1525

SHOULD THE COMPOSITION OF THE

BOARD OF GOVERNORS BE CHANGED?

Howard H. Hackley
May 1970

CONTENTS

SHOULD THE COMPOSITION OF THE BOARD OF GOVERNORS BE CHANGED?

INTRODUCTION

Under present provisions of the Federal Reserve Act that have been in force since February 1, 1936, the Board of Governors of the Federal Reserve System (often referred to as the Federal Reserve Board) is required to be "composed" of seven members appointed by the President, by and with the consent of the Senate, for terms of 14 years.1/ The composition of the Board is affected not only by the number of its members and the length of their terms but also by a requirement of the statute2/ that not more than one of the members of the Board shall be selected from any one of the 12 Federal Reserve districts. In addition, the Board's composition is theoretically, though not practically, affected by a requirement that the President, in selecting Board members, shall "have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country."3/ Finally, the Board's composition could be affected by a provision under which the President is required to designate one member of the Board as

1/ F. R. Act, § 10, ¶ 1 (12 U.S.C. § 241).

2/ Ibid.

3/ Ibid.

chairman and another as vice chairman to serve as such for terms of four years.[4/]

From time to time since 1936, various proposals have been advanced for changes in the Board's composition. Some of them could materially affect the manner in which the Board operates. Others could impair, and are frankly intended to impair, the "independence" of the Federal Reserve within the Government. Specifically, these proposals have given rise to the following questions:

1. Should the number of Board members be increased or decreased?

2. Should the length of the terms of Board members be reduced?

3. Should the terms of the chairman and the vice chairman, as such, be made coterminous with the term of the President?

4. Should the Board include the Secretary of the Treasury or other Government officials as ex officio members?

5. Should the prohibition against the appointment of more than one member from any Federal Reserve district be repealed?

6. Should the provision requiring the President, in selecting Board members, to have due regard to representation of special interests be eliminated or modified or replaced

---

4/ F. R. Act, § 10, ¶ 2 (12 U.S.C. § 242). For example, a member designated as chairman (or as vice chairman) might, as hereafter indicated, be inclined to resign from the Board instead of serving his full term as a member if he should not be redesignated as chairman at the end of four years.

by some other provision as to the qualifications of Board members?

These questions are the subject of the present paper.

The purpose of this paper is to review in some detail the legislative history of the relevant provisions of the original Federal Reserve Act and of subsequent amendments to the Act and then to set forth the arguments that have been made both for and against changes in the present composition of the Board. While the paper does not purport to be exhaustive, it attempts to be comprehensive even at the risk of being unduly lengthy.

No effort is made to suggest definite answers to all of the questions presented. The aim is expository rather than argumentative. However, it is hoped that the paper may provide a basis upon which judgments might be made as to the desirability of particular changes in the Board's composition if proposals for such changes should again be advanced in the future - as undoubtedly will be the case.

THE ORIGINAL ACT

Number and terms of Board members

The original Federal Reserve Act established a Federal Reserve Board of seven members consisting of the Secretary of the Treasury and the Comptroller of the Currency, as *ex officio* members, and five members to be appointed by the President for staggered 10-year terms. This was a compromise resulting from a wide variety of proposals with respect to the number of Board members, the length of their terms, and the inclusion of *ex officio* members.

The bill reported by the House Banking and Currency Committee (the "Glass bill") provided for a Board of seven members, including three *ex officio* members, the Secretary of the Treasury, the Secretary of Agriculture, and the Comptroller of the Currency, and four appointive members to serve for eight-year terms.[5/] By way of explanation, the House Committee Report stated:[6/]

> ". . . 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.
>
> ". . . It is therefore important to provide for the proper choice of the four officers thus called for. The committee has thought it wise that they should be assigned a tolerably long tenure, and has, accordingly, fixed that tenure at eight years, providing, however, that the first appointees shall be so distributed with respect to tenure of office as to bring about a rotation, so that all members of the board shall not change at any one time. . . ."

The reported bill met with opposition on the floor of the House, principally because it would have permitted the President immediately to select a majority of the Board - the three *ex officio* members and one of the four appointive members.[7/] However, floor amendments to provide for only one *ex officio* member, the Secretary of the Treasury,

---

5/ H.R. 7837, 63d Cong., 1st Sess., § 11.

6/ *Report of House Banking and Currency Committee on H.R. 7837*, 63d Cong., 1st Sess. (Sept. 9, 1913), p. 43. This Report is hereafter cited as *House Report on Original Act*.

7/ See, e.g., 50 CONG. REC. 4869, 4871.

and six others to be appointed for 12-year terms,[8] or for a seven-man Board with no ex officio members (the present arrangement),[9] were defeated.

In the Senate, the Banking and Currency Committee divided into two equal sections of six members each - one led by Senator Owen, the chairman, and the other by Senator Hitchcock. Each section reported a separate bill. Both sections, however, attempted to make it impossible for an incoming President to appoint a majority of the Board during his first two years in office. The Owen bill provided for a seven-man Board consisting of the Secretary of the Treasury and six other members to be appointed by the President for six-year terms,[10] thus allowing a President to select only three of the seven members during his first two years in office. The Hitchcock bill provided for a nine-man Board - the Secretary of the Treasury and eight appointive members with eight-year terms,[11] thus allowing the President to select only three of the nine members during his first two years in office.

Senator Hitchcock argued for a larger number of appointive members and for longer terms in order to remove the Board from political control:[12]

8/ Id., at 5040.

9/ Ibid.

10/ See Report of Senate Banking and Currency Committee, Rep. No. 133, Part 2, 63d Cong., 1st Sess. (Nov. 22, 1913), p. 45. Part 2 of this Report is hereafter cited as Owen Report on Original Act.

11/ Report of Senate Banking and Currency Committee, Rep. No. 133, Part 3, 63d Cong., 1st Sess. (Nov. 22, 1913), p. 12. Part 3 of this Report is hereafter cited as Hitchcock Report on Original Act.

12/ 51 CONG. REC. 964.

"Another objection to the House bill, which was concurred in by both branches of the [Senate] committee, was that the House bill did not sufficiently remove from the realm of politics the membership of this board, in providing that only four of the officers should be appointed and that their terms should be short, and uniting them with three Cabinet officers appointed by the President. It was thought that the Federal board came too immediately under the control of the President for the time being, and that the welfare of the country, the welfare of the system, and the permanency of the banking system required that the board should not only be larger, but that it should be further removed from immediate political control."

Senator Hitchcock's specific amendment to carry out the proposal of his section of the Senate Committee was defeated on the floor by a close vote of 37 to 32.[13/] Thus, the Senate finally passed the Owen version providing for a seven-man Board with six-year terms for the six appointive members.

The Conference Committee reached a compromise between the House and Senate bills. It followed both bills in providing for a seven-man Board; but it included two <u>ex officio</u> members, the Secretary of the Treasury and the Comptroller of the Currency, and established 10-year terms for the five appointive members.[14/] This meant that the President could select only three of the seven members during his first two years in office. As stated by Representative Temple when the Conference Report was considered in the House, this "change in the bill practically takes the Federal reserve system out of politics."[15/]

13/ <u>Id</u>., at 965.

14/ <u>Report of Committee of Conference on H.R. 7837</u>, 63d Cong., 2d Sess., p. 13.

15/ 51 CONG. REC. 1459.

Ex officio members

Irrespective of the number and length of terms of members of the Board, the framers of the original Act apparently felt that the Board should include one or more ex officio members, i.e., other officials of the Federal Government. It is worthwhile to consider why they had this feeling - and why at least some members of Congress, even in 1913, were opposed to the idea.

As has been noted, the House Committee proposed the inclusion of three ex officio members on the Federal Reserve Board. In explaining its reasons for doing so, the Committee's Report stated:[16/]

> ". . . The three officers chosen from the existing staff of the Federal Government are to be the Secretary of the Treasury, the Secretary of Agriculture, and the Comptroller of the Currency. It is evident that the Treasury Department not only is, but will continue to be, a fundamentally important factor in the financial organization of the country, while the Comptroller of the Currency, in charge as he is of the national banking system, will be a necessary adjunct in the management of the reserve bank system proposed in this bill. The causes for the selection of the two officers thus named are therefore self-evident. The Secretary of Agriculture has been added because of the belief that conditions in the producing regions of the country would deserve special consideration at the hands of the Federal reserve board, the Secretary of Agriculture being the natural representative of the interests of these sections, while it is further thought that the presence of a member on this board whose direct concerns are not primarily those of technical business or banking will be beneficial and will give the deliberations of the board a broader character than they would otherwise possess."

On the floor of the House, there was opposition to the inclusion of any ex officio members, although most of the opponents conceded that perhaps at least the Secretary of the Treasury should

16/ House Report on Original Act, p. 43.

be a member of the Board because "he is the head of our financial system."[17/]

One of the arguments advanced against *ex officio* members was that they already had their hands full in discharging their responsibilities as heads of existing Executive departments or agencies and could not devote their energies to the work of the Federal Reserve Board. For example, with respect to the proposed membership of the Secretary of Agriculture and the Comptroller of the Currency, Representative Hayes stated:[18/]

> "This reserve board are [sic] given most important, complex, and responsible duties to perform. In order to properly perform these duties the members should devote all their time to the work. But the Secretary of Agriculture has his hands full in managing one of the largest and most important executive departments of the Government. He should devote all his time and energies to his department. It seems plain that he could not be Secretary of Agriculture and at the same time a satisfactory member of the reserve board. The same is true of the Comptroller of the Currency, who is charged with the supervision of the whole national-banking system and who does have and should have his time fully occupied with those duties."

Other arguments against *ex officio* members were that they would not be able to become sufficiently familiar with the details of the operations of the Federal Reserve or, in the alternative, they might regard their jobs as members of the Federal Reserve Board more important than their responsibilities as heads of other agencies. Again, it was Representative Hayes who best set forth these arguments:[19/]

17/ Statement by Representative Hayes, 50 CONG. REC. 4658.

18/ *Ibid.*

19/ *Ibid.*

"It follows . . . that neither the Secretary of Agriculture nor the Comptroller of the Currency could become thoroughly familiar at first hand with their duties as members of the board and would of necessity be unfamiliar with much of the detail of matters with which the board would have to deal. It seems likely that these two would seldom be active on the board except when questions relating to the policy of the administration in power were under consideration or matters more or less political were involved.

"If this provision of the bill remains the President, in appointing a Secretary of Agriculture, would at least be obliged to consider his qualifications both as a member of this board and as the head of the Agricultural Department. Very few if any men would be found to possess the essential qualifications for both these positions. It might even be that his duties as member of the Federal reserve board would be regarded as more important than those pertaining to the position of Secretary of Agriculture, and so a man would be selected primarily not because he was a great agriculturist, but because he was a banker or a business man of large experience."

However, the most frequently made argument against *ex officio* members was that they would give the President too much control of the Board and make the Board in effect a "political football". Thus, it was contended in the House that the three *ex officio* members, together with one of the appointive members selected by the President, could absolutely control the actions of the Board and that, even if this should not actually occur, the fact that it *could* occur would cause enemies of the existing administration to charge that the Board was being used for political purposes.[20/]

In an apparent effort to make the Board nonpartisan, the House bill contained a provision that not more than two of the four appointive members should be of the same political party.[21/] However,

---

20/ *Ibid.*

21/ *House Report on Original Act*, p. 118.

this provision was seized upon by opponents of the bill as support for their argument that the Board would be politically controlled. Thus, Representative Mondell pointed out that the three *ex officio* members would certainly be of the President's party and that two of the appointive members likewise would be of his party, thus making five of the seven members of the Board representatives of the political party in power.[22/]

Other provisions of the Glass bill provided that the Secretary of the Treasury should be the *ex officio* chairman of the Board and that one of the appointive members should be the "manager" of the Board and its "active executive officer", but subject to the supervision of the Secretary of the Treasury.[23/] Representative Mondell argued that these provisions, together with the fact that the Comptroller of the Currency, another *ex officio* member, was an officer of the Treasury Department subordinate to the Secretary of the Treasury, would in effect mean that the Secretary would be "the Poo-bah of the Glass system" and would come "very near being the whole show."[24/]

Despite the strong opposition to the inclusion of *ex officio* members on the Board, the Glass forces prevailed in the House. An amendment offered by Representative Manahan on the House floor to eliminate the Secretary of Agriculture and the Comptroller of the

22/ 50 CONG. REC. 4690. Similar arguments were made by Representative Guernsey, *id.*, at 4794.

23/ *House Report on Original Act*, p. 118.

24/ 50 CONG. REC. 4690. See also statement by Representative Burke, *id.*, at 4853.

Currency as ex officio members was defeated;[25] and another amendment proposed by Representative Mann - more than 20 years ahead of his time - to eliminate all ex officio members was likewise defeated.[26]

In the Senate, opposition to ex officio membership was more successful than in the House. Both the Owen and Hitchcock bills left the Secretary of Agriculture and the Comptroller of the Currency off the Board and provided only for the ex officio membership of the Secretary of the Treasury. The reasons for this action were explained by Senator Weeks as follows:[27]

> "I will say to the Senator from Ohio that there is every reason why an executive officer of the Government should not occupy a position on an important board in the Government service. The Secretary of the Treasury, the Secretary of Agriculture, and the Comptroller of the Currency are busy men in administering the affairs of their departments. That is especially true of the Secretary of Agriculture, who, I think, personally, is probably a well-equipped man for service on this board, but there is no position in the Government requiring more continuous and active service than is required in his position. Therefore it did not seem wise to put men who are so occupied in places that will require, or should require, the entire time of the incumbent. The same consideration applies to the Comptroller of the Currency. But we did leave the Secretary of the Treasury on the board, because it is presumed that some of the duties which the Secretary has been performing will be least conflicting with the duties of the reserve board. I think his former duties may be somewhat lessened. He has been in touch with very much of the work the reserve board will have to do in the future, and as a representative of the administration and of the Government, it seemed reasonable that he should be continued as a member of the board. However, I think there is no valid reason why the Secretary of Agriculture or the Comptroller of the Currency should be placed on the board."

25/ 50 CONG. REC. 5018.

26/ Id., at 5040.

27/ 51 CONG. REC. 852.

Some of the Senators would have preferred to leave even the Secretary of the Treasury off the Board. Thus, Senator Bristow stated: 28/

"I do not want the RECORD to show, or to have it inferred from the RECORD I should say, that all members of the Committee on Banking and Currency believed that the Secretary of the Treasury should be on this board. While the bill which I advocated so provides, if the majority of the committee had felt as I do and as I did, he would not have been there, because I do not think the Secretary of the Treasury or any other Federal official ought to be a member of this Federal board."

Senator Burton also cited reasons for which the Secretary of the Treasury should not be a member of the Board, including the undue influence that might be exercised by the Secretary upon the operations of the Board and the fact that his duties as Secretary were sufficient to require all his time and energy. In this connection, Senator Burton said: 29/

"Mr. President, it is my desire to devote the present time to the elucidation of certain points, and I do not wish to indulge in any considerable expression of opinion until those points have been made clear. However, I can say in passing that I quite agree with the Senator from Kansas that it is undesirable to have any executive officer with the position and with the onerous duties of Secretary of the Treasury on a board of this kind. There might be no collision between his responsibilities and his high position in the Cabinet were he on this reserve board, but there are other reasons that I might suggest why he should not be, such as the undue degree of importance which would attach to his suggestions as a member of that board. The weight of his opinions and suggestions would be strengthened and increased by the great authority vested in him in this bill. No member of the Federal reserve board would feel like opposing him, because in a great many important particulars he has authority to either overrule the board or else shape their action.

28/ *Id.*, at 853.

29/ *Ibid.*

"There is another point which ought to be mentioned. The work of that great department, one of the most difficult in the Government to administer, is sufficient to take all of one man's time and energy. He can not at the same time be both a good Secretary of the Treasury and a good member of the Federal reserve board. Performing the separate duties of one of those offices, he might be either an excellent Secretary of the Treasury or an excellent member of the Federal reserve board."

In the end, the bill that passed the Senate provided for only one *ex officio* member, the Secretary of the Treasury; but the Conference Committee compromised the issue by including the Comptroller of the Currency as well.

Political party affiliations

As has been indicated, one of the chief concerns of Congress during consideration of the original Act was that the Federal Reserve Board should not be subject to political control. The House bill contained a specific provision that of the four members to be appointed by the President not more than two should be of the same political party.[30/] In explaining this provision, the House Committee Report stated:[31/]

". . . it has been deemed wise to provide that not more than two of these four members shall belong to the same political party. It can not be too emphatically stated that the committee regards the Federal reserve board as a distinctly nonpartisan organization whose functions are to be wholly divorced from politics. In order, however, to guard absolutely against any suspicion of political bias or one-sidedness, it has been deemed expedient to provide in the law against a preponderance of members of one party."

Despite the commendable purpose of this provision, it was apparently regarded by many members of Congress as suggesting that the Board

30/ House Report on Original Act, p. 118.

31/ *Id.*, at 43.

would be bipartisan rather than nonpartisan. In any event, the provision did not appear in any version of the bill considered by the Senate and was not included in the Act as finally adopted. In explaining the omission of the provision from the Conference bill, Representative Temple stated:[32/]

> ". . . the amended bill makes no provision for appointing men or excluding men because they belong to this or that political party. The members of the Federal reserve board ought to be appointed, and under this bill may be appointed, with as little thought of party control as are the justices of the Supreme Court. . . ."

<u>Geographic representation</u>

The House bill included a provision that not more than one of the four appointive members should be selected from any one Federal Reserve district.[33/] It also provided that, in selecting the appointive members, the President should have "due regard to a fair representation of different geographical divisions of the country."[34/] Representative Murray, who took credit for suggesting that not more than one member should come from any one district, emphasized the different interests of different sections of the country:[35/]

> "It is admitted by Mr. Glass and the proponents of this bill that it will all depend on this board of seven, and I tell you that they must not only be honest and competent, but they must represent every section of this country. This board, if selected east of Washington, would know little and care less about the agricultural and other interests in the

32/ 51 CONG. REC. 1458, 1459.

33/ <u>House Report on Original Act</u>, p. 118.

34/ <u>Ibid</u>.

35/ 50 CONG. REC. 5021.

Western and Southern States. Our commercial paper is entirely different. In Oklahoma about the only prime commercial paper is that based upon cattle and agricultural products, particularly cotton. Therefore I introduced an amendment in the caucus providing that not more than one of these four appointed by the President shall be selected from the same regional reserve district. That amendment was adopted. . . ."

Despite the mandatory nature of the provision prohibiting the appointment of more than one member from the same district, the House Report indicated that the President would not be expected to give "slavish recognition" to particular geographic areas. In this connection, the Report stated: 36/

"The provision that the President in making his selections shall so far as possible select them in order to represent the different geographical regions of the country has been inserted in very general language in order that, while it might not be minutely mandatory, it should be the expressed wish of the Congress that no undue preponderance should be allowed to any one portion of the Nation at the expense of other portions. The provision, however, does not bind the President to any slavish recognition of given geographical sections."

