Minutes for May 28, 1965

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. Robertson

Gov. Balderston

Gov. Shepardson

Gov. Mitchell

Gov. Daane

Gov. Maisel

Minutes of the Board of Governors of the Federal Reserve System on Friday, May 28, 1965. The Board met in the Board Room at 9:30 a.m.

PRESENT: Mr. Martin, Chairman
Mr. Balderston, Vice Chairman
Mr. Robertson
Mr. Shepardson
Mr. Mitchell
Mr. Daane
Mr. Maisel

Mr. Sherman, Secretary
Mr. Kenyon, Assistant Secretary
Mr. Young, Adviser to the Board and Director, Division of International Finance
Mr. Molony, Assistant to the Board
Mr. Hackley, General Counsel
Mr. Brill, Director, Division of Research and Statistics
Mr. Farrell, Director, Division of Bank Operations
Mr. Hexter, Assistant General Counsel
Mr. O'Connell, Assistant General Counsel
Mr. Shay, Assistant General Counsel
Mr. Holland, Associate Director, Division of Research and Statistics
Mr. Daniels, Assistant Director, Division of Bank Operations
Mr. Leavitt, Assistant Director, Division of Examinations
Mr. Sprecher, Assistant Director, Division of Personnel Administration
Mrs. Semia, Technical Assistant, Office of the Secretary
Messrs. Via and Young, Senior Attorneys, Legal Division
Mr. Smith and Miss Stockwell, Senior Economists, Division of Research and Statistics
Mr. Schmid, Economist, Division of Research and Statistics
Mr. Collier, Assistant to the Director, Division of Bank Operations
Mr. Egertson, Supervisory Review Examiner, Division of Examinations
Mr. White, Review Examiner, Division of Examinations

Discount rates. The establishment without change by the Federal Reserve Banks of Cleveland, Richmond, Atlanta, St. Louis, Minneapolis, Kansas City, and Dallas on May 27, 1965, of the rates on discounts and advances in their existing schedules was approved unanimously, with the understanding that appropriate advice would be sent to those Banks.

Circulated items. The following items, copies of which are attached to these minutes under the respective item numbers indicated, were approved unanimously:

	Item No.
Letter to the Federal Reserve Bank of Atlanta regarding reclassification of member banks for purposes of electing Class A and Class B directors.	1
Letter to the Federal Reserve Bank of Cleveland approving payment of salary to Harry Milton Pugh as Chief Examiner at the rate fixed by the Bank's Board of Directors.	2

Proposed investment in bank premises (Item No. 3). At the meeting on May 17, 1965, the Board discussed a proposed investment in bank premises by American Bank and Trust Company, Lansing, Michigan. The matter was held in abeyance pending consultation with the Federal Reserve Bank of Chicago as to an effort to induce the bank to develop a definite plan to improve its capital position.

There had now been distributed a memorandum dated May 26, 1965, in which the Division of Examinations described steps that had led to a plan by American Bank and Trust to sell $2.5 million of capital debentures. After the sale of the debentures and completion of the proposed

investment in bank quarters the bank would have approximately 75 per cent of the capital required by the Form for Analyzing Bank Capital. The capital notes would equal about 25 per cent of total capital funds. Attached to the memorandum was a draft of letter that would approve the proposed investment in bank premises, comment on the steps being taken to improve the bank's capital position, and urge that continuing attention be given to the problem.

After discussion, unanimous approval was given to a letter in the form attached as Item No. 3.

Small Business Capital Bank (Item No. 4). There had been distributed memoranda dated May 26 and 25, 1965, from the Legal Division and from Miss Stockwell, respectively, in connection with a request from the Bureau of the Budget for the Board's views on a draft bill proposed by the Small Business Administration to create a Small Business Capital Bank. The proposed Bank was said to be designed to provide a stable source of necessary funds for the small business investment company program with maximum participation of private financing. Since the small business investment companies had utilized approximately 75 per cent of their total assets in long-term investments, they had no present source of additional funds except through increased borrowing from the Small Business Administration, which for various reasons the Administration considered an unsatisfactory solution of the problem. The Bank would have an authorized capitalization of $150 million, of

which $50 million would be paid-in capital provided by sale of subordinated debentures to the Secretary of the Treasury and $100 million would represent nonvoting stock required to be purchased by each small business investment company receiving assistance. In addition the Bank could borrow up to ten times its capital and surplus through issuance of its obligations.

Miss Stockwell's memorandum noted that the bill provided a long-run solution to what the Small Business Administration had characterized as an immediately pressing problem. A number of the provisions of the bill could not be implemented for some time. For example, the Bank would have little income for a long time. Thus the directives that the Bank operate on a fully self-supporting basis and that the initial $50 million provided by the Treasury be retired as soon as practicable seemed unlikely of early accomplishment.

