



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

May 9, 1975

CONFIDENTIAL (FR)
CLASS II-FOMC

To: Federal Open Market Committee Subject: Congressional request
for FOMC memoranda
of discussion

From: Arthur L. Broida

Attached are certain materials relating to a request by Congressman Wright Patman for the memoranda of discussion for FOMC meetings held in the period 1971-74, inclusive. The materials include (1) a copy of Mr. Patman's letter of April 11, 1974, and of Chairman Burns' reply; (2) a memorandum to the Committee dated today from Chairman Burns; and (3) a memorandum to the Committee dated today from Mr. O'Connell and me, together with certain attachments.

It is contemplated that Mr. Patman's request will be considered at the May meeting of the FOMC.

Attachments



BOARD OF GOVERNORS
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May 9, 1975

CONFIDENTIAL (FR)
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To: Federal Open Market Committee

From: Chairman Burns

A separate memorandum from the staff discusses the issues raised by Mr. Patman's request, on behalf of the Subcommittee on Domestic Monetary Policy, for the FOMC memoranda of discussion for the years 1971-74, inclusive. The staff memorandum indicates that there is some question as to whether there are legal grounds on which the Committee might decline to comply with the request.

In my judgment, a decision by the FOMC to supply recent memoranda of discussion to the Subcommittee would result in substantial damage to the effectiveness of the FOMC. Whatever the terms on which the memoranda might be supplied, there is a strong probability that parts or all of their contents would find their way into the public domain. Premature public exposure of this material would have a seriously debilitating effect on the FOMC's deliberations at future meetings, and could do further damage by exposing the positions taken by individual members on economic issues that are still sensitive.

I therefore recommend to the Committee that it resist the request. As for the possibility of a subpoena requiring us to release the memoranda, I do not believe it will come to that.



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20561

May 9, 1975

CONFIDENTIAL (FR)
CLASS II-FOMC

To: Federal Open Market Committee Subject: Congressional request
for FOMC memoranda of
discussion
From: Messrs. O'Connell and Broida

In a letter to Chairman Burns dated April 11, 1975, Congressman Wright Patman, as Chairman and on behalf of the Subcommittee on Domestic Monetary Policy of the House Banking Committee, requested the memoranda of discussion for FOMC meetings held in the period 1971-74, inclusive. This memorandum is concerned with the basic issues raised by Mr. Patman's request and some possible alternative responses.

Two similar requests from Mr. Patman have been received in the past. In 1961, in his capacity as Chairman of the Joint Economic Committee, he asked for--and received--copies of the 1960 FOMC minutes. In 1964, in his capacity as Chairman of the Subcommittee on Domestic Finance, he asked for the minutes for 1960-63. The FOMC declined to supply these documents (except for 1960). A brief summary of developments in connection with the two requests, together with copies of some of the correspondence, is attached.

It might be noted at the outset that under the Rules of the House Banking Committee, the Subcommittee on Domestic Monetary Policy has subpoena power, subject to these limitations: a Subcommittee

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subpoena may issue only when authorized by a majority of members of the parent Committee, and it must be signed by the Chairman of the Committee or a member designated by the Committee. If the FOMC is inclined to deny the request, it might have to rely on its powers of persuasion rather than on any legal grounds for withholding the material. In this connection, the FOMC might wish to indicate that if the detailed record of its past deliberations is to be made public prematurely it would find it necessary to consider whether similar records should be prepared for future meetings.^{1/}

The FOMC may also wish to consider the implications for Mr. Patman's request of the announcement by Chairman Reuss on April 24 that the House Banking Committee is undertaking a major review of the nation's financial institutions and their regulation by the Federal Government. According to the announcement, a copy of which is enclosed, the study will cover the "structure and operations of the Federal Reserve System," including the question of "whether the decisions of the (Open Market) Committee should be kept secret." Congressional

^{1/} A bill now under consideration in Congress, known as the "Government in the Sunshine Act," would require that all meetings of multi-member agencies be open to the public, except insofar as they fall under certain specified exceptions, and that a transcript or electronic recording be made for all closed meetings. While it appears likely that this bill will be enacted in some form, the way in which the final legislation will affect the FOMC is unclear at the present writing.

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consideration of this question may well extend to the appropriate time lag for release of the memoranda of discussion. If so, transmittal of the requested memoranda of discussion at this time might be viewed as prejudging the outcome of the House Committee's study.

If it is assumed that transmittal of the 1971-74 memoranda to the Subcommittee would be tantamount to their public release, the arguments favoring resistance to the request--apart from that mentioned above--would be the same as those which have led the Committee to make the memoranda public only after a substantial delay. (The current practice is to release the memoranda for a full calendar year after the close of the fifth succeeding calendar year.) Perhaps the most important such argument is that premature release of the substance of FOMC deliberations would risk a destructive diminution of candor on the part of both members and staff, and candor in deliberations is essential to effective policy formulation.^{1/}

With respect to requests from the public, it has been the FOMC's position that the memoranda of discussion are exempt from the

^{1/} The force of some other arguments that have been used in the past has been reduced by recent events. For example, the risk that premature disclosure of the memoranda of discussion would enable speculators to gain unfair advantages is lessened now that the Committee is disclosing its short- and longer-run targets with a 45-day lag, and will report its current longer-run targets with very little lag in Congressional testimony four times a year. Similarly, the risk that disclosure of sensitive information related to foreign currency operations will damage relations with foreign central banks can be minimized by giving special treatment to any "sensitive" passages of the kinds withheld when the 1962-69 minutes were released. This point is discussed further below.

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disclosure requirements of the Freedom of Information Act under a provision that removes from the application of the Act "inter-agency or intra-agency memoranda or letters." (Specific reference is made in the FOMC's Rules on Information to "records of deliberations and discussions at meetings" in the list of materials that will not be made available except as may be authorized by the FOMC.) It should be noted, however, that the exemptions provided in the Freedom of Information Act cannot be relied upon in the present connection; under the provisions of the Act, the exemptions from disclosure are "not authority to withhold information from Congress."

Transmittal of the requested memoranda need not be considered tantamount to public release if the Subcommittee were to agree to hold their contents confidential until such time as the FOMC authorized their release. It is by no means clear, however, that the Subcommittee would concur in such a request, or if it did, that the materials would in fact be fully protected from disclosure.^{1/}

One alternative the FOMC may wish to consider is to offer to supply the memoranda of discussion for part, but not all, of the 1971-74 period--perhaps for 1971-72 or 1971-73--on the grounds that the risks associated with premature disclosure are particularly great

^{1/} As noted in the enclosed summary of developments relating to earlier Congressional requests, the 1960 minutes were supplied to the JEC "on the understanding that they will be treated as confidential," but extracts of a JEC staff report based on those minutes appeared in the New York Times.

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for the more recent meetings. If the FOMC follows this course, it may also wish to adopt a correspondingly shorter lag for release of the memoranda to the public.

If the FOMC decides to supply the memoranda of discussion for part or all of the 1971-74 period, it presumably will want to give special treatment to any "sensitive" passages they may contain, particularly in the foreign currency area. The special treatment might take the form of the procedures used when minutes for 1962 through 1969 were released to the public--that is, withholding the sensitive passages and describing their general nature in explanatory footnotes. Alternatively, the passages might simply be marked, and the Subcommittee asked to protect their confidentiality in the national interest. Staff at the Board and the New York Bank are now reviewing the memoranda of discussion for 1971 through 1974--and also those for 1970, which have not yet been released--to identify passages the FOMC may wish to have included in this group.

Attachments

HENRY S. REUSS, WIS., CHAIRMAN
WRIGHT PATMAN, TEX.
WILLIAM A. BARRETT, PA.
LEONOR K. (MRS JOHN S) SULLIVAN, MO.
THOMAS L. AHELEY, OHIO
WILLIAM B. MOORHEAD, PA.
ROBERT G. STEPHENS, JR., GA.
FERNAND J. ST GERMAIN, R.I.
HENRY B. GONZALEZ, TEX.
JOSEPH G. MINISH, N.J.
FRANK ANNUNZIO, ILL.
THOMAS M. RES, CALIF.
JAMES M. HANLEY, N.Y.
PARREN J. MITCHELL, MD.
WALTER E. FAUNTROY, D.C.
LINDY (MRS. HALE) BOGGS, LA.
STEPHEN L. NEAL, N.C.
JERRY M. PATTERSON, CALIF.
JAMES J. BLANCHARD, MICH.
HAROLD E. FORD, TENN.
CARROLL HUBBARD, JR., KY.
JOHN J. LAFALCE, N.Y.
GLADYS NOON SPELLMAN, MD.
LES AUCOIN, OREG.
PAUL E. TSONGAS, MASS.
BUTLER DERRICK, S.C.
PHILIP H. HAYES, IND.
MARK W. HANNAFORD, CALIF.
DAVID W. EVANS, IND.

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, CURRENCY AND HOUSING
NINETY-FOURTH CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

ALBERT W. JOHNSON, PA.
J. WILLIAM STANTON, OHIO
GARRY BROWN, MICH.
CHALMERS P. WYLIE, OHIO
JOHN H. ROUSSELLOT, CALIF.
STEWART B. MCKINNEY, CONN.
JOHN B. CONLAN, ARIZ.
GEORGE V. HANSEN, IDAHO
RICHARD T. SCHULZE, PA.
WILLIS D. GRADISON, JR., OHIO
HENRY J. HYDE, ILL.
RICHARD KELLY, FLA.
CHARLES E. GRASSLEY, IOWA
MILLICENT FENWICK, N.J.
225-4247

NEWS RELEASE

FOR RELEASE 6:00 P.M., THURSDAY, APRIL 24, 1975

HOUSE BANKING COMMITTEE WILL LAUNCH MAJOR REVIEW OF NATION'S FINANCIAL INSTITUTIONS

House Banking, Currency and Housing Committee Chairman Henry S. Reuss (D-Wis.) and Representative Fernand J. St Germain (D-R.I.), Chairman of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance announced today that the Committee will undertake a major review of the nation's financial institutions and their regulation by the federal government. The project will be known as the Financial Institutions and the Nation's Economy (FINE) study, and is expected to lead to legislative action.

The chairmen said the FINE study will encompass five areas: the relationship between banks and thrift institutions, and what changes may be desirable in their borrowing, lending, investment, and customer service activities; the adequacy of federal regulation, as now divided among three government agencies for banks alone; the structure and operations of the Federal Reserve System; the operation of U.S. banks abroad, of foreign banks in the U.S., and of the Eurodollar market; and the operation of bank holding companies.

The chairmen said:

"The American banking system is fundamentally sound. Our financial institutions provide the greatest pool of private credit in the world. But the demands on our financial system have expanded enormously in recent years. The rapid growth of foreign banking, unprecedented expansion into new areas such as real estate trusts, and technological changes such as electronic banking, have seriously challenged the ability of the industry to manage the nation's financial resources effectively.

"Homebuyers, small businesses, and state and local governments

For Release 6:00 P.M., Thursday, April 24, 1975

have periodically been squeezed out of the market, causing hardship for millions of Americans.

"Proposals for reform of the system have come from the Administration and from leaders in the financial world. There is a compelling need to consider these proposals as a part of a comprehensive review of how the institutions function in today's economy and how well they serve the needs of all Americans.

"Several commissions have studied these issues in recent years. Among them have been the "President's Commission on Financial Structure and Regulation" (Hunt Commission), December 1971; the Commission on Money and Credit, 1961; The Heller Report of 1963; and the Comptroller's Report of 1962. While much that is valuable has emerged from these studies, they have been limited by the lack of substantial participation by consumer and citizen groups, as well as from the Congress. There will be no need to repeat their work. But the review now contemplated will be a wide-ranging, comprehensive study of the financial system.

"The review will be conducted by the Financial Institutions Subcommittee, with Chairman St Germain presiding. All members of the Banking Committee will be invited to take full part in the proceedings, with the same rights as subcommittee members to request witnesses, ask questions, and help frame the issues. Our goal is that legislation be produced for completion in the 94th Congress."

The Members of the Banking Committee are: Henry S. Reuss, Chairman; Wright Patman, William A. Barrett, Leonor K. (Mr. John B.) Sullivan, Thomas L. Ashley, William S. Moorhead, Robert G. Stephens, Jr., Fernand J. St Germain, Henry B. Gonzalez, Joseph G. Minish, Frank Annunzio, Thomas M. Rees, James M. Hanley, Parren J. Mitchell, Walter E. Fauntroy, Lindy (Mrs. Hale) Boggs, Stephen L. Neal, Jerry M. Patterson, James J. Blanchard, Harold E. Ford, Carroll Hubbard, Jr., John J. LaFalce, Gladys Noon Spellman, Les AuCoin, Paul E. Tsongas, Butler Derrick, Philip H. Hayes, Mark W. Hannaford, David W. Evans, Albert W. Johnson, J. William Stanton, Garry Brown, Chalmers P. Wylie, John H. Rousselot, Stewart B. McKinney, John B. Conlan, George V. Hansen, Richard T. Schulze, Willis D. Gradison, Jr., Henry J. Hyde, Richard Kelly, Charles E. Grassley, Millicent Fenwick.

BACKGROUND MEMO ON "FINANCIAL
INSTITUTIONS AND THE NATION'S ECONOMY STUDY"

Subjects to be considered in the study include:

RELATIONSHIP BETWEEN BANKS AND THRIFT INSTITUTIONS

The nation's financial system, and the institutions which comprise it, is archaic and jerry-built. The study will examine these institutions in the light of the needs of the people who deal with them and the needs of today's economy.

Questions will include whether increased competition among institutions would meet these needs. Should thrift institutions be allowed to offer more complete banking services? Since funds for mortgages are periodically drained out of the thrift institutions as savers seek higher interest rates elsewhere, what changes would alleviate these cycles? Are special incentives, such as favorable tax treatment or other methods of allocation, needed to assure adequate funds for housing? Would elimination of restrictions on savings rates and the prohibition against paying interest rates on checking accounts be beneficial? How can more equitable treatment of the consumer as a saver or borrower be achieved?

REGULATION OF BANKS

Over the years a patchwork structure of bank regulation has grown up to the point where three different agencies (Federal Reserve Board, Federal Deposit Insurance Corporation, and the Comptroller of the Currency) are involved in bank supervision. In addition the Federal Home Loan Bank Board oversees the thrift institutions. The situation is further confused by acts regulating bank holding companies which give the Federal Reserve exclusive jurisdiction over multi-bank and one-bank holding companies. The conflicting and overlapping pattern of regulation results in what critics have called "competition in laxity among regulators."

The case of the Franklin National Bank, which was saved from collapse only by \$1.7 billion in loans from the Federal Reserve, and the experience of 1974 when a number of banks found themselves overextended in a number of ways, have raised serious questions about the adequacy of bank regulation. The Committee will consider possible ways of restructuring and perhaps unifying bank regulation.

