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

June 17, 1975

The Honorable Abraham Ribicoff
Chairman
Committee on Government Operations
United States Senate
Washington, D. C. 20510

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Dear Mr. Chairman:

On May 12 the Subcommittee on Federal Spending Practices, Efficiency and Open Government voted to report to the full Government Operations Committee S. 5, the "Government in the Sunshine Act." Title II of this bill, designated Committee Print No. 2, generally requires that meetings of Federal agencies headed by more than one person be open to the public. After a careful consideration of the provisions of Title II, I have come to the conclusion that its enactment would seriously interfere with, perhaps even frustrate, achievement of the Federal Reserve's statutory functions. The Board's principal responsibilities, I am convinced, could not be met if this bill were enacted.

The problems that would be created for the Board by S. 5 stem from the Federal Reserve's role as the Nation's central bank and monetary authority. Effective exercise of the responsibilities assigned to the Federal Reserve by the Congress is essential to the strength and vitality of the U. S. economy. These responsibilities include: (1) maintaining the soundness of the national currency; (2) providing for the expansion of money and credit supplies that are needed to promote economic growth, full use of human and capital resources, a stable general price level, and equilibrium in the balance of payments; and (3) assuring the soundness of the commercial banking system, preserving order in domestic and international financial markets, and promoting developments in financial markets that contribute to an efficient use of resources.

In discharging these heavy responsibilities, the Board meets regularly to discuss conditions in the domestic economy and in international markets, and to consider the effects of monetary policy actions in these areas. These discussions inevitably involve highly sensitive materials relating to businesses, financial institutions, and foreign central banks and governments.

Burns opposes requiring Federal Reserve meetings to be held ~~in~~ in public.
Nothing of particular interest.

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For example, the Board must at all times be informed of financial difficulties faced by individual banks or other institutions. This requires access to information which, if it became public, might injure the reputation or financial position of some businesses. Again, actions by the Board in the conduct of monetary policy often require coordination with the Executive Branch and with foreign central banks on matters of great sensitivity. Public disclosure of such information could be a source of needless embarrassment to other governments as well as our own.

The functions of monetary policy cannot be performed effectively in an open forum, as is evidenced by the fact that there is no precedent among the world's central banks for operation under constraints such as would be imposed by S. 5.

The bill appears to have two aims, neither of which has any relevance to a central bank. One aim, growing out of the evolution of this legislation at the local and State level, is to provide access for the press and public to meetings where decisions are to be made on contracting for expenditure of public funds. In this regard, it is an anti-corruption proposal. The mere thought that an anti-corruption bill need apply to the Federal Reserve would cast doubt on the integrity of our Nation's central bank and would undermine confidence in the dollar and the future of our economy.

The second aim of the legislation appears to be to improve decision-making by exposing the deliberative process in agencies headed by more than one individual. Open meetings may be healthy for the business of a county board of supervisors, a local board of education, or even for certain Federal regulatory agencies. But such governmental functions are not analogous to the workings of a central banking agency such as the Board of Governors whose deliberations frequently involve highly sensitive financial and economic information. It would be just as logical to require open meetings of the President's Cabinet, or meetings of the Secretary of State with his top aides, or of the Secretary of the Treasury with foreign finance ministers. Fortunately, the bill does not reach this absurd result. By including the Federal Reserve within the definition of an agency, however, the bill seems to assume that the functions of the Board are similar to the administrative tasks of regulatory agencies charged with, say, setting interstate freight rates or work safety standards. This ignores the unique role of a central bank in a nation's economy and could do serious, perhaps irreparable, damage to our financial system.

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The Subcommittee's bill, it is true, does allow for exemptions which would permit many Board meetings to be closed. But it seems totally inconsistent first to include the Nation's central bank within the scope of the bill's coverage and then to proceed by narrow, individual exemptions to permit various meetings--but far from all--to be closed. I would submit that no public interest is served by such an exercise; in fact, the closing of many meetings under a public access statute could well create questions in the minds of some members of the public as to the motives of the Board of Governors, even though we were proceeding meticulously within the bounds of the law.

Moreover, the closed meeting procedures themselves present an almost insuperable administrative hurdle. Briefly, these procedures (described more fully in the enclosed memorandum) require that a separate vote be taken each time a meeting or portion of a meeting is to be closed. Even preliminary meetings require an official vote for closure. A record of such votes must be made public within one day. The subject matter of all meetings with limited exceptions, whether open or closed, must be announced at least one week in advance. A full written explanation, with certain exceptions, must be issued as to why any meeting is to be closed. Prospective attendees must be identified and listed, together with their affiliations. A transcript or recording must be made of every closed meeting and retained by the agency for at least two years. Such transcripts or recordings must also be furnished to any person requesting them. Any portion of such recordings or transcripts that is determined by an agency to be exempt from public disclosure apparently requires a recorded vote evidencing such determination.

In my judgment, the complexity of these procedural requirements is totally incompatible with the effective accomplishment of the Board's responsibilities which often require quick and decisive action. In sum, I see no alternative to a complete exclusion from the bill's provisions for the Federal Reserve's central banking and bank regulatory functions. These include the formulation and implementation of monetary policy, discussions and decisions relating to its role as lender of last resort, bank and bank holding company supervision, internal administrative and budgetary decisions necessary to carry out these functions (including the Board's oversight responsibilities with respect to the operations of the Federal Reserve Banks), and related legislative matters.

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It may, of course, be claimed that certain of the Board's responsibilities in the area of consumer protection--Truth in Lending, Fair Credit Billing, Equal Credit Opportunity, unfair trade practices, and the like--could come under the ambit of this legislation without invoking the kind of adverse consequences I have outlined for the central banking functions. My mind is open on this question, and the Committee may wish to consider whether the consumer functions might be appropriately included.

I hope that these comments will be helpful to you and the Committee in the further consideration of this legislation.

Sincerely yours,

Arthur F. Burns

Enclosure

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