Attached to the Legal Division's memorandum was a draft of letter to the Bureau of the Budget that, while expressing approval of the objectives of the draft bill, would nevertheless question whether in the near future the proposed Bank would provide an adequate solution to the problem of providing long-term financing for small business investment companies.

Governor Daane commented that the establishment of such an institution would appear to be one more step in shifting the burden of financing from private enterprise to the Government. He was fundamentally opposed to constant substitution of the Federal Government's credit for

private financing. Moreover, he did not believe the proposed Bank could operate on a self-supporting basis. He felt that the letter to the Bureau of the Budget should be modified accordingly.

Governor Maisel suggested that the function of the proposed Bank would be to see that one group in the economy enjoyed easy access to funds even at times when money was less easily available to the economy generally.

Governor Robertson expressed the view that the aim was not simply to enable small business investment companies to have easy money during times of credit stringency, but to enable them to get credit that banks were unwilling to provide. The purpose of the Small Business Investment Act of 1958 had been to enable businesses that could not get credit from usual sources to obtain it from these investment companies; the purpose was to fill a gap.

Governor Maisel remarked that this seemed to be a secondary stage. The small business investment companies had filled a gap by providing financing for small businesses that was unavailable from banks. Now the proposal was to let the mechanism provided for that purpose borrow in its own name. He thought it important that the implications of sheltering a particular group from the effects of general monetary policy should be recognized.

In response to a question, Miss Stockwell commented that the $50 million that would be paid by the Treasury as the initial capital

of the Bank would be offset by an immediate reduction in the Small Business Administration's own revolving fund, and the Administration's authority to make loans to small business investment companies would be repealed automatically after five years. The capital provided by the Treasury therefore was in the nature of a transfer rather than an addition.

Governor Daane remarked that if it was merely a transfer this would be less objectionable than an additional Treasury outlay. The staff responded in the negative to his question as to whether the borrowing authority provided for the proposed Bank was to be on the basis of Government guaranteed obligations.

Governor Shepardson observed that the powers of the proposed Bank were said to follow the pattern of the Federal farm credit banks, which had a good record for financial soundness. He inquired as to the loss record of the small business investment companies, in response to which comment was made that the indications were not favorable, although the Small Business Administration was understood to feel that experience had been too short to judge what the long-term record might be.

During further discussion there was agreement with suggestions by members of the Board for changes in the letter to recognize the general tenor of the comments that had been made. Unanimous approval then was given to a letter in the form attached as Item No. 4.

Miss Stockwell then withdrew from the meeting.

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Application of American City Bank and Trust Company (Items 5 and 6). After discussions on April 16 and 27, 1965, of the application of American City Bank and Trust Company, Milwaukee, Wisconsin, for permission to carry reduced reserves, the Board decided to defer the matter until the extent of the bank's competition with the other reserve city banks in Milwaukee could be determined with more certainty. (The applicant bank had only recently been formed as the result of the combination of American State Bank and City Bank and Trust Company.) It was agreed, however, that President Scanlon of the Federal Reserve Bank of Chicago would be invited to submit additional comments if he wished. Pursuant to the suggestion of President Scanlon during subsequent telephone conversation, there were sent to him on April 27 the letters to the Chicago Reserve Bank and to American City Bank that had been prepared to reflect the Board's position.

There had now been circulated a memorandum of May 10, 1965, from the Division of Bank Operations, attaching a letter of May 4 in which President Scanlon suggested that further consideration be given to American City Bank's request. The memorandum noted that two points in President Scanlon's letter might not have been brought out fully during previous consideration. First, had the two banks combined under the charter of the member bank, which had permission to carry reduced reserves, an increase in the combined bank's reserve requirements might have been deemed necessary only if a need therefor were disclosed in connection

with a subsequent examination. Also, the Reserve Bank had considered an approach similar to that described in the Board's letter of April 27, but had not recommended it because there had been no significant change in the business handled by the combined banks and, if the character of the bank's business did not in fact change, it might be awkward later to justify a reduction in reserve requirements. On the other hand, as the Board would recall, when City Bank and Trust Company applied for approval of the acquisition of assets of American State Bank it had argued that the resulting bank would be able to compete effectively with the three large reserve city banks in Milwaukee, with the implication that it would be able to divert business from them by offering a more complete line of banking services and a higher loan limit than had been available at either of the banks involved in the merger. In the light of this expectation, it could be contended that there would be no cause for embarrassment to either the Board or the Reserve Bank if action on the request for permission to carry reduced reserves was deferred until developments indicated whether or not events bore out that expectation.

Mr. Farrell reviewed the background circumstances, bringing out among other things that the banks in Milwaukee previously granted permission to carry reduced reserves had demand deposits ranging from \$3 million to \$35 million. American City Bank had demand deposits of \$49 million, less than a third of the demand deposits of the smallest of the three large banks, the range of those three being from \$169 million to \$559 million.

