

X-7846

INTERPRETATION OF BANKING ACT OF 1933.

(Copies to be sent to all Federal reserve banks.)

March 31, 1934.

Mr. John N. Peyton,
Federal Reserve Agent,
Federal Reserve Bank of Minneapolis,
Minneapolis, Minnesota.

Dear Mr. Peyton:

Receipt is acknowledged of Mr. Swanson's letter of February 13, 1934, with inclosures, in regard to the payment of interest on certain time certificates of deposit issued by the _____ State Bank, _____. It is understood that the precise issue presented is whether the bank, which it is stated was admitted to membership on December 7, 1933, may lawfully pay interest, accruing after October 31, 1933, on a time deposit at a rate in excess of 3 per cent per annum, compounded semiannually, in accordance with the terms of a valid and binding contract entered into in good faith after June 16, 1933, but before admission of the bank to membership in the Federal Reserve System.

If the _____ State Bank should refuse to discharge its lawful obligations to pay interest on time certificates of deposit issued prior to the date of its admission to membership because of the prohibition contained in Section III, subparagraph (c) of the Board's Regulation Q, presumably a suit would lie at the instance of each holder of such a certificate and an enforceable

judgment would be entered against the bank which the bank would be forced to satisfy whether or not such action would come within the terms of the prohibition aforesaid. Furthermore, it should be noted that the expressed intent of the statute with respect to the payment of interest on deposits payable on demand is that the provisions in regard thereto shall not apply to the payment of interest on any deposit with respect to which the payment of interest is required under the terms of a valid and binding contract entered into prior to June 16, 1933, the date the statute became effective, and that in the Board's regulations a similar exception is made in the case of time deposits. Since the provisions of the Act do not become effective with respect to a bank applying for membership until the bank is admitted into the System, it would seem that the principle underlying the exception aforesaid may properly be applicable in a situation such as that under discussion.

In view of the foregoing, the Board will offer no objection to the payment of interest by the _____ State Bank, _____, in accordance with the terms of any contract lawfully entered into in good faith prior to the date of, and not in contemplation of, the admission of such bank to membership in the System, and in force on that date, provided such contract may not be legally terminated or modified by the bank at its option and without liability. It should be understood that no such contract may be renewed or extended unless it be modified to conform to the provisions of Regulation Q, and that the bank will take such action as may be necessary,

as soon as possible consistently with its contractual obligations, to bring all such contracts into conformity with the provisions of such regulations. If the bank pays interest, accruing after October 31, 1933, on any such time deposit at a rate in excess of 3 per cent per annum, compounded semiannually, it must be prepared to show, if requested, that such payment was made in good faith and in strict accordance with the position taken herein.

Very truly yours,

(Signed) Chester Morrill

Chester Morrill,
Secretary.