The Owen bill did not prohibit the selection of more than one member from any Federal Reserve district; it provided only that "due regard" should be given to the representation of geographic divisions of the country. 37/ As finally adopted, the original Act followed the House bill in requiring <u>both</u> (1) that not more than one appointive member should be selected from any one district and (2) that, in selecting such members, the President should give due regard to a fair representation of the different geographic divisions of the country.

36/ <u>House Report on Original Act</u>, p. 43.

37/ <u>Owen Report on Original Act</u>, p. 45.

Representation of special interests

The House bill contained no provision requiring the President to consider representation of any special interests in the selection of the appointive members of the Board. The Owen bill in the Senate required the President, in selecting the appointive members, to have due regard to a fair representation of "the financial, commercial, and geographical divisions of the country"; 38/ but as the bill passed the Senate it referred only to representation of different geographical divisions. The Conference bill and the Act as finally passed followed the Owen version and required the President, in selecting the appointive members, to "have due regard to a fair representation of the different commercial, industrial and geographical divisions of the country."

The original Act made no reference to consideration of agricultural interests in the selection of Board members. At least two members of Congress, however, had argued that, instead of making the Secretary of Agriculture an *ex officio* member of the Board, the bill should provide that one of the appointive members should be representative of agricultural interests. Thus, Representative Hayes stated: 39/

> "If the gentlemen of the majority want to give the farmers representation on the Federal reserve board, let them not make to the farmers 'a promise to the ear and break it to the hope' by putting an officer who is a representative of the agricultural interests on this board but who can not spend all his time in representing them; let the bill provide that one of the four men appointed on the board by the President shall be representative of the agriculturists of the country. Then the

38/ Ibid.

39/ 50 CONG. REC. 4658.

> farmers would be getting something substantial and worth while. Under the bill as now drawn they are getting only the shadow, not the substance."

Similarly, Representative Manahan urged that the appointive members of the Board should include a representative of agricultural interests: 40/

> ". . . One member of the board appointed should, of course, represent the great industry of agriculture, which has never had the protection and help it deserves in the matter of banking facilities. Instead of being represented by one man, half of whose time is devoted to Cabinet duties and the other half to banking duties, agriculture is entitled as the most important industry of the country to the best service of two of its strongest representatives, one to devote his entire time as a Cabinet official and adviser of the President and the other as a member of the Federal reserve board to devote his entire time to the great subject of banking and currency as it affects the agricultural interests of the Nation."

As hereafter indicated, the argument that the Board should include a "dirt farmer" was revived in 1922.

Banker representation

One of the principal issues with respect to the composition of the Board at the time of consideration of the original Act was whether the banking industry should be directly represented on the Board. Apparently many bankers and members of Congress felt that it was only proper that banks should be so represented and that, in the absence of such representation, the legislation would not be acceptable to bankers and could not be enacted.

It was reported that, at their annual convention in August 1913, the bankers had adopted resolutions claiming that they should have representation on the Board. 41/ The president of a large St. Louis

40/ Id., at 5019.

41/ Id., at 6024.

national bank, testifying on behalf of the American Bankers Association before the Senate Banking and Currency Committee, urged that, even if bankers were not allowed to select any Board members, the Board should include "men of experience in banking and in credits." 42/

Representative Madden made a strong plea in the House for banker representation on the Board and specifically urged that the bankers should be allowed to select their representatives. He stated: 43/

> ". . . The banks should be allowed representation on this important board. They should be allowed to select that representation themselves. Unless such representation be allowed, I shall not be surprised if the national banks refuse to become stockholders in the Federal reserve banks and go out of the national-bank system, taking out State charters instead. It will be unfortunate if this legislation does not recognize the justice of the claim of the national banks to representation on the Federal reserve board. The withdrawal of the national banks from the system will make this law a dead letter if passed. . . ."

At a subsequent point in the debates, he argued that it was "only fair that the men who furnish the money to organize the Federal reserve banks should be represented upon the board who have jurisdiction over the banks." 44/

Various specific amendments were proposed in the House to provide for banker representation on the Board. For example, Representative Madden himself proposed that three members of the Board should be selected by the Federal Reserve Banks; 45/ Representative Austin suggested a Board of nine members - three *ex officio* members, three to be

42/ *Id.*, at 4683.

43/ *Id.*, at 4705.

44/ *Id.*, at 5025.

45/ *Id.*, at 5025.

appointed by the President from the "business world", and the remaining three to be selected by the first six to represent the bankers;[46/] and Representative Dyer suggested a Board of 11 members, with four of them to be selected from the stockholders of the Federal Reserve Banks.[47/]

Even Carter Glass, the "father of the Federal Reserve Act", finally agreed that bankers should be represented on the Board. Apparently, his original proposition was that the Board should consist of nine members, three *ex officio* members, three appointive members, and three selected by the Reserve Banks.[48/] However, it was President Wilson himself who persuaded Glass that bankers should have no part in the selection of members of the Board or be directly represented on the Board. The now-familiar story was told by Carter Glass in a book published in 1927. According to Glass, "the President decided against banking representation", even though this decision "might involve the failure of the legislation by embittering the bankers should they be entirely excluded."[49/] Glass, however, was so convinced that "the President was wrong" that he went to the White House with a formidable delegation of bankers.[50/] After listening to the bankers, Wilson

---

46/ *Id.*, at 5089.

47/ *Id.*, at 4684.

48/ See 51 CONG. REC. 177, col. 1.

49/ Carter Glass, AN ADVENTURE IN CONSTRUCTIVE FINANCE (Doubleday, Page & Co., 1927), p. 113.

50/ *Ibid.*

reportedly said:[51]

"Will one of you gentlemen tell me in what civilized country of the earth there are important government boards of control on which private interests are represented? . . . Which of you gentlemen think the railroads should select members of the Interstate Commerce Commission?"

According to Glass's story, it was at this White House meeting that the President requested Glass, "as compensation to the bankers for denial of representation on the central board", to set up the Federal Advisory Council, "to be composed exclusively of bankers" to sit with the Board in a purely advisory capacity.[52]

In the Senate there was no strong push to provide banker representation on the Board. However, Senator Shafroth, a member of the Owen section of the Banking and Currency Committee, explained why bankers should not be members of the Board:[53]

"The reason bankers engaged in the active business should not be upon the Federal reserve board is because of the conflict of interest which they would have as bankers and as members of the Federal reserve board. This board is vested with the power to raise or lower the rate of discount. Every time the rate of interest is increased or decreased it means the contracting or accelerating of credits, which means the fall or rise in the price of securities, which means that there will follow a bear or bull movement on the exchanges. As banks deal in bonds, stocks, and other securities, it is presumed that the knowledge upon the part of a banker on the Federal reserve board that the rate of discount will be raised or lowered would be taken advantage of by the interests which he represents, and thereby stocks and bonds would be either bought or sold by them with almost absolute certainty of a profit being realized."

51/ *Id.*, at 116.

52/ *Ibid.*

53/ 50 CONG. REC. 6024.

Senator Reed disposed of the argument that bankers should be members of the Board in the following language: 54/

"The banks have contended that they are entitled to be represented upon the Federal reserve board. I utterly deny it. They are on one side of the table; the Government of the United States, representing the people of the country, is upon the other. The bankers represent those who demand, who ask, rights from the Government. They come to the Federal reserve board making their demands and proffering their requests. No man should sit upon that board unless he represents the people of the United States - the people of the United States alone - for it is their money and their credit which is to be granted."

Finally, it was Senator Weeks who, after indicating that he had at first felt that the Board should include bankers, urged that no member of the Board should have any connection with, or be regarded as representing, either banks or any other business enterprise. He said: 55/

"I did at first have a prejudice on the subject. It did seem to me that it would be necessary to select bank men for the reserve board in order to get the best results; but it is up to the President and the Senate - the President to appoint and the Senate to confirm men who are suitable, without any regard to what their connections have been or are, except that no man should be on any of the boards who has any connection with any joint-stock bank at the time he is appointed or during his service. I will add to that that in my judgment he should be free from all business entanglements. He should disconnect himself, dissociate himself from business affairs generally, so that his undivided attention, his undivided judgment, and his undivided interest may be devoted to the management of the great interests which are to be put in his charge. If that is done, we are going to have good results."

In keeping with the prevailing view that the representation of bankers on the Board would involve an undesirable conflict of interest, the original Federal Reserve Act specifically prohibited any

---

54/ 51 CONG. REC. 179.

55/ *Id.*, at 851.

member of the Board from being "an officer or director of any bank, banking institution, trust company, or Federal Reserve Bank" and from holding stock "in any bank, banking institution, or trust company".[56] In addition, and going even further, the Act provided that members of the Board should be "ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank."[57] These provisions remain unchanged in the law today except that, since 1919, the prohibition against connections with banks for two years after membership on the Board has been inapplicable to any member who serves the full statutory term for which he was appointed.[58]

Banking experience

Although Congress rejected proposals to give banks direct "representation" on the Board and prohibited any member of the Board from having any banking connections during his term of office, it did not prohibit the appointment of bankers as members of the Board; in fact, it decided that at least one or more members should have had some experience in banking.

The House bill, providing for a seven-man Board with four appointive members, expressly required that at least one of those members should be "a person experienced in banking."[59] In explaining

56/ Act of Dec. 23, 1913, § 10.

57/ Ibid.

58/ The change was made by the Act of Mar. 3, 1919 (40 Stat. 1314).

59/ House Report on Original Act, p. 118.

this requirement, the House Report stated:[60/]

". . . it has been thought wise to insert a provision that at least one of the four persons so chosen by the President shall be an experienced banker. This, of course, does not mean that other members of the board would be inexperienced in or ignorant of banking. On the contrary, the assumption is that they would not be chosen unless at least tolerably informed in the banking field, and that in all probability they would be not only experienced in banking but men of broad business knowledge and culture. This, however, is a matter that must necessarily be left to the appointive power, which not only should but must, in order to give good results, be vested with discretionary authority sufficient to enable it to make careful choice from among all of the best material available for such a board. It might easily be that a man of high business caliber, thoroughly desirable as a member of the board, would not have had a technical banking experience, notwithstanding that he might be well equipped for the work. The Comptrollers of the Currency in times past have not always been bankers in the technical sense, and some of the most efficient among them have had least technical experience in banking at the time when they assumed office. It is therefore believed safe to vest this whole matter in the hands of the President with large authority, believing that he will be able to use the same care and discrimination that he employs in choosing the Supreme Court of the United States. . . ."

In the Senate, the Owen bill, which provided for a seven-man Board with six appointive members, required that at least _two_ of the appointive members should be "persons experienced in banking or finance."[61/] The Hitchcock bill, while making no mandatory requirement with respect to banking experience, provided that, in selecting members of the Board, "consideration" should be given to "experience in commerce and banking."[62/]

60/ _Id._, at 44.

61/ _Owen Report on Original Act_, p. 46.

62/ _Hitchcock Report on Original Act_, p. 13.

As the bill passed the Senate and was finally enacted, it followed the Owen proposal, i.e., it required at least two of the five appointive members of the Board to be persons experienced in banking or finance.

CHANGES IN THE LAW SINCE 1913

Under the original Federal Reserve Act, the "composition" of the first Federal Reserve Board was affected by the following provisions:

1. It was required that the Board should consist of the Secretary of the Treasury and the Comptroller of the Currency, as *ex officio* members, and five members appointed by the President;

2. After initially staggered terms for the original members, it was provided that the appointive members should be appointed for 10-year terms, with one term expiring every other year;

3. Not more than one of the appointive members could be selected from any one Federal Reserve district;

4. In selecting the appointive members, the President was required to have "due regard" to a fair representation of the different commercial, industrial, and geographical divisions of the country; and

5. At least two of the five appointive members were required to be "persons experienced in banking or finance."

All of these provisions have been changed since 1913, although the changes were effected by only three amendatory statutes - in 1922, in 1933, and in 1935.

1922 amendments

In three respects the provisions of the Federal Reserve Act affecting the composition of the Board were altered by the Act of June 3, 1922:[63/] (1) the number of appointive members was increased from five to six, thus making an eight-man Board; (2) in the selection of appointive members, the President was required to have due regard to a fair representation of financial and agricultural interests, as well as commercial and industrial interests; and (3) the requirement that at least two members should be persons experienced in banking or finance was repealed.

The history of this legislation is interesting and relevant to the present study; but it is also complicated. Basically, the 1922 amendments grew out of criticism of the Federal Reserve Board's alleged "deflationary" policies, particularly charges that the System had been responsible for declining prices for agricultural products. Such criticism came chiefly from representatives of the "farm" States, such as Senator Kellogg of Minnesota, Senator Norris of Nebraska, Senator Smith of South Carolina, and Senator Heflin of Alabama. Heflin was particularly violent. He asserted that the Board's conduct for several months past would "go down in the history of this decade as a crime against agriculture, commerce, and honest banking"; that the Board had

63/ 42 Stat. 620.

become "the subservient tool of Wall Street"; that the Board was holding "its foot upon the neck of the grain industry, the cattle industry, and the cotton industry"; and, most specifically, that the Board had ordered the Reserve Banks to restrict credit for agricultural purposes.[64]

In a lengthy speech, Carter Glass, by that time a Senator, defended the Board's policies and categorically denied that the Board had ever ordered that agricultural credits be restricted.[65/] But Heflin[66/] and others insisted that, if the Board should include two bankers, it should also include one "dirt farmer" to protect the interests of agriculture. This was the objective of the 1922 legislation.

In July 1921, Senator Kellogg had introduced a bill providing that the Board should consist of six instead of five appointive members, that one of such members should "be a representative of the agricultural interests", and that, in selecting members, the President should have "due regard" to representation of the different "agricultural" as well as "commercial, industrial, and geographic divisions of the country."[67/] The Senate Banking and Currency Committee, however, reported a bill that did not increase the number of Board members or _require_ a member to be a representative of agriculture but simply amended the "due regard" clause to include reference to representation of the "agricultural"

64/ 62 CONG. REC. 517.

65/ _Id._, at 1235-1250.

66/ _Id._, at 516.

67/ S. 2263, 67th Cong., 1st Sess.

divisions of the country.[68] It is at this point that the story becomes complicated.

During the Senate debates, representatives of the "farm bloc" argued strongly that the Board should be increased to include a member who would represent the farmers. Senator Smith of South Carolina proposed an amendment to require one member to be a person "experienced in and whose business and occupation is farming."[69] Senator Kenyon likewise argued that the Board should be increased to include a farmer member.[70] Other Senators, while sympathetic with the objective of the proposal, felt that putting a farmer on the Board would not solve the agricultural problem. Senator Norris, for example, agreed that agriculture had "not been treated fairly", but doubted whether the inclusion of a "dirt farmer" on the Board would provide the desired relief; he pointed out that, even if the President should be required to appoint a farmer, he might turn out to be "the worst enemy that the farmers ever had on the board."[71] Senator Glass agreed that anyone who believed that putting a farmer on the Board would bring the millennium to the agricultural interests would "find himself sadly deceived."[72]

68/ Report of Senate Banking and Currency Committee, Rep. No. 234, 67th Cong., 1st Sess. (July 22, 1921).

69/ 62 CONG. REC. 509.

70/ *Id.*, at 1267.

71/ *Id.*, at 1195.

72/ *Id.*, at 1250.

Senator Edge objected not only to a mandatory requirement for the appointment of a farmer but even to the Committee proposal that "due regard" be given to the representation of agricultural interests. He felt that this would be "a step in the direction of . . . class legislation" and that members should be selected only on the basis of merit.[73/] Perversely, but apparently in order to point up his argument, he suggested amendments to require appointment of one member to represent manufacturing and another to represent organized labor.[74/]

Apparently impressed by arguments against mandatory inclusion of a farmer on the Board, Senator Kellogg offered a "substitute" for the bill reported by the Committee - one that would increase the appointive members of the Board from five to six but that would merely amend the "due regard" clause to include reference to representation of "agricultural" interests and would not require the appointment of a farmer as a member.[75/] Following the logic of Senator Edge's argument, the Kellogg substitute omitted the then-existing requirement that two members should be persons with experience in banking or finance. Although Senator McLean, the chairman of the Banking and Currency Committee, moved to recommit the bill, his motion was defeated,[76/] and Senator Kellogg's substitute was adopted on the floor.[77/]

73/ Id., at 1263.

74/ Id., at 1268.

75/ Id., at 1183.

76/ Id., at 1268.

77/ Id., at 1269.

The proceedings in the House were somewhat similar to those in the Senate. The House Banking and Currency Committee, like its Senate counterpart, reported a bill that would not have increased the number of appointive members of the Board. However, the House Committee, following the Senate-passed bill, eliminated the existing requirement that two members of the Board should be persons experienced in banking or finance, but it included a reference to representation of "financial" as well as "agricultural" interests in the "due regard" clause. In explaining its decision not to increase the number of Board members, the House Report stated: 78/

> "It is the opinion of the majority of your committee that the membership of the Federal Reserve Board shall remain as provided for by existing law. It is not thought advisable to enlarge the board, as an increase in membership would certainly not increase its efficiency. A smaller board is essentially more efficient than a larger, it being a well-established fact that as the membership is increased just so much is the responsibility of each member lessened. And, too, there is no need for a larger board. It is agreed, however, that agricultural and financial interests should be placed on a parity with commercial and industrial interests. By the bill as now recommended by your committee to be amended, the President in selecting the members of the Federal Reserve Board 'shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country.'"

On the floor of the House, as had happened in the Senate, the Banking and Currency Committee's Report met opposition from members of the "farm bloc" who argued that, even if there was no statutory requirement that one member of the Board be a farmer, the number of members should be increased in order to enable the President to appoint a representative of agriculture. Thus, Representative Connally argued

78/ Report of House Banking and Currency Committee, Rep. No. 885, 65th Cong., 2d Sess. (Apr. 7, 1922), p. 2.

that the "new member" should be one who would have a knowledge of agricultural credit needs and who would understand market conditions in the agricultural sections, so that the Board could become "a valuable agency to supply credit and currency needs to agricultural interests, in producing crops and in marketing those crops when produced."[79/] Similarly, Representative Stevenson contended that the Committee's proposed amendment to require the President to have "due regard" to a representation of agricultural interests would not be enough unless Congress gave the President "another member whereby he can put an agricultural-minded man on the board."[80/] And Representative Swing, asserting that the Federal Reserve's deflation policy was "deliberately aimed at the farmers", insisted that an additional member of the Board was necessary because of "an urgent need that agriculture and its interests be heard by this board."[81/]

Some Representatives, like some Senators, felt that the bill in any form would not accomplish very much. Thus, Representative Steagall stated that he did not regard the bill "as of great importance"; that, even as it had passed the Senate, "it would not mean a great deal"; and that, if adopted as proposed by the House Committee, i.e., without an additional member of the Board, it would "not mean anything".[82/]

79/ 62 CONG. REC. 7511.

