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THE FEDERAL ADVISORY COUNCIL

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would be able to say that he had ever heard of the Council. It is even doubtful whether many senior officials of the Board of Governors or the Federal Reserve Banks could name the current members of the Council.

The only provisions of the Federal Reserve Act that refer to the Council are those contained in section 12 of the Act, a section that formed a part of the original Federal Reserve Act of 1913 and that has never been amended. The full text of that short section is as follows:^{2/}

"There is hereby created a Federal Advisory Council, which shall consist of as many members as there are Federal reserve districts. Each Federal reserve bank by its board of directors shall annually select from its own Federal reserve district one member of said council, who shall receive such compensation and allowances as may be fixed by his board of directors subject to the approval of the Board of Governors of the Federal Reserve System. The meetings of said advisory council shall be held at Washington, District of Columbia, at least four times each year, and oftener if called by the Board of Governors of the Federal Reserve System. The council may in addition to the meetings above provided for hold such other meetings in Washington, District of Columbia, or elsewhere, as it may deem necessary, may select its own officers and adopt its own methods of procedure, and a majority of its members shall constitute a quorum for the transaction of business. Vacancies in the council shall be filled by the respective reserve banks, and members selected to fill vacancies, shall serve for the unexpired term.

"The Federal Advisory Council shall have power, by itself or through its officers, (1) to confer directly with the Board of Governors of the Federal Reserve System on general business conditions; (2) to make oral or written representations concerning matters within the jurisdiction

^{2/} Federal Reserve Act, § 12 (12 U.S.C. §§ 261, 262).

of said board; (3) to call for information and to make recommendations in regard to discount rates, rediscount business, note issues, reserve conditions in the various districts, the purchase and sale of gold or securities by reserve banks, open-market operations by said banks, and the general affairs of the reserve banking system."

On the few occasions when the Federal Advisory Council has been mentioned at all in treatises, in speeches, or in Congress, such mention has usually taken the form of expressions of skepticism as to the value of the Council or proposals that the Council be abolished or replaced by an advisory body of a different kind. Even in 1923, Professor H. Parker Willis felt that the Council had not become the "body of public importance" that it was intended to be.^{3/} In 1938, Representative Patman sponsored a bill that would have abolished the Council;^{4/} and in hearings on that bill then-Chairman Eccles of the Federal Reserve Board conceded that the Council did not "contribute" much.^{5/}

It is the purpose of this paper to recount the history of the Federal Advisory Council; to describe its composition, organization, and procedures; to discuss its status and powers; to indicate the manner in which it has performed its functions over the years;

^{3/} H. Parker Willis, THE FEDERAL RESERVE SYSTEM (Ronald Press Co., 1923), p. 724.

^{4/} H.R. 7230, 75th Cong., 1st Sess.

^{5/} Hearings before House Banking and Currency Committee on H.R. 7230 (75th Cong., 3d Sess., Mar., Apr. 1938), p. 449. These hearings are hereafter cited as 1938 House Hearings.

and to summarize judgments that have been expressed as to the usefulness of the Council and proposals for changes in the Council. It is hoped that this review may make it easier to formulate conclusions as to whether any changes should be made in the composition or operations of the Council that might make it a more useful part of the Federal Reserve System or whether, on the contrary, the Council should be dispensed with entirely.

ORIGIN AND PURPOSE

The Federal Advisory Council was the result of a compromise. On the one hand, there was a strong feeling among bankers in 1913, when the Federal Reserve Act was under consideration, that the Federal Reserve Board should be composed of bankers; and, on the other hand, there was an equally strong feeling on the part of many members of Congress and others, including William Jennings Bryan, that the Government, and not the bankers, should run the new Federal Reserve System. Carter Glass, then chairman of the House Banking and Currency Committee, felt that at least a minority of the Board should be bankers. It was President Wilson who, despite the insistence of bankers, decided that bankers should have no part in the selection of members of the Board or be directly represented on the Board. However, as a means of gaining banker support for the bill, Wilson suggested the alternative of including provisions for the establishment of an advisory council on which bankers would be represented.

The detailed story of the compromise was subsequently related by Carter Glass in 1927. He stated that the President had asked him to come to the White House for a conference concerning the feature of a proposed bill that would have given the banks minority representation on the Board. At that conference, according to Glass, President Wilson "decided against banking representation" even though "it might involve the failure of legislation by embittering the bankers should they be entirely excluded."^{6/} Glass, however, was so convinced that the President was wrong that he wrote a note to Wilson asking him to reconsider his decision. The rest of the story can best be told in Glass's own words:^{7/}

"The President was adamant; and, if there was ever a lapse, I soon was to revive the conviction that Mr. Wilson knew more about these matters than I did. As anticipated, when the bill was introduced in Congress, bankers raised an uproar about this provision. With scarcely suppressed satisfaction, I headed a delegation of them to the White House to convince the President he was wrong. Forgan and Wade, Sol Wexler and Perrin, Howe and other members of the Currency Commission of the American Bankers Association constituted the party. The first two, peremptory and arbitrary, used to having their own way, did not mince matters. They evidently were not awed by 'titled consequence,' for they spoke with force and even bitterness. Sol Wexler and Perrin were suave and conciliatory. The President was courteous and contained. These great bankers, arbiters for years of the country's credits, were grouped about the President's desk in the Executive office adjoining the Cabinet room. I sat outside the circle, having already voiced my own dissent from the President's attitude.

^{6/} Carter Glass, *AN ADVENTURE IN CONSTRUCTIVE FINANCE* (Doubleday, Page & Co., 1927), p. 113.

^{7/} *Id.*, pp. 115, 116.

President Wilson faced the group across the desk; and as these men drove home what seemed to me good reason after good reason for banker representation on the central board, I actually experienced a sense of regret that I had a part in subjecting Mr. Wilson to such an ordeal. When they had ended their arguments Mr. Wilson, turning more particularly to Forgan and Wade, said quietly: '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?' There was painful silence for the longest single moment I ever spent; and before it was broken Mr. Wilson further inquired: 'Which of you gentlemen thinks the railroads should select members of the Interstate Commerce Commission?' There could be no convincing reply to either question, so the discussion turned to other points of the currency bill; and, notwithstanding a desperate effort was made in the Senate to give the banks minority representation on the reserve board, the proposition did not prevail.

"It was at this conference that the President requested the House chairman, as compensation to the bankers for denial of representation on the central board, to set up a Federal Advisory Council, to be composed exclusively of bankers, authorized to sit at stated times with the Federal Reserve Board in a purely advisory capacity. This was done and the amendment made in committee. . . ."

It is interesting to note that two of the bankers who participated in the White House conference described by Carter Glass subsequently became closely associated with the System. James B. Forgan became the first president of the Federal Advisory Council and John Perrin became chairman of the board of directors of the San Francisco Reserve Bank and Federal Reserve agent at that Bank. In 1919, Mr. Perrin wrote a letter to Mr. Forgan in which he recalled the origin of the Council:

"The provision of the Federal Reserve Act creating the Federal Advisory Council, you will recall, was incorporated as a compromise to give the banks an opportunity

for direct contact with the Federal Reserve Board instead of through the Federal Reserve banks. While the legislation was under consideration we bankers first urged that we be given a majority of the members of the Federal Reserve Board; failing that we urged that we have a minority representation on the Federal Reserve Board; finally it was proposed that if the bankers would co-operate in helping to enact the Federal Reserve Act this provision would be incorporated, giving to the banks an Advisory Council. You are, of course, very familiar with this history of the origin of the Council."

In another description of the "compromise", Professor Willis ^{8/} in 1923 wrote:

". . . This organization [the Federal Advisory Council], it will be recalled, was what had been saved from the plan of the original bill which had sought to create a self-governing banking system. That original plan had contemplated a central body composed of bankers and chosen in large part by the banks themselves. The plan had been sacrificed to Mr. Bryan's scruples, and the central coordinating mechanism of the system (the Federal Reserve Board) had become a board of presidential appointees. Yet, in the endeavor to provide some direct means of shaping the course of the system along democratic lines, the act had provided for a council of bankers to represent the several districts and to be chosen each in his own district by the local federal reserve bank. . . ."

As reported by the House Committee and as passed by the House, the section of the Act providing for the Federal Advisory Council was substantially as it was finally enacted - and as it is today. Only three minor changes were made in the Senate. The Senate Banking and Currency Committee was evenly divided on so many features of the bill that the Committee was unable to make a single report. Instead, two reports were submitted, one by the section of

3/ Willis, supra note 3, at 715.

the Committee led by Senator Owen and the other by the section led by Senator Hitchcock. With respect to the Federal Advisory Council, however, the bills submitted by the two sections of the Committee were virtually identical. In two respects they differed from the corresponding provisions of the bill that had passed the House. In the first place, whereas the House bill had provided that a member of the Council should receive no compensation for his services but might be reimbursed for actual necessary expenses, both of the Senate versions provided that a member of the Council should receive "such compensation and allowances as may be fixed by his board of directors subject to the approval of the Federal Reserve Board."^{9/} In the second place, the House provisions had authorized the Council to call for "complete" information and to make recommendations in regard to discount rates, reserve conditions, and other matters, whereas the Owen Report and the bill as finally passed by the Senate omitted the word "complete".^{10/} During the debates in the Senate, Senator Owen introduced and the Senate adopted an amendment permitting the Council, in addition to the holding of four meetings a year in Washington, to hold other meetings either in Washington "or elsewhere, as it may deem necessary."^{11/}

^{9/} Report of Senate Banking and Currency Committee on H.R. 7037 (Rept. No. 133, Part 2, 63d Cong., 1st Sess., Nov. 22, 1913), p. 48; id., Part 3, p. 14.

^{10/} Id., Part 2, p. 49.

^{11/} 51 CONG. REC. 1144.

In the course of consideration of the bill in Congress, there were some who continued to argue for banker representation on the Federal Reserve Board and who felt that the Federal Advisory Council was a mere "makeshift" and would have no power. Thus, ^{12/} Representative Mondell said:

"The amendment to the original Glass bill providing for a Federal advisory council was adopted in recognition of the faults in the plan of organization to which I have referred, and is an attempt to cure or at least palliate them. Unfortunately, the plan is not founded on correct principles, and in practice would probably create friction without accomplishing beneficial results.

* * * * *

"The Federal advisory council would, under the plan now proposed, have no power, authority, or jurisdiction which a voluntary association which might be organized by the banks would not have; therefore it amounts to no more than a declaration that associations or committees representing the banks may make suggestions or recommendations to the high and mighty Federal reserve board. Are we to understand that but for this provision the board would not be supposed to hear or heed petitions or recommendations?

"The people should be recognized and given representation through the banks on the Federal reserve board; no such make-shift or pretense as the advisory council will do."

Similarly, Representative Madden felt that provision for a Federal Advisory Council "without power is misleading and should be stricken from the bill."^{13/}

^{12/} Id., at 4693.

^{13/} Id., at 4706.

At the other extreme, there were a few Congressmen who felt that the Council would have too much power and would dominate the Federal Reserve Board. For example, Representative Murdock believed that the Council would have a "good deal to say about this system and how it is conducted" and that this advisory board of bankers would "in the end dominate the political board".^{14/} Representative Gray felt that the Council was simply an indirect means of enabling the bankers to control the Federal Reserve System. He^{15/} declared:

"Bankers stand in a peculiar position and have a greater opportunity than other people to gain advantage by the control of public currency and should not, therefore, have the same right to advise respecting public currency that others have with only a common or public interest in the currency.

"The object of this section is to bring into the Glass bill the bank control provided for in the Aldrich bill and thus secure indirectly what has been denied them directly.

"It is to give the banks an excuse, a pretext, and an opportunity for meeting, conferring, and advising with the members of the Federal reserve board to influence its action in the issue and control of the volume and distribution of public currency.

"It is to guard and shield the bankers in their operations to influence the administration of this law and protect them from interference as lobbyists."

There were some also who felt that it was somewhat illogical to establish an advisory body to express the views of the banking

^{14/} Id., at 4821.

^{15/} Id., at 5109.

interests of the country without also establishing advisory bodies to represent the views of other interests. Thus, Representative Gray suggested that there was no more reason why bankers should advise the Federal Reserve Board than representatives of other interests, such as farmers, merchants, manufacturers, and railroad men. ^{16/} In like vein, Representative Thompson asked why the bill did not include a provision that would allow the farmers of the country to have an advisory board, although he reluctantly conceded that, since the bankers were required to subscribe to the stock of the Reserve Banks, they were more interested in the System than any other class and that, from this standpoint, the provision for the Council could not be said to be an unjust provision. ^{17/}

Despite such criticisms of the Advisory Council provision, it met with no substantial opposition. Supporters of the bill pointed out that the Council would assist the Federal Reserve Board by keeping it in touch with banking opinion, that it would keep the Board informed of credit conditions in the various Federal Reserve districts, and that it would focus publicity upon the operations of the Board.

The Report of the House Banking and Currency Committee ^{18/} stated:

^{16/} Ibid.

^{17/} 50 CONG. REC. 5009.

^{18/} Report of House Committee on Banking and Currency on H.R. 7837 (Rept. No. 69, 63d Cong., 1st Sess., Sept. 9, 1913), p. 47.

"Section 13 provides for the creation of a Federal advisory council which is to consist of as many members as there are Federal reserve districts, each such district electing through the board of directors of its Federal reserve bank a representative of that bank. The functions of this board are wholly advisory and it would amount merely to a means of expressing banking opinion, informing the reserve board of conditions of credit in the several districts, and serving as a source of information upon which the board may draw in case of necessity. The desirability of such a body as a source of information and counsel is obvious, and it is believed that it gives to the banking interests of the several districts ample power to make their views known, and, so far as they deserve acceptance, to secure such acceptance."

The purposes of the Council were explained in the Owen ^{19/} Report in the Senate as follows:

"In order to keep the Federal reserve board in intimate touch with the banking business of the country, the Federal advisory council is established, consisting of one representative from each Federal reserve bank with power to confer directly with the Federal reserve board, make proper representations and recommendations, call for information, etc. (p. 39) Many of the big banks quite urgently insisted that the bankers should have representation upon the Federal reserve board. This was denied for the obvious reason that the function of the Federal reserve board in supervising the banking system is a governmental function in which private persons or private interests have no right to representation except through the Government itself. The precedents of all civilized governments are against such a contention. It was believed that the Federal reserve board itself, consisting entirely of officers of the Government, might be made more efficient if it had the advice freely available of the Federal advisory council. Moreover, the operations of the Federal reserve board would in this way be subject to greater publicity and enable the banks of the country to have a greater measure of confidence in all of the operations of the Federal reserve board.

19/ Report of Senate Banking and Currency Committee on H.R. 7837
(Rept. No. 133, Part 2, 63d Cong., 1st Sess., Nov. 22, 1913), p. 20.

"It was further believed that the banks of the country, which are invited or required to contribute a very large sum to the Federal reserve banks, would be more content by having an easy and convenient means provided by law of frequent conferences with the Federal reserve board and the opportunity to advise the board with regard to the financial, commercial, and industrial needs of the country."

During the House debates, Representative Adair referred to the Advisory Council section of the bill as a "wise provision" that would "materially aid the Federal reserve board in the discharge of its duties."^{20/} Similarly, Representative Hinebaugh believed that, while the Board would have final power, the provision giving the Council the right to meet four times a year with the Board and to make representations concerning actions proposed to be taken by the Board was a "wise provision".^{21/}

Representative Saunders believed that the Council not only would be of assistance to the Board but that its recommendations would be given great weight by the Board:^{22/}

"The value of this board composed of men of affairs, skilled in practical banking, and acquainted with the conditions of business not only in their respective districts, but in the country at large, can not be overestimated. It passes belief that the reserve board, in the discharge of their delicate and difficult duties, would be unmindful of the weighty recommendations of such a board as this, or would not at all times welcome their suggestions and often defer to their judgment. Through this advisory council, the reserve banks, to a substantial degree, will have a potential effect upon the deliberations, and policies of the reserve board."

^{20/} 50 CONG. REC. 4758.

^{21/} Id., at 4817.

^{22/} Id., at 4879.

Carter Glass asserted that the Council, by giving publicity to the operations of the Board, would tend to safeguard the public ^{23/} interest:

"The X ray of publicity is turned full upon the operations of this Federal reserve board. There can be nothing sinister about its transactions. Meeting with it at least four times a year, and perhaps oftener, will be a bankers' advisory council representing every regional reserve district in the system. This council will have access to the records of the board and is authorized to give advice and offer suggestions concerning its general policy. How could we have exercised greater caution in safeguarding the public interest?"

Similarly anticipating that the Council would serve a publicity function, Representative Fitzhenry described the Council as an "independent agency" that would be "privileged to know that this board is performing its duties and exercising its great powers fairly and in the interest of all the people", and stated that the Council would have "a right to know just what is being done and why and how; also why certain things are not done."^{24/}

Senator Owen also emphasized the point that through the Council there would be given "complete publicity to the actions of the Federal reserve board". He stated:^{25/}

". . . In order to bring the Federal reserve board into intimate touch with the conditions of the country we have provided for a Federal advisory counsel [sic], each Federal reserve bank electing a man to represent

^{23/} Id., at 4646.

^{24/} 50 CONG. REC., Appendix, at 330.

^{25/} 50 CONG. REC. 5998.

them and to confer with the Federal reserve board, to obtain information from the Federal reserve board, and in that way to give complete publicity to the actions of the Federal reserve board, but more, to give the Federal reserve board the intimate knowledge of the conditions of business in each and every section of the country where there is established a Federal reserve bank. In that way it is hoped to make the Federal reserve board more efficient.

Whether in fact the Council has achieved the purposes apparently contemplated by the framers of the original Act - to assist and advise the Board and to focus public attention upon the operations of the Board - is one of the questions that is the subject of this paper.

COMPOSITION

Bankers

Although it had been suggested by President Wilson and agreed to in Congress that the Federal Advisory Council should consist of bankers, the law itself did not expressly provide that members of the Council should be bankers. (The sole statutory requirement is that each member shall be chosen by each Reserve Bank board of directors from its own Federal Reserve district.) Nevertheless, in conformity with the compromise agreement, the members of the original Council were all bankers. One of them, James B. Forgan of the First National Bank of Chicago, was among the prominent bankers who had accompanied Glass to the famous conference with Wilson at the White House; and Mr. Forgan was president of the Council for the first seven years of its existence. Another famous banker of the day, J. P. Morgan, was a member of the original Council.

The concept of an Advisory Council composed of bankers has been maintained throughout the years. As observed by former Reserve Board Chairman Marriner Eccles in 1961, "custom has confined the membership of the council to commercial bankers."^{26/} Of the approximately 200 men who have served as members of the Council, only three or four have not been commercial bankers. One of these was Paul M. Warburg, an investment banker; he had been one of the original members of the Federal Reserve Board and was selected as a member of the Council from the New York District in 1920 when he was president of the American Acceptance Council. Another representative of the New York District, George L. Harrison, was a member of the Council from 1941 to 1943, when he was president of the New York Life Insurance Corporation; but he had previously been an officer of the New York Reserve Bank and before that had been general counsel of the Federal Reserve Board. The only genuine nonbankers to serve as members of the Council were Charles A. Morss, of the Simplex Wire and Cable Company, who represented the Boston District during 1925 and 1926, and Henry S. McKee, head of a furniture company, who represented the San Francisco District from 1925 to 1927.

