

# **THE FEDERAL RESERVE'S 17-YEAR SECRET**

**WITH EXAMPLES OF  
FEDERAL OPEN MARKET COMMITTEE  
TRANSCRIPTS**

**PREPARED BY THE STAFF  
OF THE  
COMMITTEE ON BANKING, FINANCE  
AND URBAN AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES  
Henry B. Gonzalez, Chairman**

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## Summary

The Federal Reserve has, without legitimate purpose, perpetrated and maintained for seventeen years an effort to conceal from the public and the Congress transcripts of its Federal Open Market Committee Meetings. This effort continued at the October 19, 1993 House Banking Committee hearing where the Federal Reserve attempted to mislead the Congress about a 17-year inventory of transcripts. A reading of three years' worth of transcripts recently released from the papers of former Federal Reserve Chairman Arthur Burns clearly indicates that the public release of FOMC transcripts will certainly not harm the public interest. Instead, release of the transcripts enhances the public's ability to understand how their government makes some of the major decisions which affect their everyday lives. The Federal Reserve has an obligation to continue its practice of recording and transcribing FOMC meetings, and then make the transcripts available to the public soon thereafter.

## Introduction

On May 18, 1976, the Federal Open Market Committee (FOMC)<sup>1</sup>, of the Federal Reserve voted to discontinue its policy of releasing to the public a detailed Memorandum of Discussion of its meetings.

This was a very controversial decision since those memoranda were highly valuable as the public's only means of attempting to discern how and why our nation's central bank established a course of monetary policy. Since that time, the Federal Reserve has issued a "policy directive," released six weeks after each meeting, which is only a summary of the meeting and does not indicate the individual FOMC members' policy positions. The policy directive is vague, useless and a poor substitute.

In order to restore the public's ability to understand the monetary policy rationale of the FOMC, on January 5, 1993, Rep. Henry B. Gonzalez (D-Texas), Chairman of the House Committee on Banking, Finance and Urban Affairs, introduced HR 28, the "Federal Reserve System Accountability Act of 1993." HR 28 would, among other reforms, require the FOMC to prepare a verbatim transcript of its meetings for release to the public within 60 days of the meeting. The FOMC, which jealously guards itself against outside observation or scrutiny, is actively resisting this proposal.

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<sup>1</sup> The FOMC is the policy arm of the Federal Reserve and consists of the board of Governors of the Federal Reserve and the presidents of the 12 Federal Reserve Banks (four of whom are voting members on a rotating basis, while the New York Federal Reserve Bank is always on the FOMC).

In the course of conducting hearings on this legislation, the House Banking Committee uncovered one of the best-kept secrets in Washington: Despite years of denials, the FOMC has, in fact, recorded and transcribed in complete detail, every meeting since 1976.

The Banking Committee has conducted an investigation into the circumstances surrounding the activities of the FOMC with regard to the transcripts. The investigation involved surveys of all members of the FOMC and the review of many documents, including three years of recently unearthed transcripts of FOMC meetings.

This report provides evidence that Federal Reserve officials planned to deceive and mislead the Congress in their testimony at the October 19, 1993 House Banking Committee hearing in regard to the inventory of transcripts at the Federal Reserve and that the officials carried out their plan at the hearing. Several of the Federal Reserve witnesses later specifically admitted in letters to Chairman Gonzalez that they knew their submitted testimony was not complete. For example, Silas Keehn, President of the Federal Reserve Bank of Chicago said in his letter to Chairman Gonzalez on November 8, 1993:

"At the time of the October 15 conference call, I expressed concern about the possibility that my testimony as then drafted might be viewed as inaccurate and that therefore, as noted above, I would have to amend the text of my testimony to reflect the statement that Chairman Greenspan would make in his October 19 testimony. Others expressed similar views but I am unable to recall who did so or their comments in any detail."

(President Keehn's statements were reviewed by the Banking Committee staff when they listened to the tape recordings of this conference call, as noted below.) However, President Keehn did not change his written testimony and did not offer corrections to his oral testimony. Additionally, after Chairman Greenspan failed to inform the Congress about the existence of a 17-year inventory of FOMC meeting transcripts in his October 19, 1993 testimony, and along with the other Federal Reserve witnesses, did not correct this omission in answers to specific questions regarding FOMC meeting records.

This report describes the events leading up to the decision of the FOMC to discontinue issuing a Memorandum of Discussion and the actions taken to conceal for 17 years, the existence of the transcripts of the FOMC.

Also, this report illustrates now, more than ever, the urgent need to instill democratic values into the Federal Reserve System by enacting the reforms contained in HR 28.

## **Background**

On October 15, 1993, four days before the members of the Federal Open Market

Committee were to appear before the Committee on Banking, Finance and Urban Affairs to testify about the record-keeping practices of the FOMC, the FOMC members participated in a conference call with Federal Reserve Chairman Alan Greenspan, at his behest. On January 13, 1994, House Banking Committee staff went to Federal Reserve headquarters in Washington, D.C. to listen to a tape of this conference call. Some surprising things happened during the call. Several FOMC members learned for the first time that their words were being taped and then carefully transcribed after each FOMC meeting. Even more surprising was the acknowledgement by Chairman Greenspan that transcripts dating back to 1976 are being kept on file at the Federal Reserve's headquarters.

Despite this revelation, the fact that 17 years' worth of transcripts exist was never mentioned when Chairman Greenspan, speaking for the rest of the FOMC members, testified before the House Banking Committee on October 19, 1993.

After numerous inquiries by House Banking Committee Chairman Henry B. Gonzalez (D-Texas), to Federal Reserve officials, Federal Reserve Chairman Greenspan finally admitted in an October 26, 1993 letter to Chairman Gonzalez that transcripts exist dating back to 1976. Chairman Greenspan said he did not remember when he learned of the 17-year inventory of FOMC meeting transcripts, "until a staff member jogged my memory in the last few days." When Chairman Greenspan did learn of the transcripts several years before, he said he "gave the matter of these procedures [retaining old unedited FOMC transcripts] no further thought until recently."

The fact that former Federal Reserve Chairman Arthur Burns donated the complete transcripts of FOMC meetings that took place during his tenure to the Gerald R. Ford Presidential Library indicates the great importance he placed on keeping these records. Although in 1977 Chairman Burns publicly stated that the FOMC would stop taking minutes of its meetings, the truth is that he continued the taping and transcribing of the meetings. This policy has been continued by his successors.

It seems hard to believe that Chairman Greenspan did not know the great importance that was attached to the inventory of FOMC transcriptions when he was told of their existence. As early as 1975, Chairman Greenspan, in his role as Chairman of the Council of Economic Advisors in the Ford Administration, learned of the importance of transcriptions of FOMC meetings from Federal Reserve Chairman Burns. An official report (described below) of a June 16, 1975 meeting of the Executive Committee of the Economic Policy Board of the Ford Administration indicates that CEA Chairman Greenspan was in attendance. The record reveals that at that meeting Chairman Burns discussed the Federal Reserve's specific points of opposition to the Government in the Sunshine Act. A central concern of Chairman Burns was the provisions relating to transcriptions of FOMC meetings.

The Federal Reserve was able to keep secret from the public, the Congress, and evidently, from many of its own officials, an inventory of transcripts of FOMC meetings.

Once the Banking Committee learned of the existence of the transcripts, it demanded their release to the Committee and to the public. After much stonewalling, the Federal Reserve has offered to begin issuing transcripts edited by its own staff with a five-year lag. The Federal Reserve said it would begin issuing transcripts it has edited for 1988 FOMC meetings in early 1994 and then slowly over a number of years issue additional edited transcripts back to 1976.

The Banking Committee finds this wholly unacceptable for two reasons. First, the Committee wants all the transcripts issued immediately and second, the Committee is highly suspect of the Federal Reserve's editing of its own transcripts.

The Banking Committee compared the editing techniques of the Federal Reserve with those of the archivists at the Gerald R. Ford Presidential Library in Ann Arbor, Michigan. The Gerald Ford Library is overseen by the Office of Presidential Libraries, a division of the National Archives and Records Administrations, located in Washington D.C. The Banking Committee recently examined the December 22, 1992 FOMC meeting transcript, obtained by a media outlet under a Freedom of Information Act (FOIA) request. Upon inspecting the edited transcript obtained under the FOIA, the Banking Committee agrees with the American Banker newspaper statement that the 84-page transcript was so heavily redacted by the Federal Reserve that the document was "mostly blank," and concluded "it's hard to imagine the Fed can justify the extent of editing in the transcript released to this paper."

This was not the case with the approximately 3,000 pages of 1976-1978 FOMC meeting transcripts obtained from the Gerald Ford Library and examined by Banking Committee staff. What is particularly striking is that while the Federal Reserve professes to apply an editing standard similar to the archivists, the product of the archivists contains relatively few deletions compared to the Federal Reserve which leaves relatively few words. These three years of transcripts are now available for public inspection.

Upon reading the transcripts, the Banking Committee discovered that the Federal Reserve not only has a policy of redacting transcripts given out under FOIA requests, but it attempts to skew the information in the directives issued after each FOMC meeting. For example, in 1976, the Federal Reserve made a decision not to release complete minutes of its FOMC meetings, even with a five-year lag, which had been its policy up until that time. The Federal Reserve instead decided to release a "summary" of its meetings. But in reality, they were "padding" the summary with boilerplate materials about the economy. Concerned that someone might notice, then Federal Reserve Chairman Arthur Burns ordered his staff to add pages to the summary to look like there were substantial discussions taking place. His exact instructions noted below were that he did not want anything that remotely resembled "padded" minutes, but he directed his staff to "produce several additional pages."