80/ Ibid.

81/ Id., at 7517.

82/ Id., at 7513.

In an effort to answer the charge that the bill would mean very little, Representative Wingo stated: 83/

> "Gentlemen may say that it will not amount to anything, assuming that the farm member would be outvoted; but, gentlemen, if you make it possible for the President to appoint a representative of agriculture on that board it will have a fine effect on agriculture and upon the mind of the American farmer, and for that reason I think it will be worth the additional burden by putting on an additional member of the board, for in the last analysis the expense does not come out of the Treasury of the United States but out of the banks themselves. That is all there is involved in it; and if you really and sincerely want to have agriculture represented on the Federal Reserve Board, if you want to give the President an opportunity to carry out what you have heralded as his intention, give the President the opportunity to appoint as an additional member a dirt farmer, you will vote down the committee amendment. . . ."

Although favoring an increase in the number of Board members to enable the appointment of a representative of agriculture, Representative McFadden felt that the requirement of then-existing law that two members of the Board be experienced in banking or finance should be retained. 84/ He offered an amendment on the floor to restore that requirement, but the amendment was rejected. 85/

With respect to the proposed amendment of the "due regard" clause to include reference to representation of "financial" and "agricultural" interests, Representative London proposed an amendment to add the word "labor" in that clause. With considerable logic, he argued: 86/

83/ *Id.*, at 7516.

84/ *Id.*, at 7504.

85/ *Id.*, at 7519, 7520.

86/ *Id.*, at 7520.

> "I propose my amendment not because I expect that it will be of any more benefit to labor than it will be to the farmer but solely for the purpose of completing a logical process. If the financial, the commercial, the industrial and the agricultural interests are to be respectively represented, why not labor?"

Apparently the forces of labor were not as strong as those of agriculture in 1922, since Mr. London's proposed amendment was promptly rejected.

In the end, the House, like the Senate, overruled the Report of its Banking and Currency Committee and adopted a bill that, in this respect, was identical with that passed by the Senate, i.e., a bill providing for an increase in the number of the appointive members of the Board from five to six, eliminating the requirement that two members of the Board should be persons with experience in banking or finance, and amending the "due regard" clause to provide that, in selecting the appointive members, the President should have "due regard to a fair representation of the financial, agricultural, industrial and commercial interests, and geographical divisions of the country." In this form, the bill became law on June 3, 1922.

As some members of Congress maintained at the time, it is questionable whether enactment of these amendments served any useful purpose. Clearly, it was anticipated that the President would normally appoint a "farmer member" of the Board, although he would not be required to do so. For many years it was true that one member of the Board selected by the President had a background in agriculture; but that is not the case today.

It is interesting to note that, like some members of the Senate, Representative Burton in the House advanced the sensible proposal that the law should contain no provision with respect to the representation of any particular interests on the Board. In this connection, he stated:[87]

> "Mr. Chairman. I do not believe in this specification of the qualifications for members of the Federal Reserve Board at all. When the bill of the monetary commission was under consideration some Member suggested that the Secretary of Agriculture be one of the ex officio members. The suggestion was treated at first as a joke, but we all recognized that agriculture was of such vital importance in this country that it was inserted in the bill as it was originally introduced. It may be very well to give agriculture a member on this board, but what will we have next? We will soon have a demand for representation from the mining interests, and then from the lumber interests, and then perhaps from the labor unions, and next from the women's clubs."

Banking Act of 1933

In the early 1930's, the country was overwhelmed by a banking crisis; and Congress was concerned primarily with the need to prevent the recurrence of such a crisis - not with the structure of the Federal Reserve System. Thus, the Banking Act of June 16, 1933, was primarily directed toward stricter regulation of the investments of member banks, limitations upon the rates of interest paid by such banks on deposits, separation of commercial banking from investment banking, and Federal insurance of bank deposits. At the same time, somebody - perhaps a lawyer - had time in those hectic days to be concerned with a slight oversight on the part of Congress in 1922: when the number of the appointive members of the Board had been increased from five to six, the length of the terms of such members had been left at 10 years, as provided by the original Federal Reserve Act, with the result that the terms of two members of the Board expired in the same year. This oversight was remedied by the 1933 Act.

87/ *Id.*, at 7510.

In 1932 and early 1933, Congress considered a bill,[88/] the precursor of the 1933 Banking Act, that provided, among other things, for a lengthening of the terms of appointive members of the Board from 10 to 12 years. As stated by the 1932 Report of the Senate Banking and Currency Committee, the objective of this provision was to readjust "the term of members of the board so as to secure as nearly as possible the expiration of terms of members at equal 2-year intervals."[89/] That bill was not enacted, but the provision for lengthening terms of Board members was included in a similar bill[90/] that was introduced in the following Congress and was finally enacted as the Banking Act of 1933.[91/] The only significant legislative history of this change in the composition of the Board is the language quoted above from the 1932 Committee Report. Obviously the change was made because, in the interest of logic and orderliness, the length of a member's term of office, as a matter of convenience, should be divisible by the number of appointive members of the Board.

The bill reported by the Senate Committee in 1932 would have eliminated the Secretary of the Treasury (though not the Comptroller of the Currency) as an *ex officio* member of the Board and would have restored the requirement of the original Act, repealed in 1922, that two

88/ S. 4412, 72d Cong., 1st Sess.

89/ *Report of Senate Banking and Currency Committee*, Rep. No. 584, 72d Cong., 1st Sess. (Apr. 22, 1932), p. 14.

90/ S. 1631, 73d Cong., 1st Sess.

91/ Act of June 16, 1933 (48 Stat. 166).

members of the Board should be men with banking experience. Neither of these changes appeared in the 1933 bill or in the Banking Act of 1933.

During the debates on the 1932 bill, Senator Glass offered the following reasons for the proposal to remove the Secretary of the Treasury from the Board:[92/]

> ". . . That change has been advocated for 15 years by many of the most skillful, experienced, and successful bankers in the United States, large and small. Paul M. Warburg, one of the first members of the Federal Reserve Board, an international banker, who, whatever may have been his faults of temperament, had as thorough a knowledge of the banking business as any man that ever lived. With many of his views I did not agree, but, after years of experience as a member of the Federal Reserve Board, he publicly advocated that the Secretary of the Treasury be taken off the board.
>
> "I happened to be for something over a year Secretary of the Treasury of the United States. . . . As Secretary of the Treasury I noted that that official had an undue influence in the activities of the board. I myself exercised it as Secretary of the Treasury, and my only defense for having done so was that it was the immediate postwar period when billions of dollars of Federal securities had to be floated, and I insisted that the Federal Reserve Board and banks should coordinate their activities with those of the Treasury in order to make the tremendous task of floating these securities reasonably certain of accomplishment. But my very experience convinced me that the Secretary of the Treasury should not, in ordinary peace times, be a member of the board. To start with, he has practically two votes, his own and that of the Comptroller of the Currency. I do not recall any man ever having been a member of that board without the recommendation of the Secretary of the Treasury. So, he is the dominant figure, and, as I have before stated, the Federal reserve banking system has been made a doormat of the United States Treasury.
>
> "That was never intended; it was never intended that the Federal reserve system should undertake to 'stabilize the market.' It was never intended that the Federal reserve system should enhance or reduce the value of United States bonds in the open market. It was simply intended that the reserve

92/ 76 CONG. REC. 1938.

funds of member banks of the system, withdrawn from the money centers, where they had been shamefully used for stock speculative purposes, should be impounded in the 12 regional reserve banks. For what purpose? Solely for the purpose of responding to the requirements of agriculture, commerce, and industry. But that has not always been done. The banks are choked up to-day, many of them reluctantly and others under coercion, with the securities of the Government, and that is largely because the Secretary of the Treasury has, in my view, dominated the Federal Reserve Board.

"Very likely members of the board with spirit could wish that I had not said this, but I am speaking a little frankly to-day, and that is my view. But the Federal Reserve Board itself has wanted the Secretary of the Treasury to be put off the board. There is nothing personal in it. All of them had an affection for Secretary Mellon, and all of them, I venture to say, have an affection for Secretary Mills, as I have; but they do not think that the Secretary of the Treasury should be on the board, with two votes to begin with and a dominant influence on its activities; and yet the Senate is told that that is a 'nefarious' suggestion."

Why the proposal to remove the Secretary of the Treasury from the Board was not included in the bill that became the Banking Act of 1933 was explained later by Senator Glass during the debates on the Banking Act of 1935:[93]

"In the Banking Act of 1932, which passed the Senate overwhelmingly, there was a provision eliminating the Secretary of the Treasury, and upon a record vote it was retained in the bill by 62 to 14, after considerable discussion on the floor, which indicated that the Senate concurred in the better judgment of those who think the Secretary of the Treasury and the Comptroller of the Currency should not be on the Board.

"That provision would have been retained in the Banking Act of 1933 but for the fact that the then Secretary of the Treasury, in wretched health which eventuated in his death, was greatly concerned about the matter, and was rather importunate and insistent in desiring to be retained as a member of the Board. . . ."

93/ 79 CONG. REC. 11776, 11777.

In net effect, then, the Banking Act of 1933 simply increased the terms of the six appointive members of the Board from 10 years to 12 years, thus providing for the expiration of the term of one member in every other year.

Banking Act of 1935

The most basic changes in the composition of the Board were made by the Banking Act of 1935.[94/] That Act "reorganized" the Board to consist of seven appointive members with terms of 14 years, effective February 1, 1936. As of that date, the Secretary of the Treasury and the Comptroller of the Currency ceased to be *ex officio* members of the Board. No changes were made, however, in the requirements that not more than one member may be chosen from any one Federal Reserve district and that the President, in selecting members, must have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country.

In February 1935, identical bills introduced in both the House and the Senate[95/] contained three titles providing, respectively, for revision of the deposit insurance provisions of the 1933 Banking Act, substantive changes in the Federal Reserve System, and technical amendments to Federal banking laws. The only part of the legislation that was controversial was Title II, which, among other things, combined

94/ Act of Aug. 23, 1935 (49 Stat. 704).

95/ H.R. 5357 and S. 1715, 74th Cong., 1st Sess.

the office of chairman of the board of directors of each Federal Reserve Bank with that of the "governor" or president of the Reserve Bank, vested control of open market operations in a Federal Open Market Committee consisting of the seven members of the Federal Reserve Board and five Reserve Bank presidents, and gave the Board greater authority with respect to changes in member bank reserve requirements.

As thus introduced, the bills would have made only two changes with respect to the composition of the Federal Reserve Board: (1) the provision prohibiting the selection of more than one of the appointive members from the same Federal Reserve district would have been made inapplicable to the "governor" of the Board, and (2) the "due regard" clause would have been replaced by a requirement that the appointive members should be "persons well qualified by education or experience to participate in the formulation of national economic and monetary policies." It was in this form that the bill passed the House in May 1935.

On May 13, 1935, however, the Senate Banking and Currency Committee reported the bill with amendments that had the effect of providing (1) for the elimination of the Secretary of the Treasury and the Comptroller of the Currency as <u>ex officio</u> members of the Board, (2) for a Board of seven appointive members with 14-year terms, (3) for retention of the provision that, in selecting members, the President should have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country, (4) for a new requirement that at least two of the Board members should be persons of "tested banking experience", and (5) for another new requirement that not more than four of the seven members should be members of the same political party. In this form, the bill was approved by the Senate on July 26, 1935.

As agreed to by the Conference Committee and as enacted on August 23, 1935, the bill followed the Senate version, except for omission of the provisions with respect to "tested banking experience" and political party affiliations.

As to the change in the number of Board members, the history of the 1935 Act is not very illuminating. During the Senate Committee hearings, Dr. Adolph Miller, a member of the Board, stated:96/

> "I would suggest either seven or five. I am inclined to think that seven is none too large a number for a board that is going to deal with the problems that the Federal Reserve Board will have to deal with under this grant of powers. I think seven is none too large. I think that was the number on the original board, with two ex officio members--though I recognize that five also has a great deal to be said for it. If the board is experienced and well qualified for its job, five is a better number than seven. . . ."

Another member of the Board, Mr. Hamlin, indicated a preference for a seven-man Board:97/

> "There is one point I want to make, that I trust the Senate committee will not advocate cutting down the members of the Federal Reserve Board to five. I think that is one of the propositions which has been laid before it. I believe that the appointive members should rather be increased to 7, because with the new autonomy given to the Federal Reserve banks, the members of the Board have got to increase their

96/ Senate Banking and Currency Committee Hearings on Banking Act of 1935, pp. 757, 758.

97/ Id., at 947.

> visits to those banks, and keep in closer touch with them, and that will take up so much time that I should prefer to see it increased to 7 rather than reduced to 5. . . ."

With respect to the change in the length of terms of Board members, the history of the 1935 Act is even less helpful. Presumably, once the decision was made to eliminate the two *ex officio* members and to provide for a Board of seven appointive members, it was assumed that the members should serve for terms that would expire every other year, i.e., for 14-year terms. There is no clear indication that the terms of Board members were lengthened from 12 to 14 years with the deliberate intent of enhancing the "independence" of the Board, although assertions to that effect have since been made. Only one member of Congress, Senator Elmer Thomas, not himself an enthusiastic supporter of the bill, appears to have commented upon this aspect of the legislation. His comment, however, is worth quoting:[98]

> ". . . The extending of the tenure in office is commendable. No man should look forward to service on the Federal Reserve Board as a stepping stone to a directorship in a life-insurance company or the presidency of a life-insurance company, or to the directorship in some bank, or the presidency of some bank. In my judgment, membership upon the Federal Reserve Board should be the goal of those most qualified to handle financial transactions such as have to be handled by the Federal Reserve Board.
>
> "Membership on the Federal Reserve Board, in my judgment, should be the ultimate end, it should be the last, of a man's ambition in his desire to render high-class public service to his country. A man who takes a place on that Board in the hope of making money, in the hope of helping some industry, or in the hope of stepping to some other position more desirable, as has been the case in the past, is in my judgment lacking in the elements of patriotism and the proper approach to public service. Membership on this Board should be aspired to by the highest class of men in the country, and by that I mean men who

98/ 79 CONG. REC. 11925.

understand the banking situation and understand finance and understand the economic relations of all the different businesses with which we have to deal not only in this country but throughout the world."

One of the most important changes made by the 1935 Act was the elimination of the Secretary of the Treasury and the Comptroller of the Currency as <u>ex officio</u> members of the Board. As has already been noted, this change would probably have been made in 1933 if, as stated by Senator Glass, it had not been for the bad health of the then Secretary of the Treasury. When the Conference Report on the 1935 Act was being considered, Senator Glass stated:99/

"Since the establishment of the system, and now, the Secretary of the Treasury and the Comptroller of the Currency have been members of the Federal Reserve Board. Periodically, it has been urged upon the Banking and Currency Committees of the two Houses of Congress that these two officials should be eliminated, for various reasons. With respect to the Secretary of the Treasury, it was urged--and I know it to be a fact, because I was once Secretary of the Treasury--that he exercised undue influence over the Board; that he treats it rather as a bureau of the Treasury instead of as a board independent of the Government, designed to respond primarily and altogether to the requirements of business and industry and agriculture, and not to be used to finance the Federal Government, which was assumed always to be able to finance itself.

"Moreover, it was represented that these officials, except when of their own initiative they wanted something to be acted on, rarely ever attended meetings of the board. I think the present Secretary of the Treasury has attended only two or three meetings. I do not think I, as Secretary of the Treasury, ever attended more than one or two meetings of the Board; but, all the same, I dominated the activities of the Board, and I always directed them in the interest of the Treasury, and so did my predecessor, the present Senator from California (Mr. McAdoo). That, however, was because when he functioned it was during the war, and when I functioned it was in the immediate post-war period, when the difficulties of the Treasury perhaps exceeded those of the war period. Certainly they were not less."

99/ <u>Id</u>., at 11776.

Finally, as has been noted, the bill that passed the House in May 1935 would have eliminated the hortatory provision that the President, in selecting Board members, should have "due regard" to a fair representation of the financial, agricultural, industrial, and commercial interests of the country; instead, it would have made it mandatory that Board members should be "persons well qualified by education or experience to participate in the formulation of national economic and monetary policies."

The reasons for this proposal were advanced by Reserve Board Chairman Eccles during the House hearings as follows:100/

> "In section 203, it is recognized that it would be desirable to change the present language with reference to the qualifications for membership on the Board, as a recognition of the fact that the functions and duties of the Federal Reserve Board are such as to make it a body representing the Nation, rather than any group or combination of groups. In recognition of that, it is provided in the bill that future appointive members of the Board shall be men who are qualified by education or experience or both to participate in the formulation of economic and monetary policies, which seems to me to be the central and most important function of the Federal Reserve Board."

Arguments for such a change in the qualifications of Board members were more fully stated by Dr. E. A. Goldenweiser, head of the Board's Research Division:101/

> "In connection with the qualifications of the Federal Reserve Board, which this bill provides for, the principal thing in the way of their qualifications is, that instead of having it stated that they should be appointed with due regard to agricultural, industrial, and geographical interests,

---

100/ House Banking and Currency Committee Hearings on Banking Act of 1935, pp. 189, 190.

101/ *Id.*, at 434.

there is substituted a statement that they should be persons, who by training or experience or both, are qualified to formulate economic and monetary policies. It seems to me that that substitution is a very good one, because it states the qualifications of the members of the Federal Reserve Board in terms of the principal function which they have to perform, and because it does away with the idea that the board should consist of representatives of different groups of the population, this man representing agriculture, this man banking, this man trade, and so on. It is better that each member of the Reserve Board, as a matter of law, should feel that he represents the country as a whole, and the interests of the country as a whole, and his job on the Board is to be engaged in the formulation of national credit and monetary policies.

"I think that the insertion of that qualification into the text of the law is recognition of the growing conviction on the part of the country that the Federal Reserve System's functions are much broader than was clearly understood at the time the Federal Reserve Board was organized. At that time, it was largely conceived that the Board should be a representative Board and that it should represent the different sections of the population, so that none of them would fail to receive equal consideration. Of course, that is important, and it will continue, but an explicit provision for a national, nonpartisan board, that has the sole objection [sic] of serving the interests of the people as a whole, with particular reference to those duties that deal with the quantity and cost of money is an advantage."

Similar views were reflected in the Report of the House Committee: 102/

"This amendment is for the purpose of describing the qualifications of Board members in terms of the Board's principal function, which is the formulation of national economic and monetary policies. It is important to emphasize in the law that Board action should reflect, not the opinion of a majority of special interests, but rather the well considered judgment of a body that takes into consideration all phases of the national economic life."

