

Legal opinion from FRB St. Louis

The question has arisen whether the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation may retain that position and at the same time be appointed and serve as a member of the Board of Governors of the Federal Reserve System.

This question must be answered in the negative.

In referring to members of the Board of Governors of the Federal Reserve System, section 10 of the Federal Reserve Act provides that, "The members of the Board shall devote their entire time to the business of the Board ***".

Inasmuch as the entire management of the Federal Deposit Insurance Corporation is vested by law in its Board of Directors, it is obvious that the Chairman of that Board of Directors could not perform his lawful duties as such and also devote his "entire time" to the business of the Board of Governors of the Federal Reserve System.

Moreover, the Banking Act of 1935 amended the Federal Reserve Act so as to remove from membership on the Board of Governors of the Federal Reserve System the Secretary of the Treasury and the Comptroller of the Currency, who had been ex officio members of the Board since the establishment of the System, and provided that hereafter the Board shall consist of seven members appointed for that purpose and devoting their entire time to the business of the Board. In presenting to the Senate the Conference Report on the Banking Act of 1935, Senator Glass gave as one of the reasons for this change the fact that the Secretary of the Treasury and the Comptroller of the Currency rarely attended meetings of the Board.

It is natural that the Chairman of the Federal Deposit Insurance Corporation would devote most of his time to his duties as such and would devote comparatively little time to his duties as a member of the Board of Governors of the Federal Reserve System; and such an arrangement would be contrary to the spirit and purpose of the amendment removing the ex officio members from the Board, in addition to violating the letter of the requirement that the members of the Board shall devote their entire time to the business of the Board.

Subsection (j) of section 12B of the Federal Reserve Act provides that the Federal Deposit Insurance Corporation shall have power:

"Fifth. To appoint by its board of directors such officers and employees as are not otherwise provided for in this section, to define their duties, fix their compensation,***. Nothing in this or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof."

However, this applies only to officers and employees who are appointed and have their compensation fixed by the Board of Directors of the Corporation and does not apply to the Chairman or any other member of such Board of Directors, who is appointed by the President and has his compensation fixed by