December 21,
1944.

Mr. Luxford

Mr. Brenner

There is attached a redraft of the Joint Resolution on the Fund and Bank. There are several problems which require further consideration and I have used the alternative device to indicate the differences that will appear in the Joint Resolution depending upon decisions as to (1) the method of paying U.S. subscriptions and (2) the type of administrative control to be exercised over Executive Directors and Governors.

The following changes have been made:

(1) Section 2. The term of office of Governors has been changed to be "at the pleasure of the President for five years". In view of the fact that the President has a constitutional right to remove executive officers from their positions without cause, I believe the best course would be to omit the underscored phrase. Its inclusion might precipitate an unnecessary argument at the hearings.

In connection with the provision as to the time to be devoted by governors to their duties, the word "only" has been deleted.

(2) Section 3. The term of office of Executive Directors has been amended to "at the pleasure of the President for two years."

(3) Section 4(b). The supervisory powers of the Board have been restated. In the earlier draft Governors and Executive Directors were required to act "pursuant to the direction of the Board" and under the new draft they are required to act "consistently with general policies established by the Board."

(4) Section 4(c). In the first draft the Advisory Committee was composed of two representatives each of banking, commercial, industrial, labor and agricultural interests. It now contains "ten persons including representatives of banking, commercial, industrial, labor and agricultural interests."

(5) Section 9. At Mr. Heffelfinger's suggestion I have included the Treasurer of the United States as an eligible depository of the Fund and the Bank.

(6) Section 11. The citation of the Article in the Fund Agreement has been corrected.

(7) Section 4 and Alternate Section 4. If it is decided that the regulation of Executive Directors and Governors should be left to administrative action by Executive Order rather than detailed specification in the Joint Resolution, the old Section 4 would be omitted and the alternate might be added. The alternate requires the President to make reports to Congress, but I am inclined to feel that it is a somewhat superfluous provision. Both the Fund and the Bank are expected to operate in full view of the public. Both are required to issue certain public statements and both have authority to issue additional reports. Their operations will be more successful if they make every effort to keep the member countries informed of their activities. In the case of the Fund, such information will assist in the adoption of appropriate financial policies by the members, and in the case of the Bank, full publicity will go a long way toward discouraging the making of uneconomic loans. Accordingly, it appears to be unwise to require reports to Congress since such a provision infers that the activities of the Fund and Bank would not otherwise be known to Congress.

On the basic question of whether control of the American officials should be included in the legislation or handled by Executive Order, I am inclined to feel that the latter course will be less troublesome. There are a number of provisions in the original Section 4 which might cause considerable difficulty when the matter is being considered by Congress, and these difficulties should be avoided, if possible. The ultimate decision could be left open by presenting the Joint Resolution to Congress without Section 4 with the intention of adding it if a definite desire for such provisions should be exhibited.

(8) Sections 10, 14 and 15. There are a number of possible methods to avoid the necessity of going to Congress a second time for the funds necessary to pay the subscriptions of the United States to the Fund and the Bank. None of them, however, is free from difficulties.

A. We could provide in the Joint Resolution that the necessary funds "are appropriated" instead of providing that their appropriation is authorized. Mr. Speck informs me that this would violate a rule of the House of Representatives but that the rule could be circumvented if the Committee on Rules submits a resolution calling for the consideration of the Joint Resolution by the Committee of the Whole House with all points of order against the bill waived. Such a resolution would have to be agreed to by the House. This procedure seems simple if it is feasible to attempt securing the agreement of the House to a waiver of points of order. Congressmen Spence and Wolcott might be consulted on the possibility of securing agreement to such a resolution.

