MINUTES OF MEETING

of the

FEDERAL ADVISORY COUNCIL

September 17-19, 1933

MINUTES OF MEETING OF THE FEDERAL ADVISORY COUNCIL

September 17, 1933.

The third statutory meeting for 1933 of the Federal Advisory Council was convened in Room 836 of the Mayflower Hotel, Washington, D. C., on Sunday, September 17, 1933, at 10:30 A. M., the President, Mr. Smith, in the Chair.

Present:

Mr. Thomas M. Steele	District No. 1
Mr. Walter E. Frew	District No. 2
Mr. Howard A. Loeb	District No. 3
Mr. H. C. McEldowney	District No. 4
Mr. Howard Bruce	District No. 5
Mr. John K. Ottley	District No. 6
Mr. Melvin A. Traylor	District No. 7
Mr. Walter W. Smith	District No. 8
Mr. Theodore Wold	District No. 9
Mr. W. T. Kemper	District No. 10
Mr. Joseph H. Frost	District No. 11
Mr. Henry M. Robinson	District No. 12
Mr. Walter Lichtenstein	Secretary

On motion, duly made and seconded, the minutes of the meeting of May 15-16, copies of which had been previously sent to the members, were approved.

The President reported that the President of the United States, the Secretary of the Treasury, and the Governor of the Federal Reserve Board had agreed with the views of the special committee which waited on these gentlemen on May 17.

Mr. Frew presented a recommendation reading as follows:

"Since the Securities Act of 1933 came into operation, the normal issue of corporate securities by responsible corporations has almost ceased. It has become evident that large corporations, with responsible boards of directors, will not undertake capital issues because of the liabilities which the Act imposes upon them and the individual members of their board of directors in regard thereto. It has also become evident that responsible investment bankers will not act as underwriters of corporate issues, because of the liabilities imposed upon them under the terms of the Securities Act of 1933. That this is so, is clearly established from the fact that no nationally known industrial or public utility company has undertaken any new financing under the Securities Act of 1933.

"This situation presents a grave problem in connection with the National Industrial Recovery program and with the orderly restoration of credit operations of financial institutions. Unless this situation is changed, companies with maturing obligations will not have the usual facilities provided for the refunding thereof, and many sound, profitable companies may be faced with receivership because of inability to obtain capital

funds for refunding purposes. Similarly, industrial progress requiring new capital will be prevented through inability to obtain capital funds, even though sought by sound, nationally known enterprises. The commercial banks of the country should not undertake to lend their depositors funds to corporations to enable them to discharge their maturing capital obligations or to make capital additions, both because an unsound banking situation would be created and because the volume of loans required for refunding and new capital requirements would be beyond the capacity of the banks to meet.

"Under the Banking Act of 1933, commercial banks are in effect prohibited from underwriting the capital requirements of the industries of the country, either directly or through affiliates. This provision has restricted in a great measure, the investment banking facilities of the country.

"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 to liberalize the law 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 all such provisions as may be necessary properly to safeguard the interests of the investing public."

It was moved and seconded to adopt Mr. Frew's recommendation.

Mr. Steele introduced the following recommendation:

"Resolved that the Council is of the opinion that public interest demands that all appraisals of the assets of banks for the purpose of membership in the Federal Deposit Insurance Corporation and in the Temporary Federal Deposit Insurance Fund be made upon a uniform basis and with the application of uniform tests, whether such banks be State or National, members or non-members; and the Council strongly urges upon the Federal Reserve Board and the Comptroller of the Currency that every effort be made to secure the adoption of rules for such appraisals which shall be universally applicable in all districts and in all states."

It was moved and seconded to adopt Mr. Steele's recommendation.

There was considerable discussion in respect to both recommendations.

The meeting adjourned for luncheon at 12:45 P. M.

WALTER LICHTENSTEIN,

Secretary.

MINUTES OF MEETING OF THE FEDERAL ADVISORY COUNCIL

September 17, 1933.

At 2:15 P. M. the Federal Advisory Council reconvened in Room 836 of the Mayflower Hotel, Washington, D. C., on Sunday, September 17, the President, Mr. Smith, in the Chair.

Present: Mr. W. W. Smith, President; Messrs. T. M. Steele, W. E. Frew, H. A. Loeb, H. C. McEldowney, Howard Bruce, J. K. Ottley, Theodore Wold, W. T. Kemper, J. H. Frost, H. M. Robinson, and Walter Lichtenstein, Secretary.