On the floor of the House, there was strong opposition to the idea that education or experience in the formulation of economic

102/ Report of House Banking and Currency Committee on Banking Act of 1935, Rep. No. 742, 74th Cong., 1st Sess. (Apr. 19, 1935), p. 6.

or monetary policies should be made a prerequisite for membership on the Board. It was feared that such a provision would permit the President to appoint professors of political science and economics, like the New Deal "brain trusters", who would not have had any practical banking experience. Thus, referring to this proposal, Representative Dirksen observed: 103/

> ". . . That means that Mr. Hopkins or Mr. Tugwell or Mr. Moley could be appointed to that Board."

Similarly, Representative Martin argued that, under such a test, "some brain truster who never had any experience whatever but a vast amount of university culture and theory could be selected for membership on this highly important board." 104/

Also opposing the appointment of professors to the Board, Representative Hollister stated: 105/

> ". . . I do not believe that a qualification for membership on the Federal Reserve Board should be education or experience looking toward participation in the formulation of national economic and monetary policies. We should not take education alone, for instance. There are a lot of professors down here who are qualified by education, but far from qualified by experience, to do certain things. I do not believe that is a proper test to make of a member of the Federal Reserve Board. . . ."

At another point during the debates, Mr. Hollister urged that experienced bankers rather than academic economists should be members of the Board. In support of an amendment, later defeated, 106/ to provide that Board members should be persons with "adequate training and experience

103/ 79 CONG. REC. 6792.

104/ *Id.*, at 7161.

105/ *Id.*, at 6727.

106/ *Id.*, at 7161.

in banking", he argued:[107]

> "We are discussing the subject of banking. This is a bill which deals with banking. The Federal Reserve Board is set up as a supervisory board over the operation of the various Federal Reserve banks which, in turn, are made up of members of the Federal Reserve System in each particular district. The question here presented is whether we want the Federal Reserve Board, the advisory board to which, incidentally, this bill gives much greater powers than it ever had before, whether we want that Board to be made up of a lot of theorists on the subject of economics or of men who have had some experience in banking. As the bill now reads, they may be persons well qualified by education or experience to participate in the formulation of national economic and monetary policies. Do we want the Federal Reserve Board to be made up of people qualified solely by education, perhaps with no training whatsoever, no experience; or do we want people who have had some experience in the various problems which they are to attempt to solve? Secondly, irrespective of the disjunctive, the word 'or', which certainly should not be there, do we want to define the nature of the appointment to include such broad terms as 'the formulation of economic policies' as well as 'monetary policies'? Are we not perhaps embarking the Federal Reserve Board on a sea on which it was never expected to sail, and on a sea which is highly dangerous? After all, this is a board, as I have stated, to supervise the central banking system of the country. This is not a planning board to discuss economic planning, to discuss the more abundant life, to consider what high social measures might perhaps be adopted to make this country a better place in which to live. This is a board to supervise the central banking system of the country, the credit system, the life-blood of the country. We should fill it with men who have had banking experience and not with a lot of theorists on the subject of economics."

Despite such opposition, the House passed the bill with the requirement that Board members should be qualified to participate in the formulation of monetary and credit policies. However, the requirement was dropped from the bill without explanation by the Senate Banking and Currency Committee.

107/ *Id.*, at 7160.

With respect to geographic representation, the 1935 legislation, as passed by the House, would have exempted the chairman of the Board from the prohibition that not more than one member of the Board should be selected from any one Federal Reserve district. In this connection, the Report of the House Committee stated: 108/

> "The selection of the Governor of the Federal Reserve Board should be as free from arbitrary limitations and restrictions as possible. If the President has in mind a man who in his judgment qualifies for the position, he ought not to be restrained from appointing him by the fact that he happens to live in a district which is represented by some other member of the Board."

As finally enacted, however, the 1935 Act did not adopt this proposal.

By way of summary, the Banking Act of 1935 reconstituted the Board to consist of seven appointive members (and no *ex officio* members) with 14-year terms, effective as of February 1, 1936, but with no changes in the statutory qualifications for appointment to the Board.

Incidentally, it may be noted that the 1935 Act changed the name of the Board from "Federal Reserve Board" to "Board of Governors of the Federal Reserve System". The only reason for this change was set forth in the following statement by Senator Glass: 109/

> "It will be noted upon examination of the bill that we change the title of the Federal Reserve Board by proposing to call it hereafter the 'Board of Governors of the Federal Reserve System.' That was done largely at the suggestion of the senior member of the Federal Reserve Board, Dr. Miller. Representation was made to the committee that to have a governor and vice governor of the Federal Reserve Board was to

---

108/ *Report of House Banking and Currency Committee on Banking Act of 1935*, p. 7.

109/ 79 CONG. REC. 11776.

> place all other members of the Board at a disadvantage in the matter of prestige and of influence upon problems presented for consideration. Therefore he suggested that the Board be called the 'Board of Governors of the Federal Reserve System.'"

It may also be noted, incidentally, that, in providing for a Board of seven appointive members, Congress forgot to make a conforming change in one paragraph of the Federal Reserve Act; there is still in the Act a provision that refers to the "six" appointive members of the Board.[110/]

THE SIZE OF THE BOARD

Past proposals

Since February 1, 1936, when the present Board was reconstituted to consist of seven appointive members, suggestions for changing the size of the Board have ranged all the way from a 16-man Board to an agency headed by a single "governor".

In 1938, the House Committee on Banking and Currency held hearings[111/] on a bill introduced by Representative Patman to provide for ownership of the stock of the Federal Reserve Banks by the United States Treasury and, incidentally, to provide for a reorganization of the Board of Governors to consist of 15 members - three *ex officio* members and 12 members to be appointed by the President, one from each Federal Reserve district. Although this bill was purportedly

110/ F. R. Act, § 10, ¶ 4 (12 U.S.C. § 244).

111/ *Hearings before House Banking and Currency Committee on H.R. 7230*, 75th Cong., 3d Sess. (March-April 1938), hereafter cited as *1938 Hearings on Ownership of Reserve Banks*.

sponsored by 160 Democratic members of the House, the proposal for enlarging the Board met only with opposition by almost all who testified during the hearings, including Chairman Eccles of the Board of Governors[112/] and a number of economists.[113/]

In 1949, the Subcommittee on Monetary, Credit, and Fiscal Policies of the Joint Committee on the Economic Report, under the chairmanship of Senator Douglas, sent a questionnaire to Federal banking officials, economists, bankers, and others, that included questions regarding the size of the Board of Governors and the terms of its members.[114/] Federal Reserve Chairman McCabe, without taking a definite position, responded that the appointment of men with the highest qualifications was more important than whether the Board should consist of three, five, or seven members.[115/] The Reserve Bank presidents, in a joint answer, recommended that no changes be made in the number of Board members,[116/] although Allan Sproul, then president of the New York Reserve Bank, suggested that the size of the Board might well be reduced to five members.[117/] One economist suggested that the Board might consist of a single person, although

---

112/ Id., at 447.

113/ E.g., Dr. Eugene E. Agger, id., at 287; Dr. J. L. Leonard, id., at 295; and Dr. Howard H. Preston, id., at 296.

114/ Monetary, Credit, and Fiscal Policies: Collection of Statements Submitted to Subcommittee on Monetary, Credit, and Fiscal Policies of the Joint Committee on the Economic Report (Nov. 1949). This document is hereafter cited as 1949 Douglas Questionnaire.

115/ Id., at 67.

116/ Id., at 162.

117/ Id., at 164.

a Board of three would be acceptable.118/ On the basis of responses to the questionnaire, the Douglas Subcommittee in its Report recommended a Board of not more than five members.119/

In 1952, the Subcommittee on General Credit Control and Debt Management of the Joint Committee on the Economic Report, under the chairmanship of Wright Patman, addressed another questionnaire to the Secretary of the Treasury, the Federal Reserve Board, the Reserve Bank presidents, other Federal banking officials, and economists and bankers.120/ One of the questions addressed to the Board related to the advantages and disadvantages of reducing the number of its members or of replacing the Board by a "single head". In his response, Chairman Martin of the Board set forth possible advantages and disadvantages but did not undertake to express a final judgment.121/ The Patman Subcommittee's Final Report reaffirmed the position previously taken by the Douglas Subcommittee that the number of members of the Board should be reduced to not more than five.122/

118/ Id., at 308.

119/ Report of Subcommittee on Monetary, Credit, and Fiscal Policies of the Joint Committee on the Economic Report, 81st Cong., 2d Sess., Doc. No. 129 (Jan. 23, 1950), p. 31. This document is hereafter cited as 1950 Douglas Subcommittee Report.

120/ Replies to Questions Submitted by Subcommittee on General Credit Control and Debt Management of the Joint Committee on the Economic Report, 82d Cong., 2d Sess. (Feb. 1952), hereafter cited as 1952 Patman Questionnaire.

121/ Id., at 302-304.

122/ Monetary Policy and the Management of the Public Debt: Report of Subcommittee on General Credit Control and Debt Management of Joint Committee on the Economic Report, 82d Cong., 2d Sess. (June 1952), pp. 55, 56. This document is hereafter cited as 1952 Patman Subcommittee Report.

In 1954 and in 1955, and again in 1959, Mr. Patman introduced bills to provide for a Board of 12 appointive members with six-year terms.[123/] Such proposals were firmly opposed by the Federal Reserve Board in a letter addressed to the House Banking and Currency Committee in January 1956. In 1959, bills were introduced by Representatives Thompson and Rhodes to provide for a Board of 16 members, including the Secretaries of Labor, Commerce, and Agriculture and the Administrator of the Small Business Administration as *ex officio* members, and 12 members to be appointed by the President for terms of six years.[124/] The Federal Reserve Board likewise opposed this proposal.[125/]

In 1961, the Report of the Commission on Money and Credit, sponsored by the Committee for Economic Development, recommended that the Board of Governors be reorganized to consist of five members appointed for 10-year terms.[126/]

In 1964, Chairman Patman of the House Banking and Currency Committee held hearings entitled "The Federal Reserve System After Fifty Years"[127/] and among the several bills considered at the hearings

---

123/ H.R. 7485, 83d Cong., 2d Sess. (Jan. 25, 1954); H.R. 569, 84th Cong., 1st Sess. (Jan. 5, 1955); and H.R. 2790, 86th Cong., 1st Sess. (Jan. 19, 1959).

124/ H.R. 5732, 86th Cong., 1st Sess. (Mar. 16, 1959); H.R. 6323, 86th Cong., 1st Sess. (Apr. 13, 1959).

125/ Letter from Board to chairman of House Banking and Currency Committee, June 5, 1959.

126/ *Money and Credit: Their Influence on Jobs, Prices, and Growth; Report of the Commission on Money and Credit*, p. 87. This document is hereafter cited as *CMC Report*.

127/ *Hearings before Subcommittee on Domestic Finance of the House Banking and Currency Committee*, 88th Cong., 2d Sess. (Jan.-Apr. 1964), hereafter cited as *Hearings on Federal Reserve After Fifty Years*.

was one that would have provided for a Board of 12 members, including the Secretary of the Treasury as an *ex officio* member.[128] The bill received little support and was expressly opposed by Federal Reserve Chairman Martin, several Reserve Bank presidents, and a number of economists. Chairman Martin and other witnesses expressed a preference for a reduction in the number of Board members to five;[129] but there were those, including at least two Reserve Bank presidents, who saw no reason to make any change in the existing seven-man Board of Governors.[130]

In 1968, the Subcommittee on Domestic Finance of the House Committee on Banking and Currency, under the chairmanship of Mr. Patman, compiled a "Compendium" of responses received from Federal banking officials, economists, and others to a questionnaire relating to possible changes in the structure of the Federal Reserve System, including a reorganization of the Federal Reserve Board to consist of five appointive members with five-year terms.[131] According to a Subcommittee staff summary of the responses, 41 out of 59 respondents supported a reduction in the membership of the Board.[132] Among those

128/ H.R. 9631, 88th Cong., 2d Sess.

129/ *Hearings on Federal Reserve After Fifty Years*, pp. 14, 15, 752, 1101, 1359, 1397.

130/ E.g., President Hickman of Cleveland Reserve Bank, *id.*, at 136; President Irons of Dallas Reserve Bank, *id.*, at 845.

131/ *Compendium on Monetary Policy Guidelines and Federal Reserve Structure*, Subcommittee Print of Subcommittee on Domestic Finance of House Banking and Currency Committee, 90th Cong., 2d Sess. (Dec. 1968), hereafter cited as *1968 Compendium*.

132/ *Id.*, at 26.

favoring a reduction to five members was the President's Council of Economic Advisers.133/ However, Federal Reserve Chairman Martin, despite the views expressed by him in 1952, took the position that "the disadvantages of a reduction in the membership of the Board from seven to five would outweigh any possible advantages."134/ Apparently, this was the last occasion on which any view with respect to this question was expressed by any Federal Reserve officials.

Finally, in January 1969, Mr. Patman introduced a bill, H.R. 11, that would substantially alter the structure of the Federal Reserve System, including retirement of Reserve Bank stock, audit of the System by the General Accounting Office, operation of the System with appropriated funds, and abolition of the Federal Open Market Committee and transfer of its functions to a newly constituted Federal Reserve Board. Under this bill, the new Board would consist of five members appointed for five-year terms, each ending on June 30 of a calendar year. Apparently, the new Board would come into effect upon the date of enactment of the bill, thus allowing the President immediately to appoint all five members of the new Board, although with initially staggered terms.135/

133/ *Id.*, at 81.

134/ *Id.*, at 134.

135/ Each member in office just prior to the effective date would have been paid one year's salary at his then current rate.

A "single head"?

It has rarely been suggested that the Federal Reserve Board be replaced by a single individual, but the suggestion has been made. In that event, of course, there would be no "Board" at all. The advantages of placing responsibility in a single individual rather than a board would be that (1) complete responsibility would be "pinpointed" upon that individual, (2) an individual could act more promptly and efficiently than a board, and (3) such an individual, who might be designated as the Governor of the Federal Reserve, would have a stature comparable to that of members of the Cabinet and it would be easier to obtain persons of the highest quality for such a position. In support of a "single head" for the Federal Reserve, it has been argued: 136/

> "I do not see the logic by which we can determine the defense policy of the United States under a single Secretary of Defense, not on the basis that he alone is an allwise man, but because we know he has all kinds of staff manner of obtaining judgments, advice, consultation, of obtaining a wide variety of viewpoints, without himself being a multihead to the agency.
>
> "It seems to me the same argument applies to the Federal Reserve as to other departments.
>
> "My real preference would therefore be for a single Secretary of a Federal Reserve Department, or a single Governor of the Federal Reserve System.
>
> "In this way, I think one could obtain a very high quality man, one can pinpoint responsibility."

In 1952, Federal Reserve Chairman Martin was specifically asked by the Patman Subcommittee to describe "the advantages and disadvantages . . . of replacing the Board by a single head." In his response, Mr. Martin referred to a recent "sweeping proposal" that

136/ Hearings on Federal Reserve After Fifty Years, p. 1579.

both the Board and the Federal Open Market Committee be replaced by a single governor with two deputy governors, but with the governor having the deciding vote. Stating that this appeared to be "the nearest approach of any public proposal to what this question refers to as 'replacing the Board by a single head'", Chairman Martin set forth the arguments that might be advanced for such a proposal:137/

"The principal argument advanced in favor of the proposal is that it would have the advantages of a Board even as small as three members, including timeliness in action, and would in addition have other advantages. The position and the responsibilities that it would carry would command a degree of consideration in the highest Government circles such as the position merits but has not always had. The position of Governor, because of its great importance and its virtual equivalence to Cabinet rank, would have a broader appeal to men of the highest ability."

The arguments against replacing the Board with a single head are (1) that it would not be appropriate to entrust the important powers of the Federal Reserve Board (and perhaps also those of the Open Market Committee) to a single official, (2) that decisions made by such a single official would not command public support as much as those of a board, (3) that a single official would not have the advantages possessed by a board consisting of persons with different viewpoints and judgments, and (4) that a single official would be more likely than a board to be subjected to political or Presidential influence. These arguments were summarized by Chairman Martin in his response to the Patman Subcommittee's question:138/

"The single-governor proposal has not as yet been sufficiently discussed to bring out many of the considerations that deserve to count against it. It would be much more of

137/ 1952 Patman Questionnaire, p. 303.

138/ Id., at 303, 304.

a departure from past practice than the other proposals which have been mentioned; and it is likely that there would be a widespread difference of opinion as to whether it would be safe to entrust the powers of the Board and the Open Market Committee relating to the stability of the economy and the integrity of money to a single official. Decisions made by a single governor, even though backed by advisory committees, might not command so much public support as decisions arrived at after thorough consideration by a deliberative body. Federal Reserve duties often involve decisions which, while in the public interest, are unpopular with some powerful groups or at least temporarily so. In contrast to a 'single governor', a board, making important and difficult policy decisions such as those which must be made by the Federal Reserve System, has the advantage of providing for the representation of different viewpoints and for full discussion of all phases of a problem before a decision is reached. The members of a board thus have the benefit of the restraining or supporting views of one another; a single governor would have to function without the benefit of such collective judgment and support. It might be that a single governor, even if counseled by the Reserve Bank presidents and other advisers, would distrust his own judgment if he thought it opposed by the Executive. In this case, the timeliness of decision would be retarded, not advanced, by the proposed innovation. It might also be that he would be--or would be thought to be--more likely to be swayed by partisan considerations or personal predilection than would a board which from its nature must frame its decisions in accordance with majority opinion."

A larger Board?

Although, as has been noted, proposals have occasionally been advanced to enlarge the present seven-man Board to a Board of 12, 15, or 16 members, arguments in favor of such proposals have never been fully articulated. Some of the arguments, however valid they may be, might be stated as follows:

1. The responsibilities of the Board are so important and so varied that a larger Board is needed in order to reduce the Board's workload. When the original Federal Reserve Act was under consideration, Senator Hitchcock advanced such an argument in support of his proposal for a Board of nine members. Referring to the conclusions

of his section of the Senate Banking and Currency Committee, he stated: 139/

> ". . . We have thought that the Board was of sufficient importance, that the interests under its control were sufficiently great, and its power sufficiently vast, to warrant a larger membership. We have, then, recommended that a Board be created with nine members, ..."

One answer to this argument, of course, is that, if the Board's workload is too great, some of its functions might be transferred to other agencies of the Federal Government. Thus, in 1964, Professor Harold Barger of Columbia University stated: 140/

> "If it be argued that the increase in size is needed because the workload of Board members is now excessive, I would advocate the transfer to other agencies of some of the functions which have nothing to do with monetary policy."

2. A 12-man Board, with one member appointed from each of the Federal Reserve districts, would assure even greater representation of the different geographic divisions of the country than that provided for by present law. This argument, of course, assumes that such a representation of geographic areas is a desirable requirement with respect to the membership of the Board.

3. A proponent of a 12-man Board might point to the fact that the present Federal Open Market Committee consists of 12 members and that, if the Committee is not too large, a Board of 12 members likewise would not be too large. Again, this argument begs the question; it may be that the membership of the Open Market Committee should be reduced.

139/ 51 CONG. REC. 964.