B. The first alternative to Section 10, coupled with the new Section 14, would take care of the subscriptions by allowing (1) $1,536,500,000 to be paid to the Fund in gold and dollars taken from the Stabilization Fund; (2) $63,500,000 (2%) of the subscription price of U.S. shares of the

Bank to be paid in gold or dollars out of the Stabilization Fund; and (3) the balance of the subscription to the Fund plus any calls by the Bank to be paid in the form of non-interest bearing demand notes issued under the authority of the Second Liberty Bond Act. This would mean that the only funds necessary to pay the subscriptions would be a portion ($1,600,000,000) of those already appropriated for the Stabilization Fund. The funds necessary to redeem the demand notes upon presentation would be obtained from general funds at the time of presentation in accordance with the Second Liberty Bond Act. That Act does not contain any clear appropriation but it has always been administered as if it authorized the redemption of any bonds issued pursuant to its provisions. Neither Mr. Heffelfinger nor Mr. Bartelt have any serious doubts about this procedure with one exception: Mr. Bartelt is somewhat troubled by the fact that payment would be made without benefit of an appropriation, even though other bonds issued under the Second Liberty Bond Act are redeemed without specific appropriation. Normally, the funds acquired when bonds are issued are used to meet expenditures which have been authorized by congressional appropriation. This would not be the case with the Fund and the Bank, and he feels that it might set a dangerous precedent for the spending of funds without appropriations. I believe that this problem can be answered to some extent by the fact that even if an appropriation were made, the net result would be the issuance of notes to the Fund and Bank which would be redeemed at some indefinite time in the future. In other words, an appropriation would have to be in such form that the authorization would not expire in the normal course but would remain available until such time as the funds are needed. Mr. Bartelt was also somewhat troubled about the attitude of the Comptroller General to such a provision, and he felt that there would be some chance of its being held by the Comptroller General to authorize the issuance of notes which could not be redeemed without further action of Congress. This latter seems to me to be a remote possibility but if it is a serious problem, we might discuss it with the General Accounting Office before presenting the legislation to Congress.

C. The second alternative provision for Section 10 would also require part of the subscription to be paid out of the Stabilization Fund and the balance to be paid in cash or in notes as might be agreed between this Government and the Fund and Bank. If paid in cash, the cash would be obtained through the issuance of bonds. The proceeds are authorized by the draft to be used for the purpose of meeting the subscription payments. There are two problems in connection with this draft that are quite troublesome. The language "used as a public-debt transaction" might well be construed as making an appropriation, in which case the whole provision would be subject to a point of order and could be knocked out by a single opponent on the Hill. This question is being examined further in order to determine just exactly what would be the result if a point of order were raised. The second problem is that the language is modeled

on the Reconstruction Finance Corporation Act under which the RFC was authorised to issue notes and the Secretary of the Treasury was authorised to purchase them with the proceeds of any bonds issued in the future under the Second Liberty Bond Act. This was a neat device used in the early 'thirties to avoid making appropriations for RFC expenditures. The avoidance of an appropriation was desired by Congress as well as the Administration in that case and it is possible that no one considered whether the language constituted an appropriation or not. This is one of the points that is being examined further. You will recall, however, that several years later a bill was introduced in Congress to remove from the books of the Treasury approximately $3,000,000,000 of these notes purchased from the RFC which were carried as assets. The fact that the assets had to be stricken from the Treasury's books made the RFC type of financing somewhat unpopular and a duplication in the Fund and Bank legislation of this device might well lead to an unpleasant side issue concerning the advisability of this type of financing. Mr. Bartelt and Mr. Heffelfinger are somewhat inclined to prefer this draft, but I lean more to the draft discussed under (B) above. I believe that the draft under (B) is simpler, more direct and less likely to raise extraneous controversies.

In order to resolve these questions concerning the financing of the agreements, I think it would be well to call together all of the interested people in the fiscal service and try to work out a provision that will accomplish our purposes while satisfying all of them as to the technical questions involved.

(8) I received a memorandum which Mr. Wales wrote to Mr. O'Connell in which he states that statutory implementation of the tax provisions is not necessary. In it he also raises a question as to the taxability of U.S. citizens who work for the Fund and the Bank in foreign countries. He points out that if they are not employees of the United States, they will not be taxed by the United States on their earnings from the Fund and Bank and a provision taxing them would appear to be desirable. This point seems to be well taken but should probably be left for clarification at some time after the enactment of the enabling legislation.