Governor Mitchell remarked that he had previously objected to granting the requested permission on the ground that the bank should live with the claim it had advanced in support of the merger. On reconsideration, however, he would be willing to withdraw his objection.

Governor Robertson commented that it was not possible at this stage to tell what role American City Bank would play in the competitive situation in Milwaukee. Since the bank had contended that the merger would enable it to compete more effectively with the large banks, it seemed to him that a decision to defer action on the request for reduced reserves until after the first of the year, when there might be clearer indications of competitive status, was justified.

Governor Shepardson said that even though the bank had made such a claim the character of its business was in fact similar to that of other banks in Milwaukee that had been granted permission to carry reduced reserves. There was nothing to preclude the Board from imposing higher reserve requirements if and when the bank achieved the competitive status it had believed would be made possible by the merger.

Governor Daane commented that he shared Governor Shepardson's view.

The request of American City Bank and Trust Company for permission to carry the same reserves against deposits as are required to be maintained by nonreserve city banks was thereupon approved, Governor Robertson dissenting. Copies of the letters informing the Federal

Reserve Bank of Chicago and American City Bank of this decision are attached as Items 5 and 6.

Requests by Department of Justice (Items 7 and 8). There had been distributed a memorandum dated May 27, 1965, from the Legal Division regarding requests by the Department of Justice in connection with the pending antitrust suit against Crocker-Anglo National Bank, San Francisco, and Citizens National Bank, Los Angeles, California, (now merged under the title of Crocker-Citizens National Bank). Counsel for the defendant banks had prepared and intended to offer in evidence an exhibit based on the October 1955 survey by the Federal Reserve of commercial and industrial loans of member banks. Certain data from the survey relating to banks in the State of California had been furnished by the staffs of the Board and the Federal Reserve Bank of San Francisco to economists representing both the defendant banks and the Department of Justice. The Department wished to be able to rebut any evidence introduced by the defendants involving the 1955 loan survey, and wished to use Mr. Gault Lynn, Director of Research of the San Francisco Reserve Bank, as a witness, apparently to testify that the sample design used in the survey could not reasonably be expected to produce reliable results when applied to an area such as the State of California. The attorney representing the Department of Justice had also requested the names of the banks in California with deposits of less than $50 million included in the sampling process, and identification of the branch offices of banks in California with deposits

of more than $50 million that were included in the survey. It appeared that the Government was not certain at this time of the precise use to which the requested information would be put, or that the information, in the form in which it might be furnished, would be introduced in evidence.

The memorandum recalled that in a letter of June 28, 1961, the Board had declined to provide certain survey information requested by the Department of Justice on the ground that to do so might jeopardize ability to conduct future studies and to gather and publish valuable banking data. Department representatives believed that a different position with regard to the present requests would be justified by the facts that nearly ten years had passed since the survey was made; that some of the banks surveyed probably had been merged out of existence; and that the Department was not initiating the use of the survey data but wished identification of the banks and branches for the purpose of appraising and, if necessary, rebutting defendants' proposed use of survey data.

Among other considerations, the memorandum brought out that although the Department of Justice was reluctant to resort to subpoena, that means might be used if the Board did not acquiesce voluntarily. In that event, the Legal Division would recommend that the Board respond to the subpoena. If the information was furnished either voluntarily or in response to subpoena, it was reasonably certain that the defendant

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banks would demand access to the information. Further, even if the Board declined the requests and the Department did not subpoena, it was possible that the defendant banks might request or subpoena the information. If the Board furnished the information either voluntarily or under subpoena, there might be additional requests or demands for further information, and the Board might find it necessary to adopt procedures in respect to future surveys to forewarn respondents that identification might be required of the Board in the event of litigation.

Alternative courses suggested were to furnish the information requested without requiring the issuance of a subpoena, and at the same time make the information available to the defendant banks as the Board had done in respect to other information provided to the parties to this case; or to decline the Department of Justice's request for voluntary disclosure but indicate that the information would be furnished in response to a subpoena.

Attached to the memorandum was a draft of letter to the Federal Reserve Bank of San Francisco stating that the Board had no objection to Mr. Lynn's testifying and concurring in the proposal of the Bank that Mr. Lynn be called by subpoena.

After summary remarks by Mr. O'Connell, Chairman Martin asked what harm would result to the respondents from the release of their names. Response was made that the problem was one of breach of confidentiality, which might lead to difficulty in gathering statistics in

the future. This had been the ground for denial of a similar request from the Department of Justice in 1961.

Governor Daane questioned whether merely submitting names of respondents would breach confidentiality, and ensuing comments suggested that possession of the list of names would enable the Department to approach individual banks to explore the appropriateness of their inclusion in the sample if Mr. Lynn's testimony as an expert witness did not establish sufficiently firmly that the sample was or was not valid as applied to a particular State.

Governor Robertson remarked that the names of the larger banks in the survey had already been made available to both parties to the case. While he regretted the possible difficulties that supplying the information might cause for future studies, he felt that greater jeopardy would result if the Department had to resort to subpoena.