140/ Hearings on Federal Reserve After Fifty Years, p. 1354.

Proposals for a Board of more than seven members have met with almost unanimous opposition in recent years. The arguments against such a larger Board may be briefly summarized.

1. A larger Board would be unwieldy, cumbersome, and generally inefficient.

As has been noted, Congress in 1922 added a sixth appointive member to the Board, in addition to the two <u>ex officio</u> members, in order to permit the President to appoint a member as a "representative" of agricultural interests. The House Banking and Currency Committee at that time, while agreeing that agricultural interests should be considered, opposed the addition of another member to the Board on the ground that it could lead to inefficiency:[141/]

> ". . . It is not thought advisable to enlarge the Board as an increase in membership would certainly not increase its efficiency. A smaller Board is essentially more efficient than a larger, it being a well-established fact that as the membership is increased just so much is the responsibility of each member lessened. . . ."

When, in 1938, the House Banking and Currency Committee held hearings on a Patman bill to provide for a 15-man Board (including three <u>ex officio</u> members), Chairman Marriner Eccles of the Federal Reserve Board stated:[142/]

> "A Board of Governors of 15 members proposed in the bill would be too unwieldy to function promptly and effectively."

141/ <u>Report of House Banking and Currency Committee</u>, Rep. No. 885, 65th Cong., 2d Sess. (Apr. 7, 1922), p. 2.

142/ <u>1938 Hearings on Ownership of Reserve Banks</u>, p. 447.

Many years later, in 1964, Federal Reserve Chairman Martin similarly opposed a 12-man Board on the ground that it would be "unwieldy".143/ Reserve Board Governor George W. Mitchell expressed the view that a larger Board "would tend to become progressively more cumbersome and needlessly duplicative of points of view."144/

In an article published in the Harvard Business Review and quoted in Congressional hearings in 1964, Professor G. L. Bach stated:145/

> "Few businessmen or students of organization believe that a 19-man, or even a 12-man, committee is small enough to do an effective job of running an organization and making day-to-day decisions on intricate major policy issues. . . .
>
> ". . . Both widespread experience and a priori reasoning cast doubt on the marginal gain from additional members after a committee totals a half dozen or so, unless the additional man is of especially high ability or holds quite different views from the others. In the Federal Reserve case, there seems little reason to suppose that going beyond the half dozen or so ablest men in the System is justified on either count."

It seems quite probable that a larger Board would not be able to act as promptly as a smaller Board in connection with bank supervisory matters. Even as to economic policy matters, an increase in the number of members might tend "to lengthen deliberation about policy actions."146/

2. A larger Board would result in a lessening of prestige for individual members and make it more difficult to persuade highly qualified men to accept appointment to the Board. As stated by President Bopp of the Federal Reserve Bank of Philadelphia in 1964,

143/ Hearings on Federal Reserve After Fifty Years, p. 14.

144/ Id., at 1180.

145/ Id., at 1397.

146/ Id., at 1399.

"membership on the Board would be less attractive as 1 of 11 or 12 than as 1 of 7 or 5." 147/

3. A larger Board would diffuse responsibility among its members, thus leading to indecisiveness on the part of the Board and perhaps resulting in domination by the chairman. In 1964, one economist argued that the chief weakness of the Federal Reserve Board in his judgment had been indecisiveness and that this weakness would be aggravated by a larger Board: 148/

> ". . . The larger the Board, the more indecisive its behavior is likely to be. Therefore I believe that an increase in the size of the Board would be a retrograde step, ..."

At the present time, with a seven-man Board, it is sometimes difficult to obtain the presence of all seven members at meetings of the Board. If the Board should be increased to 12 members, it is quite likely that the presence of a full Board would be even more difficult to obtain. Because of diffusion of responsibility, some members might be inclined to take less interest in the Board's work and to become inclined not to attend Board meetings. A possible effect of such a situation might well be, as suggested by Professor Ross M. Robertson, that the Board "would fall even further under the dominance of the Chairman." 149/

147/ Id., at 422.

148/ Id., at 1354.

149/ Id., at 1359.

A smaller Board?

The proposal most frequently made regarding the size of the Board is that its membership should be reduced. While a few have suggested a Board of three members, 150/ the most popular preference has been for a Board of five members. 151/ The two principal arguments for a five-man Board are increased efficiency and enhanced prestige.

1. As has been noted, the House Banking and Currency Committee in 1922 asserted that a "smaller Board is essentially more efficient than a larger." In 1949, President Sproul of the New York Reserve Bank argued that a five-man Board would result in "some increase in efficiency." 152/ In 1962, Chairman Martin stated that, with a smaller Board, "decisions probably would be made more promptly." 153/ In 1968, the Council of Economic Advisers observed that "a Board of five might be somewhat more effective than one of seven", 154/ and Professor Seymour E. Harris felt that such a smaller Board "would be more efficient." 155/

150/ E.g., Professor Lloyd W. Mints, 1949 Douglas Questionnaire, p. 308.

151/ E.g., Allan Sproul, 1949 Douglas Questionnaire, p. 164; 1950 Douglas Subcommittee Report, p. 31; 1952 Patman Subcommittee Report, p. 5; Reserve Board Chairman Martin, Hearings on Federal Reserve After Fifty Years, pp. 14, 15; Reserve Bank President Scanlon, id., at 757; Professor Shapiro, id., at 1101; Professor Robertson, id., at 1359; Professor Bach, id., at 1397; Council of Economic Advisers, 1968 Compendium, p. 81; CMC Report, p. 87.

152/ 1949 Douglas Questionnaire, p. 164.

153/ 1952 Patman Questionnaire, pp. 302, 303.

154/ 1968 Compendium, p. 81.

155/ Id., at 249.

2. With respect to the effect of a smaller Board upon the prestige of the Board and its members, former President Sproul of the New York Reserve Bank stated that it would result in "an increased likelihood of being able to attract outstanding men to this service"; 156/ and the Douglas Subcommittee's 1950 Report stated that it would tend "to make the position attractive to more capable men and to lessen the temptation to appoint men of lesser stature." 157/ Similarly, Chairman Martin noted in 1952: 158/

> ". . . The reason most commonly advanced for such proposals [for a smaller Board] is that greater importance would be attached to individual membership and that the position would be more attractive to men of high caliber."

Reaffirming that view, the Patman Subcommittee in 1952 recommended a reduction in the number of Board members from seven to not more than five in order "to insure the selection of persons of the highest caliber." 159/ And, in 1961, the CMC Report, recommending a five-man Board, stated that such "reduction in numbers should enhance the status of members." 160/

If both the efficiency and the prestige of a board are increased as the number of its members is decreased, it would seem to follow that a three-man board would be better than a five-man board. However, a three-man Federal Reserve Board would be even

156/ 1949 Douglas Questionnaire, p. 164.

157/ 1950 Douglas Subcommittee Report, p. 31.

158/ 1952 Patman Questionnaire, p. 302.

159/ 1952 Patman Subcommittee Report, p. 5.

160/ CMC Report, p. 87.

more vulnerable than a five-man Board to the objections that have been raised to any reduction in the size of the Board. These objections may be briefly stated.

1. Reduction in the Board's size would lessen the value of the application of varied judgments to the important and complex problems that confront the Board. As once stated by Chairman Martin, "the advantages of collective deliberation and judgment would be correspondingly lessened" and "there is at least safety and perhaps greater wisdom in numbers."161/ On another occasion, Federal Reserve Governor George W. Mitchell stated that a Board smaller than five "would diminish the potential advantages of differing points of view and delegate more policy-type decisions to staff."162/

2. A smaller Board would increase the likelihood of absence of a quorum on many occasions and thus tend to hamper the Board in the performance of its functions. As stated by Chairman Martin, "a smaller board would find it more difficult to operate effectively and promptly on some occasions because of necessary absences, from illnesses or other causes, and the resulting lack of a quorum."163/ Similarly, President Hickman of the Cleveland Reserve Bank, arguing that a smaller Board would impose an excessive burden on the Board, stated:164/

> ". . . The inevitable illnesses, vacations, and essential travel at home or abroad in connection with the official business of the Board, must frequently necessitate the absence of at least one member and quite possibly two members."

161/ 1952 Patman Questionnaire, p. 303.

162/ Hearings on Federal Reserve After Fifty Years, p. 1180.

163/ 1952 Patman Questionnaire, p. 303.

164/ Hearings on Federal Reserve After Fifty Years, p. 137.

These arguments are supported by the experience of the present Board of seven members; the situation obviously would be aggravated if the number of Board members should be reduced.

On several occasions it has been pointed out that a reduction in the number of members of the Board would require reconsideration of the composition of the Federal Open Market Committee. At present, that Committee consists of the seven members of the Board and five presidents of the Federal Reserve Banks. If the same approximate ratio of Board members to presidents is to be maintained, a reduction in the size of the Board to five members presumably would require a reduction in the number of Reserve Bank presidents on the Committee to three or four. With this in mind, the Patman Subcommittee in 1952 recommended "that any reduction in the number of members of the Board of Governors be accompanied by a pro rata reduction in the number of Federal Reserve bank president members of the Federal Open Market Committee so as to preserve, as far as possible, the present ratio between members of the Board of Governors and presidents of the Federal Reserve banks in the composition of the Committee."[165/] Such a change would reduce the participation of the presidents as voting members of the Committee. Proposals to reduce the size of the Board could be, and have been, coupled with proposals to abolish the Federal Open Market Committee altogether and to transfer its functions to the Board. Whether such a move would be desirable is beyond the scope of this paper.

165/ 1952 Patman Subcommittee Report, p. 56.

Although Board members, Reserve Bank presidents, economists, and others have frequently endorsed the idea of reducing the number of Board members to five, some Federal Reserve officials have opposed the idea on the ground that the present seven-man Board has proved effective and is a workable compromise that should not be changed. This position was stated by President Irons of the Dallas Reserve Bank in 1964:[166]

> ". . . The most desirable number of members of the Federal Reserve Board undoubtedly can be subject to reasonable differences of opinion. How many members is the 'best' number may be difficult to prove. The Board should be large enough to permit an effective discharge of its assignments and responsibilities. Also, it should be large enough to avoid an undue concentration of power and authority in a relatively few members. Moreover, it should be large enough not to be hampered in its operations by the inevitable absentees that will occur from time to time. On the other hand, it should not be so large as to become unwieldy in its operations or to lessen the prestige and challenge of membership. Dilution of responsibility by expansion of membership is a real danger. In my judgment, the present membership of seven Governors is a desirable compromise between a larger and a smaller Board. Furthermore, experience has proved that the Board of seven members has operated effectively."

A similar position was taken by Governor Mitchell of the Board of Governors and President Hickman of the Cleveland Reserve Bank.[167]

TERMS OF BOARD MEMBERS

Members of the Board of Governors have longer fixed terms of office than any other officials of the Federal Government except the Comptroller General of the United States and the Assistant Comptroller General, who are appointed for 15-year terms.[168] As has been

166/ Hearings on Federal Reserve After Fifty Years, p. 845.

167/ Id., at 1180 and 137.

168/ 31 U.S.C. § 43.

noted, the term of appointive Board members was fixed by the original Federal Reserve Act at 10 years and was extended to 12 years by the Banking Act of 1933. Since February 1, 1936, the statutory term of a Board member has been 14 years with a proviso that a member may not be reappointed after serving a full term of 14 years.

It has been asserted that a term of 14 years is "unduly" long or "unrealistic"; 169/ and Reserve Board Chairman Martin in 1952 conceded that the 14-year term provided by law was "much longer than is necessary or desirable" and that a shorter term "might be more practicable". 170/ At that time, Mr. Martin could truthfully say that no member of the Board had ever served a full statutory term of 14 years.

While most Board members have served for less than 14 years, experience has shown that it is not "unrealistic" for members to serve for longer periods. Chairman Martin himself became the first member to serve for a full statutory term of 14 years; actually he was a member of the Board for nearly 19 years.

Two of the members of the original Board, Mr. Hamlin and Mr. Miller, served for 22 years each, including two full 10-year statutory terms. As a result of reappointments for the unexpired portions of terms of other members who died or resigned, quite a few Board members have served for many years, even though none of them technically served a full statutory term. The record was achieved

169/ Professor Thomas Mayer, 1968 Compendium, p. 471.

170/ 1952 Patman Questionnaire, p. 301.

by Governor Szymczak, who served for 28 years, from 1933 to 1961, without serving a single full statutory term. As of the present date, Vice Chairman Robertson has been a member for more than 18 years.

On the merits, there are several considerations that have been regarded as relevant to the proper length of a Board member's term.

1. A member's term should be long enough to enable him to acquire the specialized knowledge required for a proper discharge of his responsibilities and to insure an element of "continuity" in the Board's operations. As stated by Chairman Martin in 1952, one of the advantages of a long term for any Government official "is that it may enable him to develop a special knowledge of the problems with which he has to deal";[171/] and the Patman Subcommittee's Report in 1952 agreed that "it is especially important that the Board of Governors maintain a continuity of policy and not be easily affected by passing currents of public opinion."[172/] Similar views were expressed by witnesses during 1964 hearings before the House Banking and Currency Committee, when one of the bills under consideration would have provided for terms of only four years. For example, one Reserve Bank president argued that a four-year term would mean that there would be rapid turnover among members of the Board and that

171/ Ibid.

172/ 1952 Patman Subcommittee Report, p. 55.

"there could be little continuity except that provided by the staff."[173/]
Another Reserve Bank president elaborated on this point as follows:[174/]

> ". . . Four years, however, strikes me as too short, particularly if reappointment is to be prohibited. The art of central banking and monetary control is not inherited; it must be learned. It seems unlikely that representatives of a broad spectrum of American life--and I assume that the Board would continue to be made up of such persons--would possess a thorough understanding of the technical aspects of this difficult field at the times of their appointments. At the end of their 4-year terms their knowledge would no longer be available to the System or if available in an advisory capacity, it would be separated from responsibility and, therefore, of reduced value."

Again, in 1968, many respondents to a questionnaire distributed by Chairman Patman of the House Banking and Currency Committee argued that a Board member's term should not be so short as to preclude the development of specialized knowledge of the Board's functions. Thus, one economist pointed out that it was desirable to give Board members a long tenure because the problems faced by them "are complex ones and require . . . long apprenticeship."[175/] In similar vein, a banker observed:[176/]

> "Also, the 14-year term has enabled the incumbent Governors to learn in depth the often complex theoretical and practical issues with which monetary policy must deal. In actual fact, a number of Governors have not served out their full terms, so that each President in recent years

173/ President Bopp of Philadelphia Reserve Bank, Hearings on Federal Reserve After Fifty Years, p. 422.

174/ President Scanlon of Chicago Reserve Bank, id., at 757.

175/ Professor Boris P. Pesek, 1968 Compendium, p. 519.

176/ Mr. Tilford Gaines, id., at 234.

has had an opportunity to appoint more new Governors to the Federal Reserve Board than would be indicated by the 14 years provided in the Federal Reserve Act. At the same time, the long years served by any number of the Governors has made possible a continuity of policy and a depth of wisdom and understanding that shorter terms and steady turnover would not. . . ."

2. On the other hand, the term of office of a Board member should not be so long as to cause a member to lose interest in the Board's work or to take his duties lightly. Apprehensive of this possibility, one economist, in 1968, favored a term of seven years, rather than either five or 14 years, for the following reason: 177/

". . . Five years seems to be too short a period considering the initial time in 'learning the job.' Fourteen years, on the other hand, seems too long; men become old, behave in routine ways, and build up (it seems) an unintended constituency. Their sole dedication must be to the objectives of monetary policy."

Along the same line, Federal Reserve Chairman Martin once said: 178/

". . . a long term of appointment permits the theoretical possibility of the continuation in office of persons who may tend as the years go by to discharge their responsibilities with less enthusiasm or less effectiveness in the public interest."

3. A very short term of office, particularly with a prohibition against reappointment, would make it more difficult to persuade highly qualified persons to accept appointment to the Board. As stated by Chairman Martin in 1968, if the term should be as short as five years and if reappointment should be precluded, "a qualified candidate for membership might be reluctant to interrupt his career

177/ Professor Sidney Weintraub, id., at 647.

178/ 1952 Patman Questionnaire, p. 301.

for that period of time."[179] Similarly, it has been argued that a five-year term would make it "more difficult to obtain the services of able people";[180] that it would make acceptance of membership "difficult for persons without independent means or assured post-term jobs";[181] and that the problem "of obtaining highly competent men as members of the Board for such a short term of office would be much more difficult."[182]

Reserve Board Governor George W. Mitchell, in 1964, made the following comments with respect to the unattractiveness of a short term of office:[183]

> "As for the length of term for Board members, it seems to me a 4-year term would have the unfortunate selective effect of eliminating many well qualified individuals who could not consider appointment to the Board for that length of time at prevailing salaries. Business, banking and academic employment today are far more attractive than Government posts, especially for men in the prime of their careers with limited independent means. Perhaps an even more important deterrent to recruiting qualified candidates is the fact that a Board member must, and quite properly so, sever business and financial connections on which his future economic prospects and security had theretofore depended. Unless a man has substantial independent personal or family means or unless he expects to complete his working career within the period for which he is appointed to the Board, the length of the term he can look forward to is a significant consideration in determining his availability. . . ."

179/ 1968 Compendium, p. 46.

180/ Professor Mayer, id., at 471.

181/ Professor Wallich, id., at 633.

182/ President Irons of Dallas Reserve Bank, id., at 845.

183/ Hearings on Federal Reserve After Fifty Years, p. 1180.

4. A final, and perhaps the most important, consideration with respect to the length of a Board member's term is that an unduly short term of office could tend to subject Board members to political and other pressures and to weaken the "independence" of the Federal Reserve. It seems apparent that the framers of the original Federal Reserve Act deliberately provided for 10-year terms in order to remove the Board from the possibility of political control.184/

In 1952, Reserve Board Chairman Martin noted that "long terms tend to keep Government positions nonpolitical in nature";185/ and the Patman Subcommittee's Report observed that it was the concept of the Banking Act of 1935 "that the Board should be insulated from all outside influences likely to affect its impartiality" and that this was sought to be accomplished "by long terms of office and ineligibility for reappointment."186/ In the course of 1964 House hearings, Mr. William F. Kelly, then president of the American Bankers Association, argued that a proposed reduction of the term of office of Board members to four years would have the undesirable effect of defeating "the original intent of Congress . . . to assure the Board

184/ The House Committee "thought it wise that they [the appointive members] should be assigned a tolerably long tenure." House Report on Original Act, p. 43. In 1952, Reserve Board Chairman Martin referred to the provision of the original Act for 10-year terms as one of several provisions that "obviously contemplated a high degree of independence for members of the Board." 1952 Patman Questionnaire, p. 245.

185/ 1952 Patman Questionnaire, p. 301.