It was moved by Mr. Robinson and seconded by Mr. Frew that the Council request the Board to give the Council information regarding the report made by the Committee appointed under the recommendation of the Council of November 19, 1929.

There was a discussion regarding the following enquiries to be addressed to the Board:

1. Free gold market question: How does Board feel about it; advantages and disadvantages?

2. Open market operations.

3. Banking Act of 1933, Section 33, being an amendment to the Clayton Act. Does Board care to state whether an opinion has been rendered as to meaning? Is prohibition absolute or does it merely define Clayton Act somewhat more?

4. At its meeting of November 19, 1929, the Council passed a recommendation suggesting the appointment of a Committee to study question of branch banking, etc. Has this Committee reported and what, if any, conclusions have been reached?

5. Has the Board taken any position in reference to charges made that banks are refusing to make loans which they ought to make?

The meeting adjourned at 3:45 P. M.

WALTER LICHTENSTEIN,
Secretary.

MINUTES OF MEETING OF THE FEDERAL ADVISORY COUNCIL

September 18, 1933.

At 10:15 A. M. the Federal Advisory Council reconvened in Room 836 of the Mayflower Hotel, Washington, D. C., the President, Mr. Smith, in the Chair.

Present: Mr. W. W. Smith, President; Mr. M. A. Traylor, Vice President; Messrs. T. M. Steele, W. E. Frew, H. A. Loeb, H. C. McEldowney, Howard Bruce, J. K. Ottley, Theodore Wold, W. T. Kemper, J. H. Frost, H. M. Robinson, and Walter Lichtenstein, Secretary.

There was further discussion regarding the two recommendations presented to the Council yesterday.

From 11:10 to 11:50 A. M. Mr. Robert V. Fleming, President of the Riggs National Bank, gave the Council the benefit of his views of the present situation in respect to the possibility of any amendments being made by Congress to the Banking Act of 1933. Mr. Frew thought it wise for the Council to suggest to the Federal Reserve Board that a survey be made of what loans banks are really refusing to make, both as to the volume of such loans and their character.

At 11:55 Dr. Goldenweiser gave an interesting account of the present business conditions of the country.

At 1:00 P. M. the Council entertained the members of the Federal Reserve Board at luncheon.

The Governor of the Federal Reserve Board presented the following list of topics to be considered by the Council:

1. Federal Reserve

   Open market operations;
   Loans to individuals, partnerships and corporations.

2. Reconstruction Corporation

   Loans to industry through banks and mortgage companies.

3. Commercial Banks

   Restricted credits, due to

   (1) Condition of capital market;
   (2) Uncertainty about Federal Insurance Deposit Corporation;
   (3) Monetary situation.

4. Inflation

(1) Open market operations;
(2) Bonds;
(3) Greenbacks;
(4) Silver;
(5) Devaluation.

5. Federal Insurance Deposit Corporation.

6. Keeping open open banks.

7. Closed banks.

8. What will promote healthful and cooperative action on part of banks?

From 3:00 to 4:15 P. M. Mr. Jesse H. Jones, Chairman of the Reconstruction Finance Corporation, discussed with the Council the problem of preferred stock issues to be taken by banks and other questions confronting the banks at the present time.

After Mr. Jones left it was moved by Mr. McEldowney and seconded by Mr. Kemper that the Secretary be instructed to deliver the recommendations adopted by the Council to the governors of the respective Federal Reserve banks to the end that the governors distribute such resolutions to all member banks of their respective districts.

It was requested of the President of the Council that he state to the Federal Reserve Board at the joint meeting that the Council is planning to send its recommendations to the various member banks of the System.

Certain amendments were presented to Mr. Frew's recommendation and it was finally unanimously adopted in the form attached hereto and made part of these minutes.

Amendments to Mr. Steele's recommendation were adopted and it was finally unanimously voted to adopt this recommendation to read as follows:

"Resolved that the Council reaffirm its position of May 16, 1933, that there is no greater need today than that of the better cooperation between the various governmental agencies, particularly the Treasury Department, the Comptroller's Office, the Federal Reserve System, the Reconstruction Finance Corporation and the Federal Deposit Insurance Corporation. In conformity with that position the Council is of the opinion that public interest demands that all appraisals of the assets of banks for the purpose of membership in the Federal Deposit Corporation and in the Temporary Federal Insurance Fund be made upon a uniform basis and with the application of uniform tests, whether such banks be State or National, members or nonmembers; and the Council strongly urges upon the Federal Reserve Board and the Comptroller of the Currency that every effort be made to secure the adoption of like methods, including uniform regulations for determining asset values."