A reading of the transcripts revealed that the FOMC members and staff discussed what should or should not be included in the Memorandum of Discussion (detailed minutes

in paraphrased form) which had been made available to the public up to 1976. A communication from Joseph Coyne, Assistant to the Board, to Chairman Arthur Burns, describing material that the FOMC should consider withholding is included in this report.

The Banking Committee held hearings on HR 28 on October 7, 13, 19 and 27, 1993. The October 19 hearing focused on the issue of maintaining a record of FOMC meetings. Both Federal Reserve Governors and Bank Presidents testified that day: Chairman Alan Greenspan, Governors Wayne D. Angell, Edward W. Kelley, Jr., John P. LaWare, Lawrence B. Lindsey, David W. Mullins, and Susan M. Phillips; Federal Reserve Presidents Edward G. Boehne (Philadelphia), J. Alfred Broaddus, Jr. (Richmond), Thomas M. Hoenig (Kansas City), Jerry L. Jordan (Cleveland), Silas Keehn (Chicago), Robert D. McTeer, Jr. (Dallas), William J. McDonough (New York), Thomas C. Melzer (St. Louis), Robert T. Parry (San Francisco), Gary H. Stern (Minneapolis), and Richard F. Syron (Boston).

**This report discusses the following events:**

- 1976:** Describes FOMC discussions of transcripts, Government in Sunshine Laws, editing of 1976 FOMC transcripts and the FOMC's decision to end issuing detailed paraphrased minutes of their meetings in 1976.
- 1992-93:** Describes communications between the Banking Committee and Federal Reserve officials at the end of 1992 and the beginning of 1993, which focused on the necessity of a verbatim record of FOMC meetings.
- 10/15/93:** Discusses the Federal Reserve meetings where preparations were made for the October 19, 1993 hearing before the Banking Committee on the subject of records and notes of FOMC meetings, including written and oral testimony of Federal Reserve witnesses.
- 10/19/93:** Describes the testimony of the FOMC members before the House Banking Committee, the omissions from their testimony and the subsequent revelations from correspondence with Chairman Gonzalez.
- 10/27/93:** Describes subsequent testimony of Federal Reserve Vice Chairman William J. McDonough at a House Banking Committee hearing on October 27, 1993.
- 1993-94:** Details the subsequent actions by the Banking Committee in investigating the misleading testimony which led to the October 26, 1993 admission of Chairman Greenspan.

## **FOMC Transcripts During the Burns Chairmanship**

The Gerald R. Ford Library, 1000 Beal Avenue, Ann Arbor, Michigan, received Federal Reserve communications and FOMC transcripts from the late Arthur Burns. Arthur Burns died on August 26, 1987 after a very distinguished career as a staff member and director of the National Bureau of Economic Research (1930-68), professor at Columbia University (1944-69), Chairman of the Council of Economic Advisors (1953-56), Counselor to President Nixon (1969-70), Chairman of the Board of Governors and the Federal Open Market Committee of the Federal Reserve System (1970-1978), and U.S. Ambassador to West Germany (1981-85). The inventory of the documents during Chairman Burns' tenure as Federal Reserve Chairman obtained by the Banking Committee is included in Appendix III.

Far from being records that would impair monetary policy, as Federal Reserve officials have insisted, the FOMC transcripts from the Gerald Ford Library illuminate critical issues that are important to those who wish to discover how the views of individual members of the FOMC and their staff determine the nation's monetary policy. For example, the discussions involving whether the central bank should adhere to targets of bank reserves or the money supply versus targeting interest rates is an interesting discovery of different individual's views in the transcripts which were never adequately revealed to the public. For the first time, the nation has a fairly complete record of monetary policy discussions for this period by those who determined the country's monetary policy.

The collection of Federal Reserve material at the Gerald Ford Library contains many documents that will not only be interesting to economic historians, but they also have relevance today. For example, part of the "Federal Reserve System Accountability Act of 1993," HR 28, submitted by Chairman Gonzalez, provides for Senate confirmation of the 12 Federal Reserve Bank presidents. Chairman Gonzalez submitted a similar proposal in the 1970s as an amendment to a Federal Reserve bill. Joseph Coyne, who is still a senior official at the Federal Reserve, and was Assistant to the Board of Governors under Chairman Arthur Burns, and Arthur L. Broida, Secretary of the FOMC under Chairman Burns, took a poll of Federal Reserve presidents and then sent the results to Chairman Burns in a memorandum dated September 30, 1975:

"Each president was asked the following questions: At the time you were asked to consider the position of president of your Reserve Bank--if the law had required Senate confirmation of your appointment, would your interest have been: a. Greater, b. Less, c. No different from what it actually was, d. Not sure [...]

"Six presidents (Morris, Volcker, Eastburn, Winn, and MacLaury) said their interest in the post of president would have been no different if Senate confirmation had been required at the time of their appointment.

**"Four presidents (Black, Kimbrel, Baughman, and Balles) said their interest would have been less.**

**"One president (Clay) said he would have had no interest while another (Mayo) said his interest would have been no different if confirmation were required only initially but would have been less if confirmation were required every five years."**

### **Threats to the Federal Reserve Tradition of Secrecy Under Government in the Sunshine Act and the Freedom of Information Act**

In 1976, when Arthur Burns was Chairman of the Board of Governors and the Federal Open Market Committee, the Federal Reserve was faced with two threats to its secrecy. One was the Government in Sunshine legislation which called for prompt public disclosure of government meetings and was being considered by the Congress. The other was a lawsuit by David R. Merrill, a law student at Georgetown University. Merrill challenged the Federal Reserve's 45-day delay in releasing the domestic policy directive. Merrill charged in his suit that the delay cannot be equated with promptness. The Federal District Court agreed with Merrill and found the Federal Reserve in violation of the Freedom of Information Act. The Federal Reserve appealed and the U.S. Circuit Court of Appeals upheld the lower court on the legal basis that use of exemption 5 of the FOIA by the Federal Reserve was invalid. The Federal Reserve appealed to the Supreme Court which accepted the FOMC's assertions and remanded the case back to District Court. The Supreme Court ruled that the Directives contained confidential information but the Supreme Court did not find that immediate release would harm monetary policies or commercial interests. It left it up to the District Court to ascertain the impact of immediate release.

David Merrill, the plaintiff, had been represented by public interest lawyers, a Georgetown University professor, Victor H. Kramer, and assisted by Douglas L. Parker. Mr. Kramer left the area to take another position and withdrew, and Parker litigated the action in the District Court. Using affidavits from the FOMC, the District Court issued a summary judgement that "current release of the Directive would cause harm to the government's monetary and commercial interests." At that point Merrill and his lawyer, Douglas L. Parker, decided not to pursue an appeal.

They had shown that FOIA was applicable to the Federal Reserve. There would have undoubtedly been more FOIA requests and cases if the public knew the Federal Reserve had maintained FOMC transcripts. As a result, the transcripts of the FOMC meetings in 1976 show the FOMC to be somewhat frantic about their vulnerability to both FOIA requests and the proposed "Government in the Sunshine Act". The Federal Reserve considered several options. One defense would be to announce that no more detailed minutes were going to be prepared so that there was nothing to seek in a FOIA request, even though they knew there were secret FOMC transcripts. Another was to pad the

"minutes" so that it looked like more than the severely incomplete record that it was. Still another response was to organize a lobbying effort using the banks it regulates to lobby against the "Government in the Sunshine Act" and against laws authorizing the General Accounting Office (GAO) to audit the Federal Reserve.

Rep. Henry Reuss (D-Wisconsin), Chairman of the House Banking Committee in 1975-1981, discussed this lobbying campaign during a speech to the U.S. House of Representatives ("What the Secret Minutes of the Federal Reserve Banks Meetings Disclose," Congressional Record-House, May 24, 1977, p. 16236). According to Reuss, the Board of Directors' minutes of the Chicago Federal Reserve Bank meeting of December 11, 1975 indicate that the president of their bank, Robert Mayo, said:

"While such a transcript would be subject to court subpoena, even more critical to the system would be the scrutiny of the Congress." (emphasis added in the Congressional Record)

What President Mayo may not have told his directors is that the FOMC meetings were currently being taped and transcribed, and used to prepare the Memorandum of Discussion. At the April 20, 1976 executive meeting of the FOMC, the following exchange occurred between President Mayo and Thomas J. O'Connell, the Federal Reserve's General Counsel<sup>2</sup>:

"Mayo Now what this adds up to Tom is that if we get Government in the Sunshine we have an even more elaborate procedure because of the tape requirement than the memorandum of discussion is now. Is that a fair statement?

TJOC Well, I'd certainly say in terms of preparing the transcript, that is the tape for publications, you are subjecting the Committee to what the Chairman has quite accurately described has been the burden of the staff and the Chairman with respect to the memorandum of discussion"

Later in the discussion (p. 19) Arthur L. Broida said:

"Art Well, we do of course, tape, we transcribe these meetings preparing the memorandum of discussion."

This exchange indicates that FOMC members knew that these meetings were tape-recorded and a transcription was used in the preparation of the Memorandum of Discussion.

