

Minutes for November 30, 1966

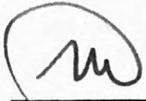
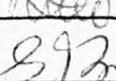
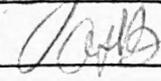
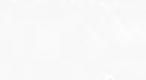
To: Members of the Board

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. Robertson	<u></u>
Gov. Shepardson	<u></u>
Gov. Mitchell	<u></u>
Gov. Daane	<u></u>
Gov. Maisel	<u></u>
Gov. Brimmer	<u></u>

Minutes of the Board of Governors of the Federal Reserve System on Wednesday, November 30, 1966. The Board met in the Board Room at 10:00 a.m.

PRESENT: Mr. Martin, Chairman
 Mr. Robertson, Vice Chairman
 Mr. Shepardson
 Mr. Maisel
 Mr. Brimmer

Mr. Sherman, Secretary
 Mr. Kenyon, Assistant Secretary
 Mr. Young, Senior Adviser to the Board and Director, Division of International Finance
 Mr. Holland, Adviser to the Board
 Mr. Molony, Assistant to the Board
 Mr. Fauver, Assistant to the Board
 Mr. Hackley, General Counsel
 Mr. Solomon, Director, Division of Examinations
 Mr. Shay, Assistant General Counsel
 Mr. Partee, Associate Director, Division of Research and Statistics
 Mr. Sammons, Associate Director, Division of International Finance
 Mr. Leavitt, Assistant Director, Division of Examinations
 Messrs. Plotkin, Robinson, and Via of the Legal Division
 Messrs. Egertson, Maguire, and Poundstone, and Miss McShane of the Division of Examinations

Approved items. The following letters were approved unanimously after consideration of background material that had been made available to the Board. Copies are attached under the respective item numbers indicated.

Item No.

Letter to The Colonial Bank and Trust Company, Waterbury, Connecticut, approving the establishment of an in-town branch.

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	<u>Item No.</u>
Letter to Adrian State Savings Bank, Adrian, Michigan, approving the establishment of an in-town branch.	2
Letter to Wells Fargo Bank, San Francisco, California, approving the establishment of a branch in Lodi.	3
Letter to International Banking Corporation, New York, New York, granting permission to increase its investment in International Trust Company, (formerly Mercantile Trust Company), Montreal, Canada.	4
Letter to Bank of America National Trust and Savings Association, San Francisco, California, granting permission to establish two branches in Bolivia--one in La Paz and the other in Santa Cruz.	5

Report on competitive factors. Unanimous approval was given to the transmittal to the Comptroller of the Currency of a report on the competitive factors involved in the proposed purchase of assets and assumption of liabilities of The Bark River State Bank, Bark River, Michigan, by The Escanaba National Bank, Escanaba, Michigan. The conclusion stated that while the proposed acquisition would eliminate some competition existing between the two banks, the overall competitive effect would not be significantly adverse.

Membership on Florida Citrus Commission. In connection with a recent discussion by the Board of persons who might be considered for appointment to the Board of Directors of the Jacksonville Branch, Federal Reserve Bank of Atlanta, question had arisen whether membership on the

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Florida Citrus Commission would fall within the purview of the Board's 1915 resolution that persons holding political or public office can not, consistent with the spirit and underlying principles of the Federal Reserve Act, serve as directors or officers of Federal Reserve Banks. The conclusion reached in a distributed memorandum from the Legal Division dated November 28, 1966, was that membership on the Florida Citrus Commission would appear to be nonpolitical in character and more in the nature of a public service, and therefore would not involve the holding of an office of the kind contemplated by the 1915 resolution.

There was general agreement with the Legal Division's position and it was understood that the Atlanta Reserve Bank would be advised accordingly, for reference in cases that might arise in the future.

There was attached to the Legal Division's memorandum a summary of actions taken by the Board through June 6, 1966, on questions that had arisen under the 1915 resolution. Comments made with respect to the summary were to the effect that while it might not appear to reveal a completely consistent pattern, the overall record seemed generally supportable. It was noted that some instances involving activities of a political character by Reserve Bank directors, particularly in connection with political campaigns, may not have been brought to the Board's attention. However, letters had been sent to the Reserve Banks from time to time reminding them of the 1915 resolution. There was no indication that Board members desired to modify significantly at this time the practices that had been followed, as revealed by the summary.