It is interesting to note that, except for J. P. Morgan, all early banker members of the Council were officers or directors of national banks. Not until 1920, when Philip Stockton, of the Old Colony Trust Company of Boston, became a member of the Council, was a State

^{26/} Hearings before Joint Economic Committee on "Review of Report of the Commission on Money and Credit" (87th Cong., 1st Sess., Aug. 14-18, 1961), p. 39.

member bank given representation. In fact, during the 57 years since 1913, almost three-fourths of the members of the Council have been chosen from national banks. It is also noteworthy that members of the Council usually have represented large or middle-sized banks rather than small banks.

Reserve Bank officers and directors

On October 17, 1914, just a little over two months after the Board opened for business, the Board issued its Circular No. 8 outlining in some detail a tentative plan for the organization of the Reserve Banks and the performance of their functions. It was expressly stated that the outline had not been finally approved by the Board but represented the work of certain experts that had been appointed by the Reserve Bank Organization Committee. With respect to the Federal Advisory Council, the plan suggested that the members of the Council should "at least at the beginning be active operating officers, preferably the presidents of the several Federal reserve banks."^{27/} It appears that, at least initially, the Board was inclined to agree with this recommendation. On October 8, 1914, it adopted a report prepared by a committee of two Board members (Mr. Delano and Mr. Warburg) with respect to the qualifications of members of the Advisory Council in which it was noted that arguments might be made on both sides of the question whether Reserve Bank officials should be members of the Council. The report concluded,

27/ 1914 Annual Report 164.

however, that the directors of the various Reserve Banks "should be given a rather free hand in the selection of the men most fit for membership in the Council whether they happen to be members of the board of directors or Governor or not." The secretary of the Board was instructed to send the substance of this report to all Federal Reserve agents.

Of the original members of the Council, as announced in December 1914 to serve for the calendar year 1915, three were Reserve Bank "governors", a title corresponding to that of president today, and two others were Reserve Bank directors. The governor-members were George J. Seay of the Richmond Reserve Bank, Rolla Wells of the St. Louis Reserve Bank, and Archibald Kains of the San Francisco Reserve Bank. The director-members were James B. Forgan, a director of the Chicago Reserve Bank, and F. O. Watts, a director of the St. Louis Reserve Bank.

Late in 1915, however, it appears that the Board changed its views. On December 29, 1915, it approved a resolution that read in part as follows:

"WHEREAS, The Federal Reserve Board has determined, after careful consideration, that the purposes for which said Council has been established and the interests of the Federal Reserve System require that the members of said Council should not be officially connected with the Federal reserve banks and, therefore, in a position to give to the Federal Reserve Board the benefit of their disinterested and unbiased advice:

"BE IT RESOLVED, That it is the sense of the Federal Reserve Board that governors, or other officers of Federal reserve banks should not serve as members of the Advisory

Council. As the election of Directors has already taken place it is suggested that this rule shall not apply as to Directors until January 1, 1917."

A copy of this resolution was sent to all Reserve Banks.

Apparently question was raised as to the authority of the Board to promulgate any rules regarding the qualifications of members of the Council. On January 27, 1916, counsel for the Board (M. C. Elliott) expressed the view that there was nothing in the law itself prohibiting an officer or director of a Reserve Bank from being selected by the Reserve Bank's board of directors as a member of the Council and that the Board's power of "general supervision" over the Reserve Banks did not give the Board the right to prescribe limitations not contained in the Act. He concluded that the Board could only "suggest" the advisability of pursuing the course recommended in the Board's resolution of December 29, 1915.

Nearly a year later, the Board receded somewhat from its position regarding the service of Reserve Bank directors as members of the Council. In a letter to all Federal Reserve agents dated December 10, 1916, it was stated:

"Inquiries have been received from Federal Reserve Agents asking for definite advice as to whether Federal Reserve bank directors should be voted for as members of the Federal Advisory Council. The Board is of the opinion that while it is desirable that officers of Federal reserve banks, whose salaries are approved by the Board, should not serve on the Advisory Council, there is no reason at this time to seek to impose such a limitation upon any director of any Federal reserve bank. While it may be to the advantage of the system that there should be rotation in

memberships on the Advisory Council, it is nevertheless desirable that changes be so made that a majority of the membership may not be made up of new men."

Since 1915, no officer of a Reserve Bank has served as a member of the Council and it appears that no Reserve Bank director has been selected as a member since 1920. In 1936, the Kansas City Reserve Bank board of directors considered the selection of its chairman, Mr. J. J. Thomas (previously a member of the Federal Reserve Board) to serve as an "alternate" member of the Council; but on December 5, 1936, the Board reminded the Reserve Bank of its 1916 letter stating it to be the sense of the Board that officers of the Reserve Banks should not serve as members of the Council.

At a meeting in December 1940 between the Board and the chairmen of the Reserve Bank boards of directors, Chairman Thomas B. McCabe of the board of directors of the Philadelphia Reserve Bank raised the question whether a Reserve Bank director might serve as a member of the Council. Reserve Board Chairman Eccles expressed the view that, in the absence of fundamental changes in the law, no changes should be made in the character of the membership of the Council. He pointed out that, if Reserve Bank directors were appointed to the Council and if representation of banks were to be maintained, it would be necessary to appoint Class A directors, and that there were enough qualified bankers in each district without the simultaneous service of one individual in both positions. Moreover, he felt that appointment of Reserve Bank directors to the Council would be inadvisable as a matter of policy.

Alternates

Section 12 of the Federal Reserve Act contains no provision for the selection of alternates to serve in the absence of members of the Council. This is in contrast with section 12A which, since 1935, has specifically provided for the selection of voting alternates to serve in the absence of Reserve Bank members of the Federal Open Market Committee.

In 1919, the member of the Council from the Twelfth District (A. L. Mills, father of a subsequent member of the Board) raised the question whether it would not be possible to appoint alternate members of the Council. However, the general counsel to the Federal Reserve Board (G. L. Harrison, who himself became a member of the Council many years later) expressed the opinion that there was no way under the terms of existing law by which a Reserve Bank could legally elect an alternate member of the Council.^{28/} He stated that, if it should be impossible for a member of the Council to attend a meeting, the Council, as a matter of courtesy, might invite anyone it chose to attend the meeting, but that in such a case that person would not be

28/ It is of interest that the Board's counsel noted, as pointed out by Mr. Mills, that, if a member of the Council from the San Francisco District attended all four of the statutory meetings of the Council in Washington each year, it would require "at least 60 days of his time each year, . . . almost too much to ask of any active banker." Those were days before jet air service.

a legally constituted member of the Council with power to vote. He pointed out further that any such person would not, under the law, be entitled to any compensation or allowance from the Reserve Bank since it was clear that such compensation or allowance was authorized to be paid only to "the duly elected member of the Council from the district."

In 1925, the question of alternates again arose. On this occasion, the governor of the Federal Reserve Board wrote Mr. Warburg, president of the Council, stating that, "upon advice of its counsel", the Board felt that there was no way in which the Reserve Banks could legally select alternates. Again, however, the Board stated that the Council could invite a person to attend a meeting in the absence of the legally appointed member but that such person would have no power to vote on matters coming before the Council. The Board observed that there was doubt as to whether such a person would be entitled to any compensation or allowance, but stated that the Board would "not question the payment of actual expenses in such cases."

In 1936, when one of the Reserve Banks considered the appointment of an alternate member of the Council, the Board reminded the Reserve Bank of the Board's 1925 letter stating that there was no way in which a Reserve Bank could legally appoint such an alternate.

Despite such statements, it appears that by 1945 the by-laws of the Council specifically provided for the appointment of alternates, although without the right to vote; and for many years the Board has

recognized the propriety of the selection of alternates by the Reserve Banks and has sanctioned the payment of fees and allowances on the same basis as those paid to duly appointed members for attendance at meetings of the Council. In a letter to the Reserve Banks dated September 13, 1949, the Board expressed the view that a person invited by a Reserve Bank to attend a meeting of the Council in the absence of the regular member would not be a legally constituted member of the Council with power to vote, but that in such a case the Board would interpose no objection to the payment to such person of a fee, as well as an allowance for expenses, for attendance at such meeting on the same basis as fees and expenses would have been paid to the regular member of the Council if he had attended the meeting.

In January 1957, the Board concurred in the general feeling of the Conference of Chairmen of the Federal Reserve Banks that an alternate should be selected only at the time it became known that a regular member would be unable to attend a meeting of the Council and that it would not be desirable to select an alternate at the time of the regular annual selection of members of the Council. The Board emphasized the desirability of having each district represented at all meetings of the Council and urged each Reserve Bank to make arrangements that would assure the attendance of a representative of its district at each Council meeting.

Although, as far as the writer knows, no such change in the law has ever been suggested, it might be desirable, if the

opportunity arises, to amend section 12 of the Federal Reserve Act to provide expressly for the selection of alternates to members of the Advisory Council who, like alternates to members of the Federal Open Market Committee, could attend meetings of the Council, with the right to vote, in the absence of regular members, and who would clearly be entitled to fees and allowances for attendance at such meetings.

Length of service

The law provides for the selection of members of the Advisory Council "annually". This means that each Reserve Bank board of directors selects a member to represent its reserve district only for a calendar year. There is no prohibition, however, against re-selection of the same person to serve as a member of the Council for year after year indefinitely; and the record indicates that in some instances this has actually been the case.

Over a span of 56 years, 197 different persons have been members of the Council. If a different person had been selected each year by each Reserve Bank, there would have been 672 different members. Only 16 persons, however, have served as members for a single calendar year; 56 have served for two years; and 32 have served for three years. Others have been elected as members of the Council year after year for much longer periods of time. The record was established by Edward E. Brown, of the First National Bank of Chicago, who represented the Seventh Federal Reserve District

for 20 years - from 1936 through 1955. Levi L. Rue, of the Philadelphia National Bank, represented the Third District for 16 years; Robert V. Fleming represented the Fifth District for 15 years; W. W. Smith and E. F. Swinney represented the Eighth and Tenth Districts, respectively, for 12 years; and Howard A. Loeb represented the Third District for 11 years.

Some Reserve Banks have shown more of an inclination toward rotation of membership on the Council than others. Thus, the New York and Atlanta Districts have had 22 members, whereas Philadelphia and Chicago have had only 12. San Francisco, Kansas City, and New York have had 12, 11, and 10 representatives, respectively, who served as members of the Council for three years; whereas Chicago has had only one representative who served for three years.

As early as 1917, the Council itself considered the question of length of service of its members, but it doubted the "propriety" of either the Board or the Council taking any action or making any recommendation with respect to this matter.^{29/} In 1919, John Perrin, chairman of the board of directors of the San Francisco Reserve Bank, in a letter to James B. Forgan, president of the Council, referred to a plan agreed upon by a majority of the Reserve Banks "to establish such rotation in electing members of the Federal Advisory Council that the terms of a third of the members would expire each year."

^{29/} 1918 F. R. Bulletin 827.

At a meeting of the Council in November 1940, a resolution was adopted to the effect that, without any change in the law, the Reserve Banks should follow a plan of selecting members of the Council to serve only for four years on the ground that such a plan would give the Council sufficient continuity of membership "so that its efficiency as a continuing body could be maintained, while at the same time it would permit a sufficient amount of change to insure fresh points of view, prevent too great a crystallization of policies, and avoid the danger of too long continuance in office of any single member."

In 1949, in response to a questionnaire received from Chairman Paul Douglas of the Joint Committee on the Economic Report, Reserve Board Chairman McCabe urged that the law be amended to limit service of members of the Council to three years. He said: ^{30/}

" . . . The desirability of such rotation has been recognized in resolutions adopted by the chairmen of the Federal Reserve banks as well as by the Federal Advisory Council itself, but the directors of some of the Federal Reserve banks have not acted to put the suggestion into effect. Accordingly, I would favor a change in the law to provide that an individual shall not be eligible to serve as a member of the Council for more than three full consecutive calendar years."

Similarly, in 1951, the Independent Bankers Association adopted a resolution recommending that no member of the Council should serve for more than three consecutive years.

30/ Monetary, Credit, and Fiscal Policies, Joint Committee on the Economic Report, 81st Cong., 1st Sess. (Nov. 7, 1949), p. 70.

In 1956, Chairman Martin of the Board of Governors, in response to a request for recommendations for changes in Federal banking laws, recommended to the Senate Banking and Currency Committee that members of the Council should not be permitted to serve as such for more than six consecutive years. Chairman Martin said: ^{31/}

"An amendment is proposed which would prohibit directors of Federal Reserve banks from serving more than 2 consecutive terms of 3 years each, other than the Chairman of the Board of Directors, and would prohibit members of the Federal Advisory Council from serving more than 6 consecutive terms of 1 year each.

"A certain degree of rotation in the directorates of the Reserve banks and the membership of the Federal Advisory Council is desirable in order to obtain the advantages of broader representation and wider experience over a period of time. Such rotation would help to bring a wider variety of experience into the councils of the Federal Reserve System and would also help to bring about a more widespread knowledge of System policies and problems. It would thus serve the public interest in both directions. At the same time, the length of service permitted under the proposed amendment would be adequate to assure for the System and the public interest the benefits of suitable continuity of policy and acquired experience."

At that time, however, the Council itself disagreed with Chairman Martin's recommendation. In November 1956, the Council urged that the board of directors of each Reserve Bank be allowed discretion in determining the length of service of the member to represent its district. The Council said:

"The Council is of the opinion that the terms of service of Federal Reserve bank directors and members of the Federal

31/ Study of Banking Laws: Legislative Recommendations of the Federal Supervisory Agencies, Senate Committee on Banking and Currency, 84th Cong., 2d Sess. (Oct. 12, 1956), pp. 74, 75.

Advisory Council should be determined by each Federal Reserve bank in order to preserve and promote the autonomy of each bank. The present system, which places a high value on experience, has worked well in the past."

ORGANIZATION AND PROCEDURES

Officers and offices

The law contains no specific provisions regarding the organization of the Council. It does, however, imply that the Council may have officers, since it provides that the Council shall have power, "by itself or through its officers", to confer with the Board, make representations, and call for information.

In the October 17, 1914 "circular" of the Board previously mentioned outlining tentative plans for organization of the System prepared by the staff of the Reserve Bank Organization Committee, it was suggested that the Council might establish "general headquarters in Washington with a suitable representative in charge as agent, through whom requests and suggestions may be transmitted to the Federal Reserve Board, and who shall transmit information to the Federal Reserve Banks at his discretion or as may be asked by them."^{32/} It was also suggested that the Council might choose a paid officer or officers to reside in Washington and "maintain an office in the general interests of the Federal Reserve Banks." These suggestions were never followed; the Council never established permanent offices in Washington or, as such, in any other place.

^{32/} 1914 Annual Report 164.

At the Board's invitation, the first meeting of the Council was held in Washington on December 15, 1914.^{33/} Its executive committee held a meeting shortly thereafter in New York City. It adopted by-laws providing for a president, a vice president, and a secretary, as well as an executive committee of five of its members, with the president and vice president as ex officio members.

As a matter of historical interest, there follows a complete list of the presidents of the Council:

<u>Dates</u>	<u>Name</u>	<u>Res. Dist.</u>	<u>Bank</u>
1915 - 1920	James B. Forgan	7	First National Bank of Chicago
1921 - 1923	L. L. Rue	3	Philadelphia National Bank
1924 - 1925	Paul M. Warburg	2	American Acceptance Council
1926 - 1929	F. O. Wetmore	7	First National Bank of Chicago
1930	B. A. McKinney	11	American Exchange National Bank, Dallas
1931 - 1939	Walter W. Smith	8	First National Bank, St. Louis
1940 - 1955	Edward E. Brown	7	First National Bank of Chicago
1956 - 1957	Robert V. Fleming	5	Riggs National Bank, Washington, D. C.
1958	Frank R. Denton	4	Mellon National Bank, Pittsburgh
1959 - 1961	Homer J. Livingston	7	First National Bank of Chicago
1962 - 1963	George A. Murphy	2	Irving Trust Company, New York
1964 - 1967	John A. Moorehead	9	Northwestern National Bank, Minneapolis
1968 - 1969	John A. Mayer	4	Mellon National Bank
1970	Philip H. Nason	9	First National Bank, St. Paul

It is interesting to note that four presidents of the Council, James B. Forgan, F. O. Wetmore, Edward E. Brown, and Homer J. Livingston, came from the First National Bank of Chicago, and that together they served for a total of 25 years.

^{33/} 1914 Annual Report 185.

Perhaps because so many officers of the First National Bank of Chicago have served for so many years as presidents of the Council, it is not surprising that the secretary of the Council has consistently come from the same bank. In testifying before a Subcommittee of the Senate Banking and Currency Committee in 1935, Mr. Edward E. Brown ^{34/} stated:

" . . . Two of my predecessors, presidents of the First National Bank of Chicago, were chairmen of the Federal Advisory Council, and another, Mr. Traylor, was vice chairman. And since the inception of the council the secretary of the board [he meant the Council] has generally been an officer or employee of the First National Bank of Chicago, as it has happened. . . ."

For nearly 45 years, the Council has had only two secretaries, both from the First National Bank of Chicago: Walter Lichtenstein from 1926 till April 1948, and Herbert V. Prochnow since that date.

Executive committee

At its organization meeting in December 1914, the Advisory Council elected an executive committee consisting of its president and vice president and three other members of the Council. In 1919, an additional member of the Council was added to the executive committee; but since 1949 it has again been composed of the president and vice president and three other members.

As stated in the early by-laws of the Council, ^{35/} it was contemplated that the duty of the executive committee would be "to

34/ Hearings before Subcommittee of Senate Banking and Currency Committee on S. 1715 and H.R. 7617, 74th Cong., 1st Sess. (Apr. 19-June 3, 1935), p. 376.

35/ 1918 Annual Report 763.

keep in close touch with the Federal Reserve Board and with their regulations and promulgations, and to communicate the same to the members of the council, and to suggest to the council from time to time special matters for consideration." Presumably, it was expected that there might be occasions when the Board might wish the views of the Council on short notice and when it would not be practical to assemble the full membership of the Council. Thus, in May 1921, at a time when the Council was emphasizing its statutory "power" to keep itself informed concerning the operations of the System and to advise the Board, the Council stated:^{36/}

". . . In order to be able to act promptly, the council has organized an executive committee, a majority of which can be called together at the shortest possible notice. The council realizes, of course, where requests for action upon changes of discount rates emanate from individual Federal Reserve Banks, that the Federal Reserve Board must act promptly. But where the direction for a change of policy with respect to discount rates emanates from the Federal Reserve Board, or where there is ample time for consultation, the council stands always ready to convene, or have its executive committee act in its behalf, in order to keep itself advised and to express its views with respect to the questions in hand; and it will be pleased to have the Federal Reserve Board avail itself freely of its services."

Clearly, the Council felt that it, or its executive committee, should be consulted before the Board made any changes in discount rates.

In February 1942, during World War II, the Council suggested, and the Board agreed, that it would be a good practice for the executive committee to hold a meeting with the Board in Washington in each

^{36/} 1921 Annual Report 686.

month in which there was not a meeting of the full Council; and apparently the first such meeting between the Board and the executive committee took place in April of that year.