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<sup>2</sup> FOMC transcripts of 4/20/76, Tape 8, p. 14. The "Memorandum of Discussion" is the paraphrased transcript that the Federal Reserve stopped releasing in 1976.

## Alan Greenspan as Chairman of the Council of Economic Advisors

Federal Reserve Chairman Greenspan said in his October 26, 1993 letter to Chairman Gonzalez that he did not remember when he learned of the 17-year inventory of FOMC meeting transcripts, "until a staff member jogged my memory in the last few days." When Chairman Greenspan did learn of the transcripts several years before, he said he "gave the matter of these procedures [retaining old unedited FOMC transcripts] no further thought until recently."

However, according to documents obtained by the Banking Committee, Alan Greenspan, when he was Chairman of the Council of Economic Advisors in 1975, was among 16 people attending a meeting where Federal Reserve Chairman Arthur Burns spoke to the Executive Committee of the Economic Policy Board, the top-level economic policy board in the Ford Administration.<sup>3</sup>

At this June 15, 1975 meeting, Chairman Burns discussed the impact of the proposed "Government in the Sunshine Act,"<sup>4</sup> on the Federal Reserve and indicated the Federal Reserve's opposition to this Act. It was decided that the Office of Management and Budget (OMB) "will work with Chairman Burns to ensure that the Administration's views on the legislation are rapidly communicated to the Hill." At this time, the Congress was considering passing the "Government in the Sunshine Act".

At the meeting, all attendees including Alan Greenspan were informed about the existence of and importance to the Federal Reserve of the verbatim transcripts of its FOMC meetings. Furthermore, by an executive order of President Ford on June 15, 1975, Federal Reserve Chairman Arthur Burns was invited to attend all meetings of the Executive Committee of the Economic Policy Board. Federal Reserve Chairman Burns would have had ample time to apprise CEA Chairman Greenspan of the importance of FOMC transcripts at the meetings, a matter that was discussed by Chairman Burns over several years of FOMC meetings. In addition, letters in the collection at the Gerald Ford Library indicate Federal Reserve Chairman Burns and CEA Chairman Greenspan communicated a number of times on the impact of the "Government in the Sunshine Act" on the FOMC.

The Banking Committee has also received a May 21, 1975 memorandum written by Don Winn, then Special Assistant to the Board of Governors, to Chairman Burns that contains the following handwritten note on the first page: "Copy sent to Alan Greenspan 6/[?]/75." This memorandum details the proposed "Government in the Sunshine Act" as it

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<sup>3</sup> Minutes of the Executive Committee Meeting of the Economic Policy Board were obtained from the Gerald Ford Presidential Library, L. William Siedman Files, EPB Meeting Minutes, June 14-19, 1975, Box 22.

<sup>4</sup> The Government in the Sunshine Act requires all government agencies to release minutes of their meetings to the public.

applies to the Board of Governors and to any transcripts or other records of the FOMC. It is clear from this memorandum that the Federal Reserve was very concerned about the subject of transcripts of their meetings.

Information contained in these early documents and transcripts indicates that Alan Greenspan collaborated with Arthur Burns to conceal the existence of transcripts, out of fear that knowledge of their existence would prompt numerous requests from the Congress, the press and the public for access to the documents. This is something the Federal Reserve is still seeking to avoid.

Also, Don Winn, as current Assistant to the Board and Chief Congressional Liaison for the Federal Reserve, meets frequently with Chairman Greenspan and briefs him on many issues related to the Congress. He participated in the October 15, 1993 FOMC conference call where preparations for the testimony on the subject of FOMC records were discussed. Don Winn's memorandum and his experience in the 1970s on the Federal Reserve liaison staff indicates he, too, participated in the effort to conceal the existence of transcripts.

### **Ending and Editing the Memorandum of Discussion and Padding the New "Minutes"**

At the April 20, 1976 meeting of the FOMC, Chairman Arthur Burns spoke about ending the Memorandum of Discussion (MOD) and substituting a policy directive released five or six weeks after each FOMC meeting in an exchange with David P. Eastburn, then president of the Federal Reserve Bank of Philadelphia.<sup>5</sup>

Eastburn The reason I asked that question was it seemed to me we incur certain costs in cutting out the memorandum of discussion in terms of implications to others on the outside that we're being more secretive if you want to put it that way, that this is a devious way to get around the law." (the "Government in the Sunshine Act")

Burns "That depends how we present it. Now I would want to present this, I would want to make a virtue of this, and never mind how we arrived at it. We were not seeking virtue for the sake of virtue, I'm not going to argue that but if you let us say we decide to drop the memorandum of discussion, all right than we're doing away with an instrument of secrecy retained in the Archives for a period of 5 years. We have a policy record and that policy record is now going to be very much fuller than it was, so the public will be informed promptly and much more fully, that's another virtue."

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<sup>5</sup> FOMC transcripts of 4/20/76, Tape 8, p. 18.

Today there are legitimate criticisms of the "minutes" of FOMC meetings that the Federal Reserve issues five or six weeks after each FOMC meeting. Chairman Burns addressed these criticisms in an FOMC meeting on May 18, 1976. He tried to answer the criticism that the directive contains a rehash of economic conditions rather than real minutes. Chairman Burns also reacted adversely to the skimpy nature of the sample summary he had been shown.<sup>6</sup>

Burns "We're describing this document as an expanded policy record. We're providing more information than in the past. And that is partly the justification for eliminating the memorandum of discussion. Now on the basis of this concept the document should be longer, you see, must be longer, and this is a formal consideration that cannot be neglected and we need some additional pages. Now as for the information that is contained about the economy, well, I think you credit individuals who follow the Federal Reserve with more knowledge than I think many of them really have. I think it's a useful summary. Those who feel it merely repeats that which they already know will have no difficulty skipping paragraphs or pages. [...] Now when this document was first shown to me, it was hardly longer, or just about a page or two longer--2 pages longer than a policy record was in the past. And I told members of the staff, well that will not do. I'm not going to tell you how to add additional pages, and I'm certainly not going to say that we would do anything that remotely resembles padded, but produce several additional pages." (emphasis added)

At their May 18, 1976 FOMC meeting, the FOMC members voted to discontinue preparing the MOD. The MOD provided a detailed record of FOMC meetings with attribution of remarks in paraphrased form to individual FOMC participants. The directive issued by the Federal Reserve for this meeting said:

"At this meeting the Committee approved a motion that the memorandum of discussion be discontinued after the memorandum for the meeting of March 15-16, 1976. [...] The memoranda of discussion are detailed accounts of the proceedings of meetings of the Committee, which have been available to the public 5 years after the end of the year to which they apply. The decision to discontinue these memoranda reflected the Committee's judgement that the benefits derived from them did not justify their relatively high cost [...]"

Among those voting for this measure were former Federal Reserve Chairman Arthur Burns and former Vice Chairman Paul Volcker.

Federal Reserve Chairman Burns had responded on April 18, 1975 to Rep. Wright

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<sup>6</sup> FOMC Transcripts of 5/18/76, Tape 1, pp. 7-8.

Patman (D-Texas), who was then Chairman of the House Banking Committee's Subcommittee on Domestic Monetary Policy, about the release of unedited materials from which the memoranda of discussion were prepared for the period 1971 to 1974. Chairman Burns wrote:

"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.

"[...] 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."

On November 17, 1977 (Hearing before the Subcommittee on Domestic Monetary Policy, "Maintaining and Making Public Minutes of Federal Reserve Meetings," p. 57), Chairman Burns testified:

"In the absence of express statutory protection against premature disclosure of the memorandum, we would feel compelled to object to a proposal of returning to the practice of keeping extensively detailed minutes of FOMC meetings."

Chairman Burns said the "FOMC might be compelled under the Freedom of Information Act (FOIA) to make public all or significant portions of the MOD more promptly than the specified period whether it be 3 or 5 years" as specified under the legislation then being considered. Thus his letter of April 18, 1975, indicating that records taken from tape-recordings are used only for preparing minutes, and his November 17, 1977 Congressional testimony that the Federal Reserve objects to "keeping extensively detailed minutes of FOMC meetings" helped perpetuate the secret about the existence of an inventory of transcripts of FOMC meetings.

It will be disturbing to those who have studied the MOD to discover that they may not be accurate and that officials of the Federal Reserve knew the "game" being played with the editing. At the April 20, 1976 executive session of the FOMC (in which some staff were present) members discussed what would be placed in other "memoranda" and what would be placed in the policy record. In answer to a question about whether a subject would appear in the MOD, FOMC Secretary Arthur L. Broida says:<sup>7</sup>

Broida If individual members make comments of that sort, the memorandum

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<sup>7</sup> FOMC transcripts of April 20, 1976, Tape 9, p. 8.

of discussion plays it straight."

The Federal Reserve's General Counsel Thomas J. O'Connell commented at a March 29, 1976 meeting about transcriptions' provisions of the proposed "Government in the Sunshine Act" when meetings are closed to the public:<sup>8</sup>

"If closed, what portions, all having been transcribed, what portions could be deleted, and we're then back to the same game we're now playing with the memorandum of discussion (emphasis in original)."

Thus, the Federal Reserve informed the outside world that the FOMC would no longer keep detailed records of its meetings so that there would be no document of proceedings to request under the FOIA. The Committee now knows that this statement is patently false and that verbatim transcripts have been kept continuously for 17 years.