STRUCTURE AND OPERATIONS OF THE FEDERAL RESERVE SYSTEM

A number of questions have been raised in regard to the Federal Reserve System. They include the terms of board members and whether the Chairman's term of office should coincide with that of the President of the United States. Questions have also been raised as to the membership of the Open Market Committee, which determines the rate of growth of the money supply, and whether the decisions of the committee should be kept secret. Basic question of whether the monetary authority should also be responsible for bank regulation must also be considered.

FOREIGN BANKING

The explosion of international banking has been the most dramatic development of the past decade. In the last five years there has been a three-fold increase in the assets of foreign branches of U.S. banks. Twenty percent of the entire assets of the U.S. banking system are held abroad, for the most part unregulated and not subject to reserve requirements and other safeguards that apply to domestic assets. At the same time there has been a seven-fold increase in the assets held in the U.S. by foreign banks. These operations raise similar questions of regulation and supervision. Concern has been expressed as to balance of payments problems, foreign exchange speculation, competitive advantages and the undermining of restrictions in U.S. laws separating banking and commerce.

OPERATION OF BANK HOLDING COMPANIES

In the last few years there has been an extraordinary increase in the number of bank holding companies, and in their acquisition of banks and bank-related operations. Questions have been raised about potential domination by banks of certain non-banking activities such as factoring and leasing, and about precisely what activities are appropriate for banks. Other problems involve possible risks to the banks themselves from rapid expansion into non-banking activities. The Committee will consider whether any steps are needed to safeguard competition within the industry or with other businesses, and whether capital and management are adequate for the kind of risks undertaken.

WRIGHT PATMAN, TEX., CHAIRMAN

JOSEPH P. MINISI, N.J.
HAROLD F. FORD, TENN.
MANN W. HANNAFORD, CALIF.
STEPHEN L. TOLSON, D.C.
JAMES J. BLANCHARD, MICH.
WILLIAM A. PARRETT, PA.

JOHN B. CONLAN, ARIZ.
GEORGE HANSEN, IDAHO
WILLIS D. GRADISON, JR., OHIO

U.S. HOUSE OF REPRESENTATIVES

**SUBCOMMITTEE ON DOMESTIC MONETARY POLICY
OF THE
COMMITTEE ON BANKING, CURRENCY AND HOUSING
NINETY-FOURTH CONGRESS
WASHINGTON, D.C. 20515**

April 11, 1975

BOARD OF GOVERNORS
OF THE FEDERAL RESERVE SYSTEM
APR 15 3 12:00
RECEIVED
OFFICE OF THE CHAIRMAN

Honorable Arthur F. Burns, Chairman
Federal Reserve Board
Federal Reserve System
Washington, D. C. 20551

Dear Dr. Burns:

This will acknowledge receipt of your reply to the request of the Subcommittee on Domestic Monetary Policy of April 1, 1975, for the following:

1. Unedited copies of the Minutes of the 1971, 1972, 1973 and 1974 Meetings of the FOMC; and,
2. Uncensored copies of the original transcripts from which these Minutes were prepared.

While I cannot believe you were not aware that this request was for something other than material already published in the Federal Reserve Bulletin, I would have thought the second item requested would have removed any ambiguity in the request.

To avoid any further misinterpretation, the request has been rephrased in what I trust is the technically correct and clearest possible language:

1. The Memoranda of Discussion of the 1971, 1972, 1973, and 1974 meetings of the FOMC; and,
2. The unedited materials from which these Memoranda were prepared.

What is requested, in other words, is material not scheduled for public release until 1976, 1977, 1978 and 1979, respectively, as well as the notes or transcripts from which these Memoranda are prepared.

Further, I would also appreciate receiving a detailed explanation of the procedures, if any, for precisely recording what transpires at the meetings of the FOMC. It is my understanding that three or four

Honorable Arthur F. Burns

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April 11, 1975

persons are present to take notes at these meetings and "try to get down the gist of what is said" as well as they can.

Is there any reason why a stenotypist or tape recorder is not employed so that a verbatim transcript can conveniently be made of the proceedings which is similar to those prepared for Congressional hearings?

Your gracious attention to this matter is appreciated.

Sincerely yours,


Wright Patman
Chairman

C O P Y

April 18, 1975

The Honorable Wright Patman
Chairman
Subcommittee on Domestic Monetary Policy
Committee on Banking, Currency and Housing
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

I have your letter of April 11, 1975, requesting certain materials of the Federal Open Market Committee.

Your request for the memoranda of discussion for FOMC meetings in the years 1971-74, inclusive, will be considered by the Committee at its next meeting, to be held on May 20, 1975. I will inform you of the response of the Committee shortly after that meeting.

You refer to the "unedited materials from which these memoranda were prepared." These materials cannot be supplied because they are routinely disposed of after the Committee has formally accepted the memorandum of discussion for the meeting in question.

Over the years we have experimented with various means of recording the proceedings at meetings of the FOMC, including note-taking, stenotyping, and tape recording. Currently, we are employing a combination of note-taking and tape recording. In any event, the materials are disposed of when they have served their purpose, as noted above.

Sincerely yours,

(signed) Arthur F. Burns

May 9, 1975

Summary of Developments relating to certain Congressional
requests for FOMC Minutes

1. At hearings before the Joint Economic Committee on June 2, 1961, Chairman Patman asked Chairman Martin to submit copies of the "full minutes of meetings of the Federal Open Market Committee which that Committee was required by law to keep." By letter dated June 14, 1961, Mr. Patman renewed that request and also asked for certain other specified materials. (See attachment A.)
2. With a letter dated July 21, 1961, Chairman Martin transmitted copies of the 1960 minutes and related materials. (See attachment B.) The letter indicated that the minutes were being made available "on the understanding that they will be treated as confidential." (See page 3 of attachment B.)
3. With a letter dated August 14, 1962, Mr. Patman transmitted to Chairman Martin a copy of a report based on the 1960 minutes (the "Gurley-Achinstein" report) that he had had prepared and distributed on a confidential basis to members of the JEC. He advised that the JEC had voted to request permission to make the report public, and noted that a copy apparently "has fallen into the hands of a newspaperman, as extracts...appeared...in the New York Times yesterday and again today...." (See attachment C.)
4. By letter dated September 11, 1962, Chairman Martin advised Mr. Patman that the Committee believed publication of the report would not be in the public interest and that it repeated its request that the 1960 minutes be held in confidence. (See attachment D.)
5. Under date of November 28, 1962, Mr. Patman distributed to the JEC a long memorandum on the subject of the Gurley-Achinstein report, culminating in a recommendation that the report be published. (See attachment E.)
6. At hearings before the House Subcommittee on Domestic Finance on January 22, 1964, Chairman Patman asked for copies of the Committee's minutes for the years 1960-63, inclusive. By letter dated April 14, 1964, Chairman Martin advised Mr. Patman of the Committee's conclusion that "it would be in the public interest to make its minutes available to the public only after the lapse of a considerable period of time." He indicated that the Committee would transmit the minutes for the year 1960 to the Subcommittee, and that it had instructed its staff to explore means of making records through the year 1960 available to the public. (See attachment F.)

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7. By letter dated April 22, 1964, Mr. Patman reiterated his request for the 1961-63 minutes, and by letter dated May 6, 1964, Chairman Martin advised that the Committee had reaffirmed the decision not to make those minutes available. (See attachments G and H.)

8. In August 1964, the Committee announced that it was making its minutes for the years prior to 1961 available to the public by depositing them in the National Archives.

ATTACHMENT A

(C O P Y)

CONGRESS OF THE UNITED STATES
Joint Economic Committee

REC'D IN RECORDS SECTION

JUL 11 1961

June 14, 1961

The Honorable
William McC. Martin
Chairman, Board of Governors
The Federal Reserve System
Washington, D. C.

Dear Mr. Martin:

The purpose of this letter is to make clear the requests made of you and Mr. Rouse, concerning records of considerations and decisions of the Federal Open Market Committee, during the hearings of this Committee on June 1 and 2. The records requested are of three types, as follows:

First, the verbatim record of the Open Market Committee meetings, or the full minutes of the Committee meetings, or both, if both verbatim records and minutes were made during the year 1960. (This request was made at page 242 of the transcript of June 2.)

Second, all interpretative memoranda and all notes taken or prepared by Mr. Rouse or any other members of the staff of the Board or the New York Reserve Bank concerning the deliberations and policy decisions of the Open Market Committee, plus copies of the wires from the Board to Mr. Hays and Mr. Rouse (referred to by Mr. Rouse at page 57 of the transcript for June 1). This request is also made for records pertaining to the calendar year 1960. (This request was made of Mr. Rouse at various pages of the transcript for June 1, especially at page 77.)

Third, a description of all the factors which the Open Market Committee took into account on the last occasion when it instituted a policy of restraint, and a description of the factors which it took into account on the occasion of the immediately preceding meeting, prior to institution of a policy of restraint.

Sincerely yours,

(Signed) Wright Patman

Wright Patman
Chairman

ATTACHMENT B

REC IN RECORDS SECTION

JUL 24 1961



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

OFFICE OF THE CHAIRMAN

July 21, 1961

The Honorable Wright Patman,
Chairman,
Joint Economic Committee,
Congress of the United States,
Washington 25, D. C.

Dear Mr. Chairman:

The Federal Open Market Committee has carefully considered the requests for copies of its minutes and certain other materials for the year 1960, made of Mr. Rouse and me during the Joint Economic Committee Hearings of June 1 and 2, 1961. You and I have discussed these requests by telephone, and they were referred to in your letter of June 14, 1961. It is the view of the Federal Open Market Committee that it should act as follows on your Committee's requests:

1. A memorandum outlining the considerations taken into account on the last occasion when the Committee instituted a policy of restraint is enclosed. In this connection, I should point out, as do the answers I have already submitted to the list of questions you raised at the Hearings, that the determination of monetary policy is a continuous process, and thus it is difficult to pinpoint the moment of a change. To repeat a comment I made on this subject more than five years ago,

Monetary policy...must be tailored to fit the shape of a future visible only in dim outline. Occasions are rare when the meaning of developing events is so clear that those who bear the responsibility can say, "As of today, our policy should be changed from ease to restraint"--or from restraint to ease, as the case may be. What is true of a change in policy is also true of a shift in policy emphasis: it is rarely decided upon in a single day. More typically, as is evidenced by open market operations, the outline of a shift in policy emphasis, like the outline of the future, emerges gradually from a succession of market developments and administrative decisions. It is a poor subject for the photo-flash camera to capture as a clearly defined still life, or for a news story to etch in spectacular outline. Getting a perfect garment for the future may require several fittings.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

The Honorable Wright Patman

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Therefore, factors considered and analyses undertaken by the Committee during the meeting immediately preceding and during other meetings farther back in time might not seem strikingly different from those at the meeting that may be selected as marking the beginning of a policy of restraint.

2. Copies of the wires referred to in your letter as being from the Board to Mr. Hayes and Mr. Rouse are enclosed. These wires, prepared at the offices of the Board of Governors and sent to all Reserve Bank Presidents as well as Board members, contain a detailed summary of the 11:00 a.m. daily conference call which, you will recall, was fully described by Mr. Rouse in his statement that he read at the hearing on June 1 and submitted for the record. Most of the information contained in each wire is a rundown of developments in the money and securities markets during the first hour of trading that morning. The last part of the wire indicates what the Account proposes to do that day, given the situation as seen at 11:00 a.m.

3. Regarding the notes and interpretative memoranda referred to in your letter:

(a) There is very little in the way of note taking beyond that done by the secretarial staff of the Committee and by a staff member of the New York Bank to record what actually transpires at the meetings. Any notes taken at the meetings by Committee members are usually no more than scribbled abbreviations for the purpose of keeping for the moment a running memory aid of the discussion as it proceeds, and such notes are not customarily retained. The minutes are prepared promptly by the secretarial staff and drafts thereof are usually in the hands of the Committee members and Mr. Rouse, as Manager of the System Open Market Account, within a week to 10 days. The Secretary of the Committee also furnishes Mr. Rouse by the morning of the day following a meeting a brief unedited synopsis of each member's policy recommendations and of the consensus of the Committee. The notes taken by the staff member of the New York Reserve Bank are recast in the form of an internal memorandum for working purposes, and this memorandum and the synopsis are available to Mr. Rouse as an aide memoir pending receipt of the preliminary draft of minutes and the final minutes. Since these are merely staff working papers and their content is fully covered in the minutes, it seems needless to furnish them separately.

(b) As to interpretative memoranda, these may be taken to include the economic summary prepared by the Board's staff, projections of reserve figures and factors, and the

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

The Honorable Wright Patman -3-

detailed record of open market operations undertaken since the previous meeting, all of which are furnished to Committee members prior to the meeting. Copies of these are enclosed, although their substance is covered to some extent in the minutes.

Also, there is enclosed the pertinent opening paragraph of a memorandum dated August 2, 1960, and sent by Mr. Rouse to the members of the Federal Open Market Committee and the Federal Reserve Bank Presidents not then serving on the Committee, expressing his understanding of the consensus of the Committee at its July 6, 1960 meeting relative to possible open market operations in short-term securities in addition to Treasury bills. This is included because it might be considered to be interpretative of a Committee discussion.

4. Verbatim records of the meetings of the Federal Open Market Committee are not made. The minutes, however, present a faithful and comprehensive record of the Committee's proceedings. The Open Market Committee is prepared to make these minutes of its meetings held in 1960 available to the Joint Economic Committee on the understanding that they will be treated as confidential. It should be noted, however, that some members of the Committee feel that normally it might be more appropriate for a request for the minutes to come from the Banking and Currency Committee of the House or of the Senate. With regard to the request that the minutes be handled as confidential, the Committee believes that it would not be in the public interest to have such minutes for 1960 made public in whole or in part at this time, and its reasons for this position are as follows:

(a) There are references in the minutes to information obtained on a confidential basis. This information, and its sources, should be kept confidential, certainly for a substantial time period.

(b) From time to time there are references in the minutes to long-term prospects and possible monetary policy action should these eventuate. To guard against a reduction in the effectiveness of Committee actions or potential actions, there should be some considerable elapse of time before the minutes of any given meeting are given public access.

(c) The minutes contain a full account of the proceedings at the meetings, including the participants' statements. However, a person will frequently compress his remarks by omitting matters of background perspective that are fully understood by others present at the meeting, but which might lead to misinterpretation on the

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

The Honorable Wright Patman

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part of one merely reading the minutes without the advantage of having been present.