Governor Maisel commented that supplying the information might involve a detriment, which the Department of Justice, without being sure that the information it requested would be of real benefit, was asking the Board to suffer. If the Department had to subpoena the information, it might think again as to the probable value and might decide that the data were not necessary. If it overrode the Board's disinclination to furnish the information, it would damage the record of cooperative relations with the Board, which it was understood the Department was loath to disturb.

Further discussion included suggestions that an effort be made to determine what general information the Department was seeking, which it might be possible to provide without identifying respondent banks, and that the names of the banks be given to the Department for study purposes with the understanding that if the names were to be introduced in evidence the Department would subpoena them for that purpose.

Governor Daane asked what disadvantage there might be to the Board in supplying the information only under subpoena, to which Mr. O'Connell responded that a subpoena was a public document and could give the impression that the Board was reluctant to cooperate.

Governor Mitchell expressed the view that making Mr. Lynn available should establish the good faith of the Board, and as a simple quid pro quo it would seem reasonable to request the Department not to put the bank names in the record. The basic question was whether or not the sample was adequate, which it should be possible to establish through the judgment of a competent witness without putting the names in evidence.

Chairman Martin commented that the Board, if it desired, could certainly express its wish that the bank names not be put in evidence without subpoena.

Governor Robertson reiterated his preference for furnishing the names of the banks without subpoena. He recommended that the letter to the Department stop short of suggesting a subpoena and merely state the Board's hope that the names would not be used in evidence.

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Further discussion developed a consensus in favor of the approach Governor Robertson had suggested, and unanimous approval then was given to a letter to the Department of Justice in the form attached as Item No. 7. Unanimous approval also was given to a letter to the Federal Reserve Bank of San Francisco in the form attached as Item No. 8.

Messrs. Smith and Schmid then withdrew from the meeting.

Member bank borrowing. A letter had been drafted, pursuant to the Board's request at the meeting on April 13, 1965, that would request the Federal Reserve Banks to submit at the end of each reserve computation period a list of banks that had been indebted in at least four of the last six periods and in the most recent period had borrowed over 10 per cent of required reserves if a reserve city bank and over 20 per cent of required reserves if a country bank. The letter would also ask the Reserve Banks to furnish information as to the reasons for borrowing, an indication of how long the indebtedness was expected to continue, and comments on any action the Reserve Bank had taken to eliminate the indebtedness. There had been circulated a redraft of the letter expanded pursuant to a suggestion by Governor Balderston that it would be desirable to include an explanation of the Board's need for the information.

At today's meeting Governor Balderston commented on the desirability of avoiding an impression that the Board was calling for an alteration of discount philosophy. He also called attention to the fact that 7 reserve city and 39 country banks would have come within the reporting

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requirement during the reserve computation period ended March 31, 1965; and a later survey indicated that 29 reserve city banks and a larger number of country banks would be involved. Therefore, Governor Balderston suggested that the specification for report coverage be changed from indebtedness during 4 of the latest 6 reserve computation periods to indebtedness in 12 out of the latest 18 periods. His concern was with the exceptional instances of repetitive borrowing.

There followed a discussion during which agreement was expressed as to the desirability of keeping the Board informed, between Reserve Bank examinations, of conspicuous cases of repetitive borrowing. It was noted, however, that there was under consideration a study of the overall approach and philosophy of discounting under the Board's Regulation A, Advances and Discounts by Federal Reserve Banks, and also that a conference of the discount officers of the Reserve Banks was scheduled early in June. The suggestion was made that before sending a letter asking for reports of frequent indebtedness of member banks, it would be well to seek the views of the discount officers during their conference, with the thought that such a discussion would help to clarify the reasons why the Board had in mind requesting reports on cases of exceptional borrowing.

There was general agreement with this suggestion. Therefore, it was understood that the matter would be held in abeyance pending discussion at the conference of discount officers.

Messrs. Holland, Daniels, and Collier then withdrew from the meeting.

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Application of Commercial and Savings Bank of St. Clair County. There had been distributed a memorandum dated May 24, 1965, from the Division of Examinations and other papers regarding the application of The Commercial and Savings Bank of St. Clair County, St. Clair, Michigan, for permission to consolidate with Yale State Bank, Yale, Michigan. The Division recommended approval.

After summary comments by Mr. Egertson, Governor Shepardson commented on the general trend throughout the country toward increased size of farms and cost of land, with consequent increases in credit needs. It appeared to him that this trend must have been experienced in Michigan, which raised the question whether a $5 million institution such as Yale State Bank was able to meet local credit needs fully.