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Application of St. Joseph Valley Bank (Items 6-9). Pursuant to the understanding at the meeting on November 23, 1966, there had been distributed a memorandum from the Legal Division dated November 29 submitting a revised draft of statement reflecting Board approval on October 17 of the application of St. Joseph Valley Bank, Elkhart, Indiana, for permission to merge with First Old State Bank, also of Elkhart. There were also submitted revised dissenting statements of Governor Robertson and Governor Brimmer.

Issuance of the order in the matter, the majority statement, and the dissenting statements was authorized. Copies of the documents, as issued, are attached as Items 6-9.

Emergency lending accommodations (Item No. 10). There had been distributed a memorandum from Mr. Holland dated November 29, 1966, noting that the authority given to the Federal Reserve Banks with respect to emergency lending accommodation to nonmember depository-type institutions in the event of extraordinary liquidity pressures would expire December 1, 1966. The authority was initially provided for a 60-day period in the Board's letter to the Reserve Banks of July 1, 1966, and it was subsequently renewed for an additional 90 days. Mr. Holland recommended, for reasons stated in the memorandum, that such authority be extended for a further period of 90 days to March 1, 1967.

The recommendation was approved unanimously; a copy of the telegram sent to the Federal Reserve Banks pursuant to this action is attached as Item No. 10.

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Governor Robertson commented that although he had no objection to extending the authority for the further period of 90 days, he felt that as a general rule it was undesirable to extend temporary programs indefinitely in the absence of a demonstrated need. He would prefer to terminate such programs as soon as appropriate and reconstitute them if necessary.

Governor Brimmer noted that the current study of the discount mechanism included an effort to develop a long-range policy to guide Federal Reserve emergency credit assistance to member banks, nonmember depository institutions, insurance companies, and other appropriate institutions. He suggested that there might be reason to hold the current program of emergency lending accommodation in place pending the development of a long-range policy such as contemplated by the discount study, rather than to have to resort to ad hoc measures if an emergency should arise.

It was generally agreed that the situation should be reviewed again prior to March 1, 1967, with a view to determining, in light of considerations such as had been mentioned, whether further extension of the emergency lending accommodation program would seem desirable.

Legislative proposals. Mr. Hackley reported that Mr. Smith, General Counsel of the Treasury, had advised that the Treasury was preparing its legislative program for consideration at the next session of Congress and stated that he was checking, at the suggestion of Under Secretary Deming, to determine whether the Board continued to be interested

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in pushing for two pieces of legislation; namely, legislation that would permit a member bank to borrow from its Reserve Bank on the security of any sound assets without paying a "penalty" rate of interest, and legislation to facilitate economic use of Reserve Bank balances with foreign central banks by permitting the investment of such balances in obligations of foreign governments or monetary authorities that would mature within 12 months and were payable in a convertible currency. Mr. Smith indicated that the Treasury was much interested in both proposals.

The Board confirmed that its position in support of the two legislative proposals had not changed, and it was understood that Mr. Hackley would advise Mr. Smith accordingly.

Governor Shepardson suggested that the Board push vigorously during the forthcoming session of Congress for action on two other pieces of legislation; namely, legislation that would authorize the Board to fix reserve requirements on a graduated basis according to the amount of deposits and would make such requirements applicable to all insured banks, which banks would be afforded access to Federal Reserve discount facilities, and legislation that would require insured banks to pay at par all checks drawn upon them.

There was general agreement that active support of such legislation would be desirable. On the proposal for graduated reserve requirements applicable to all insured banks, attention was drawn to the continuing withdrawal of banks from membership in the Federal Reserve

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System, including some institutions of substantial size. It was suggested that at an appropriate time the staff submit to the Board a draft bill on the subject along with letters that might be sent to the appropriate Congressional Committees recommending the enactment of such legislation, and that an analysis of the size and distribution of the principal nonmember banks also be provided.