(d) The minutes contain statements by individual members which are often made to raise points of discussion or to probe the possibilities of different courses of action in implementing System policies. These statements do not necessarily represent a firm view of the individual member and, in fact, the member may raise a particular matter merely to obtain discussion and clarification of the issues involved. Needless to say, individual views expressed early in a meeting may well be modified by subsequent discussion during the meeting. Therefore, the participants should feel free to raise questions and express their views--either tentative or firm--with the knowledge that their comments will not be released within a short period of time after the meetings. This freedom of discussion and the exchanges of viewpoints prior to the final decision are essential features of the process of decision-making.

It is largely for the foregoing reasons that the Open Market Committee believes that the public interest would not be served if the minutes for 1960 were to become public documents at this time, either in whole or in part. The Committee is particularly of this view, in the light of the comprehensive Record of Policy Actions made available some months ago in the 47th Annual Report of the Board of Governors of the Federal Reserve System.

The official records of the Federal Open Market Committee are maintained in the Board's offices, where the original copy of the minutes for 1960 is available for examination by representatives of your Committee. However, with the thought that it would be more convenient, the duplicate original signed copy of the 1960 minutes is being delivered herewith to the custody of your Committee for its perusal. It will be appreciated if this duplicate original is returned to us for safekeeping as soon as it has served its purpose.

Sincerely yours,

Wm. McC. Martin, Jr.

Enclosures

ATTACHMENT C

WRIGHT PATMAN, TEX., CHAIRMAN
RICHARD BOLLING, MD.
HALE BOGGS, LA.
HENRY S. REUSS, WIS.
MARTHA W. GRIFFITHS, MICH.
THOMAS B. CURTIS, MO.
CLARENCE E. KILBURN, N.Y.
WILLIAM B. WIDNALL, N.J.

WM. SUMMERS JOHNSON,
EXECUTIVE DIRECTOR

Congress of the United States

JOINT ECONOMIC COMMITTEE

(CREATED PURSUANT TO SEC. 1(a) OF PUBLIC LAW 84, 79TH CONGRESS)

PAUL H. DOUGLAS, ILL., VICE CHAIRMAN
JOHN SPARKMAN, ALA.
J. W. FULBRIGHT, ARK.
WILLIAM PROXMIRE, WIS.
CLAIBORNE PELL, R.I.
PRESBOTT BUSH, CONN.
JOHN MARSHALL BUTLER, MD.
JACOB K. JAVITS, N.Y.

JOHN R. STARK, CLERK

August 14, 1962

Hon. William McChesney Martin, Jr.
Chairman
Board of Governors
Federal Reserve System
Washington 25, D. C.

Dear Chairman Martin:

During the Committee's hearings on June 1 and 2, 1961, on the annual report of the Board of Governors of the Federal Reserve System for the calendar year 1960, it quickly became apparent that neither members of the general public nor experts on monetary policy matters could adequately determine what policy decisions had been reached by the Federal Open Market Committee during the year 1960, nor ascertain the reasons for such decisions on the basis of the brief and vague summaries of that Committee's meetings which were published in the Board's annual report.

Accordingly, on June 2, 1961, while you were testifying before the Committee, I requested that you submit to the Committee for its information and use copies of the full minutes of the meetings of the Federal Open Market Committee which that Committee is required by law to keep.

Further, at your suggestion I wrote you a letter on June 14, 1961, renewing my request that you submit copies of those minutes for the year 1960, along with certain other materials specified in that letter.

In neither of my requests, nor at any time, was there any suggestion or understanding that the Committee would treat as confidential these minutes. However, when these minutes of the meetings were delivered to my office they were accompanied by a letter from you which contains a statement that: "The Open Market Committee is prepared to make these minutes of its meetings held in 1960 available to the Joint Economic Committee on the understanding that they will be treated as confidential." In other words, it appears that in complying with my request for copies of the minutes you sought to impose a restriction upon the Committee's use of these minutes.

Hon. William McChesney Martin, Jr.
August 14, 1962
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While I do not acknowledge that you are privileged to restrict the Committee in its use of the requested materials, I adopted a procedure for making the essence of the Open Market Committee's proceedings public, while at the same time avoiding making revelations of the kind which you indicated in your letter might be objectionable. Specifically, this was to have two competent and disinterested scholars in the field of monetary operations prepare a condensed report giving in their own words descriptions of the issues discussed at each of the meetings and the conclusions reached at each meeting. This report, prepared by Dr. John G. Gurley, Professor of Economics, Stanford University, and Dr. Asher Achinstein, Senior Specialist, Legislative Reference Service, Library of Congress, is also prepared in a manner which minimizes identification of particular participants in the Open Market Committee meetings, and minimizes the possibility that policy positions taken can be attributed to particular participants.

Last week I distributed, on a confidential basis, a copy of the Gurley-Achinstein report to each member of the Joint Economic Committee, indicating that after the Committee's present series of hearings is completed I intended to take up with the Committee the question of making this report public. However, it is apparent that a copy of the Gurley-Achinstein report has fallen into the hands of a newspaperman, as extracts from the report appeared in news items in the New York Times yesterday and again today, and possibly others will appear in the days to come. This premature disclosure of the contents of the report in the press has raised the question of immediate release of the report to the press generally.

Accordingly, the Committee met this morning and adopted by majority vote the following resolution:

"That the presently-confidential Joint Committee print entitled "How Policies of the Federal Reserve System are Determined" be submitted in a letter by the Chairman to the Chairman of the Board of Governors of the Federal Reserve System, with the request that he allow us to make it public because, in our view, the material in it is in the public interest and in the public interest it ought to be made public; that this be done promptly; and that until a resolution of the matter is had, the Joint Economic Committee print be kept confidential."

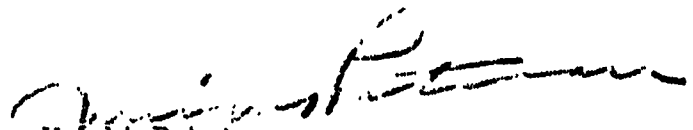
Hon. William McChesney Martin, Jr.
August 14, 1962
Page 3 -

In addition, it was also agreed that I would inform you that Senator Bush does not concur in the view that it would be in the public interest to make the Gurley-Achinstein report public; while Senator Javits and Mr. Curtis reserve judgment on this question until they learn your reasons for objecting to making it public, if you do object.

A copy of the Gurley-Achinstein report is enclosed. An early answer to the Committee's question will be appreciated.

I am

Sincerely yours,

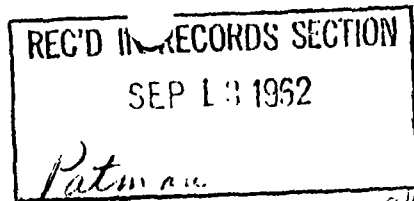


Wright Patman

ATTACHMENT D



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON



OFFICE OF THE CHAIRMAN

September 11, 1962.

CONFIDENTIAL (FR)

The Honorable Wright Patman,
Chairman,
Joint Economic Committee,
Congress of the United States,
Washington 25, D. C.

Dear Mr. Chairman:

This is in further response to your letter of August 14, 1962, in which you informed me that the Joint Economic Committee is considering publication of a "condensed report" evolved from the 1960 minutes of the Federal Open Market Committee. Your letter asks for my position regarding the publication of this document. After carefully considering your letter and the galley-proof version of the report that you sent with your letter, the Federal Open Market Committee today concluded that publication of the proposed report would not be in the public interest, a conclusion with which I agree, and with which I hope your Committee will agree when it reaches its final decision as to whether it will publish this document.

In weighing the considerations of public policy involved in your Committee's decision, it should be borne in mind that a complete record of all policy actions taken by the Federal Open Market Committee is maintained by the Board of Governors and is set out in full each year in the Board's Annual Report to Congress, as required by the Federal Reserve Act. Included in the report thus made public are: (1) a record, by name, of all votes cast by each member of the Committee in connection with the determination of open market policies; (2) summaries of the economic and financial developments and conditions taken into account in arriving at policy actions; (3) statements of the reasons underlying the actions of the Committee; and (4) statements of the reasons underlying dissents, when there are dissents.

The statute does not, of course, require publication of the minutes of meetings of the Federal Open Market Committee; indeed,

The Honorable Wright Patman

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it does not prescribe the form of such minutes as may be kept by the Committee. It has been the practice of the Committee, nevertheless, to maintain full, detailed, often nearly verbatim minutes of its discussions and debates prior to final determinations of policy actions. In distinction from policy actions, for which the complete record has been published as stated, the discussions covered in the minutes have never been made public by the Open Market Committee. In that respect, the Committee has followed a principle long established and universally accepted in the public service--by the Judicial and the Executive branches of the Government, and by the Committees of Congress as well, including your Committee, in respect to their own operations.

Neither the United States Supreme Court nor any other court, Federal or State, makes public any record of discussions in chambers preceding the announcement of a decision, although the courts do announce the underlying reasons therefor and the statements of dissents, if any, as does the Open Market Committee. The same privacy of pre-decision discussions extends to the jury room, for reasons that the late Mr. Justice Benjamin Cardozo of the United States Supreme Court put this way: "Freedom of debate might be stifled and independence of thought checked if jurors were made to feel that their arguments and ballots were to be freely published to the world."

The Executive Branch of the Government likewise distinguishes in respect to publication between the conversations taking place at a meeting and the decisions reached at it and--in contrast to what the Open Market Committee has done in this instance--has declined many times, from the days of President Washington down to the present, to make the records of pre-decision discussions at meetings in the White House or various departments or agencies available even to the Congress. As it was explained on one occasion by President Eisenhower, "It is essential to effective administration that . . . the broadest range of individual opinions and advice be available in the formulation of decisions and policy The disclosure of conversations, communications or documents embodying or concerning such opinions and advice can accordingly tend to impair or inhibit essential reporting and decision-making processes"

The Congress, itself, in the Legislative Reorganization Act, recognized the need for privacy in working sessions of Congressional Committees, by excepting "executive sessions for marking up bills or for voting" from the general requirement that committee hearings be open to the public. Indeed, the same Act provides that any committee

The Honorable Wright Patman

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meeting may be closed to the public upon a majority vote of the members of the committee, as in fact they sometimes are. As a matter of practice, minutes of executive sessions of Congressional Committees are not made available to the public.

Thus, throughout the public service, the principle has been widely recognized that, in the absence of anything approaching criminal conduct or malfeasance in office--and no question as to either is involved here--internal deliberations (intra-organizational advisory opinions, recommendations, tentative plans and proposals, minutes of committee meetings, oral advice, et cetera), as distinct from official actions, must, in the public interest, be held confidential for the purpose of encouraging candor on the part of officials and employees in speaking their minds freely and uninhibitedly.

The report that you have had prepared contains over one hundred quotations excerpted from the Federal Open Market Committee minutes, some of them of considerable length, plus selective but extensive accounts of conversations in literal or lightly paraphrased form. These quotations and paraphrasings are clearly inconsistent with our request, made in my letter of July 21, 1961, turning over the minutes to you, that these minutes not be disclosed "in whole or in part." Moreover, your document does not reveal a single policy action by the Open Market Committee that was not recorded in the Annual Report of the Board of Governors for 1960, along with the economic circumstances of the action, the votes of the Committee members, and the underlying reasons why the action was taken.

There is no question here of a denial of information to the Congress: your request for opportunity to examine the minutes of the Open Market Committee was granted more than a year ago. Neither is there question of hostility to criticism nor of unwillingness to improve upon the presentation of the Committee's policy record in the Board's Annual Report; the Committee in fact is earnestly striving now to effectuate further improvement.

The decision of your Committee in this instance will have implications for the Judicial and Executive branches of the Government, other governmental agencies, and the committees of Congress, including your Committee. It seems to us that to publicize to the world without a substantial time lapse the pre-decision discussions and conversations in any of these meetings would serve to institute a procedure--one virtually certain to result either in weakening internal debate for the sake of the public record or in weakening the record for the sake of the debate--that would do public mischief rather than public good.

The Honorable Wright Patman

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For the reasons stated, the Federal Open Market Committee believes that to publish at this time the minutes of the internal discussions preceding its 1960 actions--in whole or in the form of the proposed report--would be contrary to the public interest. We therefore repeat our request, made in my letter of July 21, 1961, transmitting the 1960 minutes to your Committee, that you hold their contents in confidence.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Wm. McC. Martin, Jr.", written in dark ink.

Wm. McC. Martin, Jr.

ATTACHMENT E



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

December 13, 1962.

TO: Federal Open Market Committee

FROM: Mr. Sherman

For your information, there is enclosed a copy of a memorandum dated November 28, 1962, sent by Chairman Wright Patman to all members of the Joint Economic Committee regarding publication of the Gurley-Achinstein Report on "How Policies of the Federal Reserve System are Determined," which report is based on the minutes of the meetings of the Federal Open Market Committee in the year 1960. This memorandum was released to the press last week by Mr. Patman, as was Chairman Martin's letter of September 11, 1962, opposing publication of the Gurley-Achinstein Report. Also enclosed is a copy of a statement released to the press on December 7, 1962, by Chairman Patman relating to this subject.

In addition there are enclosed two memoranda prepared by members of the Board's staff, both dated December 5, 1962, commenting on Chairman Patman's memorandum of November 28.

On Monday, December 10, the Joint Economic Committee met to consider whether to publish the Gurley-Achinstein Report, but because a quorum was not present the meeting adjourned without taking action. Although Mr. Patman's December 7 press release announced that the December 10 meeting of the Joint Economic Committee would be closed (in accordance with standard Committee procedure), he later announced that it would be open to the public and some reporters were present.

A handwritten signature in black ink, appearing to read "Merritt Sherman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Merritt Sherman, Assistant Secretary,
Federal Open Market Committee.

Enclosures

CONGRESS OF THE UNITED STATES
Joint Economic Committee

November 28, 1962

MEMORANDUM

TO: All Members of the Joint Economic Committee

FROM: Wright Patman, Chairman

SUBJECT: The question of making public the Gurley-Achinstein Report on "How Policies of the Federal Reserve System are Determined" (based on the minutes of the meetings of the Federal Open Market Committee in the year 1960)

On August 14, the Committee met and adopted the following resolution:

"That the presently-confidential Joint Committee print entitled 'How Policies of the Federal Reserve System are Determined' be submitted in a letter by the Chairman to the Chairman of the Board of Governors of the Federal Reserve System, with the request that he allow us to make it public because, in our view, the material in it is in the public interest and in the public interest it ought to be made public; that this be done promptly; and that until a resolution of the matter is had, the Joint Economic Committee print be kept confidential."

Chairman Martin has now replied, by letter dated September 11, on behalf of himself and the Federal Open Market Committee. This letter, a copy of which is attached, argues against publication of the report and expresses a hope that the "Committee will agree when it reaches its final decision as to whether or not it will publish this document."

