

INTERPRETATION OF BANKING ACT OF 1933.

(Copies to be Sent to all Federal Reserve Banks)

November 10, 1933.

Mr. _____, President,
_____ National Bank,
_____.

Dear Sir:

Further consideration has been given to the inquiry contained in your letter of September 9, 1933, addressed to Mr. _____, as to whether Section 8A of the Clayton Antitrust Act, as amended by Section 33 of the Banking Act of 1933, will make it unlawful, after January 1, 1934, for certain directors of the _____ National Bank to serve at the same time as directors, officers, or employees of local manufacturing corporations which occasionally make loans to their own employees secured by the capital stock of the corporation.

Section 8A applies to any corporation (other than a mutual savings bank), "which shall make loans secured by stock or bond collateral to any individual, association, partnership, or corporation other than its own subsidiaries." The wording of the provision would seem to leave no room for a construction which would make it inapplicable to a corporation making loans to its own employees, secured by its own stock, either for the purpose of enabling such employees to become stockholders of the corporation or for any other purpose.

Under the provisions of Section 8 of the Clayton Antitrust Act, the Federal Reserve Board is authorized, under certain circumstances, to issue permits covering services of the kinds referred to in Sections 8 and 8A. However, the provision of Section 8 which authorizes the Board to issue permits refers only to banking institutions of certain classes and the Board is, accordingly, without authority to issue permits involving relationships between national banks and non-banking organizations which come within the provisions of Section 8A.

You refer in your letter to the difficulties arising out of a statute forbidding the gentlemen in question to serve as directors of your bank, but as you are of course aware, the Federal Reserve Board is not at liberty to construe a statute in a way which would conflict with the plain meaning of the words used by Congress.

It should be noted, however, that Section 8A refers to any corporation which "shall make" loans of the kind described. There is inclosed a mimeographed copy of the Board's regulation dealing with interlocking directorates and other relationships under the Clayton Antitrust Act, and your particular attention is directed to paragraph (3) of Section IV(b). Since the statute does not refer to the business which may have been transacted by a corporation in the past, but refers only to the business currently and presently transacted, the prohibitions of Section 8A are inapplicable to the service of a direc-

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tor of a national bank as a director of a manufacturing corporation which in the past has made loans secured by stock or bond collateral, if such corporation shall make no further loans of that character after January 1, 1934, the effective date of Section 8A.

Very truly yours,

(Signed) Chester Morrill,
Chester Morrill,
Secretary.

Inclosure.