Governor Brimmer commented that he had been working with members of the staff on the preparation of material bearing upon the position that might be taken by the Board at the appropriate time with respect to proposed legislation that it was understood would be considered again at the forthcoming session of Congress to provide for Federal chartering of foreign banks operating in the United States and placement of responsibility for the chartering and supervision of such institutions in the Comptroller of the Currency. He was hopeful that a memorandum on the subject would be available for Board consideration in the near future.

Chairman Martin mentioned that he had been in receipt of some questions about investments by Edge and agreement corporations in companies engaged in underwriting abroad. A memorandum providing information on the known cases had been prepared for him by Mr. Solomon (Examinations), and copies would be made available to the other members of the Board.

The meeting then adjourned.

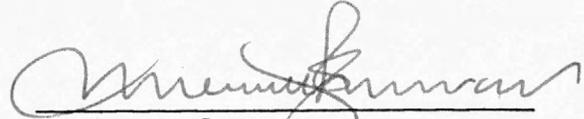
Secretary's Note: Governor Shepardson today approved on behalf of the Board the following items:

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Letters to the Federal Reserve Bank of Richmond (copies attached as Items 11 and 12) approving the designation of Ronald B. Duncan, Carroll L. Marcus, John R. Tyburski, and Fred W. McCormick, III, as special assistant examiners.

Letter to the Federal Reserve Bank of Chicago (copy attached as Item No. 13) approving the appointment of John R. Sweetland as assistant examiner.


Secretary

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D. C. 20551

Item No. 1
11/30/66

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

November 30, 1966



Board of Directors,
The Colonial Bank and Trust Company,
Waterbury, Connecticut.

Gentlemen:

The Board of Governors of the Federal Reserve System approves the establishment by The Colonial Bank and Trust Company, Waterbury, Connecticut, of a branch at the intersection of Route #69 and Stillson Road, Waterbury, Connecticut, provided the branch is established within 18 months from the date of this letter.

Very truly yours,

(Signed) Karl E. Bakke

Karl E. Bakke,
Assistant Secretary.

(The letter to the Reserve Bank stated that the Board also had approved a six-month extension of the period allowed to establish the branch; and that if an extension should be requested, the procedure prescribed in the Board's letter of November 9, 1962 (S-1846), should be followed.)

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

Item No. 2
11/30/66



ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

November 30, 1966

Board of Directors,
Adrian State Savings Bank,
Adrian, Michigan.

Gentlemen:

The Board of Governors of the Federal Reserve System approves the establishment by Adrian State Savings Bank, Adrian, Michigan, of a branch in Ward Plaza Shopping Center, at the intersection of Mill and North Main Streets, Adrian, Michigan, provided the branch is established within one year from the date of this letter.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

(The letter to the Reserve Bank stated that the Board also had approved a six-month extension of the period allowed to establish the branch; and that if an extension should be requested, the procedure prescribed in the Board's letter of November 9, 1962 (S-1846), should be followed.)

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D. C. 20551

Item No. 3
11/30/66



ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

November 30, 1966

Board of Directors,
Wells Fargo Bank,
San Francisco, California.

Gentlemen:

The Board of Governors of the Federal Reserve System approves the establishment by Wells Fargo Bank, San Francisco, California, of a branch in the downtown commercial district of Lodi, San Joaquin County, California, provided the branch is established within six months from the date of this letter.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

(The letter to the Reserve Bank stated that the Board also had approved a six-month extension of the period allowed to establish the branch; and that if an extension should be requested, the procedure prescribed in the Board's letter of November 9, 1962 (S-1846), should be followed.)

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

Item No. 4
11/30/66

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

November 30, 1966.

International Banking Corporation,
399 Park Avenue,
New York, New York. 10022

Gentlemen:

As requested in your letter of October 19, 1966, the Board of Governors grants consent for your Corporation to make an additional investment in International Trust Company, Montreal, Canada, in the amount of Can.\$500,000 (approximately US\$465,000 equivalent) by means of a contribution to paid-in surplus.

The foregoing consent is given with the understanding that the investment now being approved, combined with other foreign loans and investments of your Corporation, First National City Bank, and First National City Overseas Investment Corporation, will not cause the total of such loans and investments to exceed the guidelines established under the voluntary foreign credit restraint effort now in effect and that due consideration is being given to the priorities contained therein.