### **Federal Reserve Officials Maintaining Their 17-Year Secret**

On October 8, 1992, Chairman Gonzalez sent a letter to each of the 12 Federal Reserve Bank presidents and the seven Federal Reserve Governors requesting their views on recording and promptly releasing complete minutes of the FOMC meetings. The 19 Federal Reserve officials were especially strident in their denunciation of Chairman Gonzalez's bill, HR 28, which mandates complete disclosure of FOMC meeting minutes. They did not want any word-for-word record of their meetings made public. None of the 19 Federal Reserve officials admitted what most now say they knew at the time--that the meetings were tape-recorded. At the time, none admitted that transcripts existed back to 1976 although several officials later said they knew about these transcripts (see Appendix IV).

Federal Reserve Governor Wayne Angell informed the Banking Committee that he knew about these transcripts for several years. St. Louis Federal Reserve President Thomas Melzer said he viewed the transcripts in 1989. Chairman Greenspan said he knew about them for two years but "gave the matter no further thought until recently" (see October 26, 1993 letter). He then told FOMC members in an October 15, 1993 conference call that he had recalled the existence of the inventory of transcripts one year previously. Then on October 26, 1993 Chairman Greenspan said a staff member "jogged his memory" so that he was able to recall that he learned of the transcripts two years before.

Governor Angell wrote the following statement to the Banking Committee on January 14, 1993:

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<sup>8</sup> FOMC transcripts of March 29, 1976, Executive Session, Tape 1, p. 18-19.

**"Even though some of us would not alter our remarks whether or not a transcript is published promptly, some members believe they or their colleagues would tend to tone down their trial advocacy of a viewpoint or to become somewhat locked in to the trial position."**

**He failed to mention his knowledge of FOMC transcripts and tape-recordings.**

**President Thomas Melzer, who later admitted, in an October 28, 1993 letter to Chairman Gonzalez, to seeing transcripts of a FOMC meeting in 1989, wrote the following to the Banking Committee on January 15, 1993: He "would be strongly opposed to any literal record of FOMC deliberations [...]" In a letter to the Banking Committee after the October 19, 1993 hearing President Melzer also admitted learning of the tape-recordings of the FOMC meetings in July 1985.**

**In his letter of December 24, 1992 to the Banking Committee, Chairman Greenspan stated his position that only a "comprehensive summary of the main points made in the course of [the FOMC] discussion" is sufficient for purposes of accountability. Chairman Greenspan also criticized "releasing at any time a literal record of FOMC deliberations -- through videotaping or other means such as word-for-word transcripts." He failed to mention the existence of tape-recordings or transcripts of FOMC meetings stored at the Board of Governors although he later admitted he knew about them at the time.**

**President Robert T. Parry of the San Francisco Federal Reserve Bank wrote to the Banking Committee on January 13, 1993:**

**"The availability of videotapes or word-for-word transcripts of meetings would inhibit the free flow of information [...]"**

**In fact, the tape-recordings and the 17-year inventory of transcripts of FOMC meetings at the Federal Reserve were already covered by the FOIA. In a letter to the Banking Committee after the October 19, 1993 hearing, President Parry admitted he knew about the existence of tape-recordings of the FOMC meetings since 1986.**

**President Silas Keehn of the Federal Reserve Bank of Chicago, who later admitted he knew about tape-recordings of the FOMC meetings, wrote to the Banking Committee on January 13, 1993:**

**"with respect to your question about producing a more detailed written record or tape of the proceedings of the FOMC meetings [...] the mere existence of such a record is the issue. [...] any change to the minutes and record-keeping process currently used by the FOMC would be ill-advised [...]"**

**President Keehn did not tell the Banking Committee about the existence of tape-recordings for any FOMC meetings and in these passages in his letter he was, in effect, informing the Banking Committee that none existed. In later correspondence to the Banking**

Committee after the October 19, 1993 hearing, he admitted he knew about tape-recordings after July 1981.

J. Alfred Broaddus, Jr., President of the Federal Reserve Bank of Richmond, who would later admit to knowing about the tape-recordings, wrote to Chairman Gonzalez about his knowledge of FOMC records on October 22, 1993:

"The only minutes or notes of which I am aware that are taken at FOMC meetings are the Records of Policy Actions of the Federal Open Market Committee. The records include the domestic policy directives, which contain the FOMC's instructions to the Federal Reserve Bank of New York."

Again in his January 13, 1993 letter he informed the Banking Committee that there were no detailed records when he wrote:

"I would oppose the preparation of a detailed record currently, however, because there are no mechanisms to prevent its premature release."

This statement conflicts with President Broaddus' knowledge of tape-recordings of FOMC meetings since 1986 which he revealed in his October 28, 1993 letter to Chairman Gonzalez. It was clearly a statement that misled the Banking Committee on the existence of verbatim records of FOMC meetings.

### **Federal Reserve Plans for Congressional Testimony**

On September 20 and 24, 1993 Chairman Gonzalez sent invitations to most of the Federal Reserve witnesses who would appear at the October 19, 1994 Banking Committee hearings. He asked each witness to present their "own independent views" on "notes or records that you are aware others have made at any FOMC meetings and the location and dispositions of any such material." In preparing for this testimony the FOMC had two conference calls. All but three of its nineteen policy-makers (seven governors and 12 Federal Reserve Bank presidents) participated in the October 15, 1993 conference call. By the time of the October 15, 1993 conference call, many of these witnesses had submitted their written testimony.

Following the October 19, 1993 Banking Committee hearing, Chairman Gonzalez sent letters to the witnesses and asked a number of specific questions about the content and preparation of their testimony. A summary of some of the replies are included in the following tables.

One Federal Reserve Bank president later wrote to Chairman Gonzalez that he and other participants in the October 15, 1993 conference call had concerns that their submitted testimony may be "viewed as inaccurate" unless it was amended to reflect information about

tape-recordings and transcripts of FOMC meetings. Silas Keehn, president of the Federal Reserve Bank of Chicago, in his letter to Chairman Gonzalez on November 8, 1993 said:

"At the time of the October 15 conference call, I expressed concern about the possibility that my testimony as then drafted might be viewed as inaccurate and that therefore, as noted above, I would have to amend the text of my testimony to reflect the statement that Chairman Greenspan would make in his October 19 testimony. Others expressed similar views but I am unable to recall who did so or their comments in any detail."

President Robert T. Parry of the Federal Reserve Bank of San Francisco expressed the same concern for misleading testimony in his letter to the Banking Committee of November 5, 1993:

"In light of the new information concerning the transcripts [revealed in the October 15, 1993 conference call] I expressed a concern that my written testimony was incomplete. In addition, to the best of my memory, another participant (I cannot recall who it was) states his written testimony included a statement to the effect that no written records existed at the Board. However, these issues were not pursued because it was understood that Chairman Greenspan would convey the information about the transcripts."

One Federal Reserve Bank president, in response to an inquiry sent November 8, 1993, supplied the Banking Committee with notes of the October 15, 1993 conference call. These notes reveal that there was a discussion of how Chairman Alan Greenspan would testify about the tape-recordings and transcripts, and how this would cover for the testimony of the other Federal Reserve witnesses, some of which had already been submitted.

On January 13, 1993 the Banking Committee staff went to Federal Reserve headquarters in Washington, D.C. to listen to a tape-recording and read a transcript of the October 15, 1993 conference call. They determined that the notes from the Federal Reserve president were generally correct. Many participants of this conference call may not have known they were being recorded. Here is a description of what the Banking Committee staff heard.

"Until 10 minutes ago I had no awareness that we had detailed transcripts," Chicago Federal Reserve President Silas Keehn.

"In the future, we have to be more forthcoming. If we keep stonewalling, we're going to be in trouble," (emphasis added) Dallas Federal Reserve President Robert D. McTeer.

"The Committee never knew they were being kept," St. Louis Federal Reserve President Thomas Melzer said in reference to the FOMC transcripts.

**"The Chairman is not highlighting these transcripts... We're not waving red flags," Secretary of the FOMC, Donald Kohn.**

**During the call, the FOMC also discussed its two primary concerns: How to withhold the transcripts under new Department of Justice laws regarding the Freedom Of Information Act (FOIA) requests and which arguments they could use to prevent the release of 17 years of FOMC transcripts.**

**The call begins with Federal Reserve Chairman Greenspan speculating on whether the existence of transcripts will be exposed at the October 19, 1993 House Banking Committee hearing.**

**"We can have some wishful thinking that it might not emerge on Tuesday (at the hearing), and there is a possibility it might not. I wouldn't bank on it, but if it doesn't happen on Tuesday, at some point it's going to become an issue."**

**Later in the call, Chairman Greenspan stated:**

**"It would be utter naivete to believe that, with this change of the Justice Department, this issue will not arise. It may not arise on Tuesday, but if we had any presumption that it's never going to arise, we're smoking something."**

**With Greenspan worried about the potential revelation that might occur at the hearing, he reflects on his previous performance before the Banking Committee on October 13, 1993:**

**"I would say the Fed-1, House-0."**

**Chairman Greenspan reflects that his excellent logic may not convince even his friends on the Banking Committee:**

**"We were on very safe ground here earlier this year, and presumed threats to the Federal Reserve System were considerably far less six to nine months ago...The basic problem that I sense--even though I gave what I thought were conclusive answers, is that I was confronted with non-rationality--(One Republican Congressman in particular) (laughter)...We can become very vulnerable if this is not handled properly. The logic of the case is on our side."**

**Federal Reserve General Counsel Virgil Mattingly says he views the chances of withholding material more than three years old as "not good." He also referred to the use of Exemption 5 of the FOIA regarding deliberative material and said of the FOMC meetings, "The bulk of the debate is not of a deliberative nature."**

**At this point, Chairman Greenspan took the opportunity to tell everyone about the**

existence of the FOMC transcripts.