In November 1946, however, at a joint meeting of the Board and the Council, Chairman Eccles of the Board suggested that the periodic meetings between the Board and the executive committee be discontinued. He also raised the question whether the executive committee of the Council was contemplated by the law. In this connection, Chairman Eccles stated:

"With respect to the meetings of the executive committee of the Council, it is our view that, since the war is over and the process of reconversion is well under way, the periodic meetings of the Board with the executive committee should be discontinued and that future meetings should be confined to those with the Council as a whole. Although the text of the law provided that the Council might confer with the Board through its officers as well as directly, it is clear that the primary intent was that the Council as a whole meet with the Board. We do not believe it was contemplated that there would be an executive committee and especially not one which conducts regular meetings with the Board. The executive committee itself has recognized that it could not necessarily speak for the Council and, consequently, the questions and expressions of the executive committee have been those of the group of individuals, never more than half the Council, who constituted the executive committee."

Although the Council took strong exception to some of the charges made by Chairman Eccles, it agreed in December 1946 that the practice of meetings between the executive committee and the Board be discontinued.

Meetings

The statute provides that the Council shall meet in Washington, D. C., at least four times each year or oftener if called by the Board,

and that it may hold such other meetings in Washington or elsewhere as it may deem necessary. Since the beginning, the by-laws of the Council have provided that the four required meetings each year shall be held in February, May, September, and November. On relatively rare occasions, there have been departures from this schedule. In addition, special additional meetings have been held, as, for example, in April 1962, when the sole topic considered by the Council was whether the Board should reverse its long-standing position that absorption of exchange charges by member banks constitutes an indirect payment of interest on deposits.

It has been the practice of the Council to meet for two days in Washington. The Council's separate meeting on the first day has usually been held at a hotel in Washington. On the afternoon of that day, it has been the practice for a member of the Board's staff to brief the Council on general economic and credit conditions or some specific aspect of the current situation. On the following day, the Council has met with the Board.

During the first 20 years of the System, it was customary for the Council to invite the governor of the Board (or, in his absence, the vice governor) to lunch alone with the Council on the first day of its two-day meeting. Along about 1933, a practice was adopted under which the Council held a "preliminary" meeting with the full Board on the first of its meeting days. However, in August 1935, the secretary of the Council suggested that such preliminary

meetings be dispensed with because they left little significance to the subsequent "formal" meeting with the Board. He suggested that it would be preferable to revert to the earlier procedure under which the governor (since 1936, the chairman) of the Board lunched with the Council on the first day of the meetings, since at such luncheons the governor usually "talked fairly confidentially with the members of the Council and perhaps could do so with less embarrassment than if the whole Board were present." This change in procedure was agreed to by Governor Eccles and for some time he, or the vice governor, lunched alone with the Council on the first day of the meetings. Under current practice, the Board's chairman usually has lunch with the Council on the second day of the meetings.

In the early days, there were occasions when the meetings of the Council with the Board were attended by others than members of the Council and the Board. For example, a joint meeting of the Council with the Board in November 1918 was attended by an assistant secretary of the Treasury and by Governor Strong of the New York Reserve Bank, and in May 1920 a meeting between the Board and the Council was attended by Class A directors of the Reserve Banks. Meetings of the Council with the Board were also attended by several of the senior members of the Board's staff. In December 1946, however, the Council recommended, and the Board agreed, that joint meetings be confined to members of the Board and the Council, with only a secretary (and an assistant) present for each body and without

the presence of other members of the Board's staff. Except on rare occasions, this practice has consistently been followed since that time.

In the early years, agendas for meetings between the Council and the Board were formulated on a somewhat ad hoc basis. For some time, it was the practice of the Board to submit a number of specific questions to the Council in advance of meetings, but gradually the number of such questions diminished and on some occasions the Board propounded no questions at all.

At the November 1946 joint meeting, Chairman Eccles, on behalf of the Board, made a statement in which he alleged that, contrary to the purposes of the law, a practice had evolved under which the Council interrogated instead of advised the Board. He stated:

"A procedure has developed, however, which seems to us to be a departure from this purpose. The meetings of the Council and its executive committee with the Board have tended to become a medium for interrogation of members of the Board to an extent beyond what the Board believes was the intended scope of inquiries by the Council, rather than a medium for conveying the Council's advice and recommendations to the Board. The practice of submitting formal recommendations and discussing them has practically disappeared. Instead, the Council has very largely confined itself to a procedure of asking questions, which frequently relate to what members of the Board may be thinking about prospective legislation or possible actions in the field of policy or regulatory matters."

To rectify the situation, Chairman Eccles suggested a procedure similar to that worked out with respect to meetings of the Board with the presidents of the Reserve Banks under which the presidents, in separate

session, reviewed the subjects they wished to discuss with the Board and then formulated written statements that were furnished to the Board in advance of the joint session. In response to Chairman Eccles, the Council suggested, and the Board agreed to, the following procedure:

"II. That the Board submit to the Council in advance of its meetings, or at least by noon of the day the Council meets by itself in Washington, questions of importance which the Board is considering so that the Council can advise as a body upon them after an opportunity of discussion among its members.

"III. That the Secretary of the Council will, as heretofore, send the Secretary of the Board questions which any member of the Council thinks should be discussed or on which he desires information. The Council fully understands the desire of the Board to have the Council's questions submitted in advance of the meetings, and a corrected agenda developed at the meeting of the Council, prior to its meeting with the Board, will be submitted to the Board early on the following morning. The joint meeting may be held the same afternoon or the following morning. To maintain the effective position of the Council it reserves the right, as contemplated in the Act, to discuss with the Board other matters which may arise."

Since 1947, it has been the general practice for the Board to submit to the Council shortly before the date of a scheduled meeting a series of questions with respect to which the views of the Council are requested. Over the last decade, these questions have usually been formalized under four headings: economic conditions and prospects, banking developments, balance of payments, and current monetary and credit policy; but occasionally a question or two may be included with respect to current proposals for changes in law or in regulations of the Board.

The questions submitted by the Board are considered by the Council at its separate meeting on the first day of the Council's visit to Washington. Late in the afternoon of that day, the secretary of the Council prepares a document setting forth the questions submitted by the Board and the brief responses of the Council. This document is then made the basis for the joint meeting on the following day between the Council and the Board.

Expenses

The statute provides that each member of the Federal Advisory Council "shall receive such compensation and allowances as may be fixed by his board of directors subject to the approval of the Board of Governors of the Federal Reserve System." The Board has taken the position that the fees and allowances paid to members of the Council should be comparable to those fixed for Reserve Bank directors and has approved application to members of the Council of the same schedule of maximum fees and allowances as that approved for directors. ^{37/}

The law makes no provision, however, for any operating or administrative expenses that may have to be incurred by the Council, such as the payment of a salary to the secretary and assistant secretary of the Council and the cost of necessary stationery. Nevertheless, although not specifically authorized by the statute, the Board has approved the annual payment to the Council by the Reserve Banks of moderate sums of money necessary to cover such expenses. In March 1936, the Board

^{37/} Board letter to all Reserve Bank chairmen and presidents, dated Dec. 6, 1956.

authorized each Reserve Bank to pay not to exceed \$350 annually toward the expenses of the Secretary's Office of the Council. This amount was increased to \$450 in 1954; and, on February 27, 1970, the Board authorized each Reserve Bank, until further notice, to pay not to exceed \$1,000 annually toward the expenses of the Secretary's Office of the Council.

STATUS AND POWERS

"Independence" of the Council

The Federal Advisory Council, like the Board of Governors, is an independent statutory agency of the Federal Government. The independent status of the Council was expressly recognized by the Board in 1914 when the Board "invited" the Council as a "courtesy" to hold its first meeting with the Board in December of that year.^{38/} Reference has already been made to the fact that, while the Board in 1915 indicated a belief that directors and officers of the Reserve Banks should not be members of the Council, it nevertheless conceded that it had no right to promulgate any rules as to qualifications for membership on the Council.

Members of the Council and the Council itself, on a few occasions, have firmly insisted upon the Council's independence. In

^{38/} After the original members of the Council had been selected in early December of 1914, the Board invited the members to meet in Washington on December 15, "recognizing that the Federal advisory council is a separate and independent body, but feeling that courtesy demanded that an invitation should be extended to meet with the Federal Reserve Board at the earliest possible date." 1914 Annual Report 185.

November 1935, Thomas W. Steele, president of the First National Bank and Trust Company of New Haven, Connecticut, and then a member of the Council representing the First Federal Reserve District, addressed a meeting of the member bank stockholders of the Boston Reserve Bank. In the course of candid remarks regarding his experience as a member of the Council, he said:

"A quite unjustified difference of opinion has arisen at times upon the status of the Council as an independent body. Only ignorance could lead to uncertainty on this point. No one can read the statute intelligently, particularly if he does so in the light of its historical setting, without the conviction that it was intended to be fully independent of the Federal Reserve Board and of any other body. . . ."

On December 2, 1946, the Council submitted a strong statement in reply to assertions by Reserve Board Chairman Eccles that the Council had gone beyond its statutory powers in making recommendations as to matters beyond those contemplated by the law. In that statement, the Council vigorously maintained its independence. Although it recognized that the powers of the Council were primarily advisory, it pointed out that it was "not subject to control or direction by the Board of Governors." It stated:

"Unless and until the Congress changes the law, the Council will continue to exercise the powers given it to the best of its ability in the interest of the national welfare as it sees it. While the Council realizes its function is advisory, it will insist on its statutory right to confer with the Board of Governors, to make oral or written representations, to make recommendations, and to ask for information which the law entitles it to have. It reserves the right to make its recommendations public if it so desires. Within these limitations it desires to cooperate with the Board of Governors to the end that whenever possible the Council can support the Board's position publicly and in banking circles. . . ."

It has been mentioned that the Council has no funds of its own and that its members are dependent upon the Reserve Banks and the approval of the Board even for their travel expenses in connection with meetings of the Council. Theoretically, therefore, the Board, if it wished, could restrict the Council's independence; but, as a practical matter, it is unthinkable that the Board would ever make the Council's lack of financial independence a basis for interference with the performance of the Council's statutory functions.

Relations with the Board generally

In general, the relations between the Council and the Board have always been amicable, courteous, and cooperative.

At a particularly amicable meeting between the Council and the Board on November 18, 1918 - only a week after the Armistice that ended World War I - Governor Harding of the Board urged the Council not to hesitate to criticize the Board's actions and expressed the hope that it would not "defer too much to the Board". In this connection, he said:

"The topics submitted to you for consideration cover the entire field of our financial problems, and in closing I would like to call the attention of the Council to that provision in Section 12 under which it has come into existence. I wish to express also, in behalf of my colleagues and myself, appreciation of the very considerate way in which you have treated the Board in all our discussions. It seems to me that you have gone even beyond the bounds of courtesy in deferring to the Board, and I would like to call attention to the fact that this Advisory Council is a body organized by Congress with certain specific powers. It has the right not only to advise the Board but also to criticize its actions; it has the right to call for any specific information it desires and to ask 'the reason why'. As far as I am concerned (and I am

sure my colleagues of the Board take the same view) I would welcome any suggestion and also any inquiry that you wish to make as to the why's and wherefore's of the Board policies. It seems to me that the adoption of a policy of this sort by the Council would be very helpful just now in building up some constructive policy upon which to base our work from this time forth. We have here a body of representative bankers from all sections of the country and certainly their views individually as well as collectively would be of great value to the country, so I hope you will not defer too much to the Board and that you will be as assertive as you please in order that we may have a friendly discussion of any matters which you may deem important."

At times, however, it appears that both the Board and the Council have felt that their relations could be improved and that there might be closer contact. Thus, in October 1920, in a letter to the president of the Council, the Board expressed the feeling that there should be "more continuous contact" and suggested that each member of the Council might write a "confidential" letter to the Board each month. And in 1938 the Council deplored the fact that "no definite program of cooperation between the Board and the Council" had been followed. It expressed the feeling that "a closer and more intimate relationship with the Board should be developed" and that "it should be consulted more freely than in the past."

In recent years, relations between the Council and the Board have been amicable enough, but in general they have been limited to four set annual meetings that have followed a rather stereotyped pattern: submission of questions by the Board with respect to economic conditions, banking developments, balance of payments, and monetary policy; brief, vague, and general replies by the Council;

and a general discussion at the joint meeting between the two bodies. There have been no conspicuous conflicts.

On at least three occasions in earlier years, however, relations between the Council and the Board were strained if not actually hostile. They arose from a conflict of opinion regarding the jurisdiction and powers of the Council in three areas: (1) the subject matter of the Council's recommendations; (2) the authority of the Council to make its views known to the public; and (3) the right of the Council to have access to information as to the Board's plans and activities. These conflicts deserve some detailed consideration since they may have a bearing upon the question whether the Council serves a useful purpose or whether it should be changed or abolished.

Topical jurisdiction

The first major conflict between the Council and the Board occurred in 1934. It related to the nature of the questions with respect to which the Council was entitled to make recommendations to the Board. The statute provides that the Council shall have power to confer with the Board on "general business conditions"; to make representations concerning "matters within the jurisdiction of said board"; and to make recommendations "in regard to discount rates, rediscount business, note issues, reserve conditions in the various districts, the purchase and sale of gold or securities by reserve banks, open-market operations by said banks, and the general affairs of the reserve banking system." While these are wide-ranging subjects, the question raised in 1934 was whether they were broad enough

to embrace such matters as the gold content of the dollar and fiscal policies of the Treasury.

1934 was a year of economic depression and deflated prices. Business activity was at a low level. In January of that year, the dollar had been devalued in terms of gold. At its September meeting, the Council adopted a long statement based upon the premise that "further monetary experimentation holds out no promise of success" and that return to "a standard gold dollar of definitely and permanently fixed gold content" was essential to economic recovery. Among other things, it deplored "money manipulation", insisted upon a program for balancing the national budget, opposed the tendency of New Deal government agencies to "reach out into fields occupied by private capital", and argued that the "mounting government debt should be limited and confined to relief of the unemployed and to a justifiable program of public works." It ended with a strong and somewhat emotional warning against the threat of inflation:

" . . . The history of every country in every age where inflation has been tried has been the same. It ends in utter disaster for every class but one - and that class the speculators. Except for disastrous war and destroying pestilence, no greater calamity could come upon us than one which would sweep away, as it once did in France, as it recently did in Germany, and as in the past it has done in our own country, the accumulated savings of the people."

This statement, with a transmittal letter of September 25, 1934, from the secretary of the Council, was delivered by hand to Acting Governor J. J. Thomas of the Reserve Board by one Harvey E. Emmart, an officer of the Baltimore National Bank, on behalf of

Howard Bruce, a member of the Council from Baltimore. The statement was received by Mr. Thomas late on September 26. On the following day, he returned the statement to the Council's secretary, along with a letter quoting a resolution adopted by the Board that stated that the Board considered "that the matter contained in the statement referred to does not come within the jurisdiction of the Federal Reserve Board." The letter also mentioned that the subject matter of the statement had not been discussed at the meetings between the Council and the Board on September 17 and 18, 1934, and "that no intimation thereof was given to the Board by the Council at any time prior to the receipt" of the Council's letter.

To make matters worse, the matter got into the press on September 28. The Council, on September 26 (the same day that the statement was received by Mr. Thomas), had sent copies of the statement to all member banks and had released it to the newspapers. An article in the Washington Evening Star of September 28, headed "Return to Gold Plea is Refused", stated that the Board had announced that it had returned to the Council a statement urging return to the gold standard and discontinuance of monetary experiment "as touching matters outside its jurisdiction."

On October 4, 1934, the president of the Council, W. W. Smith, wrote a letter to Acting Governor Thomas of the Board "deploring" any controversy with the Board but defending the Council's right to make any recommendations pertaining to "the general affairs of the Reserve Banking system" - the language of section 12 of the Federal

Reserve Act. The letter asserted the right of the Council to place its own interpretation upon the law:

"The Council holds the Federal Reserve Board in the highest respect. It disclaims any intent whatever of passing beyond its legitimate sphere. In performing its functions, however, it feels obliged to place its own interpretation upon the law and believes that its interpretation is abundantly justified by the considerations which have been mentioned."

Presumably, it was the feeling of the Board that recommendations relating to the gold standard and fiscal policies of the Treasury were beyond the jurisdiction of the Council; but it appears that the Council felt that it had been unjustly rebuffed. On November 9, 1934, the secretary of the Council, following usual practice, wrote to the secretary of the Board regarding possible topics for consideration at the November meeting, and the letter said: "It is perhaps not surprising that there seems to be a dearth of topics for the next meeting of the Federal Advisory Council."

During hearings before a Subcommittee of the Senate Banking and Currency Committee in 1935 on the bill that later became the Banking Act of 1935, the president of the Council, Mr. Edward E. Brown, was a witness. When the chairman of the Subcommittee asked if it was not the case that the Council sometimes got its communications to the Board returned to it, Mr. Brown replied:^{39/}

"That has happened recently, as I think this committee knows, with the statement that the communication was impertinent."

^{39/} Hearings before Subcommittee of Senate Banking and Currency Committee on S. 1715 and H.R. 7617, 74th Cong., 1st Sess. (Apr. 19-June 3, 1935), p. 376.

The incident was also referred to by another member of the Council, Mr. Thomas W. Steele, in an address to the member bank stockholders of the Federal Reserve Bank of Boston on November 8, 1935. Quite frankly, he expressed the view that the Board was "inclined to think a matter within its jurisdiction when it wants advice and inclined to think a matter not within its jurisdiction when it does not want advice." Referring to the 1934 incident, he said:

"Now it is plain that anything which was within the jurisdiction of the Board in 1933 was equally within its jurisdiction in 1934 and the two positions can not possibly be reconciled. Moreover, aside from the perfectly clear statutory powers and duties of the Board with reference to some of these subjects, many of them have been too many times discussed in the Board's Monthly Bulletins and in its Annual Reports to make its second position a tenable one. The situation which resulted and which presented to the public a picture of a squabble between the Board and the Council, not wholly dignified in all aspects, was regrettable from every point of view."

Never since that time has any serious question been raised as to whether recommendations of the Council were within its jurisdiction. In May 1938, the Council outlined, without objection from the Board, the types of topics (including gold and fiscal policies) that might be discussed by it with the Board:

"This question may be answered in a general way that the types of topics to be discussed by the Council with the Board are those mentioned in Section 12, together with those related thereto that arise out of amendments to the Federal Reserve Act. More specifically, but not necessarily all inclusive, and insofar as they have a relation to the Federal Reserve System, the following are suggested as matters that should be discussed:

- "1. Monetary policies and actions

- "2. Fiscal policies and actions
- "3. Banking legislation and kindred legislation which may have a bearing upon the financial, industrial, commercial and agricultural life of the country
- "4. Reserve policies and actions
- "5. Rediscount policies and actions
- "6. Open Market policies and actions
- "7. Regulations promulgated from time to time by the Board of Governors of the Federal Reserve System
- "8. Relationship of the Board with the Federal Reserve Banks
- "9. Operations of the Federal Reserve Banks
- "10. Member banks' relationship with the Board and with the Federal Reserve Banks
- "11. Gold policy
- "12. Silver policy
- "13. Bank examinations
- "14. In addition, obviously, the Board will be confronted with problems arising out of the operations of other bureaus of government which affect the Federal Reserve System. In this field the Council feels that it could be helpful to the Board."

As will be noted later in this paper, the Council and the Board since 1938 apparently have felt it appropriate to discuss a great variety of matters - including gold policy and fiscal actions - that may have a bearing upon the policies of the Federal Reserve System.

