

FEDERAL RESERVE BOARD

WASHINGTON

ADDRESS OFFICIAL CORRESPONDENCE TO
THE FEDERAL RESERVE BOARD

X-4373

July 2, 1925.

SUBJECT: Eligibility of Officer of Insurance Company for Election
as Class B Director.

Dear Sir:

The Federal Reserve Board has recently been requested to rule on the question whether a person whose sole occupation is that of an officer of a life insurance company is eligible for election as a Class B director of a Federal reserve bank. After a careful consideration of this question, the Board reached the conclusion that such a person is not eligible for election as a Class B director; because (a) he is not actively engaged in "commerce, agriculture, or some other industrial pursuit" within the meaning of that language as used in the Federal Reserve Act and (b) it is contrary to the policy of Congress for a person so closely identified with the financial interests to be permitted to serve as a Class B director of a Federal reserve bank.

The decided cases show clearly that the business of insurance companies is not regarded as "commerce" by the courts (Hooper v. California, 155 U. S. 648); and obviously it is not "agriculture". A person whose sole occupation is that of being an officer of an insurance company, therefore, is not engaged in such a business as will render him eligible for election as a Class B director unless it can be said that the insurance business comes within the general term "some other industrial pursuit".

It appears from the dictionary definitions that the terms "industry" and "industrial" are susceptible of two meanings: (1) a broad meaning which includes substantially all forms of business enterprises, and (2) a more restricted meaning which applies only to manufacturing, mining and similar enterprises which have for their object the production of material tangible values. The insurance business probably would come within the term "other industrial pursuit" if that term is to be construed in its broadest possible sense; but it would not come within the meaning of that term if the word "industrial" is to be given its more limited meaning.

It is necessary, therefore, to go beyond the bare language of the Act and endeavor to ascertain from every possible source the real intention of Congress. It is a fundamental rule of statutory construction that, where the language of a statute is susceptible of more than one interpretation, the intended meaning must be sought by the aid of all pertinent and admissible considerations.

Section 4 of the Federal Reserve Act provides that a Class B director shall be actively engaged in "commerce, agriculture, or some other industrial pursuit" and also provides that no Class B director "shall be an officer, director or employee of any bank". It is clear, therefore, that Congress intended that Class B directors should be business men, and should not be bankers or closely identified with the banking business.

It may be said that the three classes of directors of Federal reserve banks are representative of:

- (A) The banks (or the principal lending class of the public);
- (B) Business (or the principal borrowing class of the public); and
- (C) The Government or the general public.

Is the insurance business one of the classes of business which Congress had in mind when it used the language "commerce, agriculture or some other industrial pursuit"? This question may be clarified somewhat by asking another question: What is the fundamental distinction, from the standpoint of the Federal Reserve Act, between business men who are represented on the boards of directors of Federal reserve banks by Class B directors and bankers who are represented by Class A directors? The answer would seem to be that bankers are lenders whereas business men are borrowers.

Considering the insurance business in this light, it seems clear that it must fall on the same side of the line as banking, because insurance companies (as distinguished from insurance agents and brokers) do not as a rule borrow money but have large funds for investment purposes and constitute an important factor on the lending side of the money market. This phase of their business is very closely analogous to that of investment banking.

The Board feels, therefore, that it is contrary to the general policy of Congress for officers of insurance companies to serve as Class B directors, not only because they are not borrowers and, therefore, not the class of business men which Congress presumably had in mind, but also because they are lenders and are closely analogous to bankers who are expressly forbidden to be Class B directors.

The language of the Act also indicates that it was the intention of Congress that Class B directors should represent not only the borrowing public but that particular class of the borrowing public whose borrowings give rise to paper which is eligible to rediscount. They are expressly required to be actively engaged in "commerce, agriculture, or some other industrial pursuit," and this language is very similar to that used in the principal definition of eligible paper:

"Notes, drafts, and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, or the proceeds of which have been used, or are to be used for such purposes." (Section 13)

It is probable that this close similarity in the two sections was not accidental, but on the contrary was the result of intention and design. Congress probably intended that the board of directors of a Federal reserve bank should include in its membership men who are familiar with the kinds of business from which paper eligible for rediscount with Federal reserve banks would arise. The policy of such an intention is obvious.

Under the established construction of the law regarding the eligibility of notes, drafts and bills for rediscount, it is hardly possible that the business of insurance companies (as distinguished from that of insurance agents or brokers) could give rise to paper eligible for rediscount at Federal reserve banks. It seems reasonable to conclude, therefore, that Congress did not have that business in mind when it used the phrase "some other industrial pursuit" in Section 4, but intended to use that language in the more restricted

sense which includes only manufacturing, mining and similar enterprises which have for their object the production of material tangible values.

For these reasons, the Board reached the conclusion that a person whose sole occupation is that of officer of an insurance company is not eligible for election as a Class B director of a Federal reserve bank. This does not mean that all officers of insurance companies are ineligible for election as directors of Federal reserve banks; because many of them are bank directors and, therefore, are eligible for election as Class A directors, which would seem to be the class to which they properly belong.

Very truly yours,

D. R. Crissinger,
Governor.

TO ALL FEDERAL RESERVE AGENTS EXCEPT BOSTON.