Governor Robertson stated that although he would have thought a good case could have been made for approval, the analysis presented did not do so. He would have thought that the increase in the size of farms and the consequent need for larger loans might have pointed to inadequacy of the Yale bank's resources, but he could find in the record no specific statements or evidence that the bank was failing to meet the needs of the community. To the contrary, the memorandum from the Division of Examinations stated that "The need for a bank in the Yale area with a larger loaning limit has not been demonstrated . . . ." The management situation of the Yale bank was satisfactory, with a capable executive officer and two assistants apparently well qualified to succeed him. The

competitive factors were not strongly adverse, although some competition would be eliminated. All in all, on the basis of the information submitted there was no evidence that the proposed consolidation would result in benefit to the public or that there was any pressing problem to which it would provide a solution. On that basis, he would vote for denial.

Governor Shepardson said he had a good deal of sympathy with Governor Robertson's comments about the record that had been made in this case. However, he believed a broader analysis would indicate that the information submitted did not completely describe the needs of the area, and that the proposed consolidation would serve a public purpose. The decrease in the number of farms in the communities here involved had been roughly 25 per cent from 1945 to 1959; the rate of decrease in number of farms and corresponding increase in farm size had been accelerating nationwide and in almost every State. He believed this strong trend provided a case for approval, notwithstanding the inadequacy of the supporting documentation in this case.

Governor Mitchell commented that in a case where the factors were about neutral, with little to be said either for or against the proposal, he could vote for approval on the basis that the public interest would not be harmed.

The remaining members of the Board also indicated that they would vote in favor of the proposal.

The application was thereupon approved, Governor Robertson dissenting. It was understood that an order and statement reflecting

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the decision would be drafted for the Board's consideration, and that a dissenting statement by Governor Robertson also would be prepared.

Messrs. Egertson and White then withdrew from the meeting.

Civil Rights Act. At today's meeting the Board continued its consideration of the question of applicability to the Federal Reserve Banks of Title VI of the Civil Rights Act of 1964. The question had been discussed at some length at the meeting on May 26, following preliminary discussion at the meetings on March 30 and April 1, 1965. Distributed background material included memoranda of March 10 and April 6 from Mr. Hackley (the former with attached memoranda from Messrs. Hexter and Via setting forth opposing views as to the applicability of the Title), and successive drafts of a letter that would convey to the Bureau of the Budget the Board's view. The most recent draft of letter, dated May 27, reflected the tenor of comments at the meeting on May 26.

The issue turned primarily on the following provisions of Title VI:

> Sec. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
>
> Sec. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken.

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Chairman Martin suggested that the legal staff summarize the divergent views they had advanced, in response to which Mr. Via commented that from discussions he had read in the press during the formulation of the Civil Rights Act he had expected to make a finding that Title VI would apply to the Federal Reserve Banks, yet after more thorough exploration of the subject he had come to the opposite conclusion. While one might feel as an individual that it would be good policy to find the Title applicable, it was necessary to have regard for the intent of Congress as reflected in legislative history. There were many variations in the scope of legislative history used to support an argument: sometimes only committee reports were considered significant, and at other times many other sources of legislative history were given weight. However, Mr. Via believed that even those attorneys who advocated drawing only upon committee reports would have to recognize the import of the statement in the majority report accompanying the bill that was enacted as the Civil Rights Act, to the effect that the Act was not directed toward "eliminating all of the causes and consequences of discrimination" but rather toward providing "the means of terminating the most serious types" in the belief that there would result "an atmosphere conducive to voluntary or local resolution of other forms of discrimination."

Mr. Via could not agree with Mr. Hexter's contention that there was a broad remedial purpose of the Act that required a finding that Title VI was applicable to the Reserve Banks. It seemed to Mr. Via

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that such a contention was based only on the terms of section 601 and ignored those of section 602.

Recently, Mr. Via continued, he had attended a seminar on civil rights at which a representative of the Department of the Interior asked if payments made by that Department in lieu of taxes to local governments (presumably when the Department took over such facilities as a park) would be subject to Title VI. A representative of the Department of Justice asked about the purpose of the payments. Upon being told that they had no specific purpose, he indicated that where there was no specific purpose there was no specific program or activity and therefore Title VI would not be applicable. Mr. Via suggested that this reasoning might be related to Reserve Bank discounts and advances. Since member banks were not restricted in their use of the funds received, it would appear to follow that the discounts and advances were not for the purpose of aiding any particular program or activity of member banks.

Mr. Hexter indicated that he had nothing to add to his previous comments and his memorandum.