Publication of views

The 1934 conflict regarding the topical jurisdiction of the Council was accompanied by an equally fundamental dispute between the

Council and the Board: the right of the Council to make its views known to the public. Before considering that specific dispute, it is worthwhile to go back to the original Act and to review the practice followed prior to 1934 with respect to publication of the Council's views and recommendations.

The law itself said nothing on the point. There is evidence, however, that some of the framers of the Act contemplated that one of the Council's functions would be to focus publicity on the operations of the Board and the System. Thus, the Owen Report in the Senate observed that "the operations of the Federal reserve board would in this way [i.e., through the existence of the Council] be subject to greater publicity and enable the banks of the country to have a greater measure of confidence in all of the operations of the Federal reserve board."^{40/} During the debates, Senator Owen remarked that the provision for the Council would "give complete publicity to the actions of the Federal reserve board."^{41/} And Carter Glass, in the House, stated that, by virtue of the Council, the "X ray of publicity is turned full upon the operations of this Federal reserve board."^{42/}

During the early years of the System, it became customary for the Board to issue a brief press statement after most meetings

^{40/} Report of Senate Banking and Currency Committee on H.R. 7837 (Rept. No. 133, Part 2, 63d Cong., 1st Sess., Nov. 22, 1913), p. 20.

^{41/} 50 CONG. REC. 5998.

^{42/} Id., at 4646.

with the Council; but usually it contained little or no information as to the nature of the matters discussed. A wonderful example was the statement issued on November 19, 1918, only eight days after the Armistice that ended World War I. After stating the fact that the Council and the Board had met and after listing the names of the members of the Council ^{43/} the statement concluded:

"The session developed a full discussion of the business and banking situation of the country with particular reference to the transition from war to peace activities. Reports from all sections of the country indicate that both bankers and business men view with equanimity and confidence the Nation's ability to meet whatever problems may confront it."

Surely, this optimistic statement must have sent a wave of encouragement throughout the country. One wishes that such statements could be issued today.

The Board's Annual Report for 1918 included, in a separate section, the recommendations of the Council during the years 1915-1918; and the practice of including such recommendations in the Annual Report was continued until 1942. For a few years thereafter, some resolutions and recommendations of the Council appeared in the Annual Report; but there have been none since 1948. Since then, neither the Board's Annual Report nor the Board's monthly Federal Reserve Bulletin has contained more than a bare listing of the names of the members of the Council.

The Council probably reached its zenith, in terms of publicity, in January 1922, when it transmitted directly to President Harding a

43/ 1918 F. R. Bulletin 1175.

"Memorial to the President of the United States" strongly opposing a pending bill that would have required the President to appoint one member of the Federal Reserve Board "whose business and occupation is farming." The Council's unique "memorial" began with the following statement:

"It is with great reluctance that the Federal Advisory Council asks for the privilege of an audience at a time when so many pressing problems of national and international importance are occupying your mind."

The statement then argued that the bill would amount to "class legislation" and concluded with a strong argument for an "independent" Federal Reserve Board consisting of men of the highest integrity, whatever their occupations. In this respect, it is worth quoting:

"The independence of the Federal Reserve Board must be strengthened and protected, and every effort made to secure for service on it men of the highest integrity, intelligence and strength. The Board, like a court of supreme standing, must be able to act from an entirely judicial point of view, uninfluenced by the wishes of parties or classes, but seeking to fashion its policies with the sole aim of serving the best advantage of the country as a whole. If political pressure or the interests of a single class, - be it the farmer, laborer, big industry or capital, - are ever permitted to dominate the Federal Reserve System, it will become the gravest menace to the future of the United States. If the Federal Reserve System is surrendered to political domination, history will repeat itself and, from the greatest blessing that this system is today, it will turn into a curse."

Copies of the Council's "memorial" were sent to each member of Congress (apparently at the Board's expense) and were released to the press at each Federal Reserve Bank.

It was not until 1934 that the right of the Council to publish its views became a matter of dispute. In September 1934, the Council

adopted a statement criticizing the gold and fiscal policies of the Government that prompted the Board to challenge the Council's authority to express views on such subjects. The Council sent its statement to all member banks and gave it to the press. At the next meeting of the Council with the Board, on November 19, 1934, Reserve Board Governor Eccles emphatically stated that it was for the Board to determine what publicity, if any, should be given to the views of the Council.

He said:

" . . . The recommendations and representations of the Council are made by the Council in its capacity as adviser to the Federal Reserve Board solely and therefore are for the Board's consideration alone. It follows that it is for the Board to determine what disposition shall be made of the recommendations and representations submitted to it by the Council after the Board has had adequate time to consider them. And it is also for the Board to determine what, if any, publicity should be given to them other than in its annual report. The Board has always been ready to receive the views of the Council as to the desirability of publishing particular recommendations in advance of the annual report and on occasion such publication has been made by the Board of the Council's recommendations, either on the Council's suggestion or on the Board's own motion."

The Council resisted, and at the joint session on the following day it appears that the Board backed away from its position to some extent. Governor Eccles suggested that the Council should submit its recommendations and statements to the Board before they were submitted to anyone else, indicating whether or not the Council desired to make them public and giving the Board an opportunity for consideration. Under this procedure, Governor Eccles said, the Board could state its reasons for preferring that they not be made public but "that the Board would not

ask that the Council make any commitment that it would not publish the communications." Thereupon, the Council unanimously adopted the following statement that was generally in accordance with Governor Eccles' views:

"It is the opinion of the Federal Advisory Council as at present constituted that when the Council desires to give publicity to its proceedings it should, by itself or through its representatives, discuss such resolutions or recommendations with the Federal Reserve Board and request that these be given publicity. A reasonable opportunity should be given to the Federal Reserve Board to consider and comply with the request of the Council, and the Council should not give publicity to its resolutions or recommendations unless the Board, after due consideration, shall be unwilling to comply with the request of the Federal Advisory Council to give the desired publicity."

The 1934 conflict was not soon forgotten. In early 1935, the Board asked the Council for its views regarding the pending Banking Act of 1935. On April 1, 1935, the Council submitted a long statement in reply. It suggested numerous changes in the pending bill, some of them of a rather basic nature. For example, one would have provided for a five-man Board and for an Open Market Committee consisting of the members of the Board and four Reserve Bank governors appointed by the 12 governors for terms of 10 years. In submitting the statement to the Board, the Council indicated that, after it had been in the possession of the Board for a reasonable period of time, it was the intent of the Council to hand copies of the statement to the chairmen of the Banking and Currency Committees of Congress. However, in accordance with the procedure agreed on at the November 20, 1934 joint meeting, the Board on April 5, 1935, expressed the view

that the Council should meet with the Board to discuss the report before it was filed with the Committees or given any publicity. Such a meeting was held and some changes were made in the statement. A final copy dated April 10, 1935, was printed in quantity. The Board apparently agreed that it might be submitted to the Banking and Currency Committees, but there was at first some disagreement as to whether it should be transmitted by the Board or by the secretary of the Council. On April 15, the secretary of the Council wired the secretary of the Board that he had been instructed to deliver the statement to the Congressional Committees on April 22. However, it appears that Governor Eccles preferred that it be transmitted by the Board and this was done.

Subsequently, on May 8, 1935, the secretary of the Council, on behalf of the Council, wrote a letter to Governor Eccles making a "formal request of the Federal Reserve Board to authorize the release of said report to the end that it may no longer be regarded as a confidential document." Governor Eccles discussed the request with Dr. Miller and it was agreed that it should be approved. The secretary of the Board so advised the secretary of the Council by telephone and approval of the request was confirmed in a letter from the secretary of the Board to the secretary of the Council on May 9. Thus, despite the position that had been taken by the Council on November 20, 1934, it appears that in May 1935 the Council felt that it should not release any statement to the public without formal approval by the Board.

Nevertheless, one member of the Council continued to maintain the Council's legal right to make its views known to the public without regard to the wishes of the Board. In November 1935, with the 1934 incident still in mind, Thomas W. Steele, a member of the Council from the First Federal Reserve District, stated:

"From time to time the question has arisen as to the right of the Council to give publicity to its proceedings, and a year ago this Fall its right to do so was somewhat sharply challenged. It is my clear conviction that there is no possible doubt as to the existence of this right and I do not think that anyone familiar with the origin of the Council, with the terms of the Reserve Act, with accepted practice over the years, and with general legal principles, would question it. I think that under most conditions it would be readily conceded by the Reserve Board itself. It is a right which should be jealously guarded by the Council, and vigorously insisted upon whenever the occasion is appropriate, for there are times when its voice can be made to count in no other manner than through publicity and when every consideration of duty to the reserve banks and to the member banks demands that it make its views known. It should never forget that the very purpose of its creation was to give the banks an effective voice. It was not intended that that voice should be inarticulate. When the greatest degree of effectiveness can be secured only through publicity, then publicity should be had."

At its February 1936 meeting, the Council approved a statement expressing its concern about the large credit structure based upon excessive bank reserves. The Council asked the Board to consider that statement before it was given any publicity; and, in a telegram to the secretary of the Council dated February 28, 1936, the Board stated that it had "no objection to publication by Council of recommendations if it desires to do so." Despite this seeming deference to the Board, the Council adopted a statement on December 2, 1946, in which it firmly

stated that it reserved "the right to make its recommendations public if it so desires."

In November 1940, the Council adopted a resolution approving a practice under which a general statement would be given to the press after each meeting of the Council. The resolution read:

"It was voted unanimously that the Federal Advisory Council adopt the general practice of giving to the press, after each meeting, a statement by its President. It is intended that this statement be general in its terms unless for some special reason it should be thought best to go into details. It is expected that ordinarily, before issuing a statement, the President of the Council will consult with the Chairman of the Board of Governors or such representative of the Board as the Chairman may designate. It is not intended to change hereby the procedure governing the publication of the Council's resolutions or recommendations as fixed by a resolution adopted on November 20, 1934 by the Federal Advisory Council in agreement with the then existing Federal Reserve Board."

The minutes of the subsequent joint meeting between the Council and the Board indicate that the members of the Board "did not seriously object to the proposed procedure, and in fact thought that it might be well to make some such attempt."

As has been noted, general press statements regarding meetings of the Council had been issued during the early years of the System and the practice was followed, though erratically, after adoption of the 1940 resolution. In recent years, such statements have been rare or nonexistent.

In the early years of the System, it appears that the Council came to feel that it was entitled to have its views made known to the public through publication of its recommendations in the Board's Annual

Reports to Congress. Thus, in January 1940, the secretary of the Council advised the Board that, while it agreed that no useful purpose would be served by inclusion in the Annual Report of its recommendations regarding services of the System for member banks, "it should be understood that the exclusion of this recommendation shall not be made a precedent for failure to include recommendations that may be submitted in the future." Nevertheless, the Council's recommendations have not regularly been included in the Board's Annual Reports since 1942.

Despite discontinuance of publication of the Council's views in press releases and in Annual Reports of the Board, there have been a number of occasions since 1942 when resolutions or statements of the Council have been transmitted to other Government agencies and to Congress. Usually, they contained expressions of views with which the Board agreed; but on at least one occasion, as hereafter noted, the Board consented to submission of the Council's views when they were at variance with its own.

In February 1940, a resolution of the Council urging the discontinuance of purchases of foreign silver was transmitted to the Senate Banking and Currency Committee. In September 1940, in a letter to the same Committee, the Board quoted a recommendation of the Council favoring a bill to amend the Assignment of Claims Act. In October of that year, the Board, in compliance with the Council's request, sent to the Secretary of the Treasury a copy of a recommendation of the Council that future issues of Government securities be placed, as far as possible, with investors other than banks. Indeed, 1940 was a good

year for the Council. In December 1940, for the first and only time, the Council joined with the Board and the Reserve Bank presidents in a report to Congress. That joint report recommended that reserve requirements be increased and be made applicable to nonmember banks; that authority as to discount rates and reserve requirements be vested in the Federal Open Market Committee; that authority for the issuance of "greenbacks" and for monetization of foreign silver be repealed; that measures be taken to prevent increases in bank deposits as a result of gold acquisitions; that the general debt limit be raised; and that defense expenses be met by taxation instead of borrowings.

In its 1943 Annual Report, the Board published a resolution of the Council urging measures to insure the prompt final settlement of terminated war contracts.^{44/} In February 1944, the Board issued a press statement quoting a resolution of the Council opposing a pending bill that would have declared absorption of exchange charges not to be an indirect payment of interest on deposits. In April 1944, the Board transmitted to the Selective Service System and the War Manpower Commission a request of the Council that banking be declared to be an essential or war-supporting activity - apparently with no success.

In November 1947, the Board and the Council disagreed as to whether a rapid expansion in bank credit was a substantial inflationary factor. Nevertheless, with great impartiality, the Board sent to the Joint Committee on the Economic Report copies of both the statement of the Council and the Board's "reply".

^{44/} 1943 Annual Report 99.

In February 1948, the Board transmitted to the Senate Banking and Currency Committee a copy of a resolution of the Council urging the enactment of bank holding company legislation; and in May of that year the Board transmitted to that Committee a resolution of the Council opposing certain features of pending housing legislation.

Twenty years later, in March 1968, at the Council's request, Chairman Martin of the Board sent to the chairman of the House Ways and Means Committee a copy of a resolution of the Council strongly urging a reduction of Government expenditures and an increase in taxes.

The instances here cited are enough to demonstrate that the views of the Council have been publicized on many occasions since the 1934 controversy regarding the "right" of the Council to make its views known to the public. At the same time, it seems clear that the Council's views have not been given the publicity that they were given before 1934 or even before 1942 when regular publication of the Council's views in the Board's Annual Reports was discontinued.

Access to Board information

A third conflict of a jurisdictional nature between the Council and the Board developed in 1944. It related to the extent to which the Council had a "right" to call for information from the Board, particularly drafts of proposed legislation under consideration by the Board.

Section 12 of the Federal Reserve Act provides that the Council shall have power "to call for information" and to make recommendations in regard to discount rates, rediscount business, note issues, reserve conditions in the various districts, the purchase and sale of gold or securities

by Reserve Banks, open market operations by the Reserve Banks, and the general affairs of the reserve banking system. During the House debates on the original Act, Carter Glass stated that, under this provision, the Council would "have access to the records of the board."^{45/} Coupled with his statement at the same time that the provision for the Council would turn the "X ray of publicity" upon the operations of the Board, it is at least reasonable to assume that he contemplated that the Council would have a right to ask for any information in the records of the Board.

The same assumption may be drawn from remarks made by Governor Harding of the Board at a joint meeting between the Board and the Council in 1918. With respect to the operations of the Council, he said:

". . . It has the right not only to advise the Board but also to criticize its actions; it has the right to call for any specific information it desires and to ask 'the reason why'. As far as I am concerned (and I am sure my colleagues of the Board take the same view) I would welcome any suggestion and also any inquiry that you wish to make as to the why's and wherefore's of the Board policies. . . ."

In May 1921, the Council "respectfully" suggested that under the law it had the power to keep itself informed regarding the operations of the Federal Reserve System.^{46/} In 1938, in a statement regarding the position of the Council in the Federal Reserve System, the Council complained that it could not very well discharge its advisory functions under the law unless it was informed of the questions being considered by the Board in advance of Board action with respect to such questions.

^{45/} 50 CONG. REC. 4646.

^{46/} 1921 Annual Report 636.

After outlining the types of subjects that it might discuss with the Board, the Council stated:

"While the Council has outlined in a broad way the types of topics that might be discussed with the Board, the Council desires to impress upon the Board that it has no way of ascertaining the questions that the Board may be considering from time to time and that the Council is therefore obliged to depend upon the Board for information as to what topics are under consideration. The Council should have sufficient time to make the necessary studies and replies. There have been instances in the past when the Council had no knowledge of important questions that were being considered by the Board until action was taken, resulting in controversies that in all likelihood could have been avoided."

It was not until 1944, however, that the Council's right to ask for information from the Board became a matter of serious dispute. At several of its meetings in the early part of that year, the Council had requested the Board for copies of drafts of a bank holding company bill then under consideration by the Board. Although the Board's proposal for holding company legislation had been briefly mentioned in its 1943 Annual Report, the Council stated that it could not cooperate with the Board without more detailed information and, in this connection, it asserted that it was legally entitled to information regarding proposed legislation affecting the banking system.

In the summer of 1944, at the request of Chairman Eccles, counsel for the Board submitted a legal memorandum in which the view was expressed that the Board was not required by the law to comply with requests of the Council for drafts of proposed legislation. This conclusion was based partly upon the ground that section 12 of the Act indicated that the primary function of the Council was to

serve as a source of information to the Board and that it was not its prerogative to require all information from the Board. It was argued that the phrase "call for information" should be construed as meaning to request, rather than to require, information in the Board's records. It was further pointed out that, as the original Act had passed the House, it authorized the Council to call for "complete information", but that the word "complete" was eliminated from the bill in the Senate, thus "clearly" indicating that the Council was intended to have power to call for "something less than complete information."

At the September 1944 meeting of the Board with the Council, Chairman Eccles read a prepared statement to the effect that, after consultation with its attorneys, the Board had concluded that it was not required to disclose to the Council drafts of proposed bills to which the Board might be giving consideration. If such disclosure were required, he argued that it was possible that the Council would find it advisable to ask the Board to submit to it drafts of all bills and of all proposed regulations that the Board might be considering, regardless of the stage of their consideration, and that this would greatly impair the freedom of consideration of matters by the Board and make it very difficult for the Board to operate effectively.

According to the minutes of that joint meeting, a "lengthy discussion took place as to information on proposed legislation to which members of the Council are entitled." It appears, however, that neither the Council nor the Board receded from its position.

Two years later, Chairman Eccles, in a statement at a joint meeting with the Council, asserted that meetings of the Council with the Board had tended to become "a medium for interrogation of members of the Board to an extent beyond what the Board believed was the intended scope of inquiries by the Council." In justification of its inquiries, the Council replied:

" . . . Obviously if the Council is not to be given information as to matters of proposed legislation or regulatory action until after the Board has formally recommended the legislation or adopted the regulation, the possibility that the advice of the Council might affect the Board's decision is clearly lessened, if not absolutely destroyed."

On various occasions, before and after the 1944 dispute, the Board has submitted to the Council for its views drafts of proposed legislation and of proposed regulations of the Board. Thus, in September 1936, the Board asked the Council for its views regarding proposed regulations relating to the operation of common trust funds by national banks; in March 1945, it sent members of the Council a copy of a bank holding company bill shortly before its introduction in Congress; and, in April 1948, the Board transmitted to the Council for its information proposed amendments to Regulation J regarding the collection of checks by the Reserve Banks.

It cannot be said, however, that the Board has followed any regular practice of furnishing the Council with drafts of all proposed legislation or regulations under consideration by the Board.

Relations with Federal Reserve Banks

Although members of the Council are selected by the boards of directors of the Reserve Banks, the Council is independent of the Reserve Banks and is not regarded as representing them. It has been noted that in 1915 three of the Reserve Bank governors were members of the Council and that a few members during the early years of the System were Reserve Bank directors, but that the Federal Reserve Board in December 1915 expressed the view that members of the Council should be "in a position to give to the Federal Reserve Board the benefit of their disinterested and unbiased advice" and therefore should not be officially connected with the Reserve Banks.