186/ 1952 Patman Subcommittee Report, p. 55.

members a high degree of independence from the Executive Branch."187/ More recently, in 1968, Secretary of the Treasury Fowler expressed the view that a reduction in the length of terms from 14 years to five years might "carry greater risks of subjecting Board members to [political] pressures";188/ and the President's Council of Economic Advisers concurred in "the philosophy in the Federal Reserve Act that Board appointees should have terms long enough to insulate them from political pressures."189/ On behalf of the Chamber of Commerce of the United States, Mr. Carl H. Madden asserted that "length of tenure assures the freedom from political pressure so necessary in the formulation and execution of a sound monetary policy."190/

The possibility that a shorter term would subject the Board to greater influence by the President would be enhanced if, at the same time, the size of the Board should be reduced. For example, if the law should be changed to provide for a Board of five members appointed for five-year terms (as proposed by Representative Patman in 1969), the President could appoint four of the five members during his first term of office, whereas a Board of five members with 10-year terms would mean that the President could appoint only two of the members during his first term as President.

187/ Hearings on Federal Reserve After Fifty Years, p. 1877.

188/ 1968 Compendium, p. 65.

189/ Id., at 81.

190/ Id., at 459, 460.

It has been pointed out that an unduly short term of office not only might make a Board member vulnerable to political, i.e., Presidential, influence, but might also inhibit his independence of judgment in other respects, i.e., an inclination to make a favorable impression on the financial community in order to facilitate obtaining another position at the expiration of his term. Thus, it has been said:191/

> "The present 14-year term is quite unrealistic since members generally retire much sooner. However, a 5-year term would create its own problem. This is that a man appointed to the Board more than 5 years before his contemplated retirement might, while serving on the Board, be concerned with finding a new position. Insofar as he considers a reappointment to the Board this would make him responsive to the President's wishes, but insofar as he does not expect (or want) a reappointment, he may be concerned with making a favorable impression on the financial community (or perhaps the academic community), his presumptive employers. This I would consider undesirable. . . ."

Similarly, it has been observed that a short term of office "raises the danger that members might be under pressure to concern themselves with possible future association with an industry they are regulating."192/

While a short term of four or five years with a prohibition against reappointment might cause a Board member to be concerned with obtaining a good position in private industry after the expiration of his term, a short term with no prohibition against reappointment might tempt him to "follow policy which is popular rather than 'right'."193/

191/ Professor Mayer, id., at 471.

192/ Professor Wallich, id., at 633.

193/ Professor Pesek, id., at 519.

and otherwise to seek reappointment by the President. Although Chairman Martin strongly recommended elimination from the statute of the provision prohibiting reappointment, he recognized this danger. Thus, in 1968, he said:[194/]

> ". . . If the prohibition against reappointment should be eliminated . . . considerations relating to possible reappointment could conceivably inhibit objective public interest considerations."

With all of the foregoing considerations in mind, the optimum length of terms for Board members obviously depends upon individual judgment as to the weight to be given to each of such considerations and perhaps also to one's own predilections. Over the years, almost every possible alternative between a term of four years and a term of 12 years has been advocated.

In general, those who would like to see a curbing of the so-called "independence" of the Federal Reserve support shorter terms of four or five years. Thus, Representative Patman's 1964 bill would have provided for a term of four years and his currently pending bill, H.R. 11, would fix the term at five years. Similarly, Professor Ross M. Robertson, who would favor the service of Board members at the pleasure of the President, has advocated a term of four years with allowance for reappointment.[195/] However, another professor of economics, although believing that the "independence" of the Federal Reserve is "repugnant to the principles of democratic government"

194/ *Id.*, at 46.

195/ *Hearings on Federal Reserve After Fifty Years*, pp. 1359, 1360.

and that the term of office of Board members should be shortened, concludes that, "in view of the specialization that is required, a term of 6 or 8 years might be better than 4." 196/

Those who feel that a longer term is desirable in order to insulate the Board from political pressures have espoused terms of from six to 12 years. Federal Reserve Governor George W. Mitchell, while doubting that a 14-year term is necessary to achieve "whatever contribution job security can make to quality and independence of Board members", suggested a minimum of six or seven years and a maximum of from 10 to 12 years. 197/ Nevertheless, it is difficult to draw the line. Former Reserve Board Chairman Martin, a staunch defender of the independence of the Federal Reserve within the Government, suggested in 1952 that the term of Board members might properly be fixed at six years, without any prohibition against reappointment, 198/ but in 1968 he opposed a reduction of the term to five years. 199/

On several occasions, as a compromise, it has been suggested that the Board might consist of five members with terms of 10 years 200/ - a compromise that would in effect constitute a return to the provisions of the original Federal Reserve Act with respect to appointive

196/ Professor Lerner, id., at 1399.

197/ Id., at 1180.

198/ 1952 Patman Questionnaire, p. 301.

199/ 1968 Compendium, p. 46.

200/ See, e.g., Professor Latané, id., at 420.

members. The Report of the Commission on Money and Credit in 1961 reached this conclusion in the belief that "the ten-year term combines a sufficient protection for independence, with some safeguard against superannuation." 201/

Finally, there are some who feel that there is no compelling reason to change the present law providing for 14-year terms. Thus, one banker, on the ground that the Board's functions are complex and that there is need for continuity of policy and avoidance of rapid turnover in its membership, has stated: 202/

> ". . . As in all proposed changes of existing law or custom, the first question that must be answered is whether or not change serves a useful purpose of sufficient importance to justify its enactment. In this case, the system of seven Governors serving 14-year terms has worked well and there is no apparent overriding reason why this arrangement should be changed."

THE TERM OF THE CHAIRMAN AS CHAIRMAN

Historical background

The original Federal Reserve Act provided that the Secretary of the Treasury should be the *ex officio* "chairman" of the Board and that one of the appointive members should be designated by the President as "governor" and another as "vice governor" of the Board. The "governor", not the chairman, was made the Board's "active executive officer" subject

201/ *CMC Report*, p. 87.

202/ Mr. Tilford Gaines, *1968 Compendium*, pp. 234, 235.

to the Board's supervision. The Banking Act of 1933 modified the law only to eliminate the provision that the Secretary of the Treasury should be the ex officio chairman of the Board and to provide that the Secretary should preside as "chairman" at meetings of the Board and that, in his absence, the "governor" should preside. All was drastically changed by the Banking Act of 1935. That Act eliminated the Secretary of the Treasury and the Comptroller of the Currency as ex officio members of the Board and provided for a reconstituted Board of seven appointive members to be known as the Board of Governors of the Federal Reserve System instead of the Federal Reserve Board. Since all of the members were now made "governors", the 1935 Act provided that one of the members should be designated by the President as "chairman" and another as "vice chairman" to serve as such for terms of four years. These changes became effective February 1, 1936.

Until 1936, the governor and vice governor of the Federal Reserve Board, corresponding to the present chairman and vice chairman, did not, as such, have fixed statutory terms. Until 1927, it appears to have been customary for the President to designate or redesignate the "governor" for one year at a time. After that date and until February 1, 1936, when the Board was reconstituted, one member of the Board was designated by the President as governor "until otherwise directed."[203/]

In February 1935, bills introduced in both houses of Congress would have amended the Federal Reserve Act in a manner that would have confirmed the then-existing practice under which the governor was designated as such by the President "until otherwise directed." Those bills specifically provided that the governor and vice governor should "serve as such until the further order of the President".[204/] They provided also that the term of office as a member of the Board of the member designated as governor should be the period for which he continued as governor and that, upon the termination of his designation as governor, he should be deemed to have served the full term for which he was appointed. This would have meant that the member designated as the "governor" would have automatically ceased to be a member of the Board if the President, in his discretion, should act to terminate that designation and to designate some other person as governor.

During the House hearings on the bill, Governor Eccles of the Federal Reserve Board, while agreeing that the governor should be designated to serve at the pleasure of the President, pointed out that under this procedure the President theoretically could successively designate each member of the Board as the governor and then terminate

203/ See message from President Kennedy to Congress, Apr. 17, 1962.

204/ See, e.g., H.R. 5357, 74th Cong., 1st Sess.

his designation as such, and that, since the governor's term as a member of the Board would then automatically expire, the President could "finally create a new Board completely." In order to eliminate this possibility, he suggested that a governor whose designation as such was terminated by the President should be allowed to continue as a member of the Board, but with a provision that, if he should decide to resign from the Board after the termination of his designation as governor, he would be deemed to have served his full term as a member of the Board and therefore would not be precluded from taking employment with a member bank for a period of two years.205/

Governor Eccles' suggested change was incorporated in the bill reported by the House Committee and the bill as it passed the House. The Report of the House Committee indicated that the purpose of the change was simply to permit a governor, after termination of his designation as such, to resign from the Board without being subject to the prohibition against acceptance of employment by a member bank. In addition, the Committee pointed out that the bill would confirm the existing practice under which the governor was designated to serve at the pleasure of the President. In this connection, the House Report stated:206/

> "Section 203(3) amends section 10 of the Federal Reserve Act so that, if the Governor of the Federal Reserve Board should resign from membership on the Board within 90 days

205/ Hearings before House Banking and Currency Committee on H.R. 5357, 74th Cong., 1st Sess. (Feb.-Apr. 1935), p. 203.

206/ Report of House Banking and Currency Committee on H.R. 7617, Rep. No. 742, 74th Cong., 1st Sess. (Apr. 19, 1935), pp. 7, 8.

after he ceases to be Governor, he could reenter the banking business without waiting 2 years as now required by law. However, he could serve out his full term as a member of the Board if he chose to do so.

"This provision is intended to make it easier for the President to induce successful bankers of outstanding ability to accept the position of Governor of the Federal Reserve Board. Any outstanding man probably would resign from membership on the Board if his designation as Governor were terminated by the President before the expiration of his term as a member of the Board; and, under existing law, a Governor who resigned in such circumstances would be precluded from reentering the banking business until 2 years after his resignation. This seriously discourages outstanding bankers from accepting the position of Governor of the Federal Reserve Board when tendered by the President. This is an obstacle which should be removed.

"The amendment makes no substantive change so far as the designation by the President of the Board's Governor is concerned. The present law states that 'of the six persons thus appointed, one shall be designated by the President as Governor.' This has been consistently interpreted to mean that the Governor serves as Governor at the pleasure of the President. The bill follows this interpretation without changing it, by including the additional words 'to serve as such until the further order of the President.'" A

In the Senate, the Board was reorganized to eliminate <u>ex officio</u> members and to provide for seven appointive members with 14-year terms. Instead of the provisions of the House bill with respect to designation of the governor and vice governor, the bill reported by the Senate Committee provided that the governor and vice governor henceforth should be known as the "chairman" and "vice chairman", respectively, of the Board of Governors of the Federal Reserve System and that they should be designated by the President "to serve as such for terms of 4 years." It was in this form that the provisions appeared in the Banking Act of 1935 as finally enacted.

Presumably, it was contemplated that the provision for designation of the chairman and vice chairman for terms of four years would achieve the objective of assuring that they would serve as such at the pleasure of the President. However, the 1935 amendments did not specify when the four-year terms of the chairman and vice chairman should commence and the result was not in accordance with what had been contemplated. A situation developed in which the term of the chairman, as well as that of the vice chairman, was not coterminous with the term of the President; and this development led to proposals for amendments to the law that would accomplish this result.

Should the term of the chairman be coterminous with that of the President?

With only occasional dissents, proposals to make the terms of the chairman and vice chairman of the Board, as such, coterminous with that of the President have been advanced and supported on a number of occasions over the past 20 years. One of the first to make such a proposal was Chairman McCabe of the Federal Reserve Board in response to the Douglas Subcommittee Questionnaire in 1949. At that time, Mr. McCabe stated:[207/]

> "The present law requires that from the membership of the Board the President shall designate one member as Chairman and one member as Vice Chairman to serve as such for a term of 4 years. The purpose of this provision of the law was to afford a new President an opportunity to designate a Chairman and Vice Chairman of the Board. In practice, this provision has not worked out satisfactorily because it has not been possible to make appointments so that they would coincide with the term for which the President is elected. It would be preferable if the law were changed to provide that the President shall designate the Chairman and Vice Chairman for terms expiring on March 31, 1953, and March 31 of every 4 years thereafter."

207/ 1949 Douglas Questionnaire, p. 68.

Three years later, Reserve Board Chairman Martin renewed the proposal in almost identical language. In one of his answers to the Patman Questionnaire, he said: 208/

> ". . . Prior to 1935 the law was silent as to the length of time that the Governor and Vice Governor (whose titles were in that year changed to Chairman and Vice Chairman) should serve in these capacities, it being merely required that one member of the Board should 'be designated by the President as Governor and one as Vice Governor of the Federal Reserve Board.' The present law, in accordance with a change made in the Banking Act of 1935, requires that the President shall designate a Chairman and Vice Chairman from the membership of the Board 'to serve as such for a term of four years.' A possible purpose of this provision of the law was to afford a new President an opportunity to designate a Chairman and Vice Chairman of the Board. Assuming such a purpose, the provision has not worked out satisfactorily in practice because it has not been feasible to make appointments so that they would coincide with the term for which the President is elected. It might be preferable if the law were changed to provide that the President shall designate the Chairman and Vice Chairman for terms expiring on a selected date, say March 31, 1953, and on March 31 of every fourth year thereafter."

In 1961, the Commission on Money and Credit made a similar recommendation. 209/ That recommendation led President Kennedy in January 1962 to include such a proposal in his Economic Report to the Congress; and, on April 17, 1962, the President sent to Congress a specific recommendation that the law be changed to provide that the terms of the chairman and vice chairman of the Board, beginning in 1965, should commence on February 1 of the year following the election of a new President and that, in order that the President might be able to appoint a chairman of his own choice, the terms of members of the

208/ 1952 Patman Questionnaire, p. 302.

209/ CMC Report, p. 87.

Board should expire on January 31 in even, instead of odd, years. The President stated that Chairman Martin of the Board of Governors concurred in this proposal.

Notwithstanding the President's recommendation, no action was taken by Congress. However, during House Banking and Currency Committee hearings in 1964 on "The Federal Reserve System After Fifty Years", a number of witnesses, including Secretary of the Treasury Dillon, spoke in favor of the change.[210/] In October 1966, the Board of Governors, in a letter to Congress, endorsed bills relating the terms of office of the chairman and vice chairman to the term of the President. However, the Board indicated its preference for a bill introduced in 1962[211/] that had been "carefully worked out to accomplish its objectives without disrupting the System's 'continuity and independence from political influence.'"

Again, in 1968, a number of respondents to questions submitted by Chairman Patman of the Subcommittee on Domestic Finance of the House Banking and Currency Committee strongly endorsed the proposal to make the terms of the chairman and vice chairman of the Board approximately coterminous with that of the President.[212/] They included Reserve Board Chairman Martin, Secretary of the Treasury Fowler, the President's Council of Economic Advisers, and several economists.

210/ Hearings on Federal Reserve After Fifty Years, pp. 444, 1101, 1232, 1388, 1480.

211/ H.R. 11602.

212/ 1968 Compendium, pp. 46, 66, 82, 149, 153, 471.

In support of this proposal, it has been argued that the administration in office is ultimately answerable to the people for meeting the economic and social problems of the country and that it cannot do so without taking into account the monetary policies of the Federal Reserve; that the fiscal and financial policies of the administration are inevitably affected by the policies of the Federal Reserve; and that, consequently, there must be a close liaison between the President and the chairman of the Federal Reserve Board, a liaison that cannot be achieved unless the chairman is a person in whom the President has trust and confidence. Advocates of the proposal deny that its adoption would impair the independence of judgment of the Federal Reserve Board in the discharge of its statutory responsibilities; indeed, they contend that it would give the Federal Reserve more effective representation in the formulation of Presidential policies that might affect monetary and credit conditions.

The argument was forcefully presented by former Reserve Board Governor Marriner Eccles in 1935:[213]

> "It seems to me that an administration is charged, when it goes into power, with the economic and social problems of the Nation. Politics are nothing more or less than dealing with economic and social problems. It seems to me that it would be extremely difficult for any administration to be able to succeed and intelligently deal with them entirely apart from the money system. There must be a liaison between the administration and the money system--a responsive relationship. That does not necessarily mean political control in the sense that it is often thought of."

The logic of allowing the President the right to select a Board chairman in whom he has confidence was urged by Representative Ford during

213/ House Hearings on Banking Act of 1935, p. 191.

the debates on the Banking Act of 1935:[214/]

"Another provision of the bill that is giving the die-hards among the bankers cold shivers is the making of the term of the Governor of the Federal Reserve Board coincide with the wishes of the Chief Executive. This is being attacked as though it were treasonable. Yet the people elect the President and hold him responsible for the execution of the monetary and credit policy of the Nation. What more logical than that he be authorized to have at the head of the Board governing monetary and credit policy a man in whom he has confidence and who will, naturally, shape his course in such a way as to enable the Chief Executive to carry out the mandate of the whole people who elected him to do their will?"

The argument was restated by President Kennedy in his special message to Congress on April 17, 1962. After noting that the 14-year terms of Board members "assured the System both continuity and independence from political influence", the President said:

"Federal Reserve monetary policies affect, and are affected by, the economic and financial measures of other Federal agencies. Federal Reserve actions are an important part, but not the whole, of Government policies for economic stabilization and growth at home and for the defense of the dollar abroad. Therefore, as has been recognized throughout the history of the Federal Reserve, the principal officer of the System must have the confidence of the President. This is essential for the effective coordination of the monetary, fiscal, and financial policies of the Government. It is essential for the effective representation of the Federal Reserve System itself in the formulation of Executive policies affecting the System's responsibilities."

During 1964 hearings before the House Banking and Currency Committee, Secretary of the Treasury Dillon said:[215/]

"Independence naturally implies the right to disagree; and not only to disagree, but to act on the basis of different judgments. Some differences between the Treasury and

214/ 79 CONG. REC. 6802, 6803.

215/ Hearings on Federal Reserve After Fifty Years, p. 1232.

the Federal Reserve may from time to time be a fact of life. But this need not be distressing. The necessity to test policy proposals against the views of an independent Federal Reserve is, I believe, the best insurance we can have that the claims of financial stability will never be neglected.

"In considering this problem of achieving a proper balance, I share the view of the present Chairman of the Board of Governors that the Chairman's term of office should be made coterminous, or more nearly coterminous, with that of the President. With a President free to choose a new Chairman upon taking office, or shortly thereafter, there will be firm institutional basis for expecting that the kind of cooperative relationship that has characterized the past 3 years will continue in the future, and that the viewpoints and aims of an incoming administration will be sympathetically reflected in the councils of the Federal Reserve. . . ."

Arguing that the "independence" of the Federal Reserve System should be maintained but that extreme independence might lead to "splendid isolation", Professor G. L. Bach supported the coterminous term proposal in the following language: 216/

". . . The chairmanship of the Federal Reserve Board should be made roughly coterminous, with perhaps a 6 months lag; with the term of the President of the United States. It is no accident that both William McChesney Martin and Marriner Eccles, the two men who have guided the Federal Reserve over most of the past quarter century, favor this proposal.