Very truly yours,

(Signed) Karl E. Bakke

Karl E. Bakke,
Assistant Secretary.

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

Item No. 5
11/30/66

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

November 30, 1966.

Bank of America National Trust
and Savings Association,
300 Montgomery Street,
San Francisco, California. 94120

Gentlemen:

The Board of Governors of the Federal Reserve System grants its permission to Bank of America National Trust and Savings Association, San Francisco, California, pursuant to the provisions of Section 25 of the Federal Reserve Act, to establish two branches in Bolivia, one to be located in La Paz, and one in Santa Cruz, and to operate and maintain such branches subject to the provisions of Section 25 and of Regulation M.

Unless the branches are actually established and opened for business on or before December 1, 1967, all rights granted hereby shall be deemed to have been abandoned and the authority hereby granted will automatically terminate on that date.

As you are aware, with respect to the establishment of foreign branches, funds provided by home office (whether in the form of allocated capital, advances, or otherwise) should be regarded as foreign assets for purposes of the voluntary foreign credit restraint effort.

Very truly yours,

(Signed) Karl E. Bakke

Karl E. Bakke,
Assistant Secretary.

Item No. 6
11/30/66

UNITED STATES OF AMERICA
BEFORE THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D. C.

In the Matter of the Application of
ST. JOSEPH VALLEY BANK
for approval of merger with
First Old State Bank

ORDER APPROVING MERGER OF BANKS

There has come before the Board of Governors, pursuant to the Bank Merger Act, as amended (12 U.S.C. 1828(c), Public Law 89-356), an application by St. Joseph Valley Bank, Elkhart, Indiana, a State member bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank and First Old State Bank, Elkhart, Indiana, under the charter and title of St. Joseph Valley Bank. As an incident to the merger, the two offices of First Old State Bank would become branches of the resulting bank. Notice of the proposed merger, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation,

and the Attorney General on the competitive factors involved in the proposed merger,

IT IS HEREBY ORDERED, for the reasons set forth in the Board's Statement of this date, that said application be and hereby is approved, provided that said merger shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after said date.

Dated at Washington, D. C., this 30th day of November, 1966.

By order of the Board of Governors.

Voting for this action: Chairman Martin, and Governors Shepardson, Mitchell, Daane, and Maisel.

Voting against this action: Governors Robertson and Brimmer.

(signed) Merritt Sherman

Merritt Sherman,
Secretary.

(SEAL)

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

APPLICATION OF ST. JOSEPH VALLEY BANK
FOR APPROVAL OF MERGER WITH
FIRST OLD STATE BANK

STATEMENT

St. Joseph Valley Bank, Elkhart, Indiana ("St. Joseph Bank"), with total deposits of about \$60 million, has applied, pursuant to the Bank Merger Act (12 U.S.C. 1828(c), as amended by Public Law 89-356), for the Board's prior approval of the merger of that bank with First Old State Bank, Elkhart, Indiana ("Old State Bank"), which has total deposits of about \$20 million.^{1/} The banks would merge under the charter and name of St. Joseph Bank, which is a member of the Federal Reserve System. As an incident to the merger, the two offices of Old State Bank would become branches of St. Joseph Bank, increasing the number of its offices to eight.

To assist in the consideration of this application, the banking factors being of particular concern, a private oral presentation was held, pursuant to section 262.2(f)(3) of the Board's Rules of Procedure (12 CFR § 262.2(f)(3)), at which the president and the chairman of the board of directors of each bank presented views in support of approval, and submitted to questioning by the Board.

^{1/} As of June 30, 1966.

Competition. - The head office and four branches of St. Joseph Bank, and the head office and sole branch of Old State Bank, are in Elkhart; St. Joseph Bank also operates a branch at Nappanee, about 17 miles to the south. Elkhart, located approximately 15 miles east of South Bend, has a population of about 45,000 and is the seat of Elkhart County. A large number of manufacturing firms support the economy of the city, and it is also an important trade center.