John Perrin was one of the bankers, along with James B. Forgan, who went to the White House with Carter Glass in an effort to persuade President Wilson that bankers should be on the Board. In January 1919, when Mr. Perrin was chairman and Federal Reserve agent at the San Francisco Reserve Bank, he wrote a thoughtful letter to Mr. Forgan, then president of the Council, regarding the relations of Council members to the Reserve Banks. After stating that he was in favor of giving a member of the Council all information regarding the operations of his Reserve Bank, he said:

"It occurs to me, however, that a Federal Reserve Bank does not choose its Council member to speak for it. The Governor and the Federal Reserve Agent are naturally better able to speak for the bank at conferences with the Federal Reserve Board than would a member of the Federal Advisory Council who would naturally be less well informed regarding the bank's affairs. It appears to me that although a Federal

Reserve Bank has the responsibility of choosing a member of the Advisory Council, as a matter of fact this member really speaks for the bankers of the district; in other words, that he should reflect a view, either critical or otherwise, of the Federal Reserve Bank which the district might hold."

Over the years, some Council members have followed a practice of obtaining from their Reserve Banks in advance of each Council meeting a summary of economic conditions in their districts. It has also been a common practice for a member of the Council to meet with, and make an oral report to, his Reserve Bank board of directors following each meeting of the Council. Except in these respects, it appears that there has been relatively little contact between the Council and the Reserve Banks; and presumably this is entirely in keeping with the concept that the Council does not "represent" the Reserve Banks and that its function is to advise the Board of Governors and give the Board the benefit of the views of the commercial banking community.

In February 1969, in a letter to all Reserve Bank chairmen, the Board referred to recent interest by the chairmen in ways of achieving "improved liaison between the Boards of directors and the Federal Advisory Council on a basis that would be mutually helpful." With this in mind, the Board stated that the Council would have no objection if copies of the memorandum of recommendations of the Council were distributed on a confidential basis to all Reserve Bank directors promptly after each meeting of the Council. Some Reserve Bank chairmen, however, apparently had reservations. A year later, on February 9, 1970, the Board advised the chairmen that it had been decided that copies

of the Council's memorandum would be sent by the Board's secretary only to the chairman and president at each Reserve Bank "for use in their discretion and in light of an understanding that members of the Council would not themselves circulate or distribute copies of the memorandum." It was stated, however, that this restriction was not intended to suggest that Council members could not make oral reports, as had been customary, at meetings of the boards of directors of the Reserve Banks.

RECOMMENDATIONS OF THE COUNCIL

In general

For present purposes, i.e., appraisal of the usefulness of the Council and consideration of possible changes in the law, the composition, procedures, and powers of the Council are not as important as the extent to which the Council has effectively performed its primary function of advising and assisting the Board of Governors. Stated differently, the crucial question is whether the Council's "recommendations" have had any influence in improving the operations of the System. More bluntly, have they been heeded or ignored by the Board?

A few general observations may be made on the basis of a review of the Council's performance.

First, it is clear that the Council's recommendations were more comprehensive and articulate in the early years of the System than they have been in recent years. The Board's Annual Report to

Congress for 1918 included in a separate "Part III" the recommendations of the Council for the four years 1915 through 1918. They consisted of approximately 100 pages and covered a great variety of subjects: regulation of the trust powers of national banks, definition of deposits for reserve purposes, bank acceptances, the check collection functions of the Reserve Banks, discount rates, membership in the System, gold policy, foreign banking operations of American banks, and fiscal policies of the Treasury. The Council's comments were specific and extensive.

In contrast, the Council's recommendations in recent years have generally been limited to rather brief and nonspecific comments with respect to current business conditions, banking developments, balance of payments, and monetary policy, with an occasional comment regarding proposed banking legislation or proposed Board regulations. Its recommendations have not been published in the Board's Annual Reports since 1942; but, if they had been published, they would have covered only a few printed pages each year.

A few examples will illustrate the extremely general nature of the Council's comments in recent years. In February 1955, in response to the Board's request for comments on "the business and economic outlook throughout the winter and spring months", the Council replied simply: "Business activity generally is at a high level in all the districts. . . . The members of the Council believe that the business and economic outlook for the winter and spring months is good." In September 1957, in response to a request for its views as to credit

policy, the Council said: "The credit policies which the Federal Reserve System has followed since the last meeting of the Council have been appropriate and constructive." In 1959, the Council expressed the opinion that "appropriate credit policy between now and the next meeting of the Council would be a continuance of the present degree of credit restraint." In all fairness, it may be that the Council could not have been more specific; but it is doubtful whether its advice was of much assistance to the Board.

A second general observation is that the Council often has opposed a tightening of the Board's regulations and legislative proposals to increase the Board's regulatory authority. Perhaps it is not surprising that bankers should have that attitude. In November 1935, when it expressed opposition to proposed margin regulations, ^{47/} the Council said:

" . . . In general the members of the Council feel that if the Board conscientiously can refrain from adding unnecessarily to the innumerable regulations, orders, and laws of all kinds under which banks are at present compelled to operate it will be doing a distinct service."

As recently as May 1969, the Council opposed proposals under consideration by the Board to bring commercial paper issued by bank affiliates under Regulations D and Q.

The Council's antipathy for restrictive regulations has been accompanied by a fear that the "independence" of the Federal Reserve Banks might be endangered. In May 1934, the Council sounded the

^{47/} 1935 Annual Report 238.

following "note of warning" against "bureaucratic tendencies": ^{48/}

"Recent events have caused the Council to feel that it should sound a note of warning that the System ought itself to be careful not to permit the operation of influences tending to destroy its basic characteristics. The Council believes that it sees a tendency of late towards highly restrictive laws, rules, and regulations with respect to minute details of bank operation which, if not checked, will inevitably destroy the independence of the Reserve banks. The result of such tendencies, through substituting uniform regulations from Washington in place of the independent judgment of the several boards of directors of the Reserve banks, will destroy the morale of those boards and will prevent that adjustment of local practices to local needs which Congress clearly contemplated.

"The Council believes that if the Federal Reserve System is to continue in existence and to perform its best services to the people it must avoid both bureaucratic tendencies from within and undue governmental or bank control from without."

It is significant that, while the Board has concurred in the Council's views on some occasions and has even cited the Council's views in support of the Board's position, there have been many occasions when the Board has taken action despite the strong opposition of the Council. Such instances will be mentioned later.

The Council's recommendations have often supported the adage that the more things change the more they remain the same. For example, at its first meeting - in December 1914 - the Council discussed matters that are still being considered today, i.e., definition of deposits for reserve purposes, bank acceptances, and collection of checks by the Reserve Banks. In the light of present proposals to require payment

48/ 1934 Annual Report 203, 204.

of checks by a drawee bank through automatic charges to its reserve account, it is interesting to note that at that first meeting the Council expressed the opinion that "it is unsound in principle and wrong in practice that a check drawn on a member bank should be charged to its reserve account with a Federal Reserve Bank without its authority and without its having had an opportunity to pass upon it."^{49/} In 1919, the Council recommended that reserves be based upon character of deposits rather than a member bank's location.^{50/} And, in 1925, it urged that the Reserve Banks should retain membership in the American Bankers Association.^{51/}

On some occasions, the Council was in advance of its time and made suggestions that were not acted on until years later. Thus, in 1924, it suggested that the Board propose the establishment of a "liquidation fund" to pay depositors in insolvent banks;^{52/} and, in 1929, it recommended liberalization of provisions of the Federal Reserve Act as to eligibility of paper for discount by the Reserve Banks.^{53/}

On some other occasions, however, the Council's views were less prophetic and now may seem to be anachronistic. Thus, in 1924,

^{49/} 1918 Annual Report 767.

^{50/} 1919 Annual Report 528.

^{51/} 1925 Annual Report 206.

^{52/} 1924 Annual Report 277.

^{53/} 1929 Annual Report 219.

it felt that Reserve Bank open market operations should "show a greater preference for acceptances than for Government issues."^{54/} And, in 1921, it expressed the opinion that discount rates should be higher than commercial bank rates and opposed uniform discount rates among the Reserve Banks.^{55/}

It would not be practicable within the limits of this paper to describe in detail all of the matters on which the Council has expressed its views. However, in order to demonstrate the variety of topics considered by it and at the same time to provide a basis for judging its performance, some of the Council's more important and more interesting recommendations may be mentioned here.

Consolidation of Federal banking agencies

In recent years, much has been said and written about the desirability of consolidating all Federal bank supervisory and regulatory functions in a single agency, either in a new Federal Banking Commission or in one of the three existing agencies. In November 1915, when there were only two Federal banking agencies, the Council recommended "that the functions of the office of the Comptroller of the Currency should be absorbed and administered by the Federal Reserve Board." In the words of the Council, this "would remove one of the principal reasons why the State banks object to joining the system, viz., the multiplicity of supervision which should be reduced to that

^{54/} 1924 Annual Report 278.

^{55/} 1921 Annual Report 685.

of the Federal Reserve Board and the State banking departments. . . ." ^{56/}
his recommendation was repeated in 1921. ^{57/}

By 1939, when a third Federal banking agency, the FDIC, had come into being, the views of the Council apparently had changed. In February 1939, in response to a number of questions submitted by the Board regarding Federal Reserve services to member banks, the Council opposed a suggestion that all bank examination authorities be consolidated.

At a joint meeting with the Board in November 1948, the Council offered a number of comments on the so-called "Bach Report" prepared in connection with the Hoover Commission's study of Government reorganization. The Council opposed a suggestion that examination and supervision of all insured banks be placed in the Board of Governors.

Few bankers appear to favor consolidation of the Federal banking agencies; and presumably the Council today would take the same position as that taken by it in 1939 and 1948. When the one-bank holding company bill was under consideration in the spring of 1969, the Council supported distribution of authority among the three Federal banking agencies as proposed in the Administration bill rather than vesting all authority in the Board of Governors as the Board itself had recommended.

"Independence" of the Board

On several occasions, the Council has strongly supported the independence of the Federal Reserve Board.

^{56/} 1918 Annual Report 785.

^{57/} 1921 Annual Report 684.

In 1921, there were bills in Congress to require the President to appoint a "dirt farmer" as a member of the Board. In September of ^{58/} that year, the Council adopted the following resolution:

"The council has noted that a striking and significant feature of events of the past year has been the unceasing and vigorously insistent demands from a variety of quarters that the Federal Reserve Board shape its policies and actions for the special benefit of particular classes or interests. Bills have been introduced in Congress seeking to place on the Board members representing this or that industry, thus attempting to give exceptional facilities or privileges to particular classes.

"The council believes that this development is a most unfortunate and potentially dangerous one. The Federal Reserve Board rests under responsibilities and is charged with the performance of duties touching the very life of the business and finance of the country. The Board properly should have regard for sincere, intelligent, fair-minded public opinion, but it will succeed in its tasks only if it is in a position to decide the important questions and problems presented to it solely on the basis of their merits, irrespective of temporary popular expediency."

In January 1922, the Council took a bolder step that has already been mentioned in this paper. It sent a "memorial" directly to President Harding urging that a bill to require one member of the Board to be a farmer would be "class legislation" and that the "independence" of the Board from class influences should be protected. The memorial concluded:

"The independence of the Federal Reserve Board must be strengthened and protected, and every effort made to secure for service on it men of the highest integrity, intelligence and strength. The Board, like a court of supreme standing, must be able to act from an entirely judicial point of view, uninfluenced by the wishes of

58/ 1921 Annual Report 691.

parties or classes, but seeking to fashion its policies with the sole aim of serving the best advantage of the country as a whole. If political pressure or the interests of a single class, - be it the farmer, laborer, big industry or capital, - are ever permitted to dominate the Federal Reserve System, it will become the gravest menace to the future of the United States. If the Federal Reserve System is surrendered to political domination, history will repeat itself and, from the greatest blessing that this system is today, it will turn into a curse."

Writing in 1923, Professor Willis described the Council's opposition to the "dirt farmer" legislation as "the most striking or noteworthy activity in which the Council ever engaged."^{59/}

The Council has expressed the view that the Board not only should be free from the influence of particular classes and from political pressures but that it should not be dominated or influenced by the Treasury. In April 1922, when the Secretary of the Treasury had asked the Board to obtain the views of the Council regarding investments of the Reserve Banks, the Council stated:^{60/}

"The council congratulates the country upon enjoying a financial administration which takes the enlightened point of view that the Federal Reserve System should not be used for the purpose of carrying the Government's obligations. Many countries of Europe would have been saved from some of their most serious financial difficulties, if equal wisdom had governed their policies."

Later that year, the Council said it was "decidedly of the opinion that the Federal Reserve Board should continue as an independent organization like the Supreme Court and should not be made a bureau of the Treasury Department."

^{59/} Willis, supra note 3, at 723.

^{60/} 1922 Annual Report 410.

In November 1948, however, the Council seemed to feel that, while the Board's independence should be maintained, the Board sometimes might "go along" with the Treasury. At a joint meeting with the Board, the Council commented that, although recognizing that "while in the last analysis the Board would go along with the Treasury there should be independence enough so that it would not be in effect a bureau of the Treasury."

Autonomy of the Reserve Banks

The Council's position regarding the independence of the Board has apparently been extended also to the Federal Reserve Banks, at least in some degree.

When the Council, in September 1921, adopted the resolution heretofore quoted regarding the need for the Board's freedom from class influences, it also adopted the following resolution urging that Reserve Bank officers should be appointed only on the basis of their ability:^{61/}

"The council wishes to go on record as opposed to attempts to put in office in Federal Reserve Banks men in place of those who have filled their positions with fidelity and efficiency.

"The council believes the system should be free from political influences of every kind, and that competent men should be continued in office."

But the Council's concept of the independence of the Reserve Banks has included not only freedom from political pressures but also a large degree of freedom from the Board of Governors. Thus, in May 1934, the Council, as has been noted, expressed a fear that a tendency

^{61/} 1921 Annual Report 691.

toward more regulations as to the "minute details of bank operation" might destroy "the independence of the Reserve banks", and that the substitution of "uniform regulations from Washington in place of the independent judgment of the several boards of directors of the Reserve banks, will destroy the morale of those boards and will prevent that adjustment of local practices to local needs which Congress clearly contemplated."^{62/}

In March 1932, the Council commented at length upon the then-pending Glass banking bill that later was enacted with modifications as the Banking Act of 1933. One of the main objections raised by the Council was that the bill tended too much to centralize powers in the Board and to take away powers from the Reserve Banks. In this connection,^{63/} the Council said:

"2. Centralization of power. - It was the original intention of the Federal Reserve Act to decentralize the banking power in this country by establishing 12 autonomous regional Federal Reserve banks. The Federal Reserve Board itself was planned originally to be largely a supervising and coordinating body. The proposed act, however, tends to increase radically the power of the Federal Reserve Board at the expense of the individual Federal Reserve banks and to make of the Federal Reserve System in effect a centralized banking institution. . . ."

Monetary and credit policies

The law does not expressly include monetary and credit policy among the subjects on which the Council may make recommendations. Section 12 of the Federal Reserve Act specifically mentions only "discount

^{62/} 1934 Annual Report 203.

^{63/} 1932 Annual Report 187.

rates, rediscount business, note issues, reserve conditions in the various districts, the purchase and sale of gold or securities by reserve banks, open-market operations by said banks"; but it adds the words "and the general affairs of the reserve banking system" - a broad phrase that can be regarded as embracing any subject that is directly or indirectly related to the System's functions.

One will find few if any references during the early years of the System to general monetary policy. Like the language of the original Federal Reserve Act, bankers and economists thought in specific terms of such matters as discount rates, reserve requirements, and open market operations. The Council's recommendations as to these matters will be considered hereafter. At this point it is worthwhile to review briefly the positions taken by the Council from time to time with respect to current monetary and credit policies of the System.

One of the earliest occasions for the Council's consideration of general credit conditions and monetary policy was in 1920 when the threat of inflation was serious. At an unusual joint meeting between the Board, the Council, and Class A directors of the Reserve Banks, the Council recommended, as a means of checking inflation, that the Reserve Banks urge upon member banks "the necessity of the curtailment of general credits, and especially for non-essential uses."^{64/} Apparently assuming that the Board itself could

^{64/} 1920 F. R. Bulletin 556.

not take any effective action, Governor Harding pointed out that the Board had little direct contact with member banks, whereas the Reserve Banks were in daily contact with them and that, regardless of the Board's legal powers, "it would be a most difficult task for the Federal Reserve Board sitting in Washington to attempt by general rule of country-wide application to distinguish between 'essential' and 'nonessential' loans."^{65/}

During 1929, something of a controversy developed between the Council and the Board as to whether inflationary pressures should be met by "direct action", i.e., "moral suasion", or by an increase in discount rates. This episode will be discussed later, however, in connection with a review of the Council's recommendation regarding rate policies.

A major conflict between the Council and the Board as to general monetary policy occurred in 1934 when the Council deplored "monetary experimentation" and urged a return to the gold standard, a program for balancing the national budget, and a limitation on the Government debt. This conflict has already been discussed here in connection with the extent of the Council's topical jurisdiction. As has been noted, the Council's statement was returned to it by the Board with an indication that the matters contained in the statement did not come within the Board's "jurisdiction". This "rebuke" seemed to suggest that the Board felt that gold and fiscal policies were

^{65/} Id., at 557.

vested entirely in the Executive and were beyond the scope of matters that were proper subjects of recommendations by the Council.^{66/}

During late 1935 and early 1936, the Council expressed its serious concern about the great volume of excess bank reserves and recommended that the Board increase reserve requirements substantially.^{67/} Apparently, the Board heeded, or in any event concurred in, the Council's views. Reserve requirements were increased in July 1936 and again in January 1937, with a combined effect of doubling member bank reserve requirements.^{68/}

Despite these credit restraint measures, the Council in 1939, at all four of its meetings, objected to continuance of the System's "easy money" policy. In February, it recommended that the Board conduct a study of the long-range consequences of that policy.^{69/} In June, after noting that the Board apparently did not intend to conduct such a study, it reiterated its feeling that the policy was unwise. The Council said:^{70/}

" . . . It believes, nevertheless, that the time has come to face squarely the fact that the entire banking system is confronted with a distinct menace to the soundness of its capital structure through the continuation of an abnormally 'easy money' policy. A prolongation of this

^{66/} Karl R. Bopp, The Agencies of Federal Reserve Policy, The University of Missouri Studies, Vol. X, No. 4 (Oct. 1, 1935), p. 71.

^{67/} 1936 Annual Report 231, 232.

^{68/} Id., at 1.

^{69/} 1939 Annual Report 75.

^{70/} Id., at 78.

situation threatens the existence of private banking and with it the whole system of private enterprise."

It reaffirmed its views at its October meeting,^{71/} and in November the Council was pleased to observe that the Open Market Committee had recently initiated some sales from the System's portfolio of long-term Governments. The Council recommended that the volume of such sales be promptly expanded.

In October 1940, along the same lines, the Council expressed the view that the danger of inflation would be increased by additional holdings of Government securities by commercial banks. It urged the Board, therefore, to use its influence to the end that future issues of Government securities be placed as far as possible with nonbank investors.^{72/}

On the last day of 1940, for the first and only time, the Board, the Council, and the Reserve Bank presidents made a joint report to Congress. The report recommended that statutory reserve requirements be increased and made applicable to all banks, that authority for the issuance of \$3 billion in "greenbacks" and for monetization of foreign silver be repealed, that measures be taken to prevent increases in bank deposits arising from future gold acquisitions, that the general debt limit be raised, and that defense expenses be met by taxation rather than borrowings.^{73/}

^{71/} Id., at 80.

^{72/} 1940 Annual Report 67.

^{73/} Id., at 68-70.