While Mr. Martin's letter draws analogies to the Executive privilege, no claim to the Executive privilege is made, nor could such a claim be made. The Federal Reserve System is not an agency of the Executive branch, it is an agency of the Congress, operating on a delegation of legislative powers.

The Committee is now faced, it seems to me, with one of the most important questions it has ever had to decide. Accordingly, I want to set forth in this memorandum my analysis of the issues and give my considered comments on the arguments made in Mr. Martin's letter.

It may be well, however, to begin with a brief review of the Committee's interest in this matter and a review also of the sequence of events leading up to the question we must now decide.

The Committee's Jurisdiction

The Employment Act of 1946 declares that it is the continuing policy and responsibility of the Federal Government ". . . to coordinate and utilize all its plans, functions, and resources" for certain stated objectives. The objectives are, mainly, to create and maintain "maximum employment, production and purchasing power" -- within, of course, the framework of a free competitive enterprise economy.

The Act requires the President to transmit to Congress at least once a year an Economic Report setting forth, among other things, the current and foreseeable trends, the levels of employment, production, and purchasing power, a review of the economic programs of the Federal Government and the economic conditions affecting employment in the United States during the preceding year, and setting forth also a program for carrying out the policy declaration of the Act.

The Act also establishes the Joint Economic Committee and defines its duties. These duties are, among others - "to make a continuing study of matters relating to the Economic Report" and --

"to study means of coordinating programs in order to further the policy of this Act."

In pursuit of these statutory duties, the Committee has, almost since its inception, been deeply involved in studying and investigating the role of the Federal Reserve System in the economy. The President's annual Economic Report has contained almost nothing concerning monetary policies, either as to what is planned for the year ahead or as to what has been done in the year behind - largely for the reason that it is at least doubtful whether the President has any authority to obtain such information.

The Federal Reserve authorities have on several occasions in recent years made some striking revisions in their basic theories concerning the role of monetary policy in the economy, in no small part as a result of information which this Committee has made available, particularly to the academic community. To illustrate, we might cite a recent journal article by Professor Lawrence S. Ritter, head of the Department of Finance of New York University and formerly Director of Domestic Research of the Federal Reserve Bank of New York.

Writing in the Journal of Political Economy, February 1962, Professor Ritter asks whether there is evidence of ". . . the System modifying its own conception of its raison d'etre in light of commentary from the academic community?", adding, "If we are to have a viable central bank, some degree of such interchange would seem to be imperative."

In answer to the question, Professor Ritter traces major revisions of economic theory reflected in 4 issues of "The Federal Reserve System: Its Purposes and Functions" published by the Board of Governors between the years 1939 and 1961. He concludes, and amply demonstrates the point, that these revisions have not been confined to superficial matters, but have "reflected significant changes in the Federal Reserve's view on the role and mechanics of central banking." He observes --

"Indeed, it would seem to be no accident that each revised edition appeared shortly after either a considerable change in economic conditions or a congressional or other inquiry that helped to induce a re-examination of previously accepted principles. Thus the second (1947) edition appeared shortly after the end of the war, the third (1954) shortly after the Patman Hearings, and the fourth (1961) shortly after the publication of the Radcliffe Report and the Joint Economic Committee's 'Study of Employment, Growth, and Price Levels'. Those portions of congressional testimony or other statements that evidently were thought to be of more enduring value have been incorporated into subsequent editions of 'purposes and functions'."

Professor Ritter might have added that this Committee's decision, after searching debate, to publish in 1954 the "Ad Hoc Subcommittee Report" which had been adopted by the Open Market Committee in 1952, was one of the major contributions to public knowledge of the theories and practices of the Open Market Committee.

Deciding Monetary Policy is a Legislative Function

Clearly the Constitution assigns none of the monetary powers to the President, nor reserves any to the states. Article 1, Section 8, clauses 5 and 6 assign to Congress the power "to coin Money, regulate the value thereof . . ." and "to provide for the Punishment of counterfeiting the Securities and current Coin of the United States." There is no question about the fact that these powers relate to the issuance and regulation of all kinds of money. They include powers to charter national banks and endow them with the privilege of circulating notes, to determine what is legal tender money, to impose a tax on the notes of state-chartered banks, and even to abrogate, post facto, clauses in private contracts calling for payment in gold coin. Such questions were settled by the Supreme Court in the Legal Tender cases of the 1860's and in the Gold Clause cases of the 1930's.

The statutes passed by Congress on the use of its money powers neglect, however, to give the President any authority either for participating in the determination of discretionary monetary policies or for obtaining information concerning such policies as are determined. Indeed, it could be added that the statutes also fail to give the Federal Reserve any specific authority for deciding monetary policies.

The Federal Reserve Act of 1913 was erected on the principle which had been central to all previous banking legislation, namely, that the amount of bank credit extended and the interest rates prevailing at any one time would be determined solely by supply-demand forces operating in a free market. Under this principle both Federal and state legislation placed individual banks under certain restraints aimed at assuring solvency and a degree of liquidity, but the limits to total bank credit were to be established solely by the willingness of individual banks to lend to those seeking to borrow, and the willingness of the customer to borrow at the interest rate and other terms offered.

In the 1913 legislation there was certainly no hint that Federal Reserve authorities were to exercise either discretionary controls or influences over the volume of bank credit or the level of interest rates. On the contrary, in the very extensive legislative history of the 1913 enactment the idea most often repeated, and emphasized, was that the main purpose of creating a Federal Reserve was to perfect and assure an automatic flexibility in the money system - to achieve a completely "elastic" supply of currency - where flexibility had suffered, on occasion, from mechanical frictions and breakdowns in the previous system.

Federal Reserve is an Instrumentality of Congress

In none of the amendments to the Act has Congress authorized the Federal Reserve to inject artificial pressures on interest rates, to impose man-made curbs on the expansion of bank credit, or to expand and contract the curbs from time to time for purposes of regulating levels of business activity, maintaining price stability or any of the other worthy objectives now embraced by the current term "monetary policies." This deficiency on Congress' part has been corrected by the Federal Reserve authorities, apparently to their satisfaction, by an assertion that they have an "implied" delegation of the legislative powers for such discretionary uses. [For a discussion of these "implied" powers, see Mr. Martin's statement submitted for the record. See Hearings before the Joint Economic Committee, "Review of the Annual Report of the Federal Reserve System for the Year 1960", June 1 and 2, 1961, p. 83.]

It hardly need be said that a claim to "implied" powers is in no sense a substitute for a statute prescribing purposes, standards and limitations such as the Supreme Court has held (in Schechter and other controlling decisions) to be necessary for a constitutional grant of the legislative powers. Yet it might be said that, except in wartime, no Chief Executive has attempted to restrain the Federal Reserve's arrogation of powers to impose discretionary monetary and credit policies, even when these policies have in effect vetoed economic policies determined by the Chief Executive.

If the Chief Executive cannot obtain and make public information concerning the Federal Reserve's monetary policies, clearly we can do so. Since the Federal Reserve is an agency of Congress, it cannot refuse Congress information relating to its use of the legislative powers; and it is within the discretion of Congress to make public such information on the doings of the instrumentalities of Congress.

Federal Reserve's Dual Role Under the Employment Act of 1946

It is not the purpose here to suggest the exact role which the Federal Reserve plays in the economy, or the precise ways in which its monetary policies operate to influence levels of employment, production and purchasing power. It is enough to say that the Federal Reserve exercises conscious, discretionary control over the Nation's supply of money and bank credit, and over the level of interest rates at which money is lent. In a money economy such as ours, these decisions inevitably affect all aspects of economic life. Indeed, a primary purpose of these decisions is to influence levels of economic activity, prices and other matters. Inevitably, these decisions have a large influence in determining how many jobs are available to American workers, what level of profits business firms make, and whether a great many enterprises succeed or fail.

It could be added that these policy decisions also influence the amount of revenues which the Federal, state and local governments receive under a given tax structure, as well as the rates of interest these governments pay on their debts.

It is also not the purpose here to seek information on all of the actions which the Federal Reserve took or might have taken in 1960 to influence the supply of money and credit, or to influence prices and yields in the securities markets. Within the Federal Reserve System there are two separate boards or committees having powers to determine national credit policies. Each has its own powers for influencing the supply of money and bank credit, the level of interest rates on bank credit, as well as the supply and market rates on other forms of credit. One of these, the Board of Governors, is assigned the powers for raising or lowering the discount rate of the Federal Reserve banks, raising or lowering reserve requirements of member banks, and raising or lowering margin requirements for purchasing and carrying securities listed on the organized stock exchanges. Actions by the Board under any of these powers change the availability and cost of credit, as well as prices and yields of already existing credit and equity instruments.

No problem of secrecy arises, however, concerning actions taken by the Board. When the Board changes any of the factors mentioned - the discount rate, reserve requirements, or margin requirements - its actions are made known to the general public at the time the change is made. And what is equally to the point, changes in these factors are stated in precise,

quantitative terms. Indeed, in order to make changes in monetary policy effective through the use of the Board's powers, policy changes must be made public; and since many members of the public are directly affected, such changes must be stated in exact quantities.

The Federal Open Market Committee also has powers to control the supply of money and credit and the levels of interest rates, but these powers may be exercised in ways to conceal its policy actions from the general public. These policies are inevitably known to certain specialists in the money and securities markets, and they may also be known to specialists in the academic community who have the know-how and the time to keep abreast of the great variety of daily, weekly and monthly statistics bearing on the subject. But the general public may learn of the Open Market Committee's decisions, and thus of the Federal Reserve's overriding monetary policies, only long after the fact, if ever.

Unlike decisions of the Board, decisions of the Open Market Committee are not announced concurrently. They are announced, if at all, only when the Board makes its annual report for the previous calendar year. Also unlike decisions of the Board, decisions of the Open Market Committee are not stated in exact quantitative terms. Indeed, one of the questions at issue here is whether the literary terms in which these decisions are stated leave not only the public in the dark but also the official whose duty it is to carry out these decisions. It is with the policies of the Federal Open Market Committee that we are here concerned.

The Question is One of an Historical Record, Not Current or Future Monetary Policy

Since the Employment Act of 1946 declares that the Federal government shall coordinate and utilize all of its plans, functions and resources for the purpose stated in the Act, a question could be raised whether the Open Market Committee should announce its monetary policy in advance of the year ahead, just as the President announces the plans and policies of the Executive branch for the year ahead. Federal Reserve officials argue that it would be wrong to announce monetary policy in advance because, they say, this would influence public expectations. By the same token it could be argued that it is wrong for the President to announce the fiscal and other economic policies of the Executive branch for the year ahead, because these can be expected to influence economic activity and the demand for credit and hence securities prices and interest rates. But the question whether the Federal Reserve should announce its monetary policies in advance is not the question at issue here.

A question could also be raised as to whether the Open Market Committee should announce changes in its monetary policies at least on a contemporary basis - at times when changes are to become effective. Federal Reserve officials argue that it would be wrong to announce such changes as they are made, as this would influence credit and securities markets. By the same token it could be argued that it is wrong to announce changes in margins for purchasing and carrying stocks, changes in the discount rate, or changes in the reserve requirements of the member banks, because these also influence credit and securities markets. But the question of whether the Open Market Committee should announce its policy changes concurrently is also not a question at issue here.

The question at issue here is whether the public may have a full and adequate account of the monetary policy actions of the Open Market Committee in the calendar year 1960, and the reasons therefor.

Inadequacy of Published Reports

The Federal Reserve Act as amended places upon the Board of Governors a requirement for keeping a complete record of all actions and all questions of policy that are determined either by the Board or by the Open Market Committee, and for including in its annual report a copy of the records required to be kept. The relevant statute reads -

10. Record of Open Market and other policies

The Board of Governors of the Federal Reserve System shall keep a complete record of the action taken by the Board and by the Federal Open Market Committee upon all questions of policy relating to open-market operations and shall record therein the votes taken in connection with the determination of open-market policies and the reasons underlying the action of the Board and the Committee in each instance. The Board shall keep a similar record with respect to all questions of policy determined by the Board, and shall include in its annual report to the Congress a full account of the action so taken during the preceding year with respect to open-market policies and operations and with respect to the policies determined by it and shall include in such report a copy of the records required to be kept under the provisions of this paragraph.

[U.S.C., title 12, sec 247a. As added by Act of August 23, 1935 (49 Stat. 705).].

The Board's annual report for 1960 was submitted in March of 1961. Accordingly, immediately after our review of the President's Economic Report we turned our attention to the Board's report. Prior to hearings on June 1 and 2, we had an extensive staff examination of the report and had two noted specialists in monetary and banking matters assigned to the staff for this purpose. These were Dr. John G. Gurley, then with the Brookings Institution and a member of the faculty of the University of Maryland, and Dr. Asher Achinstein, Senior Specialist, Library of Congress Reference Service.

The general format of the report covering the policy decisions of the Open Market Committee, we already know. This Committee meets every three weeks and makes policy decisions which are stated in the form of a "directive" to the Manager of the Open Market Committee's Account, an employee of the New York Federal Reserve Bank, who actually executes the Open Market Committee's policies - by buying or selling in the open market government securities, at the times and in the quantities thought appropriate for achieving the Committee's objectives. These so-called directives, which constitute the most explicit statement given in the Board's report of the Committee's actions, are stated in quite generalized terms. After studying the Board's report for 1960, Dr. Achinstein wrote:

"When the directives change from "restraining inflationary pressures" to "guarding against inflationary pressures," to "providing reserves for moderate bank credit expansion," and to "encouraging monetary expansion," one is puzzled as to how the management of the account is supposed to translate the revised policy statement into open market purchases and sales that are administered so as to affect bank reserve positions, and therefore, the flow of bank credit and money. . . . If one turns to other publications of the Federal Reserve, such as "The Federal Reserve System," published in various editions by the Board of Governors, or Robert V. Roosa's "Federal Reserve Operations in the Money and Government Securities Markets," published by the Federal Reserve Bank of New York, one finds that they contain descriptions of how open market operations are conducted, but they throw little if any light on how the general directives actually serve as guides to the manager of the System account." (Hearings, p. 130)

In addition to publishing these generalized directives, the Board's report also gives brief statements - again in most general terms - relating to the reasons why the Committee reached each policy decision that these directives purport to describe. These statements consist mostly of quite brief descriptions of the economic conditions prevailing at the time of each Committee meeting, from which the reader is expected to infer the Committee's reasons for changing or failing to change its policy directive. With reference to these statements of economic conditions, Professor Gurley wrote:

"Appraisal of the meeting-by-meeting summaries in the annual report are made difficult by two characteristics:

(1) The descriptions of the economic situation and of the analysis made by the members of the Open Market Committee or by their economic advisers are not inclusive, detailed, and specific enough; and

(2) Although it is obvious from the text that the Open Market Committee was given appraisals of the economic outlook, these outlook statements or forecasts are not stated explicitly enough for them to be evaluated." (Hearings, p. 128)

Committee's Policy "Directives" Do Not Reveal Policy, Even To Its Agents
Who Execute The Policy

On June 1 and 2 the Committee had as witnesses the three officials who were manifestly the best authorities on the meaning of the Open Market Committee's directives. These were Mr. Rouse, Manager of the Open Market Committee's Account -- the officer who executes the Committee's policy decisions; Mr. Martin, Chairman of the Open Market Committee; and Mr. Hayes, Vice Chairman of the Committee and President of the New York Federal Reserve Bank, which bank serves as the Open Market Committee's agent.