The meeting adjourned at 4:30 P. M. with the understanding that the Council would meet at 9:45 A. M. the following day in the Federal Reserve Board Room, Treasury Building.

WALTER LICHTENSTEIN,

Secretary.

MINUTES OF MEETING OF THE FEDERAL ADVISORY COUNCIL

September 19, 1933.

At 10:00 A. M. the Federal Advisory Council reconvened in the Federal Reserve Board Room, Treasury Building, Washington, D. C.

Present: Mr. W. W. Smith, President; Mr. M. A. Traylor, Vice President; Messrs. T. M. Steele, W. E. Frew, H. A. Loeb, H. C. McEldowney, Howard Bruce, Theodore Wold, W. T. Kemper, J. H. Frost, H. M. Robinson, and Walter Lichtenstein, Secretary.

It was again voted that the Federal Reserve Board be told that the Council is planning to give the two recommendations introduced respectively by Mr. Frew and Mr. Steele to the governors of the respective Federal Reserve banks with the request that the governor in each case send the recommendations to the member banks of the district.

The Council suggested to its President that he give out a statement to the press, simply as an individual and not as emanating from the Council, to read somewhat as follows:

"Banks are being unfairly and widely criticized on the presumption that they are refusing to make loans. Banks can only make expenses and profits by lending money and most banks have a substantial amount of unused funds. It should be remembered that the money to be loaned is the property of depositors. However, banks must be in a position to meet the demands of their depositors from time to time. Therefore, they should not make loans that either cannot be collected within a reasonable time or are not eligible for rediscount at Federal reserve banks."

The meeting adjourned at 10:35 A. M.

WALTER LICHTENSTEIN,

Secretary.

MINUTES OF JOINT CONFERENCE OF THE FEDERAL ADVISORY COUNCIL AND THE FEDERAL RESERVE BOARD

September 19, 1933.

At 10:40 A. M. a joint conference of the Federal Advisory Council and the Federal Reserve Board was held in the Federal Reserve Board Room, Treasury Building, Washington, D. C.

Present: Members of the Federal Reserve Board:

Governor Eugene R. Black; Mr. J. F. T. O'Connor, Comptroller of the Currency; Messrs. C. S. Hamlin, A. C. Miller, G. R. James, J. J. Thomas, and M. S. Szymczak; also Messrs. H. Warner Martin, Assistant to the Governor; Walter Wyatt, General Counsel of the Federal Reserve Board; Chester Morrill, Secretary of the Board; L. P. Bethea, Assistant Secretary of the Board; E. A. Goldenweiser, Director, Division of Research and Statistics, Federal Reserve Board; E. L. Smead, Chief of Division of Bank Operations; and George B. Vest, Assistant Counsel.

Present: Members of the Federal Advisory Council:

Mr. Walter W. Smith, President; Mr. M. A. Traylor, Vice President; Messrs. T. M. Steele, W. E. Frew, H. A. Loeb, H. C. McEldowney, Howard Bruce, J. K. Ottley, Theodore Wold, W. T. Kemper, J. H. Frost, H. M. Robinson, and Walter Lichtenstein, Secretary.

The Secretary of the Council read the recommendation introduced originally by Mr. Frew, which is attached hereto and made part of these minutes.

The Governor of the Federal Reserve Board stated that:

1. There should be some specific changes suggested.

2. The Banking Act and the Securities Act should be kept separate.

3. A committee of the Council should study if possible the working of the Securities Act before any action were taken.

4. A committee of the Council should wait on officials charged with the administration of these acts.

Mr. Traylor on behalf of the Council replied that the Council was not in a position to make specific recommendations and all it could do was to state general principles.

The Comptroller of the Currency and Messrs. Hamlin and Miller concurred with Governor Black.

If the Council did not wish to publish any specific recommendations, the Governor of the Board asked that the Board be furnished some for its own guidance.

The Secretary of the Council read the recommendation presented by Mr. Steele, which appears in the minutes under date of September 18.

The Governor stated that the President of the United States had appointed a co-ordinating committee in the Treasury on which all governmental bodies concerned were represented and that every effort was being made to carry out the ideas represented in the recommendation presented by the Council.

The Council thereupon voted to withdraw the recommendation in question.