"To insist that a new President accept a Federal Reserve Chairman to whom he objects strongly would serve little purpose. Control over the Nation's money supply is a vital economic responsibility, given to the Government by the Constitution. Monetary policy is inextricably intermingled with fiscal policy and debt policy. The President must ultimately be responsible for recommendation and execution of the Nation's basic economic policy, under the general programs established by the Congress.

"As a practical matter, the Chairman must represent the System in its most important contacts with the President, with the Treasury, and in most cases with Congress. This recognition leads inescapably to the conclusion that the

216/ Id., at 1388, 1389.

Federal Reserve, and especially its Chairman, must work closely with other agencies under the general responsibility of the President for executing national economic policy.

"No one seriously believes that the Federal Reserve should be expected, or permitted, to negate the basic economic goals of the Congress and the executive branch. The real question, thus, is the terms on which the Federal Reserve participates in governmental policymaking and execution. Extreme independence is more likely to mean splendid isolation than effective power in the decisions that matter. The times when the Federal Reserve has been least effective have been the times when it has been most isolated from the President and from effective working relationships with the Secretary to the Treasury and other high level governmental officials--for example, during the 1940's. The stronger role exerted by the Federal Reserve over the last decade reflects in significant part closer and easier working relationships with the executive branch of the Government. Making the chairmanship coterminous with the President's term, though it might have little importance in most instances, makes practical administrative sense.

With the present seven man board, in which only two members come up for reappointment in any one presidential term, there is little danger that this move would jeopardize the independence of the Fed in any significant sense." 217/

In 1968, Reserve Board Chairman Martin stated:

"A change in the law enabling the President to appoint a Chairman of his own choice shortly after his inauguration would provide a practical basis for effective coordination of Federal Reserve monetary policies with the fiscal and financial policies of the executive branch of the Government without affecting the exercise of independent judgment by the Board in the discharge of the responsibilities imposed upon it by Congress. Such an arrangement would in fact afford a means by which the Federal Reserve, through the Chairman of the Board, would be better able to participate, at the highest level of the executive branch, in continuing efforts to promote the sound conduct of the Government's financial affairs."

In 1968, another Secretary of the Treasury, Henry H. Fowler, 218/ stated:

217/ 1968 Compendium, p. 47..

218/ Id., at 66.

". . . A high degree of cooperation and understanding has been developed between the Federal Reserve Board and the executive branch through informal working arrangements in recent years. It may be better, however, to make explicit provision for Presidential selection of the Chairman (and Vice Chairman) rather than to assume that a cooperative working arrangement could always be established easily and promptly at the beginning of a presidential term. The Board itself would continue to be chosen under the existing arrangements which have worked well and provided a necessary immunity from political pressures."

The argument was very simply stated by the President's Council of Economic Advisers in 1968, as follows: 219/

"We believe that enactment of this proposal would help provide the basis for increased trust between the President and the principal officer responsible for monetary policy. The Chairman would be better able to participate in the councils of the executive branch and the Nation would be better assured of effective coordination of economic policy."

The only argument advanced against the proposal, and one that has seldom been urged, is that it might impair, or at least give the impression of impairing, the independence of the Federal Reserve. Thus, Professor Henry A. Latané stated: 220/

". . . Although without a strong opinion one way or another, I similarly tend to view the coterminous terms of the President and the Chairman of the Board as, on balance, undesirable. There is some point, I think, to avoid a measure that might lead foreign central banks to regard (and treat) the Chairman as a 'political appointee.'"

Not all opponents of the proposal have been so restrained. Professor Meyer L. Burstein has said: 221/

". . . This would put the Federal Reserve into the heart of politics, leading up to a worse system than at

219/ *Id.*, at 82.

220/ *Id.*, at 420.

221/ *Id.*, at 105.

> present: there would be no real independence of the Federal Reserve but there would be considerable administrative and other confusion."

Recent legislative recommendations to implement the proposal to make the chairman's term coterminous with that of the President would adjust the terms of Board members so that the term of one member would always expire in the year in which a new President takes office in order that the President's choice of a chairman would not be limited to the incumbent members of the Board. To accomplish this, the law would be changed to provide for the expiration of the terms of Board members in alternate odd years instead of alternate even years. However, in order to allow a new President a reasonable time within which to make his choice, legislative recommendations on the subject would provide for the expiration of the term of each Board member on June 30 instead of January 31, as at present.

One final comment is in order. During the House hearings on the Banking Act of 1935, as has been noted, Reserve Board Governor Eccles suggested that, if a chairman of the Board should not be redesignated by a new President, the individual involved might not wish to continue as a mere member of the Board. It was the feeling of Mr. Eccles that a member who is no longer designated as governor would almost certainly resign. In that event, however, not having served his full term as a Board member, he would be precluded by the law from accepting employment with any member bank for a period of two years after his resignation. This circumstance, in the opinion of Mr. Eccles, might be a deterrent in persuading any highly qualified person to accept designation as chairman of the Board.[222] For this reason, Mr. Eccles suggested that the law should be amended to make the prohibition just mentioned inapplicable to the chairman of the Board if he should resign after termination of his designation as chairman.

The argument made by Mr. Eccles may have some merit, and it might be desirable to amend the law as suggested by him. However, the fact that a member of the Board cannot accept employment with a member bank for two years after resigning from the Board without having served a full term does not appear to be a serious matter; a number of Board members who did not serve full statutory terms apparently had no difficulty in obtaining lucrative employment after leaving the Board without becoming officers or directors of member banks. A more serious deterrent might be the fact that a person would be unwilling to accept the chairmanship of the Board with the knowledge that his designation as chairman might be terminated by the President after four years and that he would not then wish to continue as a member of the Board. In the past, there have been chairmen who did not feel compelled to resign from the Board when they ceased to be chairman. For example, the first chairman (then governor) of the Federal Reserve Board, Mr. Charles S. Hamlin, served as chairman for only two years but continued to serve as a member of the Board until February 1936. Mr. Eccles himself, when he was replaced as chairman in April 1948 by Chairman McCabe, nevertheless continued to serve as a member of

222/ House Hearings on Banking Act of 1935, p. 191.

the Board until July 1951. Despite these examples, it is quite possible that a chairman of the Board in the future who might not be redesignated by a new President would prefer to resign from the Board rather than continue as a mere member.

EX OFFICIO MEMBERS

The Secretary of the Treasury and the Comptroller of the Currency were *ex officio* members of the Federal Reserve Board from the enactment of the Federal Reserve Act in 1913 until February 1, 1936. From time to time since 1936, suggestions have been made for the restoration of the Secretary of the Treasury as an *ex officio* member and for adding other officials of the Federal Government to the Board's membership. Thus, in 1938, the House Banking and Currency Committee held hearings on a bill introduced by Representative Patman that would have reorganized the Board to include, in addition to 12 appointive members, the Secretary of the Treasury, the Comptroller of the Currency, and the chairman of the Federal Deposit Insurance Corporation.[223/] In 1959, there were bills in Congress[224/] to provide for a Board of 16 members, including the Secretaries of Labor, Commerce, and Agriculture and the Administrator of the Small Business Administration. In 1964, a bill introduced by Mr. Patman[225/] would have provided for 11 appointive members plus the Secretary of the Treasury.

223/ H.R. 7230, 75th Cong., 1st Sess.

224/ H.R. 5732 and H.R. 6323.

225/ H.R. 9631, 88th Cong., 2d Sess.

Arguments for inclusion of ex officio members appear to have been based either on (1) the belief that the presence on the Board of certain Cabinet officers would be desirable in order to assure consideration of certain special interests, i.e., farming, labor, and small business, in the determination of Federal Reserve policies; or (2) the belief that the presence on the Board of certain other officials would facilitate coordination of the Board's functions with interrelated functions of other agencies.

In the first category was the proposal espoused by the House Banking and Currency Committee in 1913 to place the Secretary of Agriculture on the Board. The Committee's Report argued that "conditions in the producing regions of the country would deserve special consideration at the hands of the Federal reserve board" and that the Secretary of Agriculture was "the natural representative of the interests of these sections."[226/] Presumably, it was for similar reasons that it was proposed in 1959 to make the Secretaries of Labor, Commerce, and Agriculture and the Administrator of the Small Business Administration ex officio members of the Board.

The argument that certain Government officials, particularly the Secretary of the Treasury and the Comptroller of the Currency, should be members of the Board in order to facilitate "coordination" of interrelated policies and functions was advanced by the House Banking and Currency Committee in its Report on the original Federal Reserve Act.

226/ House Report on Original Act, p. 43.

Thus, the Report said:[227]

". . . It is evident that the Treasury Department not only is, but will continue to be, a fundamentally important factor in the financial organization of the country, while the Comptroller of the Currency, in charge as he is of the national banking system, will be a necessary adjunct in the management of the reserve bank system proposed in this bill."

One of the questions asked by the Douglas Subcommittee in 1949 related to the advantages and disadvantages of making the Secretary of the Treasury an *ex officio* member of the Board. While opposing the idea, the presidents of the Federal Reserve Banks stated the possible advantages as follows:[228]

"The principal advantage of providing that the Secretary of the Treasury should be a member of the Board presumably would be that it might facilitate coordination of debt-management policy with monetary or credit policy. It would provide an opportunity for the Secretary of the Treasury to hear and participate in discussions of credit policies by the Board of Governors of the Federal Reserve System, and the Federal Open Market Committee and to discuss with other members of the Board and the Committee the Treasury financing and debt-management policies that would be most appropriate in the light of Federal Reserve credit policies."

Similarly, in 1964, Professor Abba P. Lerner, while also opposing the idea, conceded that "having the Secretary of the Treasury on the Board would facilitate coordination".[229] Professor Ross Robertson favored the idea on the ground that the Secretary's "membership on the Board would imply a two-way street of advice that might be extremely helpful to both Treasury and the Fed."[230]

227/ *Ibid*.

228/ *1949 Douglas Questionnaire*, p. 113.

229/ *Hearings on Federal Reserve After Fifty Years*, p. 1406.

230/ *Id*., at 1359.

Despite these arguments, proposals to include _ex officio_ members on the Board have received little support. Arguments against such proposals have been stated more frequently than those in support of the proposals. The principal negative arguments are (1) that the Secretary of the Treasury and other officials of the Government who have been mentioned as possible _ex officio_ members already have their "hands full" in the management of their own departments or agencies and could not be expected to do a competent job as members of the Board or to attend meetings of the Board very frequently; (2) that _ex officio_ members would subject the Board to political pressures and impair the Board's "independence" and, in particular, that the Secretary of the Treasury, because of his position, would "dominate" the Board; and (3) that the membership of the Secretary of the Treasury would involve undesirable conflicts of interest. Opponents of the proposal have frequently insisted that "coordination" between the Federal Reserve and the Treasury can be, and has been, achieved without the membership of the Secretary on the Board.

As noted earlier in this paper, the argument that the Secretary of the Treasury and other Government officials are too much occupied with the management of their own agencies to be made members of the Federal Reserve Board was strongly advanced during the debates on the original Federal Reserve Act. This argument has been reiterated in opposition to proposals since 1936 to restore the Secretary of the Treasury to membership on the Board and to add other Government officials to the Board. Thus, in response to the 1949 Douglas Questionnaire, Reserve Board Chairman McCabe stated:[231/]

231/ _1949 Douglas Questionnaire_, p. 44.

"For many years prior to the enactment of the Banking Act of 1935 the Secretary of the Treasury was an ex-officio member of the Federal Reserve Board. Experience demonstrated, however, that this arrangement had serious disadvantages. Being fully occupied with the extensive duties of his own Department for which he was primarily responsible, the Secretary was unable to devote adequate attention to the problems of the Board or to attend its meetings with regularity. Today the burden of official responsibilities borne by the Secretary is even greater.

"In the course of hearings on the Banking Act of 1935, both Senator Glass and Senator McAdoo, each of whom had previously occupied the office of Secretary of the Treasury at a time when the Secretary was also ex-officio Chairman of the Reserve Board, expressed the opinion that the Secretary should not be a member of the Board. During the same hearings, Secretary of the Treasury Morgenthau, who was at the time ex-officio Chairman of the Board, indicated that he believed the various controls of credit should be centered in a Government agency which should be as independent as possible in its determinations of credit policies.

"The closest working arrangement now exists between the Treasury and the Federal Reserve, with constant consultation in all matters of mutual concern and a full appreciation of the responsibilities placed upon both. There is therefore no need for restoring the ex-officio status of the Secretary on the Reserve Board."

Similarly, in response to the same Questionnaire, the Reserve Bank presidents observed:[232/]

". . . Past experience suggests that the many demands on the time of the Secretary of the Treasury are likely to prevent his regular, or even frequent, attendance at the meetings of the Board. Furthermore, the Secretary could hardly be expected to devote the considerable amount of time to meetings of the Board that is taken up by discussion of the internal affairs of the Federal Reserve System. Consequently, it is questionable whether the presumed advantage of the Secretary's membership on the Board would, in fact, be realized. . . ."

In reporting on the 1959 bill to give _ex officio_ membership on the Board to the Secretaries of Labor, Commerce, and Agriculture and the Administrator of the Small Business Administration, the Board

232/ _Id._, at 114.

of Governors stated that such membership not only might interfere with the exercise of independent judgment by the Board in determining credit policies but that it "would place additional burdens on Government officials who are already fully occupied with other duties for which they are primarily responsible."233/

With respect to a 1964 proposal to make the Secretary of the Treasury an *ex officio* member of the Board, Professor G. L. Bach made the following statement:234/

> "If one looks at history, the experience, when the Secretary of the Treasury was a member of the Federal Reserve, was very bad. The problem was not that he dominated the thing, but that he paid little attention to it. He did not show up for meetings, and it just was a bad working relationship. His main interests were other than the Federal Reserve. The Secretary of the Treasury has a very busy job on his hands as it is and to suppose that putting him on the Board is the effective way of coordinating the economic policies of the Government is not to size up as a practical matter the responsibilities that these men have."

Secretary of the Treasury Douglas Dillon agreed:235/

> "Demands on the time of any Secretary of the Treasury are already heavy. Added responsibilities for the formulation and execution of monetary policy would compete with his responsibilities in other areas. Delegation of a large portion of these new responsibilities to his subordinates--and that could hardly be avoided--would in turn raise further questions about whether the critical and complex issues of monetary policy were receiving the attention they deserve. It is one thing for the Secretary of the Treasury to be continually aware of the general nature and direction of

---

233/ Letter from Board to chairman of House Banking and Currency Committee, June 5, 1959.

234/ Hearings on Federal Reserve After Fifty Years, p. 1407.

235/ *Id.*, at 1231.

monetary policy, and to keep in close touch with the Chairman of the Board of Governors on the issues that seem most significant--as I now do. It is quite another to be responsible for the vast and complex activities of a very intricate operating organization."

As has already been noted, Senator Glass, during debates on the Banking Act of 1935, stated that, during the years when the Secretary of the Treasury under the law was an *ex officio* member of the Board, the Secretaries "rarely ever attended meetings of the board" and that, during his own tenure as Secretary of the Treasury, he had not attended "more than one or two meetings of the Board."[236/]

Notwithstanding such arguments to the effect that the Secretary of the Treasury and other Government officials could not devote adequate time to the work of the Board and would seldom attend meetings of the Board, it has been argued that the presence of *ex officio* members on the Board could affect the independence of judgment of the Board and that the Secretary of the Treasury in particular might "dominate" the Board. Thus, Senator Glass in 1935, while stating that the Secretary seldom attended Board meetings, nevertheless declared that the Secretary, when he was a member of the Board, "exercised undue influence over the Board" and treated it "as a bureau of the Treasury."[237/]

In 1949, the presidents of the Reserve Banks, in commenting on the advantages and disadvantages of placing the Secretary of the Treasury on the Board, declared:[238/]

"The principal disadvantage would be that it would tend to strengthen the suspicion that Federal Reserve policies

236/ 79 CONG. REC. 11776.

237/ *Ibid.*

238/ *1949 Douglas Questionnaire*, p. 113.

were being influenced unduly by consideration of facilitating Treasury financing and the management of the public debt. It would probably be suspected, rightly or wrongly, that the influence of the Secretary of the Treasury would be exerted in the direction of low interest rates to hold down the interest cost on the debt, even at times when the appropriate credit policy would be one of restraining credit expansion with the probable accompanying result of raising interest rates."

During the House hearings in 1964 on the Federal Reserve System After Fifty Years, a number of witnesses expressed the view not only that the Secretary of the Treasury, as an ex officio member of the Board, might exercise undue influence upon the policies of the Board but also that such membership might lessen the "independence" of the Federal Reserve System and give rise to serious conflicts of interest. For example, President Hayes of the New York Reserve Bank stated:[239]

"As the members of this subcommittee know, both the Secretary of the Treasury and the Comptroller of the Currency served as ex officio members of the Board of Governors until their membership was terminated by the Banking Act of 1935. From 1933 until his membership was thus terminated, the Secretary also served as Chairman of the Board. The present proposal to reinstate the Secretary as a member and as the Chairman of the Board would thus reverse a deliberate action taken by the Congress after the expiration of a trial period that was surely ample to test the value of the arrangement. I know of no reason for such a reversal, for service by the Secretary on the Board could add nothing to the present smoothly working relationships between the Treasury and the Federal Reserve System, but such a reversal could have serious undesirable consequences. The Secretary of the Treasury is under constant pressure to borrow money at the lowest possible interest rate. It seems to me to be obvious that H.R. 9631 would permit that pressure to become the dominant factor in carrying out monetary policy."

239/ Hearings on Federal Reserve After Fifty Years, p. 527.

Similarly, President Irons of the Dallas Reserve Bank said: 240/

". . . It would be a serious mistake to include the Secretary of the Treasury on the Board as a member and as Chairman of the Board. In the first place, it is probably beyond the capabilities of one man to serve effectively as Secretary of the Treasury and Chairman of the Federal Reserve Board; the responsibilities and requirements of each position are simply too great, with the consequence that one or the other would almost inevitably be neglected. Secondly, placing the Secretary of the Treasury in the position of the Chairman of the Federal Reserve Board would be a step in the direction of lessening the 'independence' of the Federal Reserve Board. Thirdly, the conflict-of-interest possibilities that might arise as a result of the debt management responsibilities of the Secretary of the Treasury, and the credit policy responsibilities of the Chairman of the Federal Reserve Board, is a strong reason for not consolidating the two functions in the hands of one person. The world's largest borrower should not at the same time exercise control over the power to create money and credit. Fourthly, the proposal would place the central bank too directly under the influence and power of the executive branch of Government, a danger that history has proved too often; moreover, it would appear to be, at least in some degree, a step in the direction of an abdication of congressional authority in this field."