SECRET

Preliminary Draft for Discussion of
U. S. Technical Committee

JOINT RESOLUTION

To authorize the President to sign on behalf of the United States the Articles of Agreement of the International Monetary Fund and the Articles of Agreement of the International Bank for Reconstruction and Development, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized on behalf of the United States (a) to sign the Articles of Agreement of the International Monetary Fund (hereinafter referred to as the Fund), and the Articles of Agreement of the International Bank for Reconstruction and Development (hereinafter referred to as the Bank), both as set forth in the Final Act of the United Nations Monetary and Financial Conference, and (b) to cause to be deposited the instrument specified by Article XX, Section 2(a), of the Articles of Agreement of the Fund and the instrument specified by Article XI, Section 2(a), of the Articles of Agreement of the Bank.

SEC. 2. Appointment of governors. The President, by and with the advice and consent of the Senate, shall appoint a governor of the Fund and an alternate, and a governor of the Bank and an alternate. Governors and alternates shall serve at the pleasure of the President for five years from the date of their respective appointments; ~~shall be eligible for reappointment~~; shall ~~be required to devote to their duties as governors or alternates such time as may, in the opinion of the President,~~ be necessary; and in their capacity of governors or alternates shall receive no compensation from the United States. Governors and their alternates shall be eligible to appointment either as executive directors or as alternates under Section 3 of this Joint Resolution.

SEC. 3. Appointment of executive directors. The President, by and with the advice and consent of the Senate, shall appoint an executive director of the Fund and an executive director of the Bank. Executive directors shall serve at the pleasure of the President for two years from the date of their respective appointment; Provided, That executive directors appointed before January 1, 1946, shall, respectively, be provisional directors under Article XX, Section 3(b), of the Articles of Agreement of the Fund and Article XI, Section 3(b), of the Articles of Agreement of the Bank, and their respective terms of office shall end on dates of the first regular elections of executive directors pursuant to said sections. ~~Executive directors shall devote their full time to their duties as executive directors and shall be eligible for reappointment.~~ Executive directors shall, with the approval of the President, appoint alternates. Executive directors and alternates in their capacity of executive directors or alternates shall receive no compensation from the United States.

SEC. 4. Supervision of governors and executive directors.

(a) There is hereby established the International Financial Organizations Board which shall consist of the Secretary of the Treasury, who shall be Chairman of the Board, the Secretaries of State and Commerce, the Foreign Economic Administrator, and the Chairman of the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission. Each member of the Board may designate from his department or agency an officer who may act for him in all matters relating to the Board.

(b) The governors and executive directors of the Fund and the Bank, and their alternates, appointed by or on behalf of the United States, shall keep the International Financial Organizations Board fully informed of their activities and shall consult with and act consistently with general policies established by the Board.

(c) The International Financial Organizations Board shall be advised by and shall take into consideration suggestions and recommendations of a committee, to be known as the Advisory Committee on International Financial Organizations. The Advisory Committee shall consist of the following, each of whom shall serve for two years:

(1) Two members of the Senate to be appointed by the President from a panel of six Senators chosen by the President of the Senate;

(2) Two members of the House of Representatives to be appointed by the President from a panel of six members of the House of Representatives chosen by the Speaker; and

(3) Ten persons, including representatives of banking, commercial, industrial, labor and agricultural interests to be appointed by the President.

Members of the Advisory Committee shall serve as such without compensation, but shall be entitled to necessary and actual transportation, subsistence and other expenses incidental to the performance of their duties.

SEC. 4 (Alternate) Reports. The President from time to time, but not less frequently than every six months, shall transmit to Congress a report of the activities of the Fund and the Bank.

SEC. 5. Communication of par value. The President, upon the request of the Fund, shall communicate to the Fund the par value of the United States dollar, which shall be defined as 15-5/21 grains of gold nine-tenths fine.

SEC. 6. Certain acts not to be undertaken without authorization. Without specific authorization in advance by joint resolution of Congress, no person shall on behalf of the United States (a) request or consent to any change in the quota of the United States under Article III, Section 2, of the Articles of Agreement of the Fund; (b) ~~propose~~ any change in the

par value of the United States dollar under Article IV, Section 5, of the Articles of Agreement of the Fund, or approve any general change in par values under Section 7 of that Article; (c) vote for an increase of capital stock under Article II, Section 2, of the Articles of Agreement of the Bank, or subscribe to additional shares of stock under Section3 of that Article; (d) accept any amendment under Article XVII of the Articles of Agrēement of the Fund or Article VIII of the Articles of Agreement of the Bank.