Late in 1947, there emerged a difference of views between the Board and the Council as to the causes of current inflation. The Board had asked the Council for its recommendation as to the steps that might be taken to correct the "serious situation" resulting from "the rapid expansion of bank credit." The Council (composed of bankers) excepted strongly to the suggestion that there had been any rapid expansion of bank credit or that increases in bank loans had been an inflationary factor. It alleged that the Government itself, through such agencies as RFC and FHA, had been encouraging bank loans through Government guarantees and that the System was asking for power to guarantee loans on the presumption that bank lending was "too cautious".^{74/} A week later, the Board issued a "reply" to the Council's statement reiterating the Board's view that the continued expansion in bank deposits had resulted primarily from a growth in bank loans. Copies of the Council's statement and the Board's reply were sent by the Board to the Joint Committee on the Economic Report on November 26, 1947.

In recent years, there have been no such sharp conflicts between the Council and the Board as to general credit policy, perhaps because the Council's views have been expressed in such general and even noncommittal terms. Thus, in February 1955, the Council said that "System credit policies since the last meeting of the Council have been extremely well handled and have been helpful to the economy";

^{74/} 1947 Annual Report 98.

in September 1957, the Council felt that System credit policies had been "appropriate and constructive"; and, in November 1959, it expressed the opinion (sounding like FOMC directives) that "appropriate credit policy between now and the next meeting of the Council would be a continuance of the present degree of credit restraint."

Discount rates

With respect to the System's use of Reserve Bank discount rates as a tool of monetary policy, the Council has often expressed its views, sometimes with great force, but not to any great extent in recent years. In the early years of the System, the Council regularly advanced its opinion as to whether discount rates should be raised or lowered. Thus, in September 1915, it opposed "preferential" rates for commodity paper, contrary to the Board's position;^{75/} in November 1917, it saw no need to change discount rates;^{76/} and, in 1920, it concurred in the Board's recommendation to Congress that the law be amended to permit graduated discount rates according to the volume of a member bank's borrowings.^{77/}

In May 1921, the Council recommended that, in fixing discount rates, the System should take into account the reserves of the System as a whole, the reserve position of each Reserve Bank, the condition of all banks of the country and of the several reserve districts. the

^{75/} 1918 Annual Report 781.

^{76/} Id., at 352.

^{77/} 1920 Annual Report 601.

economic and financial conditions of the country, and world conditions. It also urged the eventual establishment of a credit rate policy under which "the rediscount rate to member banks is higher than the prevailing commercial rate". Finally, it recommended that uniformity of rates among the Reserve Banks should not be adopted "as a fixed policy".^{78/}

On two famous occasions when the Board and certain Reserve Banks were at odds as to the proper discount rate, the Council sided with the Reserve Banks.

In 1927, the Board in effect required the Chicago Reserve Bank to reduce its discount rate contrary to the wishes of the Reserve Bank's directors. The Council expressed its disapproval of this action:

"The Federal Advisory Council has reviewed the facts before it relative to the reduction in rates of discount at the several Federal Reserve banks during the past few weeks.

"The Council regrets that the Federal Reserve Board should have initiated or forced a reduction in the rate of one of the Federal Reserve banks in the face of the decision of the directors of that bank to maintain a 4% rate. It does not appear to the Council that an emergency existed such as to justify the Board in departing from the usual practice of fixing rates at the Federal Reserve banks even if technically authorized by law.

"The Council is of the opinion that this regrettable occurrence could have been avoided if a full and frank interchange of views between the Federal Reserve Board and the Board of Directors of the Federal Reserve Bank of Chicago had been had."

On February 14, 1929, the New York Reserve Bank voted to increase the discount rate, but the Board unanimously voted not to

^{78/} 1921 Annual Report 603.

approve this action. On the next day, February 15, the Council passed a resolution supporting the Board:^{79/}

"The council believes that every effort should be made to correct the present situation in the speculative markets before resorting to an advance in rates."

On April 19, 1929, however, the Council modified its position and made the following recommendation:^{80/}

"The council in reviewing present conditions finds that in spite of the cooperation of member banks the measures so far adopted have not been effective in correcting the present situation of the money market. The council, therefore, recommends that the Federal Reserve Board permit the Federal reserve banks to raise their rediscount rates immediately and maintain a rate consistent with the cost of commercial credit."

On May 21, 1929, the Council went further and specifically recommended an increase in discount rates instead of continuation of a policy of "direct action":^{81/}

"The Federal Advisory Council has reviewed carefully the credit situation. It continues to agree with the view of the Federal Reserve Board expressed in its statement of February 5, 1929, that 'an excessive amount of the country's credit has been absorbed in speculative security loans.' The policy pursued by the Federal Reserve Board has had a beneficial effect, due largely to the loyal cooperation of the banks of the country. The efforts in this direction should be continued. The council notes, however, that while the total amount of Federal reserve credit being used has been reduced, 'the amount of the country's credit absorbed in speculative security loans' has not been substantially lowered.

^{79/} 1929 Annual Report 218.

^{80/} Ibid.

^{81/} Ibid.

"Therefore, the council recommends to the Federal Reserve Board that it now grant permission to raise the rediscount rates to 6 per cent to those Federal reserve banks requesting it, thus bringing the rediscount rates into closer relation with generally prevailing commercial money rates. The council believes that improvement in financial conditions and a consequent reduction of the rate structure will thereby be brought about more quickly, thus best safeguarding commerce, industry, and agriculture."

Reserve requirements

The Council has frequently addressed its attention to member bank reserve requirements.

One of its first recommendations was that the amount of a savings account for purposes of reserve requirements should be limited because otherwise the lower requirement applicable to time and savings deposits might result in "the conversion of so large a volume of demand deposits into so-called savings accounts as to prove a menace to the system."^{82/}

On several occasions the Council has expressed its views as to the designation of reserve cities by the Board.^{83/} At times, however, anticipating the position of the Board in later years, the Council urged that reserves should be based upon the character of a bank's deposits rather than the bank's location.^{84/}

Despite that forward-looking recommendation, the Council has generally been rather conservative in its attitude toward any changes

^{82/} 1918 Annual Report 766.

^{83/} See, e.g., 1918 Annual Report 785.

^{84/} 1919 Annual Report 528.

in the statutory scheme with respect to reserves. Thus, in 1918, and again in 1919, it opposed proposals to permit banks in "outlying" areas of reserve cities to carry reduced reserves.^{85/} It agreed with the conclusion of a special committee of the New York Clearing House "that the present time is not opportune for the inaugurating of a revision of reserves in any manner that would add another item of unrest to the present disturbed situation throughout the country"; and it recommended that "it would be better to await a period when bankers, bank clerks, and the public are in a more tranquil state of mind." Although in 1940 it joined with the Board in recommending that reserve requirements be extended to nonmember banks,^{86/} it strongly opposed such action in 1949.

In November 1947, the Council opposed a plan suggested by the Board to require maintenance of reserves in the form of short-term Government securities on the ground that it would be a "step toward socialization of banking." It felt that such a scheme "would substitute the edicts of a board in Washington for the judgments of the boards of directors of 15,000 banks throughout the country as to the employment of a substantial part of the funds of their banks."^{87/}

Reserve requirements were a recurring subject of consideration by the Council in 1949 and 1950. At a joint meeting with the

^{85/} 1918 Annual Report 849; 1919 Annual Report 528.

^{86/} 1940 Annual Report 68-70.

^{87/} 1947 Annual Report 100.

Board in September 1949, the Council expressed the view that the banking system had operated effectively under the existing scheme. Early in 1950, it appointed a committee to study a Board staff report on the subject, and the February meeting of the Council in that year was devoted solely to this matter. At its October 1950 meeting, the Council opposed a change to a "uniform reserves" plan on the ground that it "would be disturbing to the banking system at a time when the complete cooperation of the banks is necessary to the efficient functioning of the economy."

The Council not only has followed a conservative approach toward changes in the law but has opposed changes in the Board's regulations regarding member bank reserves that would be more burdensome or restrictive. For example, in 1927 the Council opposed a proposed amendment to Regulation D to provide for computation of reserves of member banks in Reserve Bank or branch cities on a semi-weekly basis. The Board ignored the Council's view and adopted the amendment. In the following year, however, the Board may have been influenced by the Council when it decided not to require calculation of reserves on a daily basis. The Council had strongly opposed such action in ^{88/} the following language:

"The Federal Advisory Council is emphatically opposed to any further shortening of the period for calculating and adjusting reserves because of the unnecessary disturbance to current business caused thereby. The council regards the suggestion to require a daily adjustment of reserves

88/ 1928 Annual Report 228.

as being aimed at a relatively few offending banks. It is the view of the council that the purpose desired could be attained if regulations were adopted penalizing those banks abusing the present average system. The council begs to inform the Federal Reserve Board that it will file a memorandum reciting in detail the difficulties and disturbances which would be caused by the suggested change in the calculation and adjustment of reserves."

More recently, in May 1969, the Council opposed Board proposals to bring commercial paper issued by affiliates of member banks within the scope of both the reserve requirements of Regulation D and the interest-on-deposits limitations of Regulation Q. Notwithstanding the Council's objection, the Board adopted the amendments to Regulation D.

Open market operations

The open market operations of the Reserve Banks, along with discount rates and reserve conditions, are one of the few topics specifically mentioned in the law as to which the Council is expected to make recommendations. It is interesting to note, however, that comparatively few recommendations have been made by the Council in this area.

Perhaps one reason for the infrequency of recommendations regarding open market operations during the early years of the System was that such operations had not yet come to be regarded as a major instrument of monetary policy. Thus, in its first Annual Report, the Board stated that the Reserve Banks had been given authority to purchase Government bonds "within the limits of prudence, as they might see fit."^{89/}

^{89/} 1914 Annual Report 16.

Nevertheless, the Council did express its views on a few occasions regarding Reserve Bank purchases and sales in the open market. For example, in April 1915, it indicated, in response to questions by the Board, that it saw no need for the purchase of trade bills by the Reserve Banks or for the Reserve Banks to engage in foreign exchange business; and, in 1918, it recommended that no steps should be taken at that time to encourage an open market in bankers' acceptances.^{90/}

In 1922, with growing recognition of the importance of open market operations, the Conference of Governors of the Federal Reserve Banks appointed a committee consisting of the governors of the Boston, New York, Philadelphia, and Chicago Reserve Banks to buy and sell securities at the request of the several Reserve Banks, and shortly afterwards the governor of the Cleveland Reserve Bank was added to the committee. The Advisory Council expressed its satisfaction regarding the organization of this committee, since it felt that open market operations, particularly in Government securities, "should be carried on under a uniform policy by the system as a whole."^{91/} At the same time, the Council cautioned against any excessive investments by the Reserve Banks in Government securities, particularly in long-term securities. Thus, it stated:^{92/}

"The council is also in sympathy with the point of view expressed by the Secretary of the Treasury that the Federal reserve banks should avoid excessive investments

^{90/} 1918 Annual Report 866.

^{91/} 1922 Annual Report 413.

^{92/} Id., at 410.

in Government securities, even of a short maturity. The council is fully in accord with the views implied that the Federal reserve banks should by preference seek investments in the fields of such bills of exchange as they can purchase in the open market.

"The council is still of the opinion that the Federal reserve banks should avoid investing in long-term Government bonds. The council further urges the Federal reserve banks, when making any purchases of short-term Government obligations, that such purchases should not interfere with Treasury operations."

By 1924, it appears that the Council had come to the conclusion that it was desirable for the Reserve Banks not only to purchase acceptances in the open market but to give them preference. It urged that the Reserve Banks in their open market operations should "show a greater preference for acceptances than for Government issues."^{93/}

Meanwhile, in 1923, the original Open Market Committee appointed by the Reserve Bank governors had been superseded by a new "Open Market Investment Committee" that also consisted of five Reserve Bank governors but operated under the general supervision of the Board. In September 1928, the Advisory Council recommended that all 12 of the Reserve Bank governors should be members of the Committee. It stated:^{94/}

"The Federal Advisory Council without any intention of criticizing the present arrangements but in order that all governors of the Federal reserve banks may participate in the discussions leading up to actions of the open-market committee suggests to the Federal Reserve Board to consider the advisability of having the membership of the open-market committee consist of all the governors of the Federal reserve banks with an executive committee composed of five members with full power to act."

^{93/} 1924 Annual Report 278.

^{94/} 1928 Annual Report 229.

In November 1935, the Council noted that member bank excess reserves had reached a very high level and recommended that open market operations, rather than an increase in reserve requirements, should be utilized in order to prevent possible inflation.^{95/}

Very few recommendations with respect to open market operations have been made since 1936. Possibly this is because such operations legally have not been within the "jurisdiction" of the Board since that year. Nevertheless, it is interesting to note that in April 1943 the vice president of the Council stated that it was his belief that a majority of the members of the Council were opposed to direct purchases from the Treasury by the Reserve Banks, a matter that, strictly speaking, falls within the jurisdiction of the Federal Open Market Committee rather than that of the Board.

Fiscal policies

If, as the law seems to say, recommendations of the Council are limited to matters within the jurisdiction of the Board, one may question whether the Council may properly express views as to fiscal policies of the Treasury. Indeed, as has been noted, the Board in 1934 returned to the Council recommendations relating to the content of the gold dollar, balancing of the national budget, and limitations on the Government debt, on the ground that such matters were not within the jurisdiction of the Board and, therefore, not subject to recommendations by the Council.

^{95/} 1935 Annual Report 236-38.

Nevertheless, the Council has not hesitated from time to time to state its position with respect to fiscal matters. Thus, in April 1917, it offered its opinion as to the manner of issuance and the terms of an offering of long-term Government bonds;^{96/} in September of the same year, it expressed its judgment as to the effect of a pending Government bond issue upon the general financial situation of the country;^{97/} and, in February 1919, it gave its views as to the detailed terms under which the next Government bond issue should be offered to the public.^{98/}

In October 1940, the Council urged the Board to use its influence to the end that future issues of Government securities be placed as far as possible with investors other than banks; and, in compliance with the Council's request, the Board sent to the Secretary of the Treasury a copy of the Council's recommendation.

In February 1960, the Council adopted a resolution emphasizing the urgent need for a reduction in Government expenditures and for the enactment of the then-pending proposal for increased taxes.

Reserve Bank operations

As might be expected, the members of the Council, themselves bankers, have always shown a particular interest in the banking operations of the Reserve Banks and in the administration of those Banks.

^{96/} 1918 Annual Report 829.

^{97/} Id., at 842.

^{98/} 1919 Annual Report 514.

The Council's views regarding the administration of the Reserve Bank discount window and the performance of the check-collection functions of the Reserve Banks will be considered separately hereafter. At this point, a few illustrations of the Council's interest in the affairs of the Reserve Banks will be described.

In 1919, the Council expressed its approval of a suggestion advanced by Governor Harding of the Board that the boards of directors of the Reserve Banks should be increased to 11 members, four of whom should be Class C directors appointed by the Board, and that the Reserve Bank governors elected by the boards of directors should be ex officio directors.^{99/} Apparently, however, this suggestion was never followed up.

One of the first head-on conflicts between the Council and the Board related to the desirability of the establishment of a Federal Reserve agency in Cuba. Early in 1923, the Board submitted to the Council for its comment a resolution providing for the establishment of an agency of the Boston Reserve Bank in Havana, Cuba. The idea was strongly opposed by the Council. It felt that such an agency would not be successful in actual operation and that in any event the objective could be accomplished by some other means that would not "involve the ominous step of permitting Federal reserve banks to establish organizations of their own in foreign countries - a step

^{99/} Id., at 521.

which in the opinion of the council was not contemplated by the act - a step for which the traditions of the important European central banks would give no precedent."^{100/} Despite the Council's views, the Board approved the establishment of agencies in Cuba by both the Boston and Atlanta Reserve Banks.^{101/} The Council, however, did not allow the matter to drop. In 1927, it again questioned the propriety of the Cuban agency. It said:^{102/}

"The Federal Advisory Council recognizes that it is not advisable to discontinue the Cuban Agency at this time. The Council, however, wishes to reiterate the view to which it has given expression on several occasions in the past, to wit: that it does not believe it to be good policy for the Federal Reserve Banks to establish agencies of the character of the Cuban Agency outside of the Continental United States. The Council, therefore, suggests to the Federal Reserve Board that it study the whole problem to the end that, if possible, some plan be devised which may be an effective substitute for the present arrangement."

In the end, of course, the Council prevailed; the Havana agency was subsequently discontinued.

On several occasions, the Council, at the request of the Board, has expressed its views regarding the nature and extent of the services rendered by the Reserve Banks to their member banks. For example, in 1923, it recommended that the free collection of noncash items should be reduced.^{103/} A number of years later, in 1939, the

^{100/} 1923 Annual Report 462.

^{101/} Id., at ⁴⁵1009.

^{102/} 1927 F. R. Bulletin 396.

^{103/} 1923 Annual Report 460.

Council submitted to the Board a somewhat comprehensive statement regarding Reserve Bank services in the course of which it recommended that the collection of noncash items be left to member banks. A few years later, at its November 1942 meeting, the Council expressed some concern regarding the "competition" between the Reserve Banks and commercial banks, particularly the performance by the Reserve Banks of free services in cities not having a Reserve Bank office.

In 1947, at a joint meeting with the Board, the Council expressed serious concern as to the maintenance of the quality of the management of the Reserve Banks and urged that the salaries of top Reserve Bank officers should be increased. Apparently, the Board was cool toward this suggestion. Chairman Eccles of the Board pointed out that the salaries of the Reserve Banks were a direct cost of Government and argued that there had been no deterioration in the quality of top Reserve Bank officers. When the president of the Council insisted that the Reserve Banks "were getting an inferior group of men in high official positions", Mr. Eccles expressed the opinion that the officers of the Reserve Banks were the best they had had since he had become connected with the System in 1934.

The discount window

The Advisory Council has given special attention to discounts and advances by the Reserve Banks, sometimes with a restrictive approach but at other times with a liberal attitude.

In 1917, apparently still imbued with the "real bills" doctrine that Reserve Bank credits should be extended only on short-term

self-liquidating commercial paper, the Council sounded the following ^{104/} warning against any departure from that doctrine:

"On November 19 the quarterly meeting of the Federal Advisory Council was held in Washington. The meeting proved to be unusually important on account of the significance of the questions presented for consideration, prominent among which was that of rates of discount, and the question whether the Federal Reserve system could with propriety be employed in any way to relieve the necessities of the industrial enterprises of the country. On both points the view of the Advisory Council was the same as that which has guided the Board, this view being that the system must use every effort to maintain its liquid character and that commercial paper regarded as eligible for discount must be of a kind calculated to provide its own means of liquidation. Admission of long-term obligations, or obligations short-term in form only, but requiring continual renewal and incapable of settlement within a reasonable time by the use of funds growing out of business transactions directly financed by them, was regarded as unquestionably opening an avenue of danger to the system, both because of the unliquid character of the paper, and because of the very large quantity of such paper almost inevitably to be expected for discount under present conditions, should paper of this character be held admissible for discount at Federal Reserve Banks."

In 1916, the Federal Reserve Act was amended to authorize Reserve Bank advances to member banks on the security of U. S. Government obligations in addition to the original authority to "discount" self-liquidating commercial paper; but the maturity of such advances was limited to 15 days. In 1919, the Council (with two "real bills" members dissenting) recommended that the law be amended to permit such advances with maturities of up to 90 days. ^{105/} Not until 1933 was such an amendment enacted.