"Most, if not all of you until now, or fairly recently, are aware that we have got raw, unedited transcripts going back 10 years?" (emphasis added)

It was clear at that point that not everyone had been informed. Philadelphia Federal Reserve President Edward Boehne did not know, nor did Chicago Federal Reserve President Silas Keehn. Boehne expressed his concern and said that he had been on Federal Reserve Chairman Arthur Burns' staff in 1976 when the decision was made to end the practice of making the Memorandum of Discussion of the FOMC meetings available after five years. He explained the Federal Reserve's public position at that time when the policy on publishing edited transcripts was changed:

"The meeting was being recorded and the recording was done for the purposes of what we now call the minutes. But that it would be recorded over at subsequent meetings, so that there was never any indication that there would be a permanent, written record of transcript nature."

Chairman Greenspan replied:

"I first became aware about a year or so ago--I was under the presumption that it was common knowledge."

President Robert Parry was also disturbed about his new knowledge of transcripts and said he viewed his testimony to the Banking Committee as incomplete:

"What I wanted as part of my testimony was what I clearly thought that I knew at that time." (Referring to testimony before the House Banking Committee)

General Counsel Mattingly suggests a response to Chairman Gonzalez's request for information of FOMC records and notes:

"You could say the Chairman has described the record-keeping practices of the Secretariat."

After it was established that an inventory of transcripts existed, the FOMC proceeded, with Mattingly's assistance, to discuss arguments within the confines of new Department of Justice laws regarding "Freedom of Information Act" requests.

Chairman Greenspan said:

"...Do we not object to the Congress' request--inevitably it will come--for raw transcripts? What capability, from what we've discussed so far, does this committee have in withholding those?"

Mattingly suggested that they could "show harm to prevent release." But then discounted it, saying in the past it was used "too much and used inappropriately. This would be difficult to keep confidential," he said.

Chairman Greenspan also suggested that they could argue that the "physical amount of work involved is costly and prodigious." He also suggested that they "give cost estimates," adding, "There are two types of numbers, global numbers and people numbers."

Mattingly agreed saying it "enhances our case," and is "forthcoming in some respect."

Federal Reserve Governor John LaWare agreed, "The attitude and image we project to the public would be one of cooperation."

New York Federal Reserve President William McDonough even discussed destroying the material:

"After the Memorandum of Discussion...we could destroy the material. We could give ourselves some protection of just stating the amount of work involved. We could say it's too old to be interesting. See if that would fly."

Boston Federal Reserve President Richard Syron agreed with McDonough:

"Going back maybe there will be no interest. They will find these are not interesting and hopefully we could stop doing it."

St. Louis Federal Reserve President Thomas Melzer suggested they could destroy transcripts and say that they didn't view the FOMC as an official record. He also said that the offer to prepare the Memorandum of Discussion runs the risk because "people didn't know they existed."

Chairman Greenspan then reads his prepared answer for the Banking Committee regarding the issue of transcripts:

"I have suggested to the Reserve Bank presidents that they respond to your questions regarding whatever records may be kept at their own Banks; I will cover records made by the Board staff, and, in particular, by the FOMC secretariat.

Some individual members of the Board staff take handwritten notes and retain them to help them in discharging their responsibilities. The meetings are recorded electronically by the FOMC secretariat. These audio tapes are used to assist in the preparation of the minutes that are released to the public following the subsequent meeting; thereafter, the tapes are recorded over. In the process of putting together the minutes, an unedited transcript is prepared

from the tapes, as are detailed notes on selected topics discussed in the course of the meeting. These materials generally are seen only by the staff involved in preparing the minutes, and the documents are kept under lock and key by the FOMC secretariat."

Dallas Federal Reserve President McTeer asks Chairman Greenspan if he will be speaking before the rest of them, to which Chairman Greenspan replies "yes."

At this point, President McTeer says, as indicated above, they "had better quit stonewalling."

Chairman Greenspan tells him it is "not an accurate statement" and that they "need the minutes to conduct the business of the Committee."

President McTeer asks for clarification on the status of the tapes. "The tapes have been taped over?"

Governor Lindsey says they exist.

Chairman Greenspan says they don't.

Normand R. Bernard, Deputy FOMC Secretary, says they were taped over.

Chairman Greenspan says they were erased because it is too expensive.

St. Louis Federal Reserve President Thomas Melzer says of the differing testimony:

"That's going to get a little suspicious after a while. You might be able to take everybody else off the hook, and in effect, avoid the situation..."

Chairman Greenspan says he'll handle the issue of transcripts, "I'll do it."

President McTeer then says in reference to the letter Chairman Gonzalez sent to him that the questions the Chairman asked were "awfully odd."

Donald Kohn says the Banking Committee was "fishing for leaks."

Federal Reserve Congressional Liaison Don Winn says, "I don't have any sense that they have any knowledge whatever of what we've been talking about."

Chairman Greenspan says:

"The existence of tapes and transcripts were never considered to be a part of important questions by staff. Most Board members didn't know about it."

**Never considered it important...Not communicated to me as chairman."**

**Governor Lawrence Lindsey says:**

**"I didn't know about the tapes either...What we're doing is retroactively changing the rules of the game."**

**Don Winn ends the conference call saying that he thinks it's "almost inevitable" that questions will arise about Chairman Gonzalez' provisions in HR 28 dealing with the Reserve Bank presidents (that they be appointed by the President and confirmed by the Senate). Don Winn adds that questions about "Diversity (in Federal Reserve hiring) will come up."**

### **FOMC Testimony Before the House Banking Committee**

**All Federal Reserve witnesses scheduled to appear at the October 19, 1993 hearing on the subject of "Keeping a Record of Federal Open Market Committee Meetings" were instructed by the Committee to answer specific questions in their opening statements and to provide the Banking Committee with their knowledge of any notes or records of FOMC meetings kept by others at FOMC meetings. In his written statement, Chairman Greenspan answered this question by stating:**

**"The meetings are recorded electronically by the FOMC secretariat. These audio tapes are used to assist in the preparation of the minutes that are released to the public following the subsequent meeting. Thereafter, the tapes are recorded over. In the process of putting together the minutes, an unedited transcript is prepared from the tapes, as are detailed notes on selected topics discussed in the course of the meeting. These materials generally are seen only by the staff involved in preparing the minutes, and the documents are kept under lock and key by the FOMC secretariat."**

**The existence of transcripts for the purpose of preparing the document the Federal Reserve has called "minutes" (a document that does not identify policy discussions with any individual) was also noted in the oral testimony of Chairman Greenspan. Both references left out any mention of the inventory of transcripts dating back to 1976. Instead, by combining the mention of transcripts with tapes which are erased, and by emphasizing that these materials were used for developing the "minutes," Chairman Greenspan's method of presentation left the impression that no inventory existed beyond those documents needed to prepare the "minutes."**

**The other Federal Reserve witnesses either testified that Chairman Greenspan would specify the methods used by the staff to record FOMC meetings or they provided no information about the existence of an extensive inventory of transcripts. Governor Wayne Angell indicated that he knew about the transcripts but he did not specify that an inventory**

of the transcripts existed.

At the October 19 hearing, Chairman Gonzalez asked each of the Federal Reserve witnesses about the existence of records kept by the Federal Reserve. Chairman Gonzalez said:

"I have a couple of questions. In the questions that I had directed, I did ask and each of you responded, as to the notes or records that you are aware of. But today's testimony by Chairman Greenspan reveals to me, at least, that FOMC meetings are tape-recorded. [...] I don't think we have been previously informed that there were these tape-recordings. What I am going to ask is if any of you knew or know about these recordings being made when you submitted testimony for today's hearing, or are you unaware that tape-recordings of the FOMC meetings are customarily being made? Can you tell me exactly of any tapes of FOMC meetings now in existence that you do know about? I would be glad to hear from any of you."

Chairman Greenspan answered; "Mr. Chairman, may I clarify that?" And Chairman Gonzalez said, "Certainly." In his reply, Chairman Greenspan again failed to mention the existence of an inventory of transcripts. Instead, he concentrated on the short life of the tape-recordings:

"In my remarks, what I have indicated was that the FOMC staff, in the preparation of the minutes, takes a recording for the purpose of getting a rough transcript, but the tapes are taped over. In other words, we don't keep the actual tapes themselves. We do have electronic recordings of the meetings."

Chairman Gonzalez responded, "In other words, you have no tape-recordings of the actual proceedings."

Chairman Greenspan replied, "We have them only--as far as I know, what the staff does is, in order to assist its presentation and preparation of the minutes, it takes recordings but then tapes over them so they are not available thereafter."

Congressman Maurice D. Hinchey asked a follow-up question:

"First, with regard to the question that the Chairman asked of Mr. Greenspan earlier, I just want to see if I understood the answer. As I understand it, there are tape-recordings taken of the meeting by the staff. Those tape-recordings serve as the basis for the preparation of the minutes that are released a month or so later after the next meeting. And in the interim, those tapes are then taped over so that no permanent record exists in that way. Is that correct?"