Mr. Hackley then summarized his position as follows. There were several elements in the provisions of section 602 that must be considered. The first was whether or not the Federal Reserve Banks were Federal agencies. He would not base a conclusion that Title VI was inapplicable to the Reserve Banks on the ground that they were not Federal agencies. That argument had been given considerable weight by Reserve Bank Counsel

in support of their contention of inapplicability of the Title, but in the light of other circumstances Mr. Hackley would not rely on that ground. Second, Mr. Hackley believed it clear that the Reserve Banks did extend financial assistance to member banks. The Federal Reserve Act and the Board's Regulation A, Advances and Discounts by Federal Reserve Banks, referred to discounts and advances as extensions of credit, or borrowings. As to whether they were Federal financial assistance, there was more doubt. Some of the legislative history of the Civil Rights Act could be read to indicate that only assistance provided through appropriated funds was contemplated. Mr. Hackley would not rely conclusively on that history, although it could be mentioned in the letter to the Bureau of the Budget. A third point, and the one he believed to provide the only firm ground for holding that the Title was inapplicable, involved the question whether or not the financial assistance provided to member banks by the Reserve Banks was to aid any particular program or activity. There was some legislative history to support the view that Title VI was not intended to apply to banks at all, whereas Title VII (relating to discrimination in employment practices) did apply to banks specifically. Principally, however, it seemed to him that the financial assistance provided through Reserve Bank discounts and advances was to enable member banks to adjust their asset positions temporarily to meet unusual emergency situations and thereby to promote the interests of commerce, agriculture, industry, and the

economy generally. He would base his conclusion that Title VI did not apply to the Reserve Banks on the ground that the operations of member banks did not constitute a program or activity within the intent of the Title.

In reply to a question from Chairman Martin, Mr. Hackley stated that there had been unanimity of opinion among Federal Reserve Bank Counsel as to the inapplicability of Title VI. The Presidents' Conference Ad Hoc Subcommittee of Counsel, to which the subject had been assigned for study, had checked by telephone with Reserve Bank Counsel who were not on the Subcommittee, and the view of the latter reportedly was unanimous. It was understood that the Conference of Presidents likewise had been unanimous in concurring with the Subcommittee's report.

Chairman Martin then suggested that the members of the Board indicate how their views were crystallizing as to the basic issue.

Governor Robertson stated that as he saw it the Board was straining at gnats to find Title VI inapplicable when the language of the statute was clear. Notwithstanding the position taken by Reserve Bank Counsel, there seemed to him no question but that the Reserve Banks were Federal agencies for purposes of the Act, or that their discounts and advances constituted financial assistance. The only question was whether or not their activities were of a kind the statute was intended to cover. It seemed to him that the approach should be to construe the statute in such a way as to make it effective rather than to nullify it.

If the Board took the position that the Title was applicable, an obligation to carry out the requirements of the Act would be incurred, but if the Board found the Title inapplicable there was grave danger of repercussions. He believed that the statute should be interpreted literally.

Mr. Hexter commented at this juncture that there had been much stress on the purpose of Federal Reserve Bank activities being to contribute to the public welfare. However, that was also the purpose of a great many programs that were unquestionably covered by this legislation. It would seem difficult to claim that the benefits provided by the Federal Reserve were outside the coverage of the Act because they aided commerce, industry, and the economy generally.

Mr. Solomon remarked that it seemed to him there was a serious question whether Federal Reserve discounts constituted "financial assistance." System membership was a package that included not only the benefit of such credit but also the substantial obligation of carrying reserves. In all but the most extraordinary situations a member bank's borrowing was less than the amount it was required to maintain with its Reserve Bank.

The Board members' comments then continued, and Governor Shepardson stated that he agreed with Mr. Hackley's analysis of the points of coverage specified in the Civil Rights Act and would favor adopting the position recommended by Mr. Hackley.

Governor Mitchell commented that the May 27 revision of the draft letter to the Bureau of the Budget reflected his views except that he would delete use of the words "financial assistance."

Governor Daane said that he viewed the discount mechanism as part of the total package of monetary policy instruments and as not being used for the purposes contemplated by "Federal financial assistance" to a "program or activity."

Governor Maisel said he believed a reasonable case could be made for including the Reserve Banks; he thought they did grant financial assistance. The question of applicability seemed to come down to the intent of Congress, and his feeling was that the kind of assistance rendered by the Reserve Banks was not meant to be covered. Although it could have been, the legislative history did not appear so to indicate.

Governor Balderston and Chairman Martin expressed general agreement with the view stated by Governor Maisel. Chairman Martin added that he wished that the Reserve Banks had been specifically covered by Title VI of the Civil Rights Act, but they were not. Such questions were always difficult when lawyers disagreed, but he was averse to overruling not only the Counsel of all of the Federal Reserve Banks but also the majority opinion within the Board's own legal staff.

At the conclusion of the discussion it was understood that additional work would be done on the draft of letter to the Bureau of the Budget as a basis for further consideration by the Board.

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Mr. Hackley reported that a related question would be coming before the Board, the Federal Reserve Bank of Atlanta having inquired as to the reply to be made to a letter from a faculty member of Tuskegee Institute who charged that a member bank was violating Title VII of the Civil Rights Act (relating to discrimination in employment practices) and asked what action the Federal Reserve proposed to take in the matter.

The meeting then adjourned.