Members of the Federal Reserve Board have opposed the *ex officio* membership of the Secretary of the Treasury primarily on the ground that the Secretary would be subject to conflicting interests. Thus, Governor Robertson stated: 241/

"I think this bill would effectively destroy the independence of the system and would make it--and I think it is perhaps so designed--an appendage of the Treasury. I think this would not be wise. I think that there is a real need to separate monetary policies from fiscal policies, because of the possibility of utilizing the money creating facilities of the Federal Reserve System for purposes of financing unsound operations on the part of the Government."

Similarly, Governor Shepardson, at the same time, made the following

240/ *Id.*, at 845.

241/ *Id.*, at 107.

observation:[242]

"I think that a move such as is contemplated here, particularly the move to reestablish the Secretary of the Treasury as a member and Chairman of the Board, would be unfortunate. The Secretary of the Treasury has a responsibility in his function of handling the public debt that, at times, could be a matter of conflict of interest with the longtime stability of the money supply. I think that a wise move was made when that separation was made some years back. I think it would be unfortunate to reverse the setup."

In somewhat different words, the point was made by President Bopp of the Philadelphia Reserve Bank:[243]

"The bill would change the structure and composition of the Board. It would make the Secretary of the Treasury Chairman. This would place on the Secretary a new responsibility that is inconsistent with an existing responsibility. As Secretary, he is the largest borrower in the world by a wide margin. As borrower he appropriately desires the lowest borrowing cost possible. As Chairman of the new Board, he would head the agency with the largest single portfolio of Government securities, an agency whose primary concern is to promote credit conditions appropriate to the entire economy, including but not limited to the Government. The sad experience of many countries, including our own, with putting these conflicting responsibilities in the hands of a single individual leads me to conclude that it should not be done."

GEOGRAPHIC REPRESENTATION

Since its original enactment, the Federal Reserve Act has contained a requirement that not more than one member of the Board shall be selected from the same Federal Reserve district, together with an exhortation that, in selecting members, the President shall

242/ Ibid.

243/ Id., at 422.

have "due regard to a fair representation of the . . . geographical divisions of the country." The apparent purpose of these provisions, as explained during the debates on the original Act by Representative Murray, was to assure proper representation of different areas of the country with different financial and credit concerns.[244/]

Proposals have been advanced over the years to eliminate the restriction on appointment of more than one member from the same Federal Reserve district. As the Banking Act of 1935 passed the House, it would have made this restriction inapplicable to the governor (now the chairman) of the Board on the ground that the selection of the governor should be "as free from arbitrary limitations and restrictions as possible" and that, if the President has in mind a man qualified for the position, he should not be restrained from appointing him "by the fact that he happens to live in a district which is represented by some other member of the Board."[245/] The arbitrary nature of the restriction would seem to be equally applicable to all members of the Board. Moreover, if the intent is to provide representation for all areas of the country, the provision is inadequate since there are only seven members of the Board but 12 Federal Reserve districts. A bill introduced by Representative Patman and considered by the House Banking and Currency Committee in 1938 would have met this objection by providing for 12 appointive members, one from each reserve district. However, as observed by Professor William H. Steiner during hearings

244/ 50 CONG. REC. 5021.

245/ Report of House Banking and Currency Committee on Banking Act of 1935, p. 7.

on that bill, this arrangement "would seem to invite dangers of sectional conflict, with members regarding themselves as representatives of sections rather than of the public at large."246/

In one of his responses to the Patman Questionnaire in 1952, Reserve Board Chairman Martin recommended that the restriction on appointment of more than one member from any one district be repealed, but at the same time he felt it desirable to retain the provision with respect to "due regard" to a fair representation of the geographical divisions of the country:247/

> "While some geographical limitation on the selection of Board members is desirable in order to insure that various sections of the country will be represented on the Board, it is believed that the law is presently too restrictive in providing that not more than one member shall be selected from any one Federal Reserve district. In some cases this limitation may prevent the selection of a person who is otherwise well qualified for the position simply because he happens to live in a Federal Reserve district which is already represented on the Board. For example, under the present law, if there were a member of the Board, say, from Los Angeles, California, it would not be possible to appoint another member from Seattle, Washington, nearly 1,400 miles away. The removal of the limitation on the appointment of more than one member from any Federal Reserve district would permit more flexibility and make possible meritorious appointments in situations of this kind. It is desirable, however, to retain the provision of law which requires that the President in selecting members of the Board 'have due regard' to a fair representation of the geographical divisions of the country in order to insure that various sections of the country will be represented. . . ."

The Patman Subcommittee's Report would have gone beyond Mr. Martin's suggestion and eliminated all reference to geographic

246/ 1938 Hearings on Ownership of Reserve Banks, p. 299.

247/ 1952 Patman Questionnaire, p. 300.

qualifications. The Report stated:[248/]

"... The geographic portions of this provision have reduced the flexibility of the appointing authority in seeking the best possible membership for the Board, while its non-geographical portions reflect in part the older concept of the Federal Reserve System as simply an organization for the 'accommodation of commerce and industry' rather than one whose primary responsibility is the formulation of monetary policy in the public interest. It is, of course, important that the Board include in its membership persons understanding of and sympathetic to the various interests in the county [sic], and the President and the Senate may be expected to insist upon this, but it is also important that men be appointed with a broad understanding of the economic bases of monetary policy. The Subcommittee believes that, in the long run, the quality of membership of the Board would be improved if the present qualifications were removed and the appointments left to the full discretion of the President and the Senate."

Twelve years later, during 1964 hearings, Chairman Martin again recommended repeal of the provision prohibiting selection of more than one member from the same district. He stated that the repeal of restrictions "based on district lines would assist . . . in this primary goal of appointing the best men available for service on the Board."[249/] Later in the hearings, in response to a question whether elimination of the geographic restriction might hold the possibility "of getting a concentration of members from one particular area of the country", Mr. Martin conceded that this was a possibility but that he would assume that any President, in making appointments, "would be very certain in his own mind if he had two from the same district, that the men were so outstanding that it would overcome that geographic disadvantage."[250/]

248/ 1952 Patman Subcommittee Report, p. 56.

249/ Hearings on Federal Reserve After Fifty Years, p. 15.

250/ Id., at 41.

Reserve Bank Presidents Bopp and Irons recommended the complete elimination of any geographic qualifications.[251] These views were in accord with a recommendation made by the Commission on Money and Credit in 1961 that all geographical qualifications for Board members should be eliminated.[252]

It may be noted that a bill now pending in Congress introduced by Representative Patman[253] to reorganize the Federal Reserve Board would drop all provisions of present law referring to geographic restrictions or qualifications.

REPRESENTATION OF SPECIAL INTERESTS

In addition to geographic representation, the original Federal Reserve Act provided that the President, in selecting appointive members of the Board, should have "due regard to a fair representation" of the different commercial and industrial divisions of the country. As has been noted, the provision was expanded in 1922 to require that due regard also be given to representation of the "financial" and "agricultural" interests of the country.

Presumably, the intent of this provision was to assure diversification of backgrounds on the part of Board members and a representation of the interests of different segments of the economy. However, it has frequently been proposed that the provision either be eliminated entirely or modified in some manner.

251/ *Id.*, at 422, 845.

252/ CMC Report, p. 88.

253/ H.R. 11, 91st Cong., 1st Sess.

In the first place, the provision is not a mandatory requirement and has no practical effect today. Whatever the intent of the provision may have been, it has not caused the President, for example, to appoint one member from the commercial field, another from industry, or another from finance. As has been noted, it was the practice for some years after 1922 for one member of the Board to have had a background in agriculture. However, as of the present time, it is doubtful that more than one member of the Board could be regarded as falling within the literal scope of the "due regard" provision.

In the second place, if the provision had any effect at all it has been simply to prompt proposals for the inclusion of references to other "special interests". Thus, as indicated during debates on the 1922 amendments, one might argue that the provision be expanded to include representation of manufacturing and organized labor [254/] or of mining and lumber interests, or even women's clubs. [255/] In 1959, bills introduced in Congress would have added references to representation of "labor, small business, and consumer interests", [256/] and, in 1964, a bill introduced by Representative Patman would have added references to "labor and consumer interests". [257/]

Finally, the provision gives the erroneous impression that Board members "represent" the interests specified in the statute instead

254/ 62 CONG. REC. 1268, 7520.

255/ *Id.*, at 7510.

256/ H.R. 5732 and H.R. 6323.

257/ *Hearings on Federal Reserve After Fifty Years*, p. 4.

of the general public interest. In 1952, Reserve Board Chairman Martin, while not at the time recommending the elimination of the provision, suggested that it be expanded to make it clear that Board members are representative of the general interest of the country. In this connection, he said:[258/]

> "The most important consideration in connection with the appointment of members of the Board is that they be well qualified to pass upon the difficult and complex credit and monetary problems coming before the Board and to represent the broad interest of the entire country. There is merit in having the statute refer generally, as it now does, to a fair representation of various interests so that the President may be called upon to have in mind each of these interests when making his appointments. The reference in the statute to representation of the financial, agricultural, industrial and commercial interests has not, generally speaking, caused Board members to look upon themselves as representatives of particular groups or interests or prevented them from acting in the national interest. However, provision might be made in the law not only that the President in making appointments to the Board have a due regard to a fair representation of the various interests now mentioned in the statute but also that the members appointed be representative of the general interest of the nation as a whole."

Again, as with respect to geographic representation, the Final Report of the Patman Subcommittee reached the conclusion that the "due regard" provision should be eliminated, leaving appointments of Board members "to the full discretion of the President and the Senate".[259/]

In 1959, in opposing bills that would have included reference to representation of labor, small business, and consumer interests, Chairman Martin of the Board made the following statement:[260/]

258/ 1952 Patman Questionnaire, p. 300.

259/ 1952 Patman Subcommittee Report, p. 56.

260/ Letter from Board to chairman of House Banking and Currency Committee, June 5, 1959.

". . . The Board believes it essential that Board members be representative of the interest of the nation as a whole, irrespective of their previous affiliations. If any amendment is made to the law in this respect, it would be preferable to eliminate all references to representation of particular interests in the selection of Board members."

A similar position was taken by the Commission on Money and Credit in 1961:[261/]

"The problem of responsiveness in the Board is closely connected with the problem of representation. From the beginning the Federal Reserve Act has contained varying provisions stipulating occupational and geographical qualifications of one sort or another for Board members. None of these has noticeably improved the calibre of the Board, and their tendency is to imply a responsiveness to parochial interests. Whether or not this is the fact in particular cases, the status of members and the chances of coordination with the rest of the executive branch should be improved if Board members understand that the President's selection is based on their personal qualifications rather than on any representational ties they may bring with them. In addition, the listing of some interests to be recognized produces claims for recognition from others. There cannot be places enough to go around for all claimants. . . ."

Following the same view, Chairman Martin in 1964 told the House Banking and Currency Committee:[262/]

". . . I would favor dropping from the Federal Reserve Act any reference to representation of particular segments of our society. Our efforts should be bent toward obtaining qualified men who will act in the interest of the Nation as a whole."

If the provision requiring the President to have due regard to special interests in selecting members of the Board should be eliminated, the question arises whether some other provision regarding qualifications of members should be substituted.

261/ CMC Report, p. 89.

262/ Hearings on Federal Reserve After Fifty Years, p. 15. Similar views were expressed by Reserve Bank Presidents Bopp (id., at 422) and Irons (id., at 845), and by Secretary of the Treasury Dillon (id., at 1253).

As has been noted, the original Federal Reserve Act required that at least two of the members of the Board should be "experienced in banking or finance". This requirement was eliminated in 1922, apparently on the theory that, if it was improper to require one member to be experienced in farming, it was equally improper to require any members to be experienced in banking. In 1932, a bill reported by the Senate Banking and Currency Committee would have restored the original requirement; and the Banking Act of 1935, as reported by the Senate Banking and Currency Committee, would have required at least two members of the Board to be persons of "tested banking experience".

It is evident that both at the time of the original Act and at least until 1935, there was a prevailing belief that, since the primary function of the Federal Reserve Board was to supervise banks, it should include at least some members who would be knowledgeable in the banking field. For example, Senator Edge in 1921, while believing that the President should be allowed to select the best-qualified men for membership on the Board regardless of background, nevertheless could see no objection to the inclusion of at least two members with knowledge and experience in banking.[263/] Representative Hollister in 1935 urged that the Board should be made up of men who have had some experience in banking instead of "a lot of theorists on the subject of economics."[264/] Even as recently as 1952, Reserve Board Chairman Martin expressed the view that "at least some of the members of the

263/ 62 CONG. REC. 519.

264/ 79 CONG. REC. 7160.

Board be well versed in finance and banking, both by training and experience."265/

However, it appears that the concept of the role of the Board has changed in recent years, particularly since 1935; it seems now generally agreed that the principal, although clearly not the only, function of the Board is to determine monetary and credit policies. We have seen that in 1935 Chairman Eccles and Dr. Goldenweiser suggested that the sole qualification for Board members should be ability to participate in the formulation of national monetary and credit policies and that, although not adopted by Congress, such a provision was included in the Banking Act of 1935 as it passed the House. A requirement of this sort, however, might be subject to the same objections that were raised during consideration of the 1935 Act: it might be regarded as requiring the President to appoint economic or political theorists and as suggesting that experience in banking or, for that matter, in any other areas would not be a sufficient qualification for membership on the Board.

As many have suggested, it might be preferable not to attempt to prescribe in the law any particular qualifications for Board members, but to allow the President the greatest possible latitude in choosing men of ability and judgment who would be able to cope with the widely varied problems confronting the Board, not only those with respect to monetary and credit policy and bank supervision but with unrelated problems that could not have been contemplated by the framers of the original Act, such as those involved in regulation of "truth in lending".

265/ 1952 Patman Questionnaire, p. 300.

SUMMARY

Proposals for changes in the composition of the Board of Governors generally have dealt with six matters: (1) the size of the Board, (2) the length of the terms of Board members, (3) the terms of the chairman and vice chairman of the Board as such, (4) ex officio members of the Board, (5) representation of geographic areas by Board members, and (6) qualifications of Board members in terms of representation of special interests or experience in certain areas.

(1) Since the beginning of the System, in 1913, the law has provided for a Board of seven members, except for the period between 1922 and 1936, when the Board was composed of eight members. A Board of more than seven members theoretically would distribute the workload of the Board; but proposals for a larger Board have found little support in recent years. On the contrary, it seems generally agreed that a larger Board would be unwieldy, would result in a diffusion of responsibility, and would lessen the prestige of membership. A smaller Board, on the other hand, would tend to enhance the prestige of membership and perhaps to expedite the proceedings of the Board. But a Board that is too small would lose the advantages of "collective judgment" and, because of the greater difficulty of obtaining a quorum, might impede the Board's operations. Where the line should be drawn is a matter of judgment. The Patman Subcommittee in 1952, the CMC in 1961, and former Reserve Board Chairman Martin in 1964 favored a five-man Board. However, it is

questionable whether a five-man Board would be significantly preferable to a seven-man Board.

(2) As to the length of the terms of Board members, the question again is one of judgment. The term should be long enough to allow a member to "learn the job" but not so long as to cause him to become apathetic. It should also be long enough to make the job attractive and to insure freedom from outside pressures - whether "political" pressures resulting from concern about reappointment by the President, or "private" pressures engendered by concern about private employment after leaving the Board. If the term is too short, and particularly if the size of the Board is reduced, the "independence" of the Board might be impaired. Proposals for changes in the length of the term have ranged from four years to 12 years, but 10 years seems to be the most popular choice. Again, however, it is questionable whether a 10-year term would be better than a 14-year term.

(3) Since February 1936, the terms of the chairman and vice chairman of the Board, as such, have been fixed at four years but without any requirement that they coincide with the term of the President. Proposals to make such terms approximately coterminous with that of the President have gained support in recent years, principally on the ground that the President should be able to appoint a chairman in whom he has confidence but also on the ground that such an arrangement would afford the Federal Reserve greater opportunity to influence the monetary policies of the Administration. Theoretically, the arguments are plausible; but, practically, one may question whether any change in present law in this respect is of the highest priority.

(4) For nearly 23 years, until 1936, the Board included two _ex officio_ members, the Secretary of the Treasury and the Comptroller of the Currency. Since 1936, occasional proposals to add _ex officio_ members or to restore the membership of the Secretary of the Treasury have been based on the argument that such membership would facilitate "coordination" between the Federal Reserve and other agencies, particularly the Treasury. Against such proposals it has been argued that other officials of the Government have enough to do to discharge their primary responsibilities and, in the case of the Secretary of the Treasury, that his membership on the Board would endanger the Board's "independence" and subject the Secretary to serious conflicts of interest. Such arguments have apparently been so persuasive that practically no one today - not even Mr. Patman - seriously advocates the addition to the Board of any _ex officio_ members.

(5) On one point there appears to be unanimous agreement: the restriction upon the selection of more than one Board member from the same Federal Reserve district should be eliminated from the law. The companion provision exhorting the President to have due regard to representation of the geographical divisions of the country likewise might be omitted without any significant protest.

(6) Finally, the requirement that the President, in appointing Board members, shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests of the country has no real meaning today; on the contrary, it might be asserted that appointments are made completely without regard to representation of such interests. If the provision has any significance,

it is only to suggest that members of the Board are protagonists of special interests rather than representatives of the general public interest. At the same time, replacement of the provision by some requirement as to the "qualifications" of Board members, such as ability to participate in the formulation of monetary and credit policies, might be equally misleading, ambiguous, and meaningless.

It may reasonably be argued that there are no compelling reasons for making <u>any</u> changes in present law with respect to the composition of the Board. A Board of five members with 10-year terms might not reflect much, if any, improvement over a Board of seven members with 14-year terms. A requirement that the terms of the chairman and vice chairman be approximately the same as the term of the President might have logical merit, but it is doubtful whether such a requirement is of the greatest importance. There is no support today for the addition of <u>ex officio</u> members. Repeal of the requirements with respect to representation of geographic areas and of special interests might be desirable, but again there is no evidence that these requirements have significantly hampered the operations of the System.

On the other hand, if positions must be taken with respect to the various questions discussed in this paper, logical and practical considerations appear to support:

1. Retention of a Board of seven members or a reduction in the number of members to five;

2. Retention of terms of 14 years if the present size of the Board remains unchanged, or provision for terms of

10 years if the number of members should be reduced to five;

3. A requirement that the terms of the chairman and vice chairman be approximately coterminous with the term of the President;

4. Opposition to _ex officio_ members;

5. Repeal of the provisions prohibiting the selection of more than one member from the same district and exhorting the President to have due regard to different geographic divisions of the country; and

6. Repeal of the provision exhorting the President to consider representation of special interests.

In the end, specific proposals for changes in the Board's composition would be important only if they might affect the ability of the Board to exercise its independent judgment or subject the Board to political or other pressures. It is assumed, for example, that the System would oppose any suggestions that the number of Board members be reduced to three, that their terms be shortened to four years, or that the Secretary of the Treasury be made an _ex officio_ member.