St. Joseph Bank and Old State Bank--respectively, the second largest and the smallest banks in Elkhart--are in direct competition with each other. The service area^{2/} of each bank encompasses the city of Elkhart and its immediate environs, the only non-coterminous portion being the area served by the Nappanee branch of St. Joseph Bank. There is only one other bank in Elkhart and, like St Joseph Bank and Old State Bank, it draws the preponderance of its business from the city and its environs. These three banks compete in varying degrees with the offices of eight other banks that are located beyond the city (including four headquartered in Elkhart County) and that range in deposit size from about \$6 million to more than \$40 million. It does not appear that any of these offices would be adversely affected by the merger.

The principal impact of the merger on banking competition would be in Elkhart. Following the acquisition of Old State Bank by St. Joseph Bank, the city would be served by the offices of only two banks,

^{2/} The area from which a bank derives 75 per cent or more of its deposits of individuals, partnerships and corporations.

one (the resulting bank) with deposits of about \$80 million, and the other with deposits of about \$95 million. As discussed below under the banking factors, Old State Bank is headed for serious capital and management problems for which there appears to be no feasible solution other than merger. But, the merger would eliminate substantial existing competition between the participating banks.

The effect of the merger on competition would be substantially adverse.

Financial and managerial resources and future prospects. - A merger with anticompetitive effects of the magnitude that are present in this case may not be allowed under the amended Bank Merger Act unless the adverse effects for competition would be "clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served". The banking factors are relevant to this consideration to the extent that "they throw light on the capacity of the existing and proposed institutions to serve the community".^{3/}

Old State Bank has experienced substantial growth in both deposits and loans during the past few years. This growth, however, has exceeded the bank's ability to effectuate the needed corresponding additions to its capital account, even though it sold capital stock twice within the last five years. Old State Bank has enjoyed gross operating revenues that are considerably above the average for member banks of comparable size in Indiana; since 1964, however, the bank's net income has been much less than the average for banks similarly situated. This incongruity is occasioned

^{3/} H.R. Rep. No. 1221, 89th Cong., 2d Sess. 4 (1966).

essentially by loan losses that are attendant upon the imprudent lending policies of Old State Bank.

The ability of Old State Bank to augment its capital is affected by its recent record of less-than-average net earnings and by its greater-than-average asset weaknesses. Both of these factors result from the bank's lending policies. At the same time, these factors impede the ability of the bank to attract the personnel needed to facilitate implementation of the lending practices that are required for improvement in its net earnings performance and in its asset condition.

There is evidence that the directors of Old State Bank have endeavored--although not to the point of precipitating open discord, which could well prove harmful--to effect reforms in the lending practices of the bank. The failure of this effort must be attributed in part to the fact that the directors and their families altogether hold only about 35 per cent of the bank's voting shares. The largest stockholder of the bank is its chief operating officer. He has been associated with the bank for many years and apparently enjoys a wide following, both among the bank's other stockholders and in the community generally. Although he holds less than 8 per cent of the voting shares, he is the dominant force in the bank. Thus, it seems unlikely that Old State Bank will veer from its potentially hazardous course, given the bank's present ownership. In turn, the bank's condition and prospects, together with the fact that its stock is widely held, combine to make it of dubious attractiveness to individuals or groups who might be

prospective buyers. While these considerations pose no immediate threat to Old State Bank, they are a cause for concern about its future. In short, unless corrective action is taken, the bank is headed for serious capital and management problems.

A solution to the predicament of Old State Bank by means other than merger with one of the two remaining Elkhart banks--which are by far its principal competitors--is patently desirable. State law prohibits branching across county lines, however, and it also restricts a bank from branching in a town, other than the location of its head office, where banking facilities already exist. Thus, the only other possibilities for Old State Bank to be acquired by merger lie with two Elkhart County banks,^{4/} the larger of which has deposits of about \$6 million. Due to the small size of these banks, a merger with one of them would not materially alter the prospects for Old State Bank. Finally, State law also precludes the acquisition of Old State Bank by a bank holding company.

The banking factors with respect to St. Joseph Bank are generally satisfactory, and it is capable of coping satisfactorily with the difficulties that would be attendant upon the absorption of Old State Bank.