> Secretary's Note: Governor Shepardson today approved on behalf of the Board memoranda recommending the following actions relating to the Board's staff:

Appointment

Robert J. Lawrence as Economist, Division of Research and Statistics, with basic annual salary at the rate of $11,670, effective the date of entrance upon duty. (The appointment was approved with the understanding that the Board would pay the cost of moving Professor Lawrence's household goods and personal effects and his transportation expenses and those of his family to and from Washington, D. C., with Austin, Texas, as the base.)

Transfer

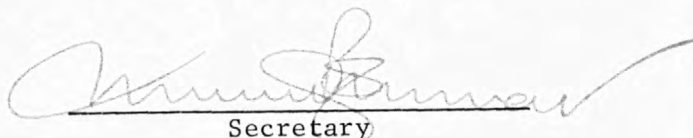
Barbara Ford, from the position of Stenographer in the Division of Personnel Administration to the position of Stenographer in the Division of International Finance, with no change in basic annual salary at the rate of $4,480, effective June 6, 1965.

Salary increase

Marcia G. Patz, Secretary, Division of Research and Statistics, from $5,825 to $6,245 per annum, effective June 7, 1965.

Permission to engage in outside activity

William T. Houser, General Mechanic-Operating Engineer, Division of Administrative Services, to work for a local construction company.



Secretary

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 1
5/28/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 28, 1965.

Mr. Malcolm Bryan, President,
Federal Reserve Bank of Atlanta,
Atlanta, Georgia. 30303

Dear Mr. Bryan:

In accordance with the recommendation in Mr. Patterson's letter of May 14, 1965, the Board of Governors has changed the classification of member banks in the Sixth District for purposes of electing Class A and Class B directors to the following:

Group	Banks with capital and surplus of:
1	$4,000,000 and over.
2	$850,000 and over, but under $4,000,000.
3	Under $850,000.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 2
5/28/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 28, 1965

CONFIDENTIAL (FR)

Mr. W. Braddock Hickman, President,
Federal Reserve Bank of Cleveland,
Cleveland, Ohio 44101.

Dear Mr. Hickman:

The Board of Governors approves payment of salary to Mr. Harry Milton Pugh as Chief Examiner, Federal Reserve Bank of Cleveland, at the rate of $15,000 per annum, for the period July 1 through December 31, 1965. The rate approved is that fixed by your Board of Directors as reported in your letter of May 13, 1965.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary,

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 3
5/28/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 28, 1965

Board of Directors,
American Bank and Trust Company,
Lansing, Michigan.

Gentlemen:

Pursuant to the provisions of Section 24A of the Federal Reserve Act, the Board of Governors of the Federal Reserve System approves an investment in bank premises of not to exceed $1,500,000 by American Bank and Trust Company, Lansing, Michigan, for the purpose of remodeling the present main office and construction of a nine-story addition to the present main office. It is understood this proposed expenditure will be financed through the bank's wholly-owned affiliate or by sale of capital debentures.

The Board is aware of and approves of the proposed action by the directors of American Bank and Trust Company to improve that bank's capital position by sale of $2,500,000 capital debentures. However, in view of the strong growth trend of American Bank, its capital needs should have the continuing attention of the directors.

Very truly yours,

(Signed) Karl E. Bakke

Karl E. Bakke,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 4
5/28/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 28, 1965.

Mr. Phillip S. Hughes,
Assistant Director for
Legislative Reference,
Bureau of the Budget,
Washington, D. C. 20503

Dear Mr. Hughes:

This is in response to your communication of May 17, 1965, requesting the views of the Board on a draft bill proposed by the Small Business Administration to create a Small Business Capital Bank.

The Board appreciates the Small Business Administration's difficulties in meeting the credit demands of small business investment companies out of its present revolving fund and would favor any appropriate plan that would provide more credit and equity funds to small business. It believes that this will be achieved by securing maximum participation of private financing sources. Though the proposed legislation may be a step in this direction, it would appear that the proposed Bank could not achieve a self-supporting status until its investments begin to produce substantial income, and this probably would not result for many years.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 5
5/28/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 28, 1965

Mr. C. J. Scanlon, President,
Federal Reserve Bank of Chicago,
Chicago, Illinois. 60690

Dear Mr. Scanlon:

Reference is made to your letter of May 4 and to Vice President Ross' letter of March 29, 1965, recommending that the American City Bank and Trust Company, Milwaukee, Wisconsin, be permitted to maintain the same reserves against deposits as are required to be maintained by banks in nonreserve cities.

After further consideration of the information submitted, the Board of Governors concurs in the recommendation of your Bank and, pursuant to the provisions of Section 19 of the Federal Reserve Act, grants permission to the American City Bank and Trust Company, Milwaukee, Wisconsin, to maintain the same reserves against deposits as are required to be maintained by nonreserve city banks, effective with the first biweekly reserve computation period beginning after the date of this letter.

Please forward the enclosed letter addressed to the subject bank; a copy is enclosed for your file.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

Enclosures.