The President of the Council made a formal statement that it was the intention of the Council to furnish the governors of the respective Federal Reserve banks with copies of the recommendation prepared by Mr. Frew, and appended to the minutes hereto, and request the governor of each district to distribute copies of this recommendation to the member banks of his district.

Board

The Governor of the Federal Reserve Bank answered the queries, which the Council handed him, as follows:

1. Free gold market question: How does Board feel about it; advantages and disadvantages?

A free gold market is impossible as long as the holding of gold is illegal.

2. Open market operations.

This depends upon conditions from week to week. It is the intention of the Board to make all sound credit that is needed available.

3. Banking Act of 1933, Section 33, being an amendment to the Clayton Act. Does Board care to state whether an opinion has been rendered as to meaning? Is prohibition absolute or does it merely define Clayton Act somewhat more?

The Board holds that the provisions of the Clayton Act have not been materially altered by Section 33 of the Banking Act of 1933. It is still possible for a man to be a director of three banks if the Federal Reserve Board permits and in this is included also membership on the board of directors of a Federal Reserve bank.

4. At its meeting of November 19, 1929, the Council passed a recommendation suggesting the appointment of a Committee to study question of branch banking, etc. Has this Committee reported and what, if any, conclusions have been reached?

A summary of the report of the Committee appointed in accordance with the recommendation of the Council at its meeting of November 19, 1929, is available at each of the Federal Reserve banks and may be obtained there by any member of the Council.

5. Has the Board taken any position in reference to charges made that banks are refusing to make loans which they ought to make?

The Governor will refer to the Federal Reserve Board the question as to whether a survey such as has been suggested by the Council should be made.

The meeting adjourned at 12:45 P. M.

WALTER LICHTENSTEIN,

Secretary.

MINUTES OF MEETING OF THE FEDERAL ADVISORY COUNCIL

September 19, 1933.

At 12:55 the Federal Advisory Council reconvened in the Federal Reserve Board Room, Treasury Building, Washington, D. C., the President, Mr. Smith, in the Chair.

Present: Mr. Walter W. Smith, President; Mr. M. A. Traylor, Vice President; Messrs. T. M. Steele, W. E. Frew, H. A. Loeb, H. C. McEldowney, Howard Bruce, J. K. Ottley, Theodore Wold, W. T. Kemper, J. H. Frost, H. M. Robinson, and Walter Lichtenstein, Secretary.

After some discussion it was voted not to make any change in the recommendation adopted by the Council and that the Secretary be instructed to send a sufficient number of copies to the governor of each Federal Reserve bank to enable him to send a copy of the recommendation to each member bank of his district.

It was agreed that Messrs. Smith and Traylor were to be a committee to seek to discover what other organizations are doing in respect to bringing about amendments to the Banking Act of 1933 and the Securities Act of 1933.

The meeting adjourned at 1:05 P. M.

WALTER LICHTENSTEIN,
Secretary.

RECOMMENDATION OF THE FEDERAL ADVISORY COUNCIL TO THE FEDERAL RESERVE BOARD

September 19, 1933.

Since the Securities Act of 1933 came into operation, the normal issue of corporate securities by responsible corporations has almost ceased. It has become evident that large corporations, with responsible boards of directors, will not undertake capital issues because of the liabilities which the Act imposes upon them and the individual members of their board of directors in regard thereto. It has also become evident that responsible investment bankers will not act as underwriters of corporate issues, because of the liabilities imposed upon them under the terms of the Securities Act of 1933. That this is so, is clearly established from the fact that no nationally known industrial or public utility company has undertaken any new financing under the Securities Act of 1933.

This situation presents a grave problem in connection with the National Industrial Recovery program and with the orderly restoration of credit operations of financial institutions. Unless this situation is changed, companies with maturing obligations will not have the usual facilities provided for the refunding thereof, and many sound companies may be faced with receivership because of inability to obtain capital funds for refunding purposes. Similarly, industrial progress requiring new capital will be prevented through inability to obtain capital funds, even though sought by sound and seasoned enterprises. There is nothing which will help so much in increasing employment and aiding in the consumption of capital goods as the possibility of carrying on adequate capital financing. The banks of the country could not undertake to lend their depositors' funds to corporations to enable them to discharge their maturing capital obligations or to make capital additions, because the volume of loans required for refunding and new capital requirements would be beyond the capacity of the banks to meet.

Under the Banking Act of 1933, banks are in effect prohibited from underwriting the capital requirements of the industries of the country, either directly or through affiliates. This provision has restricted in a great measure, the investment banking facilities of the country.

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.