Convenience and needs of the community. - The merger would eliminate an alternative source of banking services from the Elkhart community, but it would also result in an orderly disposition of the

^{4/} And this assumes that the acquiring bank would be permitted by State authorities to transfer its head office to Elkhart.

problems that beset Old State Bank. The adverse competitive consequences of the merger could be minimized at some point in the future if Indiana should decide to change the restrictions on the establishment and operation of branch banking offices. On the other hand, the adverse impact on the community if the condition of Old State Bank should ultimately decline to failure could not be so easily minimized and, indeed, probably could not be materially lessened at all.

It should be stressed that Old State Bank cannot now be fairly characterized as a "failing firm"; the bank is nowhere near that condition.^{5/} But the law permits a merger, notwithstanding its adverse competitive consequences (if not sufficient to be violative of section 2 of the Sherman Act), provided one of the banks faces difficulty of sufficient gravity to warrant remedial action in the interests of maintaining its soundness, and there is no feasible alternative solution to its problem.^{6/} It is the best judgment of the Board that the evidence in the case before it meets this test.

The Board has not been unmindful, in its protracted deliberations on this matter, of the merit in the considerations advanced by the dissenters in arguing for denial of the application. But the complex and

^{5/} See International Shoe Co. v. FTC, 280 U.S. 291 (1930), which established it to be a defense to an action under section 7 of the Clayton Act if, before the merger, "there being no other prospective purchaser," one of the firms "faced the grave probability of business failure". Id. at 302.

^{6/} See H.R. Rep. No. 1221, 89th Cong., 2d Sess. 3 (1966); 112 Cong. Rec. 2337-38 (1966). See also, United States v. Philadelphia Nat'l Bank, 374 U.S. 321, 372 n. 46 (1963).

difficult circumstances faced by Old State Bank, considered in the light of the likely ramifications for the bank and the community it serves if the merger is not allowed, cause the Board to conclude that the wiser course for the public interest is to opt on the side of caution.

Summary and conclusion. - The effect of the merger of St. Joseph Bank and Old State Bank on competition would be substantially adverse. It is the judgment of the Board, however, that the anticompetitive consequences would be clearly outweighed in the public interest by the effect of the transaction in avoiding for the Elkhart community the adverse consequences likely to result from the capital and management problems of Old State Bank. There is about an even chance--as near as it can be reckoned--that, unless corrective action is taken, the condition of Old State Bank will steadily worsen, and there is no feasible alternative solution to its problems.

Accordingly, the Board concludes that the application should be approved.

November 30, 1966.

DISSENTING STATEMENT OF GOVERNOR ROBERTSON

The Bank Merger Act, as amended this year, forbids the Board of Governors to approve a merger "whose effect . . . may be substantially to lessen competition", unless the anticompetitive effect is "clearly outweighed in the public interest by the probable effect . . . in meeting the convenience and needs of the community"

Although conceding that this merger will have a substantially adverse impact on banking competition in Elkhart, the majority states that this injury to the public interest is overbalanced by the importance of "avoiding for the Elkhart community the adverse consequences likely to result from the capital and management problems of Old State Bank." I am unable to find any basis for that holding. The majority Statement does not mention any "adverse consequences" whatsoever; the only other mention of that matter is an equally indefinite reference to "the likely ramifications for . . . the community . . . if the merger is not allowed".

Furthermore, the majority acknowledges that Old State Bank is "nowhere near" the condition of a "failing firm", and that the present situation poses no immediate threat to the bank. On the basis of more than thirty years of bank supervision, and careful scrutiny of the examination reports, I do not consider Old State Bank to be a "serious problem" case, and, indeed, the majority does not claim that the bank has serious problems. Consequently, it is difficult to see any legal justification for the authorization of a merger that admittedly is substantially anticompetitive.

To describe the situation bluntly, the Board's action today appears to rest solely on the fear that, some time in the future, Old State Bank might become a less effective force in banking competition in Elkhart because it might develop serious capital and management problems, and that the best way to guard against the future possibility that the community may cease to have three actively-competing banks is to eliminate one of them now by permitting one of the others to absorb it. I have no desire to caricature the Board's decision, but I am unable to see its rationale in any other light.