1828

Item No. 6
5/28/65

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 28, 1965

Board of Directors,
American City Bank and Trust Company,
Milwaukee, Wisconsin.

Gentlemen:

With reference to your request submitted through the Federal Reserve Bank of Chicago, the Board of Governors, acting under the provisions of Section 19 of the Federal Reserve Act, grants permission to the American City Bank and Trust Company to maintain the same reserves against deposits as are required to be maintained by nonreserve city banks, effective with the first biweekly reserve computation period beginning after the date of this letter.

Your attention is called to the fact that such permission is subject to revocation by the Board of Governors.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 7
5/28/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 28, 1965.

Mr. Robert L. Wright,
First Assistant, Antitrust Division,
United States Department of Justice,
450 Golden Gate Avenue - Box 36046,
San Francisco, California. 94102

Attention Mr. John D. Gaffey, Staff Economist.

Re: United States v. Crocker-Anglo National Bank,
et al. - Civil No. 41808 (N. D. Calif.)

Dear Mr. Wright:

This refers to your letter of May 24, 1965, addressed to Mr. O'Connell of the Board's staff, wherein, in connection with the above-entitled suit, you request on behalf of the Department of Justice that the Board furnish to your staff (1) a list of the smaller member banks in California that were included in the sampling process used in the 1955 business loan survey, and (2) a list of the branch offices of larger member banks in California (banks with deposits of $50 million or more) that were included in the 1955 survey. You advise that the Department needs the requested information in order to appraise the reliability of an exhibit which the defendant banks have developed, based largely upon the 1955 business loan survey, and intend to introduce in evidence. Your letter supplements a similar request for Board action presented by Mr. Schoepke of your staff in a telephone conversation with Mr. O'Connell on May 24.

The Board has agreed to furnish the information requested and by letter of this date has so advised President Swan of the Federal Reserve Bank of San Francisco. The Board has requested that the Reserve Bank's staff be directed to make the information available to you in a mutually agreeable form.

The Board's action in providing this information has been taken because of the Board's continuing desire to cooperate in any reasonable way with the Department's efforts to carry out its statutory responsibilities. However, the Board wishes to emphasize, as it did in its June 28, 1961 letter to the Department on this same subject,

the serious concern that the Board has as to the likelihood that disclosure of the information herein authorized could jeopardize the Federal Reserve System's ability to successfully conduct future surveys of member banks. The System's statistical surveys and current statistical reporting series are conducted on a voluntary basis and, in the Board's opinion, have reflected a high degree of participation because of the participating banks' reliance on the Board's observance of assurances given regarding the confidential treatment that would be accorded the information furnished. Accordingly, the Board's action in disclosing the names of smaller banks and the identity of branch offices of larger banks that participated or were included in the 1955 survey is taken in the expectation that your Department will exercise every reasonable effort to avoid publication both of the fact of your possession of this information and of any portion of the information itself. It is hoped that use of the information can be limited, as suggested in your May 24 letter, to use as an aid in your appraisal of the reliability of the defendant banks' proposed exhibit.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

Item No. 8
5/28/65

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

May 28, 1965

Mr. Eliot J. Swan, President,
Federal Reserve Bank of San Francisco,
San Francisco, California. 94120

Re: United States v. Crocker-Anglo National Bank (N.D. Calif., Civ. No. 41808)

Dear Mr. Swan:

This refers to your letter of May 19, 1965, asking for the Board's views regarding a request by the Department of Justice that Mr. Gault Lynn of your staff testify as a Government witness in the above case. It is understood that Mr. Lynn's testimony will be called for by subpoena and that such testimony is intended as rebuttal of an exhibit that the defendant banks propose to offer in evidence involving use of certain data taken from the 1955 business loan survey of member banks.

Inasmuch as Mr. Lynn would testify in response to a subpoena issued at the request of the Government, and since it is understood that Mr. Lynn's testimony would not involve use of unpublished information of the Board, the Board is not opposed to Mr. Lynn's giving the testimony proposed.

As you are aware, representatives of the Department of Justice have requested that they be furnished with the names of the smaller banks in California that were included in the sampling process utilized in the 1955 survey and with the identity of the particular branch offices of larger banks (banks with deposits of $50 million or more) that were included in the survey. The Board has granted the Department's request for disclosure of the above information. There is enclosed a copy of the Board's letter advising the Department's representative of the Board's action. You will note that the Board's letter advises that the information will be furnished through your Bank's staff in a manner mutually agreeable to you and the Department's representatives. You will note also the Board's expression of concern as to the potential consequences should the fact of the Department's possession of this information become a matter of public knowledge.

For this reason, the Department is asked to make every reasonable effort to use the information solely for the purpose mentioned in the Department's letter of request, namely, to appraise the reliability of an exhibit which the defendant banks propose to introduce in evidence. We note that Mr. Lynn was furnished a copy of the Department's letter of request dated May 24, 1965.

Very truly yours,

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.

Enclosure