Chairman Greenspan admitted that there were rough notes but he did not say there was an inventory of transcripts, "There is no permanent electronic record, that is correct. We obviously have rough notes."

On November 5, 1993, members of the majority and minority staff of the House Banking Committee visited the Federal Reserve's Washington, D.C. headquarters. There the staff examined the microphones built into the FOMC conference table, the green recording light at the head of the table, recording equipment, and the file drawers containing the FOMC's inventory of FOMC meeting transcripts. A page of a transcript was selected at random and examined. The sample indicated that the transcripts were not "rough notes" as Chairman Greenspan had testified, but rather were neatly typed with names in the left-hand margin identifying each speaker.

This leads one to conclude that Chairman Greenspan and the other members of the FOMC were less than forthcoming when testifying before the Committee. His testimony could also be characterized as stonewalling the Banking Committee on the existence of an inventory of FOMC meetings transcripts.

If any of the Federal Reserve witnesses wished to correct this testimony they had an opportunity to speak. However, they chose to remain silent with regard to the existence of an inventory of transcripts although, as noted in the following tables, they would later notify the Banking Committee that they had such knowledge at the time of the October 19, 1993 hearings (see Appendix IV).

With respect to this testimony by Chairman Greenspan, Governor Lindsey replied in his November 5, 1993 letter to the Banking Committee, "To be quite candid, I am at a loss as to where you got the impression that anyone's testimony was misleading or false."

### **The Admission of Chairman Greenspan**

After the October 19, 1993 hearing, the Banking Committee questioned the Federal Reserve witnesses on the veracity of their testimony. Chairman Gonzalez sent letters to each of the 19 Federal Reserve presidents and governors in which they were asked a number of questions about their testimony. Chairman Greenspan was specifically asked about the existence of an inventory of transcripts. These letters were sent to the presidents of the Federal Reserve Banks and to the members of the Board of Governors on or before Monday, October 25, 1993.

On the morning of Tuesday, October 26, 1993, Federal Reserve staff notified the Banking Committee that Chairman Greenspan would completely describe the record-keeping procedures of the FOMC meetings in a letter to Chairman Gonzalez. The Banking Committee staff was also notified that this letter would be made public within the hour.

In his October 26, 1993 letter, Chairman Greenspan indicated that a full transcribing system for FOMC meetings existed. He said this was "common knowledge" among those attending FOMC meetings. He also indicated that there was an inventory of FOMC transcripts dating back to 1976. Chairman Greenspan described a complete tape-recording system including a green light at the head of the FOMC conference table that is illuminated whenever the tape-recording system is activated.

Chairman Greenspan indicated that he learned that the FOMC meetings were being taped when he first became Chairman in 1987. He said he "did not learn of the transcripts until several years ago." He said in his October 26 letter:

"I advised staff at the time that the secretariat should continue to follow prevailing procedures--that is, retaining the old unedited transcripts and creating new ones in order to aid staff in the production of a complete and accurate official record of meeting proceedings for publication. I gave the matter of these procedures no further thought until recently. Indeed, until a staff member jogged my memory in the last few days, I had been under the impression that I first learned only about a year ago that the transcripts were being retained."

### **Testimony of FOMC Vice Chairman McDonough**

The next day, on October 27, 1993, Governor Wayne Angell and William McDonough, president of the New York Federal Reserve Bank and Vice Chairman of the FOMC, testified before the House Banking Committee. Vice Chairman McDonough was asked why he submitted written testimony for the October 19, 1993 hearing indicating that he did not know that FOMC meetings were tape-recorded. Chairman Gonzalez questioned McDonough in his opening statement:

"Vice Chairman McDonough, you submitted testimony as follows--and I am going to quote from it: 'I have no personal knowledge of any other notes or records that others may have made at FOMC meetings.' Yesterday I received a letter from Chairman Greenspan saying that there have been tape-recordings at FOMC meetings since 1976, that the FOMC has unedited transcripts and staff notes from transcripts that exist back to 1976. In addition, the meeting room for the FOMC has a complete set-up for tape recording transcripts, and I quote: 'A green light on top of the meeting table near its head is lit when the recording system is in use.' How could anyone not know what that green light meant and fail to tell the Congress or report that there were not literal translations?"

Vice Chairman McDonough answered the follow-up question by Congressman Maurice Hinchey (D-NY) that he thought the green light "was to say that the sound system

was working." Hinchey questioned Vice Chairman McDonough as follows concerning the number of FOMC meetings he had attended where he might have become informed about the tape-recording:

**Rep. Hinchey.** How long have you been in your present position with the Fed?

**Mr. McDonough.** Three months.

**Rep. Hinchey.** Three months. How many meetings have you attended?

**Mr. McDonough.** As a member of the Federal Open Market Committee, I have attended two.

**Rep. Hinchey.** Just two. Were you aware of that green light that apparently flashed on when the recording system is in operation?

**Mr. McDonough.** I was aware of the green light. And part of my youth was spent as a naval officer, and I was the chief engineer of a ship. So I ought to ask the question of what is the light about, and I thought that the purpose of the light was to say that the sound is in operation.

Two days later, on October 29, 1993, a Banking Committee staff member phoned Vice Chairman McDonough and asked how many FOMC meetings he had attended before he was an FOMC member. He replied, "Twelve." Thus, Vice Chairman McDonough had attended 14 FOMC meetings, attendance for nearly two years, and failed to mention this in his testimony. His testimony about the tape-recording system is a peculiar exception to the statement by Chairman Greenspan in his October 26, 1993 that the tape-recording of FOMC meetings was "common knowledge."

It is instructive to compare President McDonough's comments with those of former Board of Governors member Stephen Gardner at the August 16, 1977 FOMC meetings. Gardner said:

"Those of us who sit at this Board are fully experienced in the tyranny of a recorded meeting. And our meeting discussions are inhibited. Now during FOMC meetings in 72, 73, 74, and 75, you had no such experience. You knew perhaps that your memorandum of discussion would be prepared and released five years later. We sit here with a green light, I don't see it this morning it inhibits us as a Board of Governors."

### **Inspection of FOMC Tapes and Transcripts**

Shortly after the hearing, on November 5, 1993, several members of the Banking

Committee majority staff, accompanied by two members of the minority staff, went to Federal Reserve headquarters to observe the facilities for storing and recording the verbatim transcripts of FOMC meetings. The FOMC meetings are held on the second floor of the Marriner Eccles building of the Board of Governors at 20th and Constitution Avenue in Washington, D.C. The FOMC meets in a conference room conveniently situated in a hallway near the offices of the seven governors, including Chairman Greenspan. The FOMC meeting transcripts are stored in a file cabinet in a small office off this hallway. Upon inspection, Banking Committee staff members found the FOMC transcripts to be neatly typed with the name of each speaker in the left margin.

The expansive FOMC conference room is furnished with a large table equipped with built-in microphones. During these meetings, Chairman Greenspan sits at the head of the table next to a staff member whose responsibility is recording these meetings. To activate the equipment, the staff member pushes a button built into the conference table. The button then is illuminated in green, in full view of everyone in the room. During the meeting the staff member makes frequent trips to an adjoining room where extensive recording equipment is kept. In addition, other microphones are placed along one wall of the conference room as back-up recording equipment.

### **Government Accountability**

The public relies on decision-makers in a democratic government to act as its agents and to make decisions that promote their interest. However, government officials may have alternative objectives, especially if they work in a large government bureaucracy. Making the public interest these officials' first priority is known in the social sciences as the "agency problem." This problem also occurs in the private sector. For example, corporate managers who are agents of the stockholders may not always perform their duties in the best interests of the stockholders but, instead, may primarily try to enhance their own salaries.

One way to ensure that government officials are working in the public interest is to enforce the requirement that a detailed record of their decisions and actions be kept and made public. Accountability for public officials' actions is a powerful inducement to government officials to act in the public interest.

In his October 4, 1993 memorandum to the heads of departments and agencies in the Federal government, President Bill Clinton said, in reference to the Freedom of Information Act (FOIA):

"The statute was enacted based upon the fundamental principle that an informed citizenry is essential to the democratic process and that the more the American people know about their government the better they will be governed. Openness in government is essential to accountability and the Act has become an integral part of that process."

Attorney General Janet Reno also expressed Department of Justice (DOJ) support for agency compliance in 1993 with the "letter and the spirit of the FOIA and implementing a 'presumption of disclosure' standard in which DOJ attorneys would defend agencies in denying FOIA requests only when disclosure can be shown to cause specific harm to a governmental interest or to invade personal privacy."<sup>9</sup>

Public accountability for those who manage the nation's money supply in the nation's central bank, the Federal Reserve System, is essential to ensure that these officials act in the public interest. Administering policies in the public interest is especially important for Federal Reserve officials since their decisions have such pervasive and substantial economic effects. The twelve members of the Federal Reserve's Federal Open Market Committee (FOMC) manage the nation's money supply. Additionally, they authorize the use of funds to intervene in foreign currency markets, which can have the characteristics of a loan to a foreign country. These decisions affect the level of inflation and economic activity in the United States, the exchange rates of U.S. dollars with other currencies, the level of exports and imports, and the flow of capital between the United States and other countries.