At best, the authorization of this merger is premature. It permits immediately a substantially anticompetitive transaction in order to forestall the possibility that such a transaction might have to be permitted at some time in the future. The Board's action is analogous to amputating the patient's arm because treatment designed to save the arm would be painful and might fail, in which event amputation might be necessary later.

At worst, the Board's action involves an admission -- which I consider unwarranted -- that bank supervision is impotent to achieve correction or improvement in a bank whose management or policies we regard as unsatisfactory. We are told that the directors of the bank, although aware of defects in its lending practices, have hesitated to effect reforms for fear of "precipitating open discord". Needless to say, even temporary discord among the managers of a bank is undesirable, but

termination of the very existence of the bank is an absurdly high price to pay for the avoidance of managerial discord in the course of correcting an unsound policy.

Furthermore, correction of the situation does not depend solely on appropriate action by the bank's officers and directors. The powers of Federal bank supervisors were recently expanded by Congress for the very purpose of enabling us to cope with problem situations in the banks we supervise and thereby to avoid the need for amalgamations that lessen banking competition. The principal function of supervision is to preserve a sound and competitive banking system by helping banks to overcome the problems that inevitably arise. A merger that substantially lessens competition should be a final recourse, rarely resorted to, rather than a ready "out" that may be convenient and profitable for stockholders and may enable supervisors to shake off a problem, but is detrimental to the public interest.

For these reasons, the merger should not be approved.

November 30, 1966.

DISSENTING STATEMENT OF GOVERNOR BRIMMER

As the majority acknowledges, the merger of Old State Bank and St. Joseph Bank is unquestionably anticompetitive within the meaning of section 1 of the Sherman Act and, consequently, within the meaning of section 7 of the Clayton Act. I agree that a merger with anti-competitive effects of this magnitude may be in the public interest, "provided one of the banks faces difficulty of sufficient gravity to warrant remedial action in the interests of maintaining its soundness, and there is no feasible alternative solution to its problem."^{1/} But I can find no basis for the majority's assessment that the evidence in the case before us meets the requisites of this proviso.

The majority concludes that the substantially adverse effects of the merger -- which they admit are inescapable -- will be "clearly outweighed in the public interest" by the avoidance for the Elkhart community of "the adverse consequences likely to result from the capital and management problems of Old State Bank." Thus, by slighting a virtually certain -- but undesirable -- result in favor of only a remotely probable outcome, the majority provides a tenuous peg on which to hang a doubtful decision.

^{1/} Emphasis supplied in this quotation (and in others below) from the majority's Statement.

Thus, we must examine carefully the logical basis of the majority's judgement. What exactly are the "adverse consequences" that the merger will avoid? Surprisingly, just this: "unless corrective action is taken, the condition of Old State Bank will steadily worsen." How likely is this to occur? "There is about an even chance." Which means, of course, there must be about an even chance that the expected worsening will not occur.

But leaving aside this different appraisal of the probable future of Old State, what is its present condition? The majority admits that "Old State Bank cannot now be fairly characterized as a 'failing firm'; the bank is nowhere near that condition." Does Old State Bank currently have any serious problems? No. The majority merely holds that "unless corrective action is taken, the bank is headed for serious capital and management problems."

After much consideration, I have come -- reluctantly -- to the conclusion that the majority has made a most peculiar decision that cannot be supported by the facts in the record before us. If the bank does not yet have capital and management problems of a serious nature (and there is not even a suggestion of the time horizon over which such problems can be expected to emerge), where is the threat to the bank's soundness? Where is the gravity that compels the approval of this substantially anticompetitive merger? The simple -- and lamentable -- truth is that there is presently no clear threat to the bank's soundness; nor is there any urgency necessitating such a drastic remedy.

Old State Bank is a particularly vigorous competitor, as its record of substantial growth and high gross earnings clearly reflects. The bank has made an extra effort to tailor its business to meet the needs of those members of the community who are not conveniently served by the conventional modes of the banking business. For example, it is still the only bank in Elkhart that opens its doors on Saturdays, thus making bank services more conveniently available -- an especially significant contribution in view of the community's heavy concentration of industrial employees. Moreover, Old State Bank has not been reluctant to innovate; it was the first bank in Elkhart to provide drive-in service. In short, all of the relevant evidence indicates that Old State Bank is a highly effective competitor; indeed, the majority does not purport to make a finding to the contrary.