It quickly became apparent that the Open Market Committee's formal "directives", by which the public is supposed to know what the Committee's policy decisions have been, were inadequate even to let the Committee's own members and staff experts know. Indeed, these experts testified that in order for the Account Manager to know what policy had been decided it is "almost essential" that he attend the meeting at which the policy is decided. Short of attending the meeting, the Manager could get "most of the sense of the meeting" from the minutes of the meeting.

For example, Mr. Rouse's attention was called to the key phrase of the Committee's directive of March 1, 1960, a directive which declared that the Committee's monetary operations were to be conducted with a view --

"to fostering sustainable growth in economic activity and employment while guarding against excessive credit expansion."

This replaced a clause of the previous directive which read --

"to restraining inflationary credit expansion in order to foster sustainable economic growth and expanding employment opportunities." (Hearings, p. 12.)

Mr. Rouse was asked --

"What is the difference, Mr. Rouse?"

MR. ROUSE. Mr. Chairman, the discussion that preceded the change in this, that is, the discussion----

Chairman PATMAN. You had the benefit of this discussion?

MR. ROUSE. I had the benefit of this discussion.

Chairman PATMAN. Well, do you also make notes?

MR. ROUSE. Yes; I usually take one of my associates; often Mr. Stone will come with me, and take some notes."
(Hearings, p. 12.)

In this same connection Mr. Rouse had said in his prepared statement --

"It is my duty as manager of the account to make sure that the intentions of the Federal Open Market Committee as to the management of the account during the period between meetings of the Federal Open Market Committee are clear to me." (Hearings, p. 31.)

He was asked --

"Are the directions of the Federal Open Market Committee so vague that they are not easily understandable?

MR. ROUSE. Mrs. Griffiths, they involve a great many factors which are diverse." (Hearings, p. 31.)

Mr. Hayes was also questioned on the subject of whether the Open Market Committee's "directives" are such that they convey to the top specialist in the field, the Account Manager, what the Committee's policy decisions have been. With specific reference to the directive of March 1, 1960, he was asked --

"Chairman PATMAN. Now, as manager of the account, if you had been manager of the account instead of being president of the bank, could you have taken that just by itself and interpreted it as to what the (Open Market Committee) actually meant?

MR. HAYES. I do not think a manager would ever be expected to interpret the directive as a sentence without the full context of all the discussion and the consensus of views on additional details of operations that were appropriate.

Chairman PATMAN. And that makes it necessary for him to be present at the meetings of the Open Market Committee?

MR. HAYES. Yes sir.

Chairman PATMAN. In other words, this alone is not sufficient to him; he must be there, he must hear what is said, must know what the sense of the members of the Open Market Committee happens to be at the time in this discussion.

MR. HAYES. Well, I think it is almost essential that he be there. In theory he could get most of the sense of the meeting from the minutes, which are very detailed, and go far beyond this directive.

Chairman PATMAN. You mean the minutes of the Open Market Committee?

MR. HAYES. The minutes of the Open Market Committee meeting.

Chairman PATMAN. I assume these minutes are referred to each member of the Open Market Committee, as well as the presidents of the banks?

MR. HAYES. That is right, sir.

Chairman PATMAN. And that is done immediately after the meeting?

MR. HAYES. As soon as they are prepared.

Chairman PATMAN. And the manager of the account takes into consideration his own notes and his own knowledge, having been there at the time and considered the minutes of the meeting?

MR. HAYES. I think he makes a few informal pencil notes in order to have a pretty good idea of what the meeting was about, until he sees the formal minutes. But invariably, as far as I know, the formal minutes of the meeting convey all that he has and more of details and, therefore----

Chairman PATMAN. In other words, Mr. Hayes, you are saying that this, by itself, is not sufficient.

MR. HAYES. That is correct.

Chairman PATMAN. It is not sufficient.

MR. HAYES. He certainly could not operate on the basis of this directive alone." (Hearings, pp. 49, 50.)

Mr. Martin, on the other hand, sharply disagreed with Mr. Rouse and Mr. Hayes on the adequacy of the directive. With reference to the same directive of March 1, he was asked -

"How do you expect the manager of the account in New York to take this statement alone and interpret it--just from this statement, that is? Would you expect him to do?

MR. MARTIN. Yes, I would, if he is the competent man I think he is; I think that that gives him adequate information."

(Hearings, p. 104)

Nevertheless, the hearings established that the Manager of the Account attends the meetings, takes notes, is provided, on the following day, with unedited "synopses" of the policy recommendations of each member of the Open Market Committee, plus an unedited version of the "consensus" of the meeting. From these materials he and other members of the staff develop memoranda, or "aide memoirs" for guidance on the Committee's policy for at least a week or 10 days, when they then receive for this purpose copies of the "official" minutes of the meeting. The "official" minutes are apparently developed retroactively, as testimony was to the effect that no stenographic record of the meetings are kept; rather, a "secretariat" develops the minutes then submits them to the participants for editing and polishing.

Finally there is a daily telephone conference between the Manager of the Account, a representative of the Board, one bank president, a daily telegraphic report, and a variety of other reports, all of which are claimed to help the Manager of the Account learn whether what he is actually doing or about to do reflects a correct interpretation of the Open Market Committee's last policy decision.

Requests for Records

At the June hearings I made plain to each of the witnesses my intentions of asking Chairman Martin, the last witness, for the full formal minutes of the meetings, and there seemed to be general agreement among both the members of the Committee present and the Federal Reserve witnesses that this should be done. Only Mr. Rouse demurred, largely on the question of his authority to deliver up either the formal minutes or the notes and memoranda prepared by himself and his assistants, regarding the events of the meetings. Thus, Congressman Reuss expressed this view -

"If the chairman would yield I would communicate to the witness my strong personal view that the Open Market Committee which is a public body, has no right whatever to hide from the people and the U. S. Congress its formal minutes of action taken and that, I think, it is outrageous that there is any question about it, and I propose to pursue the matter. These are minutes a year old; we are not talking about anything current." (Hearings, p. 38)

Accordingly, during the hearings Mr. Rouse was requested orally, to supply copies of all notes and memoranda prepared by himself and his assistants recording or interpreting the directives and instructions of the Open Market Committee during the year 1960. Mr. Martin, on the other hand, was requested to supply a copy of the verbatim minutes of the meetings of the Open Market Committee during 1960. At his insistence, furthermore, this request was repeated by letter (June 16, 1961), which letter also made the same request of Mr. Martin that had been made of Mr. Rouse. (See Hearings, p. 106).

Notwithstanding the fact that the Federal Reserve Act requires the Board of Governors to keep a complete record of the actions taken by the Federal Open Market Committee with respect to all questions of policy and operations, and the reasons therefor; and notwithstanding the fact that the Act also places upon the Board of Governors responsibility for including a copy of such record in its annual report, Mr. Martin appears to have relayed these requests not to the Board of Governors, but to the Federal Open Market Committee. In responding to these requests he wrote (June 21) that "the Federal Open Market Committee has carefully considered the request for copies of its minutes and certain other materials. . ."

Partial Compliance with Request for Records

With respect to the Account Manager's notes and interpretive memoranda, Mr. Martin's letter of June 21 argued that these relate to the same subject matter covered by the official minutes of the meetings and concluded that "it seems needless to furnish them separately." Whether or not the Account Manager's interpretations of the Open Market Committee's directives and instructions do in fact accord with the formal minutes of the meetings is a question we shall not be able to determine from the records now on hand.

Mr. Martin's fuller statement of the reasons for refusal to comply with this portion of the request casts light on the record-keeping processes and is worthy of attention, as follows:

"(a) There is very little in the way of note taking beyond that done by the secretarial staff of the Committee and by a staff member of the New York bank to record what actually transpires at the meetings. Any notes taken at the meetings by the Committee members are usually no more than scribbled abbreviations for the purpose of keeping for the moment a running memory aid of the discussion as it proceeds, and such notes are not customarily retained. The minutes are prepared promptly by the secretarial staff and drafts thereof are usually in the hands of the Committee members and Mr. Rouse, as Manager of the System Open Market Account, within a week to 10 days. The secretary of the Committee also furnishes Mr. Rouse by the morning of the day following a meeting a brief unedited synopsis

of each member's policy recommendations and of the consensus of the Committee. The notes taken by the staff member of the New York Reserve Bank are recast in the form of an internal memorandum for working purposes, and this memorandum and the synopsis are available to Mr. Rouse as an aide memoir pending receipt of the preliminary draft of minutes and the final minutes. Since these are merely staff working papers and their content is fully covered in the minutes, it seems needless to furnish them separately." (Hearings, p. 108)

With reference to the request for verbatim minutes of the meetings, Mr. Martin's letter stated:

"Verbatim records of the meetings of the Federal Open Market Committee are not made. The minutes, however, present a faithful and comprehensive record of the Committee's proceedings. The Open Market Committee is prepared to make these minutes of its meetings held in 1960 available to the Joint Economic Committee on the understanding that they will be treated as confidential." (Hearings, p. 108)

First Objections to Publication of Minutes

After thus attempting to impose an "understanding" on the Committee that the minutes submitted would be withheld from the public, Mr. Martin's letter then enumerated the reasons why it was felt "that it would not be in the public interest to have such minutes for 1960 made public in whole or in part at this time." These reasons, in abbreviated form, were -

- (a) the minutes might contain references to confidential information or to confidential sources of information;
- (b) the minutes might contain references to long-term economic prospects and possible monetary policy relating thereto, in which case now current and even future policy might be revealed;
- (c) participants in the meetings sometimes compress their remarks and might thus be misunderstood by others not present at the meetings;
- (d) participants in the meetings sometimes raise points merely for discussion, which points do not necessarily reflect their views and they thus might be misunderstood.

Gurley-Achinstein Report Prepared to Meet Objections to Publishing Minutes

It was to meet these stated objections to publication, and also to produce a shorter document, that Dr. Gurley and Dr. Achinstein were assigned the task of studying the minutes and writing, in their own words,

a faithful report of the policy questions considered and the conclusions reached by the Open Market Committee during 1960. We could well question whether public officials who must debate public issues, take positions and vote, are so delicately susceptible to misunderstanding that their remarks must be shielded from public view. Even so, since we are here interested, not in individuals, but in the processes and conclusions of a public body, Dr. Gurley and Dr. Achinstein were instructed to avoid attributing either statements or positions taken to individual participants in the Open Market Committee meetings, to the extent possible. The Gurley-Achinstein report does avoid identifying the individual participants except for four individuals who play unique roles in the meetings and whose participation thus cannot be concealed. These are:

First, the Manager of the Open Market Account. The Manager gives a report of what he has done since the previous meeting, to carry out the policy adopted at that meeting, and references to this report necessarily identify the individual giving it.

Second, the Economist. This person gives a report of the principal economic developments since the previous meeting, as well as a summary of the trends in the principal economic indicators. Since policy decisions of the Open Market Committee are of little meaning without reference to economic conditions against which these decisions are made, the Gurley-Achinstein report frequently contains references to these economic summaries.

Third, the Vice Chairman of the Open Market Committee (and President of the New York Federal Reserve Bank). This official plays a distinctive role in the meetings in that he gives an appraisal of conditions in the New York money market, where and in relation to which policy of the Open Market Committee must be executed. Here, too, references to this official's reports and his recommendations for methods of operations necessarily identify the individual.

Fourth, the Chairman of the Open Market Committee. As the Gurley-Achinstein report makes clear, this official plays a unique role in the meetings of the Open Market Committee in this respect: After all other members of the Committee have spoken, each giving his views on what monetary policy should be for the coming period, the chairman then makes a statement which purports to be the "consensus" of the views. Without challenge -- and apparently there is none -- this "consensus" becomes the monetary policy for the period ahead.

With reference to the report that Dr. Gurley and Dr. Achinstein have produced, it should be said that this report has been developed with the utmost care. The authors spent many months reading and rereading the minutes. Each has double checked each sentence written by the other, and each takes individual professional responsibility for the entire report. They have produced a factual summary, not a report of appraisal and opinion. Needless to say, these authors are not unfriendly to the Federal Reserve's purposes or its personnel; and through a superabundance of professional

caution they have resolved any question of doubt on the side of moderation and restraint. The New York Times which has reviewed the report unofficially said editorially on August 16 that the report "is a restrained document that seeks to protect the identities and the policy positions taken by our money managers two years ago, "adding -

"Indeed, if publication of the report reveals that central bankers are not supermen but sometimes make mistakes, it will be beneficial by clearing up doubts about their role."

The Gurley-Achinstein report appears to meet all of the arguments originally made against publication, verbatim, of the Open Market Committee minutes. Mr. Martin's latest letter makes elaborate arguments against publication of the report, but it makes no claim that publication of the report would do any of the things his first letter feared that publication of the minutes might do.

Specifically, this latest letter does not claim that confidential sources of information are revealed. It does not claim that current or future monetary policy is revealed. It does not claim that any remarks of the participants in the meetings are misunderstood, or that the position of any participant is misinterpreted. If there be any inaccuracy in the Gurley-Achinstein report, those of us who have read the report are left to labor under our misapprehensions, as this letter also makes no claim that the Gurley-Achinstein report contains any error or that it tends to give an inaccurate picture of any aspect of Open Market Committee operations in 1960.

New Objections Based on Premise that Public Information Causes Public Mischief

On the contrary, the nub of the arguments against publication is objection on principle, the principle being premised on the proposition that public information concerning the doings of a public body causes mischief. Publication of the report, according to Mr. Martin's letter, would "serve to institute a procedure" having "implications for the judicial and executive branches of the government" as well as for other government agencies and the committees of Congress that "would do public mischief rather than public good."

As to the practical consequences of publication, there is only a generalized prediction that, in future, either decision-making or record-keeping, or both, will be weakened - in the Federal Reserve in particular and in the government in general. Publication would "serve to institute a procedure" which is "virtually certain to result either in weakening internal debate for the sake of the public record, or in weakening the record for the sake of the debate."