SEC. 7. Approval of acts of Fund and Bank. The President, through any agency that he may designate, or otherwise, is hereby authorized to give the approval of the United States whenever, under the Articles of Agreement of the Fund or the Articles of Agreement of the Bank, such approval is required before any act may be done by the Fund or the Bank, respectively, provided that nothing in this section shall affect the provisions of Section 6 of this Joint Resolution.

SEC. 8. Agencies for dealing with Fund and Bank. The Secretary of the Treasury, with the approval of the President, directly or through such agencies as he may designate, is authorized for the account of the fund established by Section 10 of the Gold Reserve Act of 1934, approved January 30, 1934, as amended, or otherwise, to deal with the Fund and the Bank in gold and foreign exchange and such other instruments of credit and securities as he may deem necessary to carry out the purposes of the Articles of Agreement of the Fund and the Articles of Agreement of the Bank.

SEC. 9. Designation of depositories. The Secretary of the Treasury may designate the Treasurer of the United States and one or more Federal Reserve Banks, as fiscal agent of the United States, to be depositories of the Fund and the Bank.

SEC. 10. Issuance of notes. The Secretary of the Treasury is authorized and directed to issue from time to time at par notes on the credit of the United States and to deliver such notes to the Fund and the Bank for the purposes of Article III, Section 5 of the Articles of Agreement of the Fund and Article V, Section 12 of the Articles of Agreement of the Bank. The notes provided for in this section shall be issued under the authority and subject to the provisions of the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include the purposes for which notes are authorized and directed to be issued under this section. Such notes shall bear no interest, shall be non-negotiable and shall be payable on demand of the Fund or the Bank as the case may be.

SEC. 10 (Alternate) Issuance of bonds and notes. The Secretary of the Treasury is authorized and directed (a) to pay the subscription of the United States to the Fund to the extent of $1,213,500,000 and to pay 98 per cent of the purchase price of 31,750 shares of the capital stock of the Bank, and for such purposes the Secretary of the Treasury is authorized to use as a public-debt transaction proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended; and (b) to issue from time to time at par notes on the credit of the United States and to deliver such notes to the Fund and the Bank for the purposes of Article III, Section 5, of the Articles of Agreement of the Fund and Article V, Section 12, of the Articles of Agreement of the Bank.

The purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include the purposes of this Joint Resolution. Notes authorized by this section shall be issued under the authority and subject to the provisions of the Second Liberty Bond Act, as amended, shall bear no interest, shall be non-negotiable and shall be payable on demand of the Fund or the Bank, as the case may be. Payment under this section of the subscription of the United States to the Fund and repayments thereof, and payment under this section of the purchase price of shares of the capital stock of the Bank and repayments thereof, shall be treated as public-debt transactions of the United States.

SEC. 11. Obtaining and furnishing information. (a) The President is hereby authorized, through any agency that he may designate, and under such rules and regulations as he may prescribe, to obtain from persons subject to the jurisdiction of the United States and to furnish to the Fund data requested by the Fund under Article VIII, Section 5 of the Articles of Agreement of the Fund. (b) Whoever wilfully violates any of the provisions of any rule or regulation issued under authority of this section shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this Section the term "person" means an individual, partnership, association, or corporation.

SEC. 12. Removal of prohibition on dealings in securities. Section 1 of the Act of April 13, 1934 is amended by the addition of the following sentence:

"The provisions of this Act shall not apply to the sale or purchase of bonds, securities or other obligations issued by any foreign government, or any organization or association acting for or on behalf of a foreign government, while it is a member of the International Monetary Fund and the International Bank for Reconstruction and Development."

SEC. 13. Jurisdiction of suits. Any suit at law or in equity, brought within the United States, its territories and possessions, to which either the Fund or the Bank shall be a party, shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such suits. The Fund or the Bank, as the case may be, when a defendant in any such suit, may at any time before the trial thereof remove such suit into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

SEC. 14. Amendment of the Gold Reserve Act. Section 10 of the Gold Reserve Act of 1934, approved January 30, 1934, as amended, is amended by deleting the third sentence of subsection (b).