The problems of Old State Bank stem directly from imprudent lending policies and practices. The responsibility for coping with this situation properly belongs, in the first instance, to the bank's directors and stockholders. And, if the application were denied, they would be forced to confront their failures to date and to search for means to change the inadequate policies and practices, and rectify the mistakes, of the bank's operating management. There is every reason to conclude that, at the very least, there is an even chance that this course would succeed. Since it cannot be claimed that the bank yet has "serious capital and management problems" (it is said merely to be "headed for" such problems) there must be ample time for a vigorous

effort to resolve its difficulties by means other than merger. I feel strongly, therefore, that the bank should be required to get on with the task.

The denial of the application to merge would cast into sharp focus for the stockholders of Old State Bank two basic alternatives: (1) do nothing and, to the extent that the expectations of the majority are warranted, ultimately risk putting into jeopardy their investment in the institution; or (2) forge the necessary reforms -- if for no other reason than to make the bank as attractive as possible for prospective buyers. These options embody the crux of the matter. To be sure, the merger will permit the stockholders of Old State Bank to sever their association with the institution conveniently and on reasonably attractive terms, but the cost to the community will be extremely high -- the loss of a vital, competitive commercial bank.

I do not believe the facts indicate that Old State Bank faces any particularly "complex and difficult circumstances", or that merger is the only feasible solution to its so-called "predicament". I do not doubt for a moment the sincerity of the majority in its stated belief that the "wiser course for the public interest is to opt on the side of caution" and approve the merger. To me, however, the logical gaps and fallacies in the analysis on which the majority bases its approval suggest that the option was not simply for caution but for unwarranted diffidence.

I am confident that, with the merger route closed as the easy way out for the stockholders of Old State Bank, the appropriate reforms in the bank's policies and practices would be forthcoming. This course would spare the Elkhart community, not only the impact of a bank failure (which currently is simply a mirage), but also the certain adverse consequences of a substantially anticompetitive merger. Given these considerations, I am convinced that it is plainly premature and contrary to the public interest to allow the merger at this juncture.

I would deny the application.

November 30, 1966

TELEGRAM
LEASED WIRE SERVICEItem No. 10
11/30/66**BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON**

November 30, 1966.

Presidents, all Federal Reserve Banks.

Board has authorized extension until March 1, 1967, of authority described in its letter of July 1, 1966, with respect to emergency accommodation to nonmember depositary-type institutions in the event of extreme liquidity pressures.

(Signed) Merritt Sherman

Sherman



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D. C. 20551

Item No. 11
11/30/66

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

November 30, 1966

Mr. John L. Nosker, Vice President,
Federal Reserve Bank of Richmond,
Richmond, Virginia. 23213

Dear Mr. Nosker:

In accordance with the request
contained in your letter of November 23, 1966,
the Board approves the designations of
Ronald B. Duncan, Carroll L. Marcus and John R.
Tyburski as special assistant examiners for the
Federal Reserve Bank of Richmond.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D. C. 20551

Item No. 12
11/30/66

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

December 1, 1966



Mr. John L. Nosker, Vice President,
Federal Reserve Bank of Richmond,
Richmond, Virginia. 23213

Dear Mr. Nosker:

In accordance with the request contained
in your letter of November 28, 1966, the Board
approves the designation of Fred W. McCormick, III,
as a special assistant examiner for the Federal
Reserve Bank of Richmond.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.

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



ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

November 30, 1966

Mr. Leland M. Ross, Vice President,
Federal Reserve Bank of Chicago,
Chicago, Illinois. 60690

Dear Mr. Ross:

In accordance with the request
contained in your letter of November 22, 1966,
the Board approves the appointment of John R.
Sweetland as an assistant examiner for the
Federal Reserve Bank of Chicago. Please
advise the effective date of the appointment.

Very truly yours,

(Signed) Elizabeth L. Carmichael

Elizabeth L. Carmichael,
Assistant Secretary.