7/2/63

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ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

July 2, 1963

Mr. H. G. McConnell,
Vice President and Secretary,
Federal Reserve Bank of Minneapolis,
Minneapolis 2, Minnesota.

Dear Mr. McConnell:

In accordance with the requests contained in Mr. Deming's letters of June 24, 1963, the Board approves the appointment of Robert V. Groe, Gordon L. Lindstrom and Ronald W. Wright, at present assistant examiners, as examiners for the Federal Reserve Bank of Minneapolis, effective July 8, 1963.

Very truly yours,

(Signed) Kenneth A. Kenyon

Kenneth A. Kenyon,
Assistant Secretary.

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Item No. 4
7/2/63

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON 25, D. C.



ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

July 2, 1963

Mr. Thomas R. Sullivan, Vice President,
Federal Reserve Bank of Dallas,
Dallas 2, Texas.

Dear Mr. Sullivan:

In accordance with the request contained in your letter of June 26, 1963, the Board approves the designation of George C. Cochran, III as a special assistant examiner for the Federal Reserve Bank of Dallas for the purpose of participating in examinations of State member banks.

Very truly yours,

(Signed) Kenneth A. Kenyon

Kenneth A. Kenyon,
Assistant Secretary.