

Dear Mr. Patman:

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, in accordance with provisions of 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.

In addition to this complete record of all policy ~~xx~~ actions, the Board maintains unusually full, detailed, almost verbatim minutes of the discussions and debates of the Committee in executive session prior to final determinations of policy actions. These discussions and debates do not constitute actions and the minutes of them are not, and never have been, made public by the Open Market Committee in accordance with a principle long established and long recognized in the public service -- by the Executive and the Judicial branches of the Government, and by the Committees of Congress as well, including your Committee, in respect to their own operations.

That principle has been stated many times by many eminent Americans whose devotion to the public interest is beyond question.

By a great jurist who served on the United States Supreme Court. Mr. Justice Benjamin Cardozo, in a defense of the privacy required in jury room discussions preceding the recording of jury verdicts -- a defense equally applicable in other areas -- said this: "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. "

By a President of the United States. President Eisenhower, in a letter to then Secretary of Defense Charles E. Wilson on May 17, 1954, in connection with questions raised during the so-called "Army-McCarthy" hearings, said this: "...It is essential to efficient and effective administration that employees (of the Executive Branch) be in a position to be completely candid in advising with each other on official matters, and ..it is not in the public interest that any of their conversations or communications, or any documents or reproductions concerning such advice, be disclosed." And, elaborating at a press conference on July 6, 1955, President Eisenhower added this: "If anybody in an official position of this Government does anything which is an official act, and submits it either in the form of recommendation or anything else, that is properly a matter for investigation if Congress so chooses, provided the national security is not involved. But when it comes to the conversations that take place between any responsible officials and his advisers

or exchange of little, mere little slips of this or that, expressing personal opinions on the most confidential basis, those are not subject to investigation by anybody; and if they are, will wreck the Government. There is no business that could be run if there would be exposed every single thought that an adviser might have, because in the process of reaching an agreed position, there are many, many conflicting opinions to be brought together. And if any commander is going to get the free, unprejudiced opinions of his subordinates, he had better protect what they have to say to him on a confidential basis."

Many others, far too numerous for citation here, have held similarly that, and in the absence of anything approaching criminal conduct or malfeasance in office -- and no question as to either can possibly be raised by the minutes of the Open Market Committee -- internal deliberations (intra-organizational advisory opinions, recommendations, tentative plans and proposals, minutes of committee meetings, oral advice, etc.), 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, and without fear of intimidation by others, then or thereafter.

A question involving the principle thus stated now arises from these circumstances:

On June 14, 1961, by letter, you requested among other things -- all of which were furnished to you -- "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. "

On July 21, 1961, the Federal Open Market Committee in good faith furnished you the full minutes of ~~the~~ its meetings in 1960, with a covering letter from me that said in pertinent part:

"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. . . 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 the 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 actions 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.

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"(c) The minutes contain/full account of ~~the~~ 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 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 actions 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 discussions 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 exchange 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."

Now, under a covering letter dated August 14, 1962, you have furnished us, for the first time, a copy of a 74-page document already in printed page-proof form and inscribed "Joint Committee Print," and you quote a resolution adopted by your Committee to the effect that this print be submitted to the Chairman of the Board of Governors of the Federal Reserve System "with the request that he allow" your Committee "to make it public."

At this first opportunity, the meeting of the Open Market Committee held today, I have placed this matter before the Committee, as I told you I would in my letter of August 16 acknowledging the communication and document received from you, so that you might have a reply as promptly as it is possible to make it.

The time for attention to the document itself has been, as you are aware, severely limited. Even so, it seems clear merely from a single reading that:

1. Not a single action on monetary policy or on operating policies or procedures is shown in your document that was not faithfully recorded in the Annual Report of the Board of Governors for 1960, along with the votes of members of the Open Market Committee thereon, in the economic context of the time, with the underlying reasons for the action stated.
2. Nothing in the slightest way suggestive of criminal conduct or malfeasance in office on the part of any member of the Committee's staff is indicated in your document, as indeed it would have been impossible for that document to indicate in veracity.
3. What is immediately apparent, on the other hand, is that what your letter describes as "a condensed report" by the two economists you assigned to this project describing "issues...and conclusions" at each Open Market Committee meeting "in their own words" does, in true fact, contain scores and scores of ^{selected} direct quotations from the minutes, some of them of considerable length, plus selective but extensive accounts of

conversations in literal or lightly paraphrased form, plus some observations, comments and conclusions of the authors themselves.

Thus your document constitutes a form of eavesdropping on internal discussions prior to actions long since made public by the Committee, and what you now propose to do is to give that eavesdropping amplification by the broadcast of universal publication.

That your Committee has the power to do so is unquestioned by us. The question is one you will have to judge for yourselves, according to your own conscience and sense of propriety and of the public interest. The Open Market Committee has neither the means nor the wish to restrict your Committee, and it has never had ~~with~~ either; it cannot "allow" or disallow ~~for~~ anything your Committee wishes to do.

Yet the Open Market Committee would like to make it clear that, except in making available to your Committee the full minutes of its meetings in 1960, it bears no responsibility for the document you have had prepared, nor would it bear any responsibility for its further publication.

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, and you still have them.

What is in question is whether there shall be broadcast via publication not the actions of a statutory body--which already have been made public, and for which the members of that body now accept and always have accepted total responsibility--but the discussions and debates preceding that action, even though no charge of wrongdoing or of concealment of action, of votes

thereon or reasons therefore, has been charged or would be warranted.

The question has applications affecting the Executive and Judicial branches of the Government, other governmental agencies, and the Committees of Congress, including your Committee, for it is commonplace in all of these to have executive meetings without opening to public gaze the internal discussions, where no wrongdoing has been done or charged.

It seems to us that, to publicize to the world discussions and conversations in any of these meetings -- so long as no wrongdoing is ~~xxx~~ involved--might well raise throughout the Government and the nation, over private meetings and conversations far beyond the confines of the Federal Reserve, a spectre from which American life has hitherto been free -- apprehension that "Big Brother may be watching you" -- and thus do public mischief rather than public good.

The Open Market Committee is absolute in its confidence that it has no cause for shame for anything said at its meetings, and absolute in its recognition that the question of whether your document's selected excerpts therefrom are to be published is solely one for your Committee to judge.

Nevertheless, for the reasons given, the Open Market Committee continues to feel the public interest would be injured rather than helped by broadside publication of the internal discussions preceding its actions. Therefore it repeats this request in its letter of July 21, 1961, transmitting its minutes to your Committee, that you hold their contents in confidence.

Sincerely yours,