104/ 1917 F. R. Bulletin 921-22.

105/ 1919 Annual Report 514.

In 1928, the Council took a position that in retrospect appears to have been more perceptive and more forward-looking than that of the Board at that time. The Board was considering an amendment to its Regulation A that would have required Reserve Bank advances to be for a minimum period of seven days. The Council commented: ^{106/}

"The Federal Advisory Council is opposed to the above amendment of the board's regulations. It seems to the council it will tend to increase rather than diminish the funds available for speculation and to increase the sale and purchase of Federal reserve funds. It is obvious that, if a member bank must borrow for a period of seven days even though it needs the money for a shorter period only, such a bank will be compelled either to place its idle funds temporarily at the disposal of the call-money market or to sell such Federal funds to some other member bank."

In the following year, the Council anticipated the Board's 1963 recommendation for a liberalization of discount eligibility rules. ^{107/}
In November 1929, the Council made the following observation:

"It is the feeling of the Federal Advisory Council that consideration could well be given to liberalizing the provisions of section 13 of the Federal reserve act, pertaining to eligibility of paper, in a manner not inconsistent with the proper functioning of the Federal reserve system."

The Council's liberal attitude toward Reserve Bank loans to member banks was indicated again in 1954 when the Board was considering a revision of Regulation A that would have included a somewhat restrictive statement of "general principles". The Council opposed that statement. While the Board agreed to some changes in the light of the Council's

^{106/} 1928 Annual Report 229.

^{107/} 1929 Annual Report 219.

it nevertheless adopted the revision of the Regulation in 1955 substantially the form originally proposed.

In August 1963, the Board recommended to Congress a drastic liberalization of requirements for Reserve Bank credits to member banks. At a joint meeting between the Council and the Board in September of that year, the Council stated that commercial bankers generally would strongly favor enactment of the Board's proposal "to broaden the kinds of security on which credit can be advanced by the Federal Reserve Banks."

Most recently, in 1968, the Board requested the Council's views as to a proposed general revision of the System's discount mechanism as contained in a report submitted by a "Steering Committee" composed of Board members and Reserve Bank presidents. The Council endorsed the objective of encouraging increased use of the discount window by member banks; but it questioned whether the proposed plan would result in greater use of the window by the smaller member banks.

Collection functions

Prior to 1916, the Reserve Banks were authorized to collect only checks received from member banks and drawn on solvent member banks. In September 1916, they were authorized to collect checks drawn on any bank, member or nonmember, payable upon presentation within their districts. Early in 1917, the Board asked the views of the Council as to whether it would be desirable to amend the law to permit nonmember banks, even though too small to be eligible for membership, to avail themselves of the clearing and collection facilities of the Reserve Banks provided

they would cover at par checks drawn on themselves and provided that they would keep a compensating balance with the Reserve Bank. The Council tentatively approved the suggestion. It said: ^{108/}

"This might work to the mutual advantage of the member banks in connection with the check collection system and of nonmember banks willing to conform to the rules prescribed by the Federal Reserve Board as well as to that of the Federal Reserve Banks through compensating balances. The experiment might be worth trying."

In 1919, the views of the Council were requested with respect to a suggestion that a Reserve Bank should send checks for collection directly to the town or city in which payable, even if it might be located in another reserve district, instead of sending them in the first place to the Reserve Bank of that district as was then the practice. Without specifically answering the question, the Council replied: ^{109/}

"The council is of opinion that collections should be made in the most direct and expeditious way possible and would recommend that in the interest of increased and better service the Board should look into this matter with the view of seeing to it that due diligence is exercised by the transit departments of the Federal Reserve Banks in the matter of check collections."

In 1923, the Council recommended that the collection of noncash items by the Reserve Banks, other than coupons, should be discontinued. ^{110/}

The Council apparently has always been reluctant to have the Reserve Banks give credit for checks before they are actually collected.

^{108/} 1918 Annual Report 821.

^{109/} 1919 Annual Report 513.

^{110/} 1923 Annual Report 467.

Thus, in 1948, it opposed a proposal to allow immediate credit for all checks on the ground that such a practice would be unsound and would be the equivalent of making loans without interest. Two years later, in October 1950, the Council also opposed a proposal to reduce from three days to two days the maximum deferment time for giving credit for checks sent to the Reserve Banks by member banks. Specifically, the Council felt that "it is an unsound practice to give credit for reserve purposes for an item before it is actually collected."

Bank regulation and supervision

In general, although with some exceptions, the Council has favored measures designed to enlarge the powers of banks and has opposed proposals, both legislative and regulatory, that would tend to restrict the activities of banks.

Thus, in the early years of the System, the Council supported proposals to authorize joint ownership of foreign branches, ^{111/} to permit the establishment of in-town branches by national banks, ^{112/} and to permit member banks to accept foreign bills up to 200 per cent of capital and surplus. ^{113/}

In September 1933, the Council felt that a grave problem was presented in connection with efforts to restore the credit operations of financial institutions by reason of provisions of the Securities

^{111/} 1918 Annual Report 706.

^{112/} Ibid.

^{113/} Id., at 869.

Act of 1933 and the Banking Act of 1933 that in effect prohibited member banks from underwriting the capital requirements of industries.

In this connection, the Council stated: ^{114/}

"It is essential that the industries of the country (including public utilities) be enabled to finance their ordinary capital requirements either for refunding or for new capital in the investment markets, and it is apparent that amendments to the law must be made so that it will not stifle the legitimate flow of capital into industry.

"Accordingly, it is hereby

Resolved, That in aid of the national recovery program, the Securities Act of 1933 and the Banking Act of 1933 should be amended in such respects as may be necessary to enable industries of the country to obtain capital funds in the investment markets, retaining in such laws such provisions as may be necessary properly to safeguard the interests of the investing public."

Again evidencing its distaste for restrictive regulations, the Council in 1936 strongly opposed the application of margin requirements with respect to securities loans by banks, ^{115/} and in 1949 it opposed any effort to make the Board's Regulation W with respect to consumer credit control a permanent regulation.

One notable exception to the Council's general objection to restrictive regulations was its position with respect to whether absorption of exchange charges by member banks should be regarded as an indirect payment of interest on deposits. In November 1936, the Council recommended that the Board put into effect a proposed amendment to its

^{114/} 1933 Annual Report 258.

^{115/} 1936 Annual Report 232.

Regulation Q that would have specifically made absorption of exchange charges an indirect payment of interest; and, although that proposed amendment was not adopted, the Council strongly supported the Board's interpretation in 1943 that absorption of exchange charges constituted a payment of interest. In this instance, the Board took advantage of the Council's position when, in 1944, it vigorously opposed the enactment of a bill that would have declared absorption of exchange charges not to be a payment of interest. On February 14, 1944, the Board issued a press statement setting forth a resolution adopted by the Council in opposition to that proposed legislation. Among other things, the Council's resolution stated:

" . . . The practice of exchange absorption has become a serious competitive abuse, and is tending to draw deposits away from their natural trade areas and normal trade streams. This dislocation of funds may well cause embarrassment at the time of any future banking stress.

"The Council believes that the practice violates the intent of the Banking Acts of 1933 and 1935 respecting the prohibition against the payment of interest on demand deposits. The proposed bills legalizing exchange absorption run counter to all recent Federal legislation in that they create a preference in favor of the large depositor."

In 1963, the Board asked the Council's views as to whether Regulation Q should be amended so as in effect to reverse the Board's position with respect to absorption of exchange by expressly declaring such absorption not to be a payment of interest. The Council responded:

"The Council believes that the regulation should be enforced. Although the regulation may be difficult to enforce effectively, the members of the Council continue to believe that no change should be made in the present regulation covering the absorption of exchange charges by member banks."

With respect to sound banking practices and examination procedures, a few recommendations of the Council may be noted.

In February 1926, the Board asked the Council's views regarding the "uses, dangers, and appropriate methods of control" of instalment financing. The Council replied: ^{116/}

"The principal danger that we see in installment financing now is the mortgaging of future earnings. These debts in the event of a contraction of business would undoubtedly tend to postpone a recovery. Installment buying in 1925 undoubtedly was greatly responsible for the increased business activity during that year."

In February 1931, the Council was asked by the Board to comment on the reasons for the epidemic of bank failures. The Council replied ^{117/} as follows:

"The Federal Advisory Council believes that bank failures in recent times have been largely due to a change in economic and social conditions.

"In many instances the minimum capitalization required of banks has not been a sufficient protection to the depositors. The difficulties which banks have encountered can not be traced entirely to a deficiency in our banking and examination systems. The law now gives sufficient power and authority for an adequate examination. Improvements in examinations undoubtedly can and should be made.

"There should be imposed upon the Federal reserve banks the requirement to keep themselves informed of the quality of the investments and loans and the policy of the management of all member banks."

In May 1938, the Council generally approved a joint statement of the Federal bank supervisory agencies regarding bank examination procedures. ^{118/}

^{116/} 1926 Annual Report 483.

^{117/} 1931 Annual Report 219, 220.

^{118/} 1938 Annual Report 85.

Legislation

In the course of the foregoing review of matters considered by the Council, references have been made to various recommendations of the Council with respect to proposed legislation. Despite the Council's complaint in 1944 that the Board was not providing the Council with drafts of legislation for its information and comments, it appears that both before and since 1944 the Board has sought and obtained the Council's views regarding legislation on numerous occasions.

In several instances, the Council has given the Board detailed comments regarding proposed comprehensive legislation, such as the "omnibus" legislation in 1917 amending a number of provisions of the Federal Reserve Act, ^{119/} the so-called McFadden branch banking bill in 1925, ^{120/} the bills that finally were enacted as the Banking Act of 1933, ^{121/} and the Board's proposals for "technical" amendments to the Federal Reserve Act in connection with Congressional consideration in 1956 of the proposed "Financial Institutions Act" that was never finally adopted.

In many other instances, the Council has expressed its views regarding proposed legislation of a more specific nature. At times the Board has concurred in the Council's position; at other times

119/ 1918 Annual Report 819.

120/ 1925 Annual Report 287.

121/ 1932 Annual Report 187.

the Board has taken a directly contrary position. Thus, in 1940, the Council and the Board agreed that the Assignment of Claims Act should be amended to permit the assignment of claims against the Government as security for defense loans made by banks and, in recommending such an amendment to Congress, the Board quoted the views of the Council. Similarly, in 1948, in recommending bank holding company legislation to the Senate Banking and Currency Committee, the Board transmitted to the Committee a copy of the resolution of the Council favoring such legislation.

On the other hand, whereas the Board in 1942 had proposed amendments to the Securities Exchange Act to authorize margin requirements for loans on unregistered securities, the Council strongly opposed such amendments.

On other occasions, the Council has expressed its views with respect to legislation relating to such matters as the extension of the authority for direct purchases of Government obligations by the Reserve Banks from the Treasury, the statutory limitation on the cost of Reserve Bank branch buildings, and pending housing legislation.

EVALUATION OF THE COUNCIL'S PERFORMANCE

It is not easy to form a judgment as to whether the Council has been a useful part of the Federal Reserve System. Although it has been the subject of a few kind words, the Council has more frequently been referred to as perfunctory, conservative, or useless.

Writing in 1923, Professor H. Parker Willis, in the course of rather derogatory comments regarding the Council's importance, conceded that its most noteworthy activity had been in helping to ward off a proposal to require the appointment of a "dirt farmer" as a member of the Board and that the Council had performed "a useful service in helping to check or anticipate the efforts of politicians to employ the resources of the federal reserve system in non-banking ways".^{122/} In 1925, Dr. E. A. Goldenweiser wrote that "the Council consists of men prominent in the banking field and its reports command considerable respect and attention from the Board and the banks, as well as from the general public" and that on "many occasions the advice and counsel of this body has been of great service to the Federal Reserve Board."^{123/} And in 1935, Karl R. Bopp, then a professor of economics at the University of Missouri and later president of the Philadelphia Reserve Bank, wrote that the chief influence of the Council was through its press statement following its meetings but that the influence of these statements was "dependent upon the prestige of the membership of the Council."^{124/}

In contrast to these lukewarm words of praise, one must weigh many words of derogation and deprecation.

^{122/} Willis, supra note 3, at 723.

^{123/} E. A. Goldenweiser, THE FEDERAL RESERVE SYSTEM IN OPERATION (McGraw-Hill, 1925), pp. 17, 155.

^{124/} Bopp, supra note 66, at 71, 72.

In his 1923 book, Professor Willis alleged that the Council had proved to be "perfunctory" in the performance of its duties, had little knowledge of central banking problems, and was primarily inclined to protect the interests of member banks against encroachments by the Federal Reserve. In this connection, he wrote: ^{125/}

" . . . Both in original design and by virtue of membership, the Council should have occupied an important and influential position in the evolution of the system.

"Early sessions of the Council, however, soon raised serious doubts in the minds of careful observers. It began to be evident, from a date very soon after organization, that the Council was likely to be a purely perfunctory body. Not only did its members for the most part assume a detached and indifferent attitude, but it was painfully plain almost from the very beginning that they had but little knowledge of central banking problems. . . .

" . . . On the whole, however, the Advisory Council continued to be merely a conservative financial body, keen to protect the interest of member banks, deeply concerned with the welfare of the business as such, and not primarily devoted to the study of central banking in its larger aspects. . . .

"As for the position taken by the Council, it must be regarded as having been throughout very conservative and on the whole designed to safeguard and protect the interests of individual member banks against possible encroachments by the reserve system. This point of view may have become somewhat mitigated in recent years but was very obvious during the early history of the new body. The members being themselves bankers, almost always eminent members of the local banking community in each district, were inevitably strongly tinged with the point of view of their profession.

* * * * *

^{125/} Willis, supra note 3, at 717, 718, 720, 722, 724.

". . . It is enough to say that, with the exception of the recommendations just cited and with the further exception of suggestions frequently put before the Secretary of the Treasury or other Treasury officers, the Council has not developed into a body of public importance, while within the system its duties have been too limited and circumscribed to permit of their exercising a very striking effect upon policies."

The same views were reiterated in a book published by Dr. Willis and William H. Steiner in 1926. With reference to the Council, that book stated:
126/

". . . Its work has been characterized by one of the authors elsewhere as, on the whole, that of 'a conservative financial body, keen to protect the interest of member banks, deeply concerned with the welfare of the business as such, and not primarily devoted to the study of central banking in its larger aspects.' It has hardly developed into a body of public importance, while within the System its duties have been too limited to permit it to exercise a very striking effect upon policies. . . ."

Similarly, in 1935, Professor Bopp made the following observations regarding the Council:
127/

". . . In the main, it has been an agency upon which blame could be shifted, although or perhaps because it is without power.

". . . In the 1920's the Council began to raise questions of its own. It thus began to take a greater initiative, but its power has never been commensurate with that of the able bankers who have made up its membership."

In general, it was the judgment of Professor Bopp that "the Council seems to satisfy conservative bankers but has little influence over the Board."
128/

126/ H. Parker Willis and William H. Steiner, FEDERAL RESERVE BANKING PRACTICE (Appleton, 1926), p. 100.

127/ Bopp, *supra* note 66, at 70, 71.

128/ *Id.*, at 72.

While most observers have concluded that the Council has exercised little if any influence on the Board, Representative Patman in 1938 argued that the Council did exercise considerable influence upon the Board of Governors and even that the Board had been "hindered" by the Council. During Congressional hearings on a bill that, among ^{129/} other things, would have abolished the Council, Mr. Patman said:

" . . . Who composes that advisory committee? Twelve of the largest industrial, financial, and utility leaders in our Nation. Why are they sitting there? You say that they have no power, that they have no right to carry out their orders. That is very true, but at the same time they are a legally constituted advisory committee to that Board of Governors of the Federal Reserve banks, and they do have power and influence - they are bound to have."

At a later point in the same hearings, referring to the Council, ^{130/} Mr. Patman stated:

" . . . Possibly if you could talk to them [the members of the Board of Governors of the Federal Reserve System] confidentially and privately, they would tell you how they are obstructed by an agency that Congress has delegated some power to, and that agency is the Federal Advisory Board, made up of people who are selfishly interested in the money supply of this Nation. That is an agency created by Congress and given certain powers to confer with that Board and to make certain recommendations and have knowledge of certain things. They could possibly say how they have been hindered by that advisory agency that we had caused to be placed around them. They would probably say, and I do not know whether they would or not, that Congress has permitted private bankers, who are interested selfishly, like you or I would be, to be on that Open Market Committee and possibly interfering with them in doing what they would like to do."

^{129/} 1938 House Hearings, at 11.

^{130/} Id., at 179.

Patman had support from former Senator Robert Owen, one of the witnesses during those hearings. Like Patman, Owen felt that the Council had influenced the Board and, moreover, that its influence had "been used over and over again against the public interest."^{131/}

As has been noted, during the tenure of Marriner Eccles as governor of the Board, there were confrontations between the Board and the Council with respect to the extent of the Council's jurisdiction, its right to release its views to the public, and its right to access to Board information. It is not surprising that Mr. Eccles did not entertain a high view of the Council's usefulness. During the 1938 hearings just referred to, Mr. Eccles stated emphatically that the members of the Council did not influence the Board and that, personally, he did not feel "that the council is able to contribute very much in the situation."^{132/} He expressed the feeling that, since the members of the Council were bankers, their point of view "naturally would be that of private bankers engaged currently in the private banking business."^{133/}

Mr. Eccles had not changed his opinion with respect to the Council in 1961 when he testified at hearings before the Joint Economic Committee. Again suggesting that the Council represented the viewpoint

^{131/} Id., at 239.

^{132/} Id., at 449.

^{133/} Id., at 450.

134/

of private bankers and was of no use, he stated:

"I could never figure that we got advice that was completely objective. It always seemed to me that the advice that we got, at least from the majority of the Council, largely favored the private banker point of view rather than what may be considered a public point of view, and possibly the Council were carrying out what they felt was their obligation to represent the private banker point of view with the Board.

"I believe the Council has outlived its usefulness."

The charge that the Council has been conservative and inclined to consider the interests of banks might be supported by pointing to the number of occasions, as heretofore mentioned, when the Council has supported measures that would enlarge the powers of banks (e.g., the authority of national banks to establish in-town branches) and has opposed proposals to restrict bank activities (e.g., to impose reserve requirements upon paper issued by member bank affiliates),

Whether or not such charges are well founded, it seems clear that the role of the Council, if not exactly "perfunctory" as alleged by Dr. Willis in 1923, has become less active in recent decades. Not since 1922, for example, has it dared to address an open "memorial" to the President of the United States. In a measure, its lessened importance has been reflected by the fact that since 1942 its recommendations have not been published regularly in the Board's Annual Reports to Congress and by the fact that no recommendation, resolution, or statement of the Council has been published in such Annual Reports or in the monthly Federal Reserve Bulletin since 1946. Even if its

134/ Supra note 26, at 44.

recommendations had been made public over the last 25 years, they would not have been regarded as particularly significant. Except on rare occasions, they have been brief, general, and noncommittal. They have been in sharp contrast to the wide-ranging and detailed recommendations made by the Council in the early years of the System - even when Dr. Willis regarded the Council as a "perfunctory body".