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<sup>9</sup> Harold C. Relyea, "The Administration and Operation of The Freedom of Information Act: An Overview, 1966-1991" CRS Report for Congress, November 4, 1993.

## Appendix I

### Chronology of Events

**1975**

**June 16, 1975** Council of Economic Advisors Chairman Alan Greenspan attends a meeting of the Executive Committee of the Economic Policy Board of the Ford Administration in which Federal Reserve Chairman Arthur Burns explains Federal Reserve opposition to the proposed Government in the Sunshine Law, S. 5. The minutes of this meeting reveal "Chairman Burns reviewed with the Executive Committee the outlines of S. 5, legislation relating to the accessibility of the public to certain Government meetings."

**1992**

**October 8, 1992**, Chairman Gonzalez sent letters to each of the 12 Federal Reserve Presidents and the seven Governors requesting their views on recording and promptly releasing complete minutes of the FOMC meetings.

**October 22, 1992**, Chairman Greenspan sent a letter suggesting that consultation with other members of the FOMC would be helpful before replying to specific questions and suggestions concerning how proceedings of FOMC meetings are reported to the public.

**December 24, 1992**, Chairman Greenspan sent a response to the October 8 letter stating that a "comprehensive summary of the main points made in the course of [FOMC] discussion" is sufficient for purposes of accountability. This letter served as a joint response for the Reserve Bank presidents and Board of Governors.

**December 29, 1992**, Chairman Gonzalez sent a letter requesting that each Federal Reserve Bank president and each member of the Board of Governors provide individual responses to the October 8, 1992 letter by January 8, 1993.

**January and February 1993**

**January 7, 1993**, Governor John P. LaWare of the Board of Governors responded, "Chairman Greenspan's letter to you of December 24 accurately conveyed the sense of the Committee as well as my own personal views on the matter."

**January 12, 1993**, Governor Susan M. Phillips of the Board of Governors responded, "Chairman Greenspan's response accurately reflects my personal views on the issues you raised."

**January 12, 1993**, President Jerry Jordan of the Federal Reserve Bank of Cleveland responded, "My view on this matter is heavily influenced by concern that the release, or publication, of a detailed accounting of the FOMC discussion prior to the passage of suitable interval of time would seriously impair the effectiveness of the deliberative process."

**January 12, 1993**, Vice Chairman David W. Mullins, Jr. of the Board of Governors responded, "A central concern is the effectiveness of the deliberative process involved in monetary policy decision-making. I believe that a substantial degree of confidentiality is important to insure the effectiveness of this deliberative process."

**January 13, 1993**, President J. Alfred Broaddus, Jr. of the Federal Reserve Bank of Richmond responded, "I would oppose the preparation of a detailed record currently, however, because there are no mechanisms to prevent its premature release."

**January 13, 1993**, President E. Gerald Corrigan of the Federal Reserve Bank of New York responded, "I am writing to assure you that I agree completely with the views set out in [Chairman Greenspan's] letter."

**January 13, 1993**, President Edward G. Boehne of the Federal Reserve Bank of Philadelphia responded, "Verbatim transcripts and videotapes of FOMC meetings by their very nature would substantially undermine the deliberative process, and the quality of monetary policy decision-making would suffer."

**January 13, 1993**, President Silas Keehn of the Federal Reserve Bank of Chicago responded, "With respect to your question about producing a more detailed written record or a tape of the proceedings of the FOMC meetings, I feel strongly that such a written record would significantly inhibit the development of the appropriate monetary policy so important to the proper functioning of the economy of our country, [...] For these reasons I feel very strongly that any changes to the minutes and record-keeping process currently used by the FOMC would be ill-advised and would be detrimental to the monetary policy deliberations of the Committee."

**January 14, 1993**, Governor Wayne Angell of the Board of Governors responded, "Even though some of us would not alter our remarks whether or not a transcript is published promptly, some members believe they or their colleagues would tend to tone down their trial advocacy of a viewpoint or to become locked into the trial position."

**January 15, 1993**, President Richard F. Syron of the Federal Reserve Bank of Boston responded, "On a related note, my own experience in reading my own and others' verbatim comments makes me believe that any discussion would need at least some editing, to ensure clarity."

**January 21, 1993**, President Thomas C. Melzer of the Federal Reserve Bank of St. Louis responded, "I would be strongly opposed to any literal record of FOMC deliberations..."

**February 13, 1993**, President Thomas H. Hoenig of the Federal Reserve Bank of Kansas City responded, "In an environment where every statement, including some based on confidential information is recorded verbatim, Committee members necessarily would be inclined to speak from a prepared text and to structure responses in a limited manner. [...] Knowledge of these possibilities would limit the discussion and compromise the effectiveness of the Committee's deliberative process."

### **September and October 1993**

**September 20, 1993**, Chairman Gonzalez sent letters to each of the Federal Reserve Bank Presidents and the Board of Governors, requesting their testimony at the Banking Committee's October 19, 1993 hearing on HR 28. Specifically, the Chairman requested that the witnesses provide a detailed description of any notes or records that each have made and the location and disposition of any such material, notes or records that each were aware of others have made at FOMC meetings, and any information they had about the relating of information publicly by anyone employed at the Federal Reserve FOMC meetings prior to the official release of that information.

**October 13, 1993**, Chairman Greenspan testified before the Committee on Banking, Finance and Urban Affairs about the provisions of HR 28, the "Federal Reserve System Accountability Act of 1993". He makes no mention of an inventory of transcripts of FOMC meetings.

**October 19, 1993**, Chairman Greenspan, Governor Angell, Governor Kelley, Governor LaWare, Governor Lindsey, Governor Mullins, Governor Phillips, President Boehne, President Broaddus, President Hoenig, President Jordan, President Keehn, President McTeer, President McDonough, President Melzer, President Parry, President Stern, and President Syron testified before the Banking Committee. Governor Angell and President McDonough submitted written testimony only. The Committee requested the witnesses to provide the Banking Committee with their knowledge of any notes or records of FOMC meetings kept by others at FOMC meetings. Chairman Greenspan in his written testimony stated, "The meetings are recorded electronically by the FOMC secretariat. These audio tapes are used to assist in the preparation of the minutes that are released to the public following the subsequent meeting. Thereafter, the tapes are recorded over. In the process of putting together the minutes, an unedited transcript is prepared from the tapes, as are detailed notes on selected topics discussed in the course of the meeting. These materials are generally seen only by the staff involved in preparing the minutes, and the documents are kept under lock and key by the FOMC secretariat." No mention is made of an inventory of transcripts of FOMC meetings even after an exchange with Congressman Maurice Hinchey in which Chairman Greenspan is asked about a permanent record. All Federal Reserve witnesses also do not notify Chairman Gonzalez of the existence of transcripts of FOMC meetings although they would later admit that they knew about them at the time.

**October 22, 1993**, Chairman Gonzalez sent a letter to Chairman Greenspan and the other Governors of the Board and each of the Federal Reserve Bank Presidents requesting detailed information concerning each witness' knowledge of tape-recordings or prepared transcripts of FOMC meetings. In addition, each witness was required to provide the Committee with records of meetings or conference calls with any other Federal Reserve Bank President or any member of the Board of Governors concerning the Banking Committee's hearing on October 19. Chairman Greenspan was specifically asked about the existence of an inventory of transcripts.

**October 26, 1993**, The chief Federal Reserve liaison called the Banking Committee at 11:00 AM and said a courier was delivering a letter and that the Federal Reserve would make it public in one hour. Chairman Greenspan sent the letter to Chairman Gonzalez indicating that a full transcribing system for FOMC meetings existed. He stated that this was common knowledge among those attending FOMC meetings. Greenspan also indicated that there was an inventory of FOMC transcripts dating back to 1976.

**October 27, 1993**, President William J. McDonough of the Federal Reserve Bank of New York and Governor Wayne Angell of the Board of Governors testified at a Full Committee hearing on HR 28. FOMC Vice Chairman McDonough was asked why he sent the Committee written testimony for the October 19, 1993 hearing indicating that he did not know that FOMC meetings were tape-recorded. In his October 19th testimony President McDonough stated, "I have no personal knowledge of any other notes or records that others may have made at FOMC meetings." In President McDonough's October 28, 1993 letter to the Committee, he stated that he was made aware of tape-recordings and transcripts of FOMC meetings during the October 15, 1993 conference call.

**October 28, 1993**, Governor Angell responded: "In February 1986, during my orientation to the Board of Governors meeting procedures, as well as FOMC procedure, the Federal Reserve taping system was explained to me, including the operation of the green light on the table as an indication the meeting is being recorded...Several years ago I asked Mr. Norman Bernard, Deputy Secretary of the FOMC, to review a draft dissenting statement to ensure that the dissenting statement was a true representation of what I said at the meeting. Mr. Bernard provided me with his edited version of what I said at the meeting, which I learned was taken from a rough transcript..."

**October 28, 1993**, Governor LaWare responded: "I was aware from the beginning of my tenure on the Board in August 1988 that the FOMC proceedings were being tape-recorded...Chairman Greenspan advised me and other members of the FOMC that transcripts were prepared from the tape-recordings of FOMC meetings during a conference call on October 5, 1993. I did not recognize until the October 15 meeting that the Secretariat retained transcripts of the meetings."