Beyond this, Mr. Martin's letter is a lengthy amalgam of analogies to the so-called Executive privilege and to what is perhaps a newly conceived Judicial privilege. In most instances these attempted analogies seem to misconceive the processes to which analogy is made. In any case, the

analogies are irrelevant because, as pointed out, the proposal here is to publish information concerning the legislative activities of an arm of the Congress. As to the suggestion that publication would set a precedent having "implications" for the Executive and Judicial branches, this too is not very frightening. After publication, Congress will have no more or less power to compel information from the Executive and Judicial branches than it has now, and it is even doubtful whether its appetite for such information would be much whetted.

As to the main premise of Mr. Martin's letter, it is hardly necessary to observe that the view that public information concerning the doings of a public body makes mischief is at odds with the belief long cherished by many people, that such public information is the foundation stone of democratic government.

As to the thesis that public officials debate public issues more vigorously in secret than in public, particularly if the consequences of their debates are not to be revealed, this is yet to be demonstrated by experience. The conduct of legislative bodies over several centuries has not generally led to a belief that public forums weaken debate, or that participants in such forums are inclined to obscure the record of their debates. It may well be that making public information on decision-making in the Open Market Committee will lead to more vigorous debate in that body. And by the same token, it may well lead to more accurate records, rather than to synthetic records concocted in retrospect by a staff "secretariat".

Taking up each of the specific arguments made in Mr. Martin's letter, these are, with my comments, as follows:

Specific Arguments Against Publication

Argument - 1. "A complete record of all policy actions taken by the Federal Open Market Committee is maintained by the Board of Governors and is set out in full each year in the Board's Annual Report to Congress as required by the Federal Reserve Act." (p. 1, second full paragraph.)

"... your document does not reveal a single policy action by the Open Market Committee that was not recorded in the Annual Report of the Board of Governors for 1960, along with the economic circumstances of the action, the votes of the Committee members, and the underlying reasons why the action was taken." (p. 3, 2nd full paragraph.)

Response: This is precisely the point in contention. If the Open Market Committee's directives are not sufficient to inform the Committee's expert agents (Mr. Hayes and Mr. Rouse) what policy actions have been taken, even in the current setting, they are hardly sufficient to inform non-experts, after memories of the current setting have grown dim.

On the other hand, if the contention made in Mr. Martin's letter that "a complete record" of the actions taken and the reasons therefor have already been made public, then the Gurley-Achinstejn report is merely

repetitious and its publication will not reveal any information not already available to the public.

Argument - 2. "Neither the United States Supreme Court nor any other Court. . .makes public any record of discussions in chambers preceding the announcement of a decision. . .the same privacy of pre-decision discussions extends to the jury room." (p. 2, 1st full paragraph.)

Response: This analogy to the judiciary is not only irrelevant, it misses the essence of the judicial process and its traditional emphasis upon open public trials, adversary proceedings, and full records, open for all to see.

The privacy accorded judges and jurors extends only to their deliberations for reaching a yea or nay decision on questions of fact or law that have been fully aired in public.

It is precisely for the reason that courts operate in the public view that there have been few charges that they have withheld information the public ought to have. Indeed, if any committee of either the Congress or the state legislatures has ever complained of a court's withholding information, research by the American Law Division of the Legislative Reference Service has failed to uncover any record of it - except, of course, in instances where legislative bodies have inquired into questions of corruption or judicial malfeasance.

True, the Federal Reserve is entrusted with certain quasi-judicial functions, in addition to its other functions, but determining monetary policy is not such a function. Indeed, if determining monetary policy were one of the quasi-judicial functions then the function would be carried out under procedures prescribed by the Administrative Procedures Act, and we would not now be confronted with any need for further public information. What we are seeking here is information concerning decisions in which a public body has functioned as prosecutor witness, judge and jury -- all in one.

The privacy of the jury room is extended, not to a public body making public laws or public policies, but to private citizens called upon to perform a public duty. The very fact that jurors are private citizens and are presumed to be non-experts gave rise to the custom of according privacy for their deliberations is a means of assuring that they will not be influenced by extraneous facts or arguments outside those of record in the public trial. Even so, the ultimate purpose of such privacy is not to protect the jurors, but to assure the defendant of a fair trial. True, certain members of the Open Market Committee -- the Federal Reserve Bank Presidents -- are selected for their posts by private citizens (they are elected by the directors of the Federal Reserve Bank, two-thirds of which directors are elected by the private banks). Yet, they are not themselves private citizens; nor is it their function to make secret compromises between the public interest and the private interests of the bankers who select them. They are public officials performing public acts. They have

been entrusted, whether wisely or not, with one of the fundamental legislative powers. Thus, to throw a shroud of secrecy over their debates, or to let hang a cloud of mystery over their decisions, would be as indefensible as barring the doors of Congress and having our national laws enacted in secrecy.

Argument - 3. "The Executive branch of the Government likewise distinguishes in respect to publication between the conversations taking place at a meeting and the decisions reached at it and. . .has declined many times. . .to make the records of pre-decision discussions at meetings in the White House or various departments or agencies available even to the Congress." (p. 2, 2nd full paragraph.)

Response: Even if we assumed that an agency of Congress is entitled to the so-called Executive privilege, the Federal Reserve's request for secrecy would not be on sound grounds of either law or public policy.

First, the Board of Governors of the System is under a specific statute requiring that it keep and make public a record of the Open Market Committee's policy actions, and the reasons therefor. Notwithstanding the fact that Mr. Martin's letters repeatedly refer to the minutes in question as records belonging to the Open Market Committee, making it appear that the Board is without records of its own, these minutes are in the hands of the Board, and by law the Members of the Board constitute a voting majority of the Open Market Committee.

The testimony of Mr. Hayes and Mr. Rouse makes it clear, furthermore, that the discussions recorded in the Open Market Committee minutes are not merely "conversations" as distinct from "decisions reached." These experts have said that on the basis of anything less than these minutes they cannot know what decisions have been reached. In view of the vagueness with which the Open Market Committee "directives" are now written, these "discussions" are an integral and necessary part of the policy instructions given by the Committee to those of its agents who execute the policy.

Second, the so-called Executive privilege is itself of questionable status, even for use by the Chief Executive. It is a privilege on which the Constitution is silent and the courts have said almost nothing. If it is a privilege at all, it is one which can be stretched to include information to which the public has a right only at the political peril of the Chief Executive who would stretch it. According to a recent study* of the subject, President Kennedy has said that "when information is not restricted by specific statute, security needs, or the Constitution, 'there is no justification for using the doctrine of executive privilege to withhold that information from Congress and the public'." President Kennedy is further quoted as having said --

"An informed citizenry is the basis of representative government. Democracy--as we know it--cannot exist unless the American people are equipped with the information which is necessary if they are to make the informed political choices on which the proper functioning of the

*Clark Mollenhoff: "Washington Coverup", Doubleday and Company.

democracy depends. An informed people--able to examine, and when necessary, to criticize, its government--is the only guarantee of responsible democracy.

"The President--who himself bears much of the responsibility for the preservation of American democracy--has the affirmative duty to see that the American people are kept fully informed. It is true that in today's world of peril some Government information must be kept secret--information whose publication would endanger the security of national security--the people of the United States are entitled to the fullest possible information about their Government--and the President must see that they receive it." (See Congressional Record, October 10, 1962, p. 21773.)

Argument - 4. "The Congress itself in the Legislative Reorganization Act recognized the need for privacy in working sessions of congressional committees by excepting executive sessions for marking up bills or voting from the general requirement that committee hearings be open to the public . . .any committee meeting may be closed to the public. . .minutes of executive sessions are not made available to the public" (p. 2, last paragraph).

Response: True, committees of Congress do have executive sessions, the minutes of which are not published. But the amount of such secrecy and the importance of the subject matter kept secret are the measures by which the public judges and expresses its disapproval. Indeed, some of the newspapers publish a running tally of the number of executive meetings held by committees of Congress, as a public warning of any tendency toward Congressional secrecy.

In the case of Congressional committees the public enjoys an added safeguard against secrecy not unlike the safeguard of adversary proceedings in the courts. Characteristic diversity of views among Members of Congress and the traditional Congressional preference of public information, augmented by the two-party system, usually serves to assure that the public is promptly informed of any noteworthy public business done in secret.

Again, the matter of secrecy is for the Congress to decide. The point is that there is too much secrecy surrounding Open Market Committee deliberations. The public has a right to know how the important functions of government are carried out, and the burden of proof must always be on the opponents of secrecy.

Argument - 5. "There is no question here of a denial of information to the Congress: your request for opportunity to examine the minutes of the Open Market Committee was granted more than a year ago. Neither is there question of hostility to criticism nor of unwillingness to improve upon the presentation of the Committee's policy record in the Board's Annual Report; the Committee in fact is earnestly striving now to effectuate further improvement. * * * It seems to us that to publicize to the world without a substantial time lapse. . .would do public mischief rather than public good." (p. 3, 3rd and 4th full paragraphs.)

Response: This seems to say that the Open Market Committee welcomes public examination and public criticism - but not now.

What is the significance of this willingness to have the information in question published, but only after a "substantial time lapse"? From the standpoint of current monetary policy, the time lapse has already been quite substantial. The information in question refers to the calendar year 1960, and more than one and one-half years have passed. Does a "substantial" time lapse mean that the record is to be kept secret -- and the public criticism withheld -- until the officials who made the record are no longer in office? Does it mean that Mr. Martin is admitting to some benefits of a public examination into the conduct of past regimes, while contending that a public examination of the conduct of a current regime only makes mischief? If this reasoning is to be accepted, then we might ask if there should be no public examination, and no public criticism, of any President while in office? Should there be no public examination and no public criticism of any Member of Congress so long as that Member holds office?

As for the statement that there has been no denial of information to the Congress -- the "request for opportunity to examine the minutes of the Open Market Committee's meetings was granted more than a year ago" -- it seems that we are being invited to become a party to a decision to withhold information from the public. Since we have been allowed access to information the general public may not have, the general public may presume that we have been privy to secrets which we may use to our special advantage. What reasons shall we give the public, on our own behalf, for withholding this information? The reasons which Mr. Martin's letter gives are not plausible to me, and I do not think they will be plausible to the general public.

"Publicize to the World"?

Mr. Martin's objection to publicizing "to the world" information concerning the Open Market Committee's policies in 1960 raises a question as to who would be informed by this action. Certainly it would not be those private persons who have a large special interest in knowing about these policies. Such persons, the larger banks, security dealers and money market speculators -- particularly the money market banks of New York and the Wall Street securities dealers -- not only know what the Open Market Committee's policies have been, they have known what policies were in effect and they have known instantly when policies were changed. The evidence is that these individuals and institutions have special knowledge of the theories and practices of the Open Market Committee and they have identical or nearly identical statistical and intelligence systems whereby they can interpret the day-to-day or hour-to-hour indicia of policy.

During the course of our hearings Mr. Hayes admitted to this situation. Though for reasons best known to himself, he put much emphasis on the proposition that any informed "student" can know what policy is as well as the informed securities dealer.

"Senator Pell. But my question, or my thought, is, would it not be possible for the informed dealer to arrive at just about the same conclusion that your Committee does, at the same time, without any need for inside information?

"Mr. Hayes. Well, I would say this: That the informed dealer, as any informed student of the subject, including many nondealers, people in the universities or in any other walks of life, have such an abundance of good statistics coming out, many of which we have put out, including this Monthly Review I was speaking about, and the weekly statistics which are announced in great detail every Thursday afternoon, with all these facts at hand, for instance, showing what kind of free reserves we have been maintaining, and what kind of transactions we have made during the preceding week, I would maintain that any good student of the subject would probably come to a pretty good conclusion as to the general kind of policy we were following, and it would not be confined to the dealers.

Almost anybody could do it." (Hearings, p. 55.)

Under Secretary of the Treasury Robert Roosa, while an officer of the Federal Reserve Bank of New York several years ago, wrote a highly authoritative book dealing with the theory and practices of the Open Market Committee and much of the statistical paraphernalia for interpreting current monetary policy. In the concluding paragraph of his book he, too, said that the interested student can know what current policy is if he is prepared to analyze the "complex of all daily and weekly published data." He said --

"The student interested in knowing what policy is and prepared to analyze the complex of all daily and weekly published data can generally come fairly close to knowing in a short time."

Mr. Roosa further said that the data published by the Board of Governors and the various Federal Reserve banks "permit the specialist to acquire the body of knowledge which can equip him to make informed judgments of later data and developments." Concluding --

"This does mean, however, that the interpretation of central bank action, and the evaluation of its influence, has become, like many other things in this modern day, a zone reserved largely for the specialists." (Robert V. Roosa: "Federal Reserve Operations in the Money and Government Securities Markets", Federal Reserve Bank of New York, July 1956. See Hearings, p. 51.)

The plea for secrecy which has been put to us here is not a proposal to conceal information from those who have a large financial interest in the information -- these people already have it. The plea to conceal from "the world" information concerning the operations of a public body is a plea to deny information to the general public and thus to dilute the value of the information to those who already have it.

Conclusion

Public officials who would withhold from the public information concerning the ways in which they have conducted the public's business assume a serious burden of proof that such secrecy is in the public interest. The arguments made in Mr. Martin's letter have not met that burden, or come anywhere near meeting it. Numerous contentions are made, built one upon another, but not one of them holds water. Certainly they do not add up to a showing that the information in question is of that exceptional kind which endangers the national security or other national interests.

If we are to accept the testimony of Mr. Hayes and Mr. Rouse, then we must conclude, I think, that the Board of Governors has not met the requirements explicitly imposed upon it by law for public reporting on the policy actions of the Open Market Committee, and the reasons therefor. Yet, even if the Board had met these requirements, the existence of a statute requiring publication of certain specified information, in no way sets up an exemption for other information bearing on the public's business, or justifies any claim to secrecy for information not specified in the statute.

A small number of specialists -- bankers and security dealers -- who have special financial interests in the policy decisions of the Open Market Committee can, and do, keep abreast on these decisions. In contrast, on the basis of the public record we do not even know what past policies have been, although we are charged by law with the duty of knowing, and of studying ways of coordinating these policies with other public policies. True, we have available to us most of the statistics that are available to the specialists; but we have neither the expertise nor the time to decipher the secret language of complex statistics. Nor has the general public. Only by an examination of the Open Market Committee's minutes, or a condensation of these minutes such as the Gurley-Achinstein report provides, can the public even become aware of the nature and depth of the issues involved in the Open Market Committee's policy actions.

Yet, in truth, the public has a right to know more than what the Open Market Committee has done, and why. It also has a right -- if we pressed the point -- to know the actions, the views, and even the strengths and the weaknesses of the individuals who are charged with managing the public's affairs. In publishing the Gurley-Achinstein report we will be leaning over backward in giving anonymity to most of the 20 or more public officials normally participating in the Open Market Committee meetings.