It is possible that the dwindling importance of the Council has grown out of a "what's-the-use" attitude on the part of its members - a feeling that its views have had no substantial influence on the Board. For example, Thomas W. Steele, a member of the Council from the First Federal Reserve District, stated in 1935:^{135/}

"It seems to me that candor must compel the admission by anyone who discussed the Council and its work that, on the whole, it has not proved to be the efficient and influential body which it was intended to be. It was assigned important duties and given great opportunities. In part, at least, these opportunities have been permitted to lie dormant. What was hoped for by its originators can readily be determined from contemporary evidence.

* * * * *

"So far as my experience goes, the Board has been uniformly courteous and co-operative in responding to requests for information and in discussing such matters as discount rates, the purchase and sale of securities by the reserve banks, open-market operations and the general affairs of the System, but I have felt, and I know that my colleagues have, that at times the opinions of the Council in connection with these matters were rather tolerated than sought. And I am inclined to think that the records will show that recommendations

^{135/} Address by Thomas W. Steele, president of the First National Bank and Trust Company of New Haven, Connecticut, to annual meeting of stockholders of the Federal Reserve Bank of Boston, entitled "The Work of the Federal Advisory Council", Nov. 8, 1935.

have been welcomed rather more cordially by the Board when directly sought in support of views already held than when they have been advanced by the Council on its own initiative in opposition to policies already in effect or already determined upon. This is perhaps inevitable. The statement is not intended so much as a criticism as a frank recognition of inherent limitations of human nature. It follows, naturally enough, that the power of the Council to make oral and written representations concerning matters within the jurisdiction of the Board has resulted in some friction and some misunderstanding. And I have been led to the conclusion that the Board, made up of human beings and therefore subject to human weaknesses, is inclined to think a matter within its jurisdiction when it wants advice and inclined to think a matter not within its jurisdiction when it does not want advice. In giving illustrations I am necessarily restricted to matters which have been made public. One such will suffice."

In similar vein, another long-time member of the Council, Edward E. Brown, told a Subcommittee of the Senate Banking and Currency 136/ Committee in 1935:

". . . And the entire record of the Federal Advisory Council in its relations with the Federal Reserve Board is that it gives advice and when its advice is not palatable they pay no attention to it, and they frequently suppress it, and, furthermore, I will say that generally speaking advisory committees and councils serve as a source of irritation, and they just have no power and no practical utility."

One may argue that these statements are supported by the number of times, as heretofore indicated, when the Board has cited the Council's views if they conformed to those of the Board and has seemed to ignore the Council's views if they were at variance with those of the Board.

On the other hand, it is possible that criticisms of the Council have not been entirely fair and that they have overlooked the

136/ Supra note 34, at 376.

purpose for which the Council was established. It should not be forgotten that the Council was a compromise between the bankers' insistence upon representation on the Federal Reserve Board and President Wilson's dictate that they should not have such representation. The Council was deliberately set up as a vehicle for expression of the views of the banking community. If it has tended to be conservative and to oppose measures that would subject banks to increased regulation, it has only been consistent with its purposes; and in this respect perhaps it has justified its existence.

Although written almost 50 years ago, the following passage from Dr. Willis's 1923 book on the Federal Reserve System, which described the Council as a "purely perfunctory body", remains today as a good "apology" for the Council's seemingly conservative role: ^{137/}

"Perhaps the most severe criticism to be offered with respect to the Federal Advisory Council is that it has had the defects of its qualities. Being composed exclusively of active and successful bankers, it has necessarily lacked contact and sympathy with the remainder of the public - even with the remainder of the business public who are less fortunately placed with respect to their interests and investments. This lack of sympathy or breadth of view has its merits, in that it tends to keep the Federal Advisory Council within narrow bounds in its suggestions to the Reserve Board and to the Treasury while it insures extreme conservatism of utterance and statement. The trouble with the work of a body thus constituted and thus limited is found in the fact that the reserve organization, on the whole, has itself erred on the side of ultraconservatism, tending to hold the system to a policy of overextreme care in conserving banking interests. It would have been well in such circumstances had the Federal Advisory Council been able to exert a broadening influence, tending to give to the system a larger view

^{137/} Willis, supra note 3, at 724, 725.

of its public duties. For this the Council was never organized, and it would be unfair to blame it for not exercising a function for which it was never intended and for which it was not fitted as a result of its peculiar composition. This criticism, therefore, merely amounts to a statement that the Advisory Council has in a sense acted as a brake instead of as an accelerator, notwithstanding that the system was already oversupplied with apparatus for retarding overrapid progress. . . ."

In one respect, it seems clear that the Council has not accomplished one of the objectives apparently contemplated by some of the framers of the original Federal Reserve Act, i.e., to focus "publicity" upon the operations of the Federal Reserve Board and convey to the banking community an understanding of the Board's policies. As late as 1940, a long-time secretary of the Council, Walter Lichtenstein, suggested in a letter to the Board's secretary that the "prime importance" of the Council was not so much to influence the Board as it was to acquaint the banks of the country with the motives and purposes of the Board's policies. He wrote:

"As to the question whether the Council is or is not important, I should like to point out, as I think I have to you in conversation, that there have been times when the Council has exercised a rather beneficent influence on the policy of the System. I am quite aware that a body which meets only four times a year and seeks to survey as complicated a piece of machinery as the Federal Reserve System is not likely to be able to determine intelligently at all times what the policy of the Federal Reserve System should be, especially if it be borne in mind that members of the Council, generally speaking, hold positions in civil life to which they are bound to devote most of their time, their thoughts, and their energies. In my opinion, the prime importance of the Council is not in seeking to influence the policy of

138/ Letter from Mr. Lichtenstein to Mr. Chester Morrill, Mar. 27, 1940.

the Board, but rather the other way around. It is not an extreme statement to say that it might furnish from time to time a very valuable piece of mechanism by which the Governors of the Federal Reserve Board can make known to bankers generally the motives and purposes underlying their policies. The Council furnishes a body made to order to accomplish such a result; it does so without putting the Governors of the Federal Reserve System in a position of trying deliberately to carry on propaganda for some of their ideas and views, as would be true if meetings of bankers were called solely for the purpose of advocating certain policies."

Despite Mr. Lichtenstein's views, whether valid or not, there is no evidence that the Council has been very successful in making the Board's policies understandable or acceptable to commercial banks.

PROPOSALS FOR CHANGE

Abolition or replacement

In view of the comments cited above regarding the alleged uselessness of the Advisory Council, it is not surprising that from time to time proposals have been made to abolish the Council or to replace it by an advisory body of a different nature.

During House hearings on the bill later enacted as the Banking Act of 1935, Chairman Eccles of the Federal Reserve Board urged that regulation of open market operations be placed in the Board rather than the Open Market Committee and that, before adopting any policy with respect to open market operations, discount rates, or reserve requirements, the Board be required to obtain the views of a committee of five governors (now presidents) of the Federal Reserve

^{139/}
Banks. Senator Williams asked why such advice could not be given by the existing Federal Advisory Council. Mr. Eccles replied that the governors of the Reserve Banks were in much closer touch with monetary problems than the Council and that he did not believe that the Council would be as able or as qualified.^{140/} Thus, although he did not specifically advocate abolition of the Council, clearly he contemplated that the committee of governors proposed by him would replace the Council with respect to recommendations in the area of monetary policy.

In 1938, Representative Patman introduced a bill that, among other things, would have abolished the Advisory Council without its replacement by any similar advisory body. He argued that the Federal Reserve Board already had too much power and was influenced by the bankers, particularly by the members of the Federal Advisory Council who were interested primarily in "high or dear money".^{141/} Chairman Eccles was a witness at hearings on the bill and, although again he did not specifically recommend abolition of the Council, he expressed the view, as previously noted, that the Council was not "able to contribute very much".^{142/}

In 1949, Senator Paul H. Douglas, then chairman of the Subcommittee on Money, Credit, and Fiscal Policies of the Joint

^{139/} Hearings before House Banking and Currency Committee on H.R. 5357, 74th Cong., 1st Sess. (Feb.-Apr. 1935), p. 183.

^{140/} Id., at 230.

^{141/} 1938 House Hearings, at 11, 13.

^{142/} Id., at 449.

Economic Committee, sent a questionnaire to various Federal banking and financial agencies, including the Board, and to the presidents of the Reserve Banks and selected bankers. One of the bankers, Ben DuBois, then secretary of the Independent Bankers Association, expressed the view that there was no reason for the existence of the Federal Advisory Council and that, on the contrary, it had a "tendency toward confusion".^{143/}

Two years later, in April 1951, the Independent Bankers Association adopted a resolution that, while not suggesting abolition of the Council, recommended amendments to the law to provide for the election of its members by member banks in the same manner as Reserve Bank directors were elected; and a copy of that resolution was sent to the chairmen and presidents of all Reserve Banks.

In 1951, Dr. E. A. Goldenweiser, formerly a director of the Board's Division of Research and Statistics, recommended that the Board be replaced by a governor of cabinet rank and two deputy governors with provision for three advisory boards: one to consist of the heads of the Board's divisions, a second to consist of the 12 Reserve Bank presidents, and the third, which would replace the Advisory Council, to consist of "representatives of different parts of the country and of different economic groups."^{144/}

The Commission on Money and Credit in 1961 concluded that the Advisory Council needed broadening by the inclusion not only of

^{143/} Supra note 30, at 312.

^{144/} E. A. Goldenweiser, AMERICAN MONETARY POLICY (McGraw-Hill Book Co., 1951), p. 303.

bankers but of members from all sectors of the economy. Accordingly,
it recommended a reconstituted Council as follows: ^{145/}

"The present statutory Federal Advisory Council should be replaced by an advisory council of twelve members appointed by the Board from nominees presented by the boards of directors of the Federal Reserve banks. At least two nominations, not more than one of them from any single sector of the economy, should be presented by each bank. The Board should make its selection, one from each district, in such a manner as to secure a council broadly representative of all aspects of the American economy. Council members should serve for three-year terms, not immediately renewable. The council should meet with the Federal Reserve Board at least twice a year.

"The channels of outside advice to the Board need broadening, and one obstacle to this is the present statutory position of the Federal Advisory Council. Custom has confined the membership of the FAC to commercial bankers. The Commission thinks the mandate to consult should embrace a wider range of interests, and that the means, beyond a reconstituted council, should be deliberately left open-ended."

The most recent proposal for replacement of the present Advisory Council was included in a bill introduced by Representative Patman that was the basis, along with other proposals by Mr. Patman, for Congressional hearings in 1964 on "The Federal Reserve System After Fifty Years". That bill would have abolished the present Advisory Council and revised section 12 of the Federal Reserve Act to provide for a "Federal Advisory Committee" consisting of the Comptroller of the Currency, the chairman of the Board of Directors of the Federal Deposit Insurance Corporation, and not more than 50

^{145/} MONEY AND CREDIT: THEIR INFLUENCE ON JOBS, PRICES, AND GROWTH, A Report of the Commission on Money and Credit (Prentice-Hall, Inc., 1961), p. 89.

other members to be appointed by the President.^{146/} In the course of hearings on the bill, this provision for the establishment of a council with so many members was strongly criticized by presidents of the Reserve Banks. Thus, President Bopp of the Philadelphia Reserve Bank stated that the proposed Committee "would be so large that its deliberations would likely be too time consuming to hold able members or its results would likely be perfunctory."^{147/} President Hayes of the New York Reserve Bank, while stating that he did not object to appointment by the President of members of the Council or the Committee, expressed the view that "if the Council or Committee were to be enlarged to as many as 52 members, I sincerely doubt that it would be able to engage in the kind of conference and consultation with the Board of Governors that is most desirable and fruitful when discussing banking or monetary affairs"; and he saw no need to place the Comptroller or the chairman of the FDIC on the Council.^{148/} President Irons of the Dallas Reserve Bank likewise felt that such a large Committee "would be so unwieldy as to be of little practical value." Like Mr. Hayes, he questioned the desirability of placing the Comptroller or the chairman of the FDIC on the Council, but, unlike Mr. Hayes, he felt that appointment of members of the Committee by the President, rather than by the

^{146/} The Federal Reserve System After Fifty Years, Hearings before Subcommittee on Domestic Finance of House Banking and Currency Committee (88th Cong., 2d Sess., Jan.-Feb. 1964), Vol. 1, p. 4.

^{147/} Id., at 442.

^{148/} Id., at 529.

directors of the Reserve Banks, would be "another step tending to weaken the position of the Reserve banks and the responsibilities of their directors."^{149/}

Obviously, proposals for replacement of the Council by an advisory body that would not consist entirely of bankers but would provide a broader representation of different interests have been prompted by the view, heretofore mentioned, that the present Council is concerned chiefly with the interests of banks. But that was the precise purpose of the present Council: to represent the bankers' viewpoint. If the views of different interests, such as those of businessmen, are deemed desirable, the present Council might be supplemented by an additional advisory body, such as a Business Advisory Committee composed of top executives of small and large business concerns of a non-financial nature.

In this connection, it may be noted again that the law has never required that the Council consist entirely of bankers. Legally, the board of directors of any Reserve Bank could select a member who is not a banker - a businessman, a farmer, or even a lawyer or a doctor. It is obvious, however, that such a change in practice would be inconsistent with the evident intent of the law and would be regarded by the bankers of the country as a breach of faith.

^{149/} Id., at 846.

Minor changes in the law

As noted at the outset of this paper, section 12 of the Federal Reserve Act, relating to the Federal Advisory Council, is one of the very few sections of the original Act that has never been amended. If the Council is not to be abolished or reconstituted in different form, question may be raised whether there is need for any changes in the existing statute.

Only one change has ever been suggested by the Federal Reserve Board. It has been mentioned that on several occasions, and particularly in connection with the proposed Financial Institutions Act in 1956, the Board recommended that section 12 of the Act be amended to limit the length of service of a member of the Council so as to provide for a greater rotation of membership. Such an amendment might still be desirable. On the other hand, a practice has developed under which there appears to be adequate rotation of membership. During the last decade, most members of the Council have served for only three years and some have served for only one or two years. During that period, only one member served for as long as six years and only one other for a period of four years.

It might be desirable to amend the law to provide expressly for the selection by the Reserve Bank directors of alternate members to serve at meetings of the Council in the absence of the regular members and with power to vote. Under present practice, a Reserve Bank may appoint a person from its district to attend a meeting of

the Council in the absence of the regular member; but, unlike alternates provided by section 12A of the Act for members of the Federal Open Market Committee, an alternate attending a meeting of the Council may express his views but may not cast a vote. With respect to questions before the Council, an amendment of the kind here suggested would also remove any legal question like that raised during the early years of the System as to the authority of a Reserve Bank's board of directors to pay compensation and allowances to an alternate attending a meeting of the Council. Again, however, such an amendment does not appear essential.

If one were rewriting section 12 of the Act today, one would probably alter the language describing the types of matters with respect to which the Council may make recommendations. It might be broadened, for example, so as to refer specifically to monetary and credit policies and regulation of member banks. Once more, however, it cannot be said that the present language of the law in this respect has seriously impeded the performance of the Council's advisory functions, even though, as has been noted, question was raised by the Board in 1934 as to whether it was appropriate for the Council to make recommendations with respect to gold policy or fiscal policies of the Treasury.

Changes within present law

If the present Council is not to be abolished or replaced and if no changes in existing law are necessary, are there any measures that might be taken to enhance the usefulness of the Council? In other

words, accepting the Council for what it was intended to be - a vehicle for obtaining the views of bankers, are there means by which that objective can be accomplished more effectively?

That there may be room for improvement within the limitations of present law was recognized as long ago as 1919 when Mr. John Perrin, chairman of the San Francisco Reserve Bank's board of directors and a member of the group of bankers that had paid that memorable visit to President Wilson in 1913, wrote to James B. Forgan, then president of the Council, who had also participated in that visit:

"I do not think that any of those concerned in inserting this provision, either as bankers or legislators, had thought out very definitely just what the function of the Advisory Council would or should be. If anyone had a very clear idea at that time it is perhaps unimportant whether the Advisory Council should follow the line then conceived to be its proper line, if a better one could be marked out. Personally, I am heartily in favor of its following such a course as will make its service more valuable irrespective of what anyone thought at the outset."

How the present Council may be made more effective and useful is a matter of judgment. Some measures toward that end that might be considered are the following.

The Board might substantially enlarge the list of matters as to which it solicits the Council's views in advance of regular meetings. As previously noted, that list in recent years usually has been limited to business conditions, banking developments, balance of payments, and monetary policy. These are important matters; but the Council's responses might be more helpful if the questions were couched in more specific terms or if they included more matters of a bank regulatory

nature - matters with which the banker members of the Council are particularly concerned.

Again, the Board could give the Council more information regarding the matters with which the Board is currently concerned. Since 1934, when the Board resisted efforts of the Council to obtain access to drafts of legislation under consideration by the Board, the Council has been reticent about asking the Board for information. However, if the Board should adopt a practice of submitting to the Council not only more questions regarding possible legislation but also questions regarding proposed changes in Board regulations and interpretations of law, it is possible that the interest of Council members would be stimulated and that its recommendations would be more helpful to the Board.

For the same reason, the usefulness of the Council might be enhanced if its members were encouraged to write to the Board periodically letters expressing their views on current questions. Many years ago, it was suggested that Council members address such letters to the chairman of the Board each month, but apparently the suggestion bore little fruit.

The Board might call for more special meetings of the Council - in addition to the four statutory annual meetings - to discuss particular matters under consideration by the Board. Only on relatively rare occasions has this happened in the past, as in 1962 when the Board called for a special meeting to consider absorption of exchange charges.

These and other possibilities for increasing the effectiveness of the Council must be considered, however, in the light of the very realistic fact that the members of the Council are prominent bankers who are busy with the problems of their own banks, who are interested in but have little time to consider the broad problems of the Board and the Federal Reserve System, and who might not relish more frequent trips to Washington for meetings of the Council.

SUMMARY AND CONCLUSIONS

Despite the length of this history of the Council and analysis of its performance, it is difficult to reach any definite conclusions as to the value of the Council or as to whether it should be abolished or retained with alterations.

On the one hand, it can be argued that the Council was originally established as a political compromise and that experience has proved that it serves no useful purpose; that its recommendations have not had any significant influence upon the policies of the Board; that its members, being bankers, usually tend to be conservative and to think of the interests of banks rather than the general public interest; and that meetings of the Council are merely perfunctory interruptions in the busy careers of its members.

On the other hand, it can be argued that the Council has effectively performed the purpose for which it was established, i.e., to give the Board the benefit of the banker viewpoint; that it has

made numerous recommendations on a great variety of subjects; that whether the Board has always followed the Council's advice is beside the point; and that, in any event, the Council provides a useful link between the Board and the banking community that supplements the link provided by the fact that bankers comprise a third of the board of directors of each Federal Reserve Bank.

On balance, it seems reasonable to conclude that, while it may not be essential to the effective operation of the Federal Reserve System, the Council serves as a special vehicle for communication between banks and the Board and that there is no compelling reason for its discontinuance. Indeed, its discontinuance after its existence since the beginning of the System might have a seriously adverse effect from a public relations point of view and might actually impair the effectiveness of System policies and operations.

If the Council is retained, however, serious consideration should be given to ways and means of enhancing its usefulness. There is always a danger that the Council may become, in Dr. Willis's words, a "purely perfunctory body" and that its meetings may become completely routine and without meaning. How these results can be avoided is a matter of judgment. Perhaps some progress toward that end could be achieved by discussions of the problem between the Board's secretary and the secretary of the Council or between the chairman of the Board and the president of the Council, or even by the devotion of special meetings between the Council and the Board to a frank discussion of possible means of improving relations between the two agencies.