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The Federal Reserve Act provides that no member of the Board shall hold stock in any bank, banking institution or trust company (Sec. 10); or in any Edge Act corporation or corporation engaged in similar business organized under the laws of any State (Sec. 25(a)).

It also provides that no member of the Board shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve Bank (Sec. 10); or shall be an officer or director of any Edge Act corporation or of any corporation engaged in similar business organized under the laws of any State (Sec. 25(a)); and it requires that members of the Board "shall devote their entire time to the business of the Board." (Sec. 10)

The foregoing prohibitions resolve themselves into two types, one dealing with what a member of the Board may own and the other dealing with what he may do. As to the first, any claim of disqualification by reason of alleged ownership of stock in banks was fully covered and apparently answered to the satisfaction of the Senate at the time of your confirmation by that body. It remains to determine the extent to which the prohibitions circumscribe the activities of members of the Board.

THE ACT PROHIBITS A MEMBER FROM HOLDING ONLY CERTAIN SPECIFIED OTHER OFFICES.

Congress has expressly provided that no member of the Board shall be an officer or director of certain particular institutions and it is a well settled general rule of statutory construction that the express mention of particular things, persons, or circumstances implies the exclusion of all others not mentioned.

For instance, in 1929 the opinion of the Attorney General was requested with respect to Secretary Mellon's qualification to hold the office of Secretary of the Treasury by reason of the fact that he owned stock in business corporations. The Attorney General concluded that Secretary Mellon was not disqualified by reason of such stock ownership stating, among other things, that:

> "Congress has not found occasion to amend the Act we are now considering by inserting any provision prohibiting stock ownership. In 1913, however, in enacting the Federal Reserve Act, it provided specifically that no member of the Federal Reserve Board should hold stock in any bank, banking institution, or

> trust company. (38 Stat. 261.) When, however, it enacted the Federal Farm Loan Act (in 1916; 39 Stat. 360) it provided that no member of the Federal Farm Loan Board should be an officer or director of any other institution, association, or partnership engaged in banking or in the business of making land-mortgage loans or selling land mortgages, but did not mention stock ownership. This may not be important, but it shows that Congress has had in mind the question of stock ownership as affecting a man's eligibility to hold certain offices, and, when it has deemed such ownership improper, has prohibited it."

As a corollary, it may be stated that Congress likewise has had in mind the question of other relationships as affecting a man's eligibility to be a member of the Board, and, when it has deemed such relationships improper, has prohibited them.

It would seem to follow, therefore, that a member of the Board may occupy any number of other positions not within the specified prohibitions, so long as he devotes his "entire time to the business of the Board" within the meaning of the Act.

THE REQUIREMENT THAT MEMBERS OF THE BOARD SHALL DEVOTE THEIR ENTIRE TIME TO THE BUSINESS OF THE BOARD SHOULD BE CONSTRUED REASONABLY.

The original House Bill providing for a Federal Reserve System called for three ex officio and four appointive members of the Board and, until the Banking Act of 1935, there were two ex officio members. In the original Committee report it was said:

> "The number of members of this Board has been fixed at seven, after careful consideration of other possible memberships, and it has been determined that the Board as thus made up should consist of two distinct elements, the one including three regular officers of the National Government, the other four specially appointed officers whose duty it should be to devote their whole time to the management of the affairs of the Reserve banks and the performance of the duties assigned them under the present Bill."

Other than the foregoing there is nothing in the legislative history that would definitely indicate the reasons for the

instant requirement. It is obvious, however, that its purpose was to prevent membership upon the Board from being casual and incidental and to make the Board's business the primary responsibility of its members. It no doubt requires a member of the Board to devote his entire time and ability to the Board's business during such hours as may be said to be customary for men to devote in similar positions. It may even be said to require a member to refrain at all other times from such other activities as would lessen the value of his services or trespass upon time belonging to the Board.

On the other hand, it could hardly be argued seriously that it governs the activities of a Board member during the complete twenty-four hours of the day.

Statutes should be interpreted reasonably and while so far as is known, no similar statutory provision has been before the courts, it is reasonable to assume that in such event, it would be construed in the same manner as would a similar provision in a private contract between employer and employee.

In one such case, where the President of a corporation had agreed "to give his full time to the company's services", the court said:

> "Taking up first defendant's defensive contention that plaintiff has failed to perform his contract of service, by reason of the devotion of some portion of his time and attention to other affairs - especially the care of his mother's property and investments, but also the performance of his duties as vice president of a bank, and the looking after the finances of the sad-iron business -- we cannot feel justified in disturbing the finding of the court that no substantial breach, to the injury of the defendant, occurred. Of course, an agreement "to give his full time to the company's service" is, in its nature, ambiguous. It certainly does not require 24 hours a day of an employe's time, nor, indeed, every moment of his waking hours. Mobile, etc., R. Co. v. Owen, 121 Ala. 505, 25 South. 612. On the other hand, it undoubtedly does require that he shall make that employment his business, to the exclusion of the conduct of another business such as usually calls for the substantial part of a manager's time or attention. We cannot think, however, that the business man who undertakes to make the affairs of a corporation or of a firm his

business, and to give to it his full time, absolutely excludes himself from everything else. Usually such men have some private affairs or interests of their own, which they are not expected to entirely abandon. They may seek and make investments of their private funds, so that they do not trespass substantially upon the ordinary business hours; and, in analogy, it certainly is recognized as customary that they may give the benefit of their judgment and supervision to the care of moneys of relatives not able to protect their own interests." Johnson v. Stoughton Wagon Co., 95 N.W., 394.

It is doubtful if any precise rule could be laid down which would definitely include all permissible activities and exclude all prohibited ones. About all that can be said is that the question in each case is one of fact to be determined by application of the general principles underlying the requirement to the facts of the particular case.

ACTIVITIES OF FORMER MEMBERS OF THE BOARD WOULD INDICATE THAT IN PRACTICE THE REQUIREMENT HAS BEEN SO CONSTRUED.

So far as is known, no legal opinion has ever been requested and none has been given with respect to the precise meaning of the requirement that members of the Board should devote their entire time to the business of the Board. The practices of former members of the Board, however, would indicate that the construction put upon the requirement in this memorandum has been the accepted construction through the entire existence of the Board.

For instance, since the establishment of the Board there have been from time to time one or more Board members who, while devoting their entire time to the business of the Board within the meaning herein given that requirement, have had extensive personal interests and investments to which they have given personal attention; who have acted as trustees in private trusts created for the benefit of private individuals; who have acted as trustees of public trusts or foundations such as the Carnegie Endowment International Peace; who have represented a particular State upon the national committee of a political party; who have had a large interest and an official position in a mercantile establishment; who have held themselves out as being connected with and half owner of a newspaper;

and who have operated farms and ranches.

Indeed, at one time there was a persistent and determined effort by a substantial element in Congress to require that one member of the Board should be a person actively engaged in farming. This effort resulted in an amendment to the Act with a tacit understanding that a "dirt" farmer would be appointed and the subsequent appointee was appointed partly upon the basis that he was actually engaged in farming. Furthermore, at the time of this amendment the Governor of the Board in opposing the amendment before the Committee on Banking and Currency of the Senate stated that as a matter of fact two members of the Federal Reserve Board were then engaged in agriculture, one having a small farm in Massachusetts and the other having a ranch in California.

It would appear, therefore, that however narrow a construction conceivably might be put upon this provision of law to do so would be unreasonable as a matter of statutory construction and inconsistent with the view heretofore taken of it.