The Gurley-Achinstein report should be published.

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CONGRESS OF THE UNITED STATES
JOINT ECONOMIC COMMITTEE

Confidential Report on Minutes of the
Federal Reserve System Open Market Committee
May be Made Public

Rep. Wright Patman (D., Tex.), Chairman of the Joint Economic Committee, said today that the Committee will hold a closed meeting on Monday morning to decide whether or not to make public a report based on the minutes of the meetings of the Federal Open Market Committee during 1960.

Rep. Patman also made public a letter from William McChesney Martin, Chairman of the Federal Reserve Board, objecting to publication of the report, plus a memorandum of his own, to all Members of the Committee, disagreeing with Mr. Martin's arguments and urging publication of the report.

The report was prepared by Dr. John G. Gurley, Professor of Economics, Stanford University, and Dr. Acher Achinstein, Senior Specialist on Banking and Monetary Matters, Legislative Reference Service, Library of Congress, who were temporarily assigned to the Committee staff for this purpose.

Rep. Patman said: "The basic difference between Mr. Martin's position and mine is that Mr. Martin thinks the best government is secret government, while I cannot get rid of the old-fashioned notion that the public has a right to know what its government is doing -- in fact, I was raised to believe that an informed public is the foundation stone of good government."

(M O R E)

Continuing, Mr. Patman said: "The Open Market Committee meets in secret every three weeks and decides what the nation's supply of money and credit shall be and, at least indirectly, what the level of interest rates will be, including yields on government and corporate bonds. These policy decisions largely determine how many jobs are available, the level of business profits, and whether or not a great many private enterprises succeed or fail. Indeed, such over-all regulation of the economy is the conscious purpose of these policies, and I think the American people have a right to know what these policies have been, and why. In fact, the law requires the Board of Governors to make these things known, but the law has been complied with only by year-end issuance of vague statements that are meaningless both to members of Congress and the general public.

"While Mr. Martin argues that these vague statements tell the public all it needs to know about these policy decisions, and that the minutes of the meetings of the Open Market Committee are merely pre-decided discussions, other Federal Reserve officials who are charged with the duty of executing these policy decisions testified that without the full minutes of the meetings they themselves would not know what the policy decisions are.

"There is no question here of revealing information that would be advantageous to security speculators, the big dealers in government securities or even the big banks. These people not only know what the policies have been, they knew what the policies were at the time. They knew when policies were changed the moment they were changed.

(MORE)

Federal Reserve officials have also testified to these facts, pointing out that the specialists in financial markets have the know-how and the time to keep their fingers on the pulse of the Federal Reserve, through a variety of daily, weekly and monthly statistics coming out of the Federal Reserve Board and the New York Federal Reserve Bank. So instead of conferring special advantage on the big operators in the security market, making this information available to the general public will tend to take away some of the special advantage these people now enjoy.

"Mr. Martin's letter draws many analogies to the so-called executive privilege, but it does not claim that the Federal Reserve shares in this privilege to withhold information from the public. Nor could it. The Federal Reserve is not an agency of the Executive Branch; it is an agency of Congress, and is engaged in legislative actions of a kind reserved to the Congress by the Constitution, and it is clearly the legal duty of the Joint Economic Committee to decide whether or not information concerning its activities shall be made available to the public.

(E N D)

GENERAL COMMENTS ON CHAIRMAN PATMAN'S MEMORANDUM
OF NOVEMBER 28, 1962 TO MEMBERS OF THE
JOINT ECONOMIC COMMITTEE

Chairman Patman's memorandum of November 28, 1962 (hereafter called the "Memorandum") is replete with inaccuracies, innuendos, and misleading statements and arguments. It would be impossible in a brief space to call attention to all of them. The following comments cite only a few illustrative examples.

1. The Memorandum (pp. 1, 14, and 17) erroneously assumes that Chairman Martin's letter of September 11, 1962, in opposing publication of Federal Open Market Committee minutes, purported to "draw analogies to the Executive privilege." That letter attempted only to point out that the Executive, as well as Congressional Committees and the Courts, have always maintained the confidentiality of "internal deliberations" leading to decisions, in order to encourage "candor on the part of officials and employees in speaking their minds freely and uninhibitedly." The point was made, not as a matter of "privilege", but as indicating what seems to be the best means of carrying out the Open Market Committee's functions. The Committee has not relied upon any doctrine of "privilege"; it complied with the request of Mr. Patman's Committee to be furnished with the Committee's 1960 minutes.

2. The Memorandum (p. 3) asserts that the statutes "fail to give the Federal Reserve any specific authority for deciding monetary policies"; that the original Federal Reserve Act contained "no hint that Federal Reserve authorities were to exercise discretionary controls or influences over the volume of bank credit or the level of interest

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rates"; and that in no amendments to the Act has Congress authorized the Federal Reserve "to inject artificial pressures on interest rates, to impose man-made curbs on the expansion of bank credit", etc.

These assertions, of course, completely ignore the law itself. In the original Act and by subsequent amendments, Congress has vested the System with specific powers to influence the volume of bank credit generally and in specific areas - to determine discount rates, to regulate the discount functions of the Reserve Banks, to prescribe reserve requirements, to regulate open market operations, and to fix margin requirements. (A statement regarding this matter was submitted for the record in the 1961 hearings on the Board's 1960 Annual Report, not by Chairman Martin, as stated in the Memorandum, but by Mr. John J. Clarke, Assistant General Counsel, Federal Reserve Bank of New York.)

Moreover, the Memorandum contradicts itself. At various places (pp. 1, 4), the Memorandum clearly assumes that the Federal Reserve has powers that may be exercised to influence the volume of bank credit. On page 4, for example, the Memorandum states that the System has "powers to determine national credit policies".

3. The Memorandum implies (p. 3) that the System has arrogated to itself a delegation of legislative powers in the fields of money and credit without proper standards. The fact is that, with respect to reserve requirements, discount rates, margin requirements, and open market operations, the law sets forth "standards" more specific than many that have been found adequate by the Supreme Court to support delegations of legislative powers. With particular reference to open

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market operations, section 12A of the Federal Reserve Act provides that the time, character, and volume of such operations "shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country."

4. The chief theme of the Memorandum is the alleged "secrecy" of the proceedings of the Open Market Committee. For example, on page 14 the Memorandum states that the "nub of the arguments against publication" of the Gurley-Achinstein Report is that "public information concerning the doings of a public body causes mischief". This and similar statements in the Memorandum reflect a complete misunderstanding of Chairman Martin's letter of September 11, 1962. That letter relates to the proposed publication of an interpretative study of the minutes of the 1960 meetings of the Open Market Committee. Those minutes represent only a record of the Committee's internal deliberations. The public is fully informed as to the "doings" of the Open Market Committee through the record of the Committee's policy actions, with statements of the reasons for such actions, published in Annual Reports of the Board of Governors. It may be conceded that this published record may not always be as clear and precise as might be desired; but, as stated in the Chairman's letter, the Committee is earnestly striving to bring about improvement in that record. In addition to publication of the record of policy actions, open market operations carried on by the Reserve Banks under direction of the Open Market Committee are promptly made known to the public through the System's weekly release regarding "Factors Affecting Bank Reserves".

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Moreover, as to publication of the minutes of the Committee's meetings as distinguished from the record of its actions, Mr. Patman's Memorandum erroneously implies that the Committee has taken the stand that such minutes should never be made public. On the contrary, Chairman Martin's letter of September 11 made it plain that the Committee would not object to publication of its minutes after "a substantial time lapse". This, of course, was the significant point made in Chairman Martin's letter.

5. The Memorandum implies (p. 11) that the Board of Governors has been in some way derelict in discharging its responsibility for maintaining a record of the policy actions of the Federal Open Market Committee, and suggests that requests for copies of "such record" were improperly relayed by Chairman Martin to the Federal Open Market Committee rather than to the Board of Governors. Again, the Memorandum ignores the clear distinction between minutes of the Committee's meetings and records of its policy actions. Actually, of course, the minutes of meetings are prepared by or under the supervision of the Secretary of the Board of Governors, who is also an official of the Committee, and they are maintained in his custody. On the basis of such minutes, the Secretary of the Board prepares or has prepared the record of policy actions of the Committee for inclusion in the Annual Report of the Board. This procedure is obviously in compliance with the requirement of the statute. However, it is equally obvious that a request for access to the minutes of meetings of the Committee should properly be referred to the Committee itself.

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6. The Memorandum erroneously implies that the minutes of meetings of the Open Market Committee are "developed retroactively" (p. 10), and that they constitute "synthetic records concocted in retrospect" (p. 15). Nothing could be farther from the truth. Although a verbatim stenographic record is not maintained, an accurate and almost verbatim record of the deliberations of the Committee is prepared contemporaneously by the Committee's secretariat; and the minutes so prepared, with subsequent editorial polishing, are as faithful an account of the meeting as would be achieved by a verbatim stenographic transcript made at the time.

7. In connection with its persistent and unwarranted criticism of the "secrecy" of the Open Market Committee's proceedings, the Memorandum attempts to contrast the actions of the Board of Governors with the actions of the Committee. Thus, it argues that when the Board acts to change discount rates, reserve requirements, or margin requirements, its actions are made known to the public at the time of the change and, moreover, that the change is stated in "precise quantitative terms". (pp. 4, 5) In contrast, the Memorandum argues that the public learns of the Open Market Committee's decisions only long after the fact, if ever, and that its decisions are not stated in "exact quantitative terms".

The attempted contrast in this respect is, of course, completely irrelevant and on the verge of being ludicrous. Obviously, actions by the Board in changing reserve requirements, for example,

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must necessarily be "quantitative" and must be announced immediately because they impose limitations that must be observed by member banks. On the contrary, open market operations do not involve the imposition of requirements upon banks or other organizations; they involve, of course, purchases and sales of securities by the Federal Reserve Banks in order to increase or decrease the money supply, and by their very nature such actions of the Committee cannot be phrased in precise quantitative terms. Moreover, as previously noted, the public is currently informed regarding open market operations and is informed, through the Board's Annual Report, regarding the policy decisions of the Open Market Committee and the background and reasons underlying such decisions.

8. The Memorandum (p. 14) states that Chairman Martin's letter of September 11 "makes no claim that the Gurley-Achinstein Report contains any error or that it tends to give an erroneous picture of any open market operations in 1960." Chairman Martin's letter did not, of course, purport to make specific comments on that Report; it was concerned only with the publication of the Report. In no sense, however, does this mean that questions might not be raised as to the accuracy of that Report.

In any event, it is apparent that the Report represents only an interpretation on the part of two individuals of the 1960 minutes of the Open Market Committee. Moreover, despite the statement in Mr. Patman's Memorandum (p. 12) that the Report was prepared in order

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to meet the Open Market Committee's objection to publication of its minutes, the fact is that the Report quotes extensively and out of context from those minutes. Clearly, publication of the Report could give rise to a completely erroneous picture of the manner in which the deliberations of the Open Market Committee are carried on. In this sense, publication of the Report could be even more fraught with danger of misunderstanding than publication of the complete text of the minutes themselves.

9. A typical example of the misleading and irrelevant arguments contained in the Memorandum is the fantastic suggestion on page 5 of the Memorandum that the Open Market Committee might announce its monetary policy "in advance of the year ahead". Quite obviously, it would be impossible for the Committee to determine a year in advance what policies may need to be adopted to meet economic and credit conditions that may exist at that time. As to the more immediate future, the Committee may frame its policies to meet reasonably foreseeable conditions; but current announcement of such policies could, of course, lead to results exactly opposite to those desirable in the public interest. Although the Memorandum states that this is not "the question at issue here", the mere suggestion of such a procedure reflects a surprising lack of comprehension of open market operations and of the formulation and effectuation of monetary policies.

December 5, 1962.

~~CONFIDENTIAL~~ SF 03

Memorandum re Chairman Patman's memorandum of November 28, 1962
to members of the Joint Economic Committee

The real question here is whether publishing a condensation of the FOMC minutes would help or hurt the process by which the FOMC reaches its decisions. The FOMC believes it can reach better decisions if it has a chance to discuss the questions involved in executive sessions, at which its members can speak freely and openly, without the restraints which may result from knowledge that their remarks will be made public. It is possible to change the present procedures--perhaps to have two meetings, one with and one without minutes, or to change the form of the minutes so as not to inhibit full expression of views even though the participants know the minutes will be published. But the point is that, unless present procedures as to FOMC meetings are changed or the minutes are greatly condensed and edited, a decision to publish the Achinstein-Gurley report can reasonably be expected to hinder the process by which monetary policy is formed.

This is not a question of whether the public has a right to know about monetary policy decisions. Every decision taken at the 1960 meetings was made public in the 1960 Annual Report of the Federal Reserve Board, which devoted 42 pages to the subject. The immediate results of the decisions at these meetings were reported to the public each Thursday in the weekly statement of condition of the Federal Reserve Banks, which reveals the key statistics relating to bank reserves and the System's operations, including its purchases and sales of securities through the preceding day. The Chairman of the Federal Reserve Board annually presents to the Joint Economic Committee, in the course of its hearings on the President's Economic Report, a statement concerning the aims and

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accomplishments of monetary policy during the preceding year. The Federal Reserve Bulletin and the monthly reviews of the Federal Reserve Banks regularly publish analyses of current monetary policy. Thus, the facts are now available, including both the decisions themselves and a vast array of data measuring the effect of the decisions. Available, too, are a multitude of commentaries, official and unofficial, on the extent to which monetary policy has succeeded in its goals.

This is not a question of shielding the members of the FOMC from criticism of their policies. The Joint Economic Committee has had the complete cooperation of the Federal Reserve System in preparing for hearings at which monetary policy has been subjected to full and open criticism. As a minor example, many of the charts used by members of the Joint Economic Committee to illustrate respects in which they believe monetary policy has worked badly have been prepared by Federal Reserve staff at the Committee's request. As a major example, the FOMC minutes themselves were supplied.

Obviously, there will always be room for improving the techniques of communication for so complex and controversial subject as monetary policy, and undoubtedly this applies to the directives the FOMC issues to the manager of the open market account. But it does not seem logical to expect faster progress in this direction if the members of the FOMC feel that when they discuss how it can be done they must do their talking for the record.

December 5, 1962.

ATTACHMENT F



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

APR 15 1964

OFFICE OF THE CHAIRMAN

April 14, 1964.

The Honorable Wright Patman,
Chairman,
Committee on Banking and Currency,
House of Representatives,
Washington, D. C. 20515.

