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Five Judges Serving On Boards of Banks

PAGE ONE

By JAMES N. WOODSON

At least five Virginia judges of courts of record are serving on the boards of directors of banks in the state, despite a canon of judicial ethics construed more than 30 years ago as prohibiting that practice.

However, most of those judges and two members of the Virginia Supreme Court say the judges of courts of record decided at a judicial conference in the 1950s that the canon wasn't applicable to judges serving on bank boards.

Still, the question of propriety did come up in the 1972 General Assembly, according to some judges, when one or two judges up for reelection were asked privately by some legislators to resign from bank boards on which they sat.

There also were reports that legislation along that line was to be introduced until State Sen. William F. Stone, D-Martinsville, chairman of the Senate Courts of Justice Committee, "and some others" met for a discussion with Chief Justice Harold F. Snead and others on the Virginia Supreme Court.

Snead said Thursday that the matter of judges serving on bank boards was discussed at that meeting, along with some revised canons of judicial ethics proposed by a committee of the American Bar Association and due to be acted upon by the ABA in August.

One of those proposed canons would prohibit judges from serving on bank boards, the chief justice said, "and if they are passed by the ABA, I suspect we'll take a new look at things."

He added: "It's been going on ever since there were courts, there've been judges on bank boards. I'm on the board of a savings and loan association, but I don't know if those are different from banks in this respect or not."

Both Snead and Justice Lawrence W. I'Anson said there was a long story behind Canon 25, dealing with busi-

ness ventures, and that it had been held inapplicable to trial judges serving on bank boards many years ago.

I'Anson Quoted

I'Anson said, "It was interpreted at the time of the judicial conference in the Chamberlin Hotel at Old Point Comfort 16 or 18 years ago that it was not applicable. Every trial judge there, except one, felt there was no conflict of interest . . ."

He added: "I'm a member

of a savings and loan board, but I didn't think it was a violation of any canon of ethics. It's a nonstock corporation. We do not hold any stock. It has been differentiated in that respect."

A check with the State Corporation Commission and a number of banks turned up the five state judges known to be currently serving on bank boards, though I'Anson said he was sure there are "several more."

The five are: Circuit Court

Continued on Page 2, Col. 1



Five Judges on Banks' Boards

Continued from First Page

Judge Paul A. Holstein, a director of the First National Bank of Lexington; Circuit Court Judge Arthur W. Sinclair of Fairfax, board chairman and a director of the People's National Bank in Manassas; Circuit Court Judge Fred L. Hoback of Salem, a director of The Bank of Virginia of the Southwest; Portsmouth Circuit Court Judge Henry W. MacKenzie, a director of the Mer-

chants and Farmers Bank in Portsmouth, and Portsmouth Hustings Court Judge Robert F. McMurrin, a director of the Citizens Trust Bank in Portsmouth.

Three Go Off

At least three other state judges have left bank boards since December: Circuit Court Judge George F. Abbitt Jr., who was a director of the Farmers National Bank of Appomattox; Circuit Court Judge Joseph N. Cridlin, who

had been chairman of the board and a vice president of The Powell Valley National Bank of Jonesville, and Circuit Court Judge Carleton E. Holladay, who had been a vice president and a director of the Bank of Sussex and Surry in Wakefield.

Canon 25, in effect in Virginia since its adoption on Oct. 21, 1938, by the Virginia Supreme Court, states that:

"A judge should avoid giving ground for any reasonable suspicion that he is utilizing the power or prestige of his office to persuade or coerce others to patronize or contribute, either to the success of private business ventures, or to charitable enterprises. He should, therefore, not enter into such private business, or pursue a course of conduct, as would justify such suspicion, nor use the power of his office or the influence of his name to promote the business interests of others; he should not solicit for charities, nor should he enter any business relation which, in the normal course of events reasonably to be expected, might bring his personal interest into conflict with the impartial performance of his official duties."

Resolution Adopted

The Council of the Virginia State Bar, which has authority from the Virginia Supreme Court to construe canons of judicial ethics by issuing opinions, adopted a resolution on March 4, 1940, which said:

"Resolved that there be referred to the Committee on Judicial Ethics for investigation and report the following resolution: Resolved, that it is the judgment of the council that, under the Canons of Judicial Ethics, no judge of the commonwealth should act as a director or officer of any banking or trust company in this state, nor should he receive any gratuity from any person or corporation whose interest could possibly come before him for judicial action."

In issuing its opinion on Aug. 7, 1940, the bar's Committee on Judicial Ethics concluded that, under Canon 25, "no judge of this commonwealth should, in future, act as director or officer of any banking or trust company in this state..."

But the committee also noted in its opinion, published in a state bar annual report sent to every member, including judicial members, that "no complaint has ever been made of the slightest impropriety on the part of any judge who has served, or who is now serving, in any capacity with any such institution..."

Phone Interviews

In telephone interviews Thursday, Judges Sinclair, McMurrin, MacKenzie and Hoback all said they weren't aware of Canon 25 and the ethics committee opinion on it.

But they said they did understand that in a judicial conference in the 1950s the late Chief Justice Edward Wren Hudgins, who was on a bank board at the time, and the other judges went on record as saying those judges who were on bank boards could remain on bank boards.

Holstein was vacationing in Palm Beach, Fla., last week and couldn't be reached for comment.

Cridlin said he resigned his bank post in December, primarily because of the fact that the ABA, of which he is a member, was contemplating canons of judicial ethics that would prohibit judges from serving on bank boards.

He added: "I'm also cognizant of the fact, and have been, that there has been criticism of the situation in both the state and federal judiciary... I decided the best thing to do was to bow out..."

No Discussion

Holladay said, "I don't care to discuss the bank affairs at all — court affairs or bank affairs, either. I don't feel these things ought to be discussed and I wouldn't make any statement on it."

McMurrin said he understood the Virginia Supreme Court was going to adopt any canon passed by the ABA prohibiting judges from serving on bank boards, effective Jan. 1 of next year, "but we

always have considered it was not unethical at all... If the canon does say this, it certainly hasn't been acquiesced in..."

He added: "Certainly, no judge is going to sit on the case of a bank he's involved with... I didn't know anything about it (the canon and opinion) until you called it to my attention. I've never heard of it before, and one of the members of the legislature — on the House of Delegates from my area — is sitting here with me, shaking his head. He's never heard of it, either..."

Hoback Comments

Hoback, unanimously re-elected in the 1972 General Assembly, said: "In view of the recent discussion on this in the General Assembly, you might well discuss it with some members of the Courts of Justice committees. When I was requested to make some statement before them, I said I would adhere to any rule promulgated by the appeals court and applicable to all other judges in the state..."