Dear Mr. Chairman:

During the hearings on January 22, 1964 of the Subcommittee on Domestic Finance of the House Banking and Currency Committee, I agreed to transmit to the Federal Open Market Committee the Subcommittee's request for copies of the minutes of its meetings held during the years 1960-1963, inclusive. The Federal Open Market Committee has considered this request at several meetings since that time, and it has concluded that it would be in the public interest to make its minutes available only after the lapse of a considerable period of time. Accordingly, the Committee has authorized transmittal to the Subcommittee of its minutes for the calendar year 1960.

The official records of the Federal Open Market Committee are maintained in the Board's offices, where the original signed copy of the minutes for 1960 is available for examination by representatives of the Subcommittee. If it would be more convenient, a duplicate original signed copy of these minutes will be delivered to the custody of the Subcommittee for its perusal.

As you know, a complete record of all policy actions taken by the Federal Open Market Committee and by the Board of Governors is maintained by the Board and is set out in full each year in the Board's Annual Report to the Congress, as required by the Federal Reserve Act. Included in the report of policy actions taken by the Federal Open Market Committee are: (1) a summary of the economic and financial information which the Committee has taken into account in arriving at its policy decisions; (2) a summary of the main lines of the Committee's discussions and the differing views expressed in their course; (3) a statement of the reasons underlying policy decisions; (4) a record, by name of Committee member, of all votes cast in connection with the determination of policy; and (5) statements of

The Honorable Wright Patman

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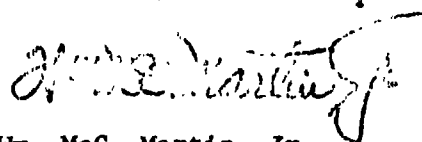
the reasons underlying dissents from particular actions, when there are such dissents. In the Board's Annual Report for 1963 the Record of Policy Actions of the Federal Open Market Committee covers 79 printed pages. In addition, 42 pages of the Report are devoted to a review of the System's open market operations in domestic securities and 20 pages to a review of its operations in foreign exchange.

The minutes contain more detailed reports on economic and financial developments and conditions, including references to information obtained on a confidential basis. Apart from these more detailed reports, the additional material included in the minutes consists principally of the discussions and debates prior to final determinations of policy actions. The Committee believes that premature disclosure of such discussions would impair the give and take of candid debate so important to decision making. In some cases it could lead to market reactions that might seriously handicap the execution of current decisions and that might redound to the special advantage of individuals or groups sophisticated in these matters.

In connection with discussions that began in 1961 of foreign currency operations, the minutes for recent years also contain confidential reports to the Committee concerning the internal affairs, plans, and attitudes of foreign monetary authorities and governments. Moreover, they contain frank expressions of opinion regarding the financial policies of foreign countries, in support of positions taken as to the desirability, from the point of view of the interest of the United States, of entering into various types of transactions with them. You will recall that when Secretary Dillon appeared before your Subcommittee on March 5, 1964, he expressed the view that it would be damaging to our international relations if these materials were given any publicity at all.

To provide a broad historical perspective, the Federal-Open Market Committee and the Board of Governors have instructed their staffs to explore means for making their records relating to monetary policy decisions through the year 1960 available for the use of scholars and other interested persons. It is expected that procedures for accomplishing this end will be decided upon shortly.

Sincerely yours,



Wm. McC. Martin, Jr.

WRIGHT PATMAN, TEX., CHAIRMAN
HENRY S. REUSS, WIS.
CHARLES A. VANIK, OHIO
CLAUDE PEPPER, FLA.
JOSEPH G. MINISH, N.J.
CHARLES L. WELTNER, GA.
RICHARD T. HANNA, CALIF.
CHARLES H. WILSON, CALIF.


ATTACHMENT G

WILLIAM S. WIDMALL, N.J.
JAMES HARVEY, MICH.
OLIVER P. BOLTON, OHIO
W. E. (BILL) BROCK, TENN.
ROBERT TAFT, JR., OHIO

JOHN R. STARK,
CLERK AND STAFF DIRECTOR

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON DOMESTIC FINANCE
OF THE
COMMITTEE ON BANKING AND CURRENCY
EIGHTY-EIGHTH CONGRESS
WASHINGTON, D.C.

April 22, 1964



Honorable Wm. McC. Martin, Jr.
Chairman, Board of Governors
Federal Reserve System
Washington 25, D. C.

Dear Mr. Chairman:

I was very disappointed by the Open Market Committee's decision not to honor our Subcommittee's request to see the Open Market Committee's minutes for the years 1961 to 1963, inclusive, but to send us only the minutes for 1960.

Under the rules of the House, the Banking and Currency Committee, and its Subcommittee on Domestic Finance, have, as you know, jurisdiction over the Federal Reserve Act and its administration. Your willingness to permit the members of the Subcommittee to examine the Open Market Committee's minutes for 1960 could be taken as a sign of cooperation on your part if it were not for the fact that these minutes previously were made public. Thus, your response to our request constitutes a refusal to allow the Members of the House whose duty it is to oversee the administration of the Nation's money, information vital for determining whether the Federal Reserve is carrying out the mandate of the Federal Reserve and Full Employment Acts. Congress has delegated to the Federal Reserve its constitutional power over the Nation's money. Surely, Congress, which is responsible to the people for the exercise of this power in the broad public interest, must be permitted all of the relevant information for determining whether its delegate is performing adequately. We believe strongly that the minutes are not only relevant but absolutely necessary if the members of our Committee are to perform their duty.

In your letter you give two reasons for refusing to furnish the minutes. First, you say that if you furnished us the minutes this would somehow lead to public disclosure of our dealings with foreign governments which would jeopardize future negotiations with these governments. Second, you say that if the minutes

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Honorable Wm. McC. Martin, Jr.

April 22, 1964

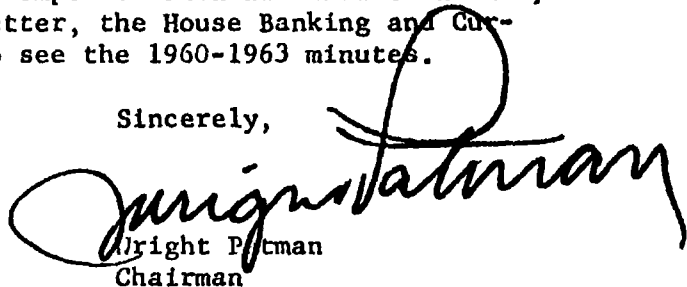
were furnished speculators would benefit improperly.

We are all, of course, aware of the need of secrecy in certain matters. We would therefore cooperate fully with you in deleting from the minutes all references which would jeopardize future negotiations between the Federal Reserve and foreign governments, and also all data which could benefit future speculators. This would, of course, remove your stated objections to sending us the minutes.

Also, it should be pointed out that the need for secrecy in minutes of State and Defense has not prevented study by the relevant Committees of Congress of top-secret State and Defense Department materials. I am confident that the members of our Committee are as trustworthy as any other Members of the Congress and Government officials generally.

I shall appreciate your prompt decision and answer whether, subject to the conditions in our letter, the House Banking and Currency Committee may be permitted to see the 1960-1963 minutes.

Sincerely,



Wright Pittman
Chairman

ATTACHMENT H

REC'D IN RECORDS SECTION

MAY 8 1964



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON

OFFICE OF THE CHAIRMAN

May 6, 1964.

The Honorable Wright Patman,
Chairman,
Committee on Banking and Currency,
House of Representatives,
Washington, D. C. 20515.

Dear Mr. Chairman:

After carefully considering your letter of April 22, 1964, reiterating your request for the 1961-1963 minutes of the Federal Open Market Committee, the Committee has reaffirmed its decision as reported to you in my letter of April 14.

Your letter expresses your disappointment with this decision, but we feel this may arise from a misunderstanding of the situation. You describe our decision about the minutes as "a refusal to allow the Members of the House whose duty it is to oversee the administration of the Nation's money, information vital for determining whether the Federal Reserve is carrying out the mandate of the Federal Reserve and Full Employment Acts." If this were the case, you would have every right to be not only disappointed but deeply disturbed. But let me try to show you why it is not the case.

The Federal Reserve System has cooperated fully with your Subcommittee, and will continue to do so. The members of the Board of Governors, the Presidents of the Federal Reserve Banks, and the staffs of the Board and the Banks have given freely of their time to discuss our operations with members of your Subcommittee and your staff. Your staff has been given every item of information they have asked for about System operations, even including the handwritten notes in the worktrunks that the Board's examiners use in examining the Reserve Banks. Thousands of man-hours have been devoted to answering questions submitted by you and your staff regarding the Federal Reserve and the commercial banking system. Where we have not had the information, the staffs of the Board and the Banks have worked assiduously to develop it. In some cases where your inquiries ran beyond our immediate internal operations, the Board has arranged and paid for outside contractors to help in developing and processing the data requested. We have thus demonstrated our desire to respond fully to your requests for information, and you have publicly acknowledged our cooperation.

The Honorable Wright Patman

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You have often ascribed great power to the Federal Open Market Committee, greater power than I think we have. But we both agree that the Committee has an important job to do. The other members of the Committee and I are convinced we can do a better job if we are allowed some privacy when we meet together to discuss how best to perform the functions the Congress has assigned to us. Congress and the public are entitled to know what actions are taken as a result of these discussions and the reasons for these actions, and we make this information public in a variety of ways, as you know. But, for the reasons previously explained to you, we think our most recent minutes should not be published. These reasons were set forth in my letter of April 14, copy attached, and in a letter of September 11, 1962, to you as Chairman of the Joint Economic Committee, the pertinent portion of which is also attached.

If the System's performance cannot be evaluated on the basis of information already supplied, it is difficult to understand what will be derived from the minutes to aid in this endeavor. You have publicly described the minutes as written in an "unknown language" and expressed doubt that you would get any information from them if you had them. You have said that when you had the 1960 minutes you "had to ask the staff to explain them, and the staff could not explain them, so we got two of the best experts in the United States, and they were going to interpret them for us and tell us what they meant" but unfortunately it "took them nearly a year." (Hearings, "The Federal Reserve System After Fifty Years," Vol. 1, p. 737.) Let us suggest that there is an easier and more effective way: tell us what you are looking for, and we will see if we cannot get you the answers more quickly than that.

We recognize that there may be interest in the procedures of the Federal Open Market Committee, that is, in the conduct of the Committee's meetings and the nature of discussions that take place in them, and for that reason we are making the minutes available to interested persons for years prior to 1961 by depositing them in the National Archives. This will serve the needs of both the Congress and students of monetary policy, without running the risk of disclosing matters sufficiently current to be damaging to the public interest.

We think that this risk is real, despite your assurance of cooperation in minimizing it. The difficulty of avoiding inadvertent disclosures is a fact of life, casting no reflection on any individual. On the one occasion when we furnished minutes to a Committee of Congress, the "translation" of them, containing lengthy quotations from them, found its way into the hands of the press. These things happen, and we think it best not to take the chance of their happening again, when we are ready to supply whatever information you seek without running this risk.

Sincerely yours,



Wm. McC. Martin, Jr.

Enclosures

Excerpt from Letter from Chairman Martin to the Honorable Wright Patman,
Chairman of the Joint Economic Committee, September 11, 1962.

MAY 8 1964

In weighing the considerations of public policy involved in your Committee's decision, it should be borne in mind that a complete record of all policy actions taken by the Federal Open Market Committee is maintained by the Board of Governors and is set out in full each year in the Board's Annual Report to Congress, as required by the Federal Reserve Act. Included in the report thus made public are: (1) a record, by name, of all votes cast by each member of the Committee in connection with the determination of open market policies; (2) summaries of the economic and financial developments and conditions taken into account in arriving at policy actions; (3) statements of the reasons underlying the actions of the Committee; and (4) statements of the reasons underlying dissents, when there are dissents.

The statute does not, of course, require publication of the minutes of meetings of the Federal Open Market Committee; indeed, it does not prescribe the form of such minutes as may be kept by the Committee. It has been the practice of the Committee, nevertheless, to maintain full, detailed, often nearly verbatim minutes of its discussions and debates prior to final determinations of policy actions. In distinction from policy actions, for which the complete record has been published as stated, the discussions covered in the minutes have never been made public by the Open Market Committee. In that respect, the Committee has followed a principle long established and universally accepted in the public service--by the Judicial and the Executive branches of the Government, and by the Committees of Congress as well, including your Committee, in respect to their own operations.

Neither the United States Supreme Court nor any other court, Federal or State, makes public any record of discussions in chambers preceding the announcement of a decision, although the courts do announce the underlying reasons therefor and the statements of dissents, if any, as does the Open Market Committee. The same privacy of pre-decision discussions extends to the jury room, for reasons that the late Mr. Justice Benjamin Cardozo of the United States Supreme Court put this way: "Freedom of debate might be stifled and independence of thought checked if jurors were made to feel that their arguments and ballots were to be freely published to the world."

The Executive Branch of the Government likewise distinguishes in respect to publication between the conversations taking place at a meeting and the decisions reached at it and--in contrast to what the Open Market Committee has done in this instance--has declined many times, from the days of President Washington down to the present, to make the records of pre-decision discussions at meetings in the White House or various

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departments or agencies available even to the Congress. As it was explained on one occasion by President Eisenhower, "It is essential to effective administration that . . . the broadest range of individual opinions and advice be available in the formulation of decisions and policy The disclosure of conversations, communications or documents embodying or concerning such opinions and advice can accordingly tend to impair or inhibit essential reporting and decision-making processes"

The Congress, itself, in the Legislative Reorganization Act, recognized the need for privacy in working sessions of Congressional Committees, by excepting "executive sessions for marking up bills or for voting" from the general requirement that committee hearings be open to the public. Indeed, the same Act provides that any committee meeting may be closed to the public upon a majority vote of the members of the committee, as in fact they sometimes are. As a matter of practice, minutes of executive sessions of Congressional Committees are not made available to the public.

Thus, throughout the public service, the principle has been widely recognized that, in the absence of anything approaching criminal conduct or malfeasance in office--and no question as to either is involved here--internal deliberations (intra-organizational advisory opinions, recommendations, tentative plans and proposals, minutes of committee meetings, oral advice, et cetera), as distinct from official actions, must, in the public interest, be held confidential for the purpose of encouraging candor on the part of officials and employees in speaking their minds freely and uninhibitedly.

The report that you have had prepared contains over one hundred quotations excerpted from the Federal Open Market Committee minutes, some of them of considerable length, plus selective but extensive accounts of conversations in literal or lightly paraphrased form. These quotations and paraphrasings are clearly inconsistent with our request, made in my letter of July 21, 1961, turning over the minutes to you, that these minutes not be disclosed "in whole or in part." Moreover, your document does not reveal a single policy action by the Open Market Committee that was not recorded in the Annual Report of the Board of Governors for 1960, along with the economic circumstances of the action, the votes of the Committee members, and the underlying reasons why the action was taken.