**October 28, 1993**, Governor Phillips responded: "I first learned that the FOMC meetings were tape-recorded before my first FOMC meeting (December 17, 1991) [...]. I first learned that rough transcripts of FOMC meetings were prepared from the tapes on the morning of October 19 hearing at breakfast with other FOMC members."

**October 28, 1993**, Governor Kelley responded, "I learned that FOMC meetings were tape-recorded after I joined the Board in mid-1987...I learned that written transcripts had been prepared on October 18, 1993."

**October 28, 1993**, President Melzer responded, "I learned that FOMC meetings were tape-recorded in July 1985. [...] I first learned that a transcript of the most recently held FOMC meeting existed while confirming statements I made about my dissent at such meeting. As I recall, this occurred in 1989."

**October 28, 1993**, President Broadus responded, "During the telephone conference on October 15, 1993, Chairman Greenspan's remarks reminded me that the staff tape-recorded FOMC meetings, and [...] he advised that transcripts were also made."

**October 28, 1993**, Governor Mullins responded, "Shortly before the October 19, 1993, hearing Chairman Greenspan confirmed that FOMC meetings were taped. [...] In August of this year, I learned from Deputy Secretary of the FOMC, Mr. Normand Bernard, of the existence of detailed, edited notes, and transcripts of FOMC meetings [...]."

**October 28, 1993**, President Forrestal responded, "I have been aware since I became President of the Bank in 1983 that the FOMC meetings were tape-recorded. [...] I was not aware that transcripts were prepared from the recordings of the FOMC meetings."

**October 28, 1993**, President McTeer responded, "To the best of my recollection, the first information I received about the tape-recording of FOMC meetings was during a conference call on October 15, 1993, when it was mentioned by Chairman Greenspan. [...] I learned about the transcripts from Chairman Greenspan during the conference call [...]."

**October 28, 1993**, President Stern responded, "While I was aware that a tape-recorder was running at least occasionally during FOMC meetings, I did not know the extent and content of the recordings. [...] I was first informed that transcripts were prepared from the recordings during the conference call of October 15."

**October 28, 1993**, President McDonough responded, "I learned from Chairman Greenspan on October 15, 1993 that FOMC meetings were being taped. [...] I first learned from Chairman Greenspan of the existence of transcripts of FOMC meetings on October 15, 1993, during an FOMC conference call."

**October 29, 1993**, President Boehne responded, "To the best of my knowledge, I learned about the tape-recordings of regular FOMC meetings from Chairman Burns probably in 1976 or 1977. [...] I first learned about the existence of unedited transcripts in late September or early October 1993 [...]."

### **November and December 1993**

**November 1, 1993**, President Hoenig responded, "Shortly after joining the FOMC in October, 1991, I realized that the meetings were being tape-recorded. [...] During an October 15, 1993 conference call, Chairman Greenspan stated that a transcript of each FOMC meeting was prepared."

**November 2, 1993**, Chairman Greenspan sent a second letter in response to Chairman Gonzalez's October 22, 1993 letter. Chairman Greenspan stated that " the tapes and transcripts were internal working material of the FOMC secretariat for the purposes of creating the Policy Record or Minutes, until the conference calls I initiated on October 5 and October 15, to my knowledge none of the current Reserve Bank presidents and only two of the other current governors had known that transcripts were prepared and retained." In response to specific questions regarding his knowledge of tape-recordings and transcripts of FOMC meetings Chairman Greenspan stated, "My recollection is that I knew from very early in my tenure that the FOMC meetings were taped. [...] FOMC staff informed me several years ago of the existence of the transcripts going back many years."

**November 3, 1993**, Chairman Gonzalez sent letters to Chairman Greenspan and Federal Reserve Bank presidents and governors of the board requesting that all records and documents of the Board of Governors, the FOMC, and the Reserve Banks related to the matters under investigation, including all tape-recordings, transcripts, and minutes of and notes regarding any meeting of the FOMC, are preserved and in no way altered, destroyed, moved, or transferred out of Board files. In addition, the letter requested Chairman Greenspan to provide the Banking Committee with an inventory of transcripts of each meeting of the FOMC, including conference calls, and each tape-recording of each meeting of the FOMC, including conference calls.

**November 5, 1993**, Governor Lindsey responded to Chairman Gonzalez's letter of October 22, 1993: "When I first came to the Board, I was informed [...] that Board meetings were taped for the purposes of taking minutes. [...] I assumed that, as in the case of Board meetings, a tape-recording was made for the purposes of preparing the minutes of the FOMC meetings. [...] I first learned of the existence of the transcripts during the process of preparing for my October 19 testimony."

**November 5, 1993**, President Parry responded to Chairman Gonzalez's letter of October 22, 1993: "At one of the first FOMC meetings I attended (sometime early in 1986), I remarked [...] that the voice activated microphone before my place at the table did not amplify speech and therefore must record comments. As I recall [ Normand Bernard] stated that I was correct [...] Although I knew that some notes were taken temporarily from the tape during production of minutes, I first learned that full transcripts were prepared on October 15 1993, during a conference call in which Chairman Greenspan conveyed this information."

**November 5, 1993**, President Syron responded to Chairman Gonzalez's letter of October 22, 1993: "I believe I first became aware that the FOMC meetings were recorded when I attended them as Assistant to then Chairman Volcker in 1981. [...] My first clear recollection of being informed that transcripts were prepared dates from the October 15 conference call [...]"

**November 8, 1993**, President Jordan responded to Chairman Gonzalez's letter of October 22, 1993: "I first learned that FOMC meetings were tape-recorded during my service at the Federal Reserve Bank of St. Louis as advisor to then-president Darryl Francis. [...] On my return to the Federal Reserve in March 1992, I was aware of the sound amplification system in use at the FOMC meetings and subsequently learned that audio recordings were made in order to facilitate the preparation of minutes of the meeting. [...] I first learned that transcripts were prepared from the recordings of FOMC meetings late in the afternoon of October 15, 1993, in the course of a telephone conference call [...]."

**November 8, 1993**, President Keehn responded to Chairman Gonzalez's letter of October 22, 1993: "I don't recall when I first learned of the tape-recordings or who informed me, but presumably it was soon after the first meeting I attended [July 1981]. [...] At the time of the October 15 conference call, Chairman Greenspan said that the current inventories of unedited transcripts cover the period from 1976 to the present. [...]"

**November 8, 1993**, Notes taken during the October 15, 1993 FOMC conference call initiated by Chairman Greenspan were provided to the Banking Committee. These notes reveal that there was a discussion of how Chairman Alan Greenspan would testify about the tape-recordings and transcripts, and how this would cover for the testimony of the other Federal Reserve witnesses, some of which had already been submitted.

**November 9, 1993**, Chairman Gonzalez sent a letter to Chairman Greenspan requesting that copies of every transcript and tape of meetings and conference calls of the FOMC from 1976 to the present be provided to the Committee.

**November 12, 1993**, Chairman Greenspan responded to November 9, 1993 letter stating " [...] the records you are requesting are information of the FOMC, which needs to be consulted." Chairman Greenspan indicated that this issue would be discussed at the November 16, 1993 FOMC meeting.

**November 15, 1993**, Chairman Gonzalez sent a letter to Chairman Greenspan suggesting that all transcripts over three years old should be fully released to the public. Transcripts greater than 60 days but less than three years old should be released to the public using the same rules of editing which were applied prior to 1976 to the release of the detailed minutes of FOMC meetings. Once three years have elapsed, complete unedited transcripts would then be released to the public. Transcripts of any meeting would not be released until 60 days have elapsed.

**November 17, 1993**, Chairman Greenspan responded to the November 9, 1993 letter. The FOMC decided that no transcript should be released before five years had elapsed from the meeting. Under this plan, the FOMC will release early next year transcripts from meetings and transcribed conference calls held during calendar year 1988. They will edit and release the remaining transcripts subject to the five-year lag.

**November 17, 1993**, Chairman Gonzalez sent a letter urging Chairman Greenspan to reconsider the Committee's proposal offered in the November 15 letter. In addition, Chairman Gonzalez suggested that Banking Committee staff and Board staff meet to discuss possible solutions.

**November 26, 1993**, Chairman Greenspan sent a letter agreeing to meet.

**December 3, 1993**, Chairman Gonzalez sent a letter to Chairman Greenspan demanding that the transcript and tape of the October 15, 1993 FOMC conference call be made available to Committee staff for review next week. In addition, the Chairman indicated that the Committee is investigating possible action to mislead and obstruct Congress in violation of sections 1001 and 371 of Title 18 of the U.S. Code.

## **Appendix II**

### **Inventory of Transcripts at the Federal Reserve**

The Federal Reserve supplied Chairman Gonzalez with the dates of FOMC meetings at the Marriner Eccles building in Washington, D.C. and of conference calls between FOMC members since the Federal Reserve ceased releasing the Memorandum of Discussion. These are listed below. The Federal Reserve indicates it has transcripts of these meetings except as noted.

## Federal Open Market Meetings

### 1976

March 29 (special session)  
April 20  
May 18  
June 22  
July 20  
August 17  
September 21  
October 19 (partial)  
November 16 (partial)  
December 20 (partial)

### 1977

January 17-18 (partial)  
February 15  
March 15  
April 19 (partial)  
May 17  
June 21  
July 19  
August 16  
September 20  
October 17-18  
November 15  
December 19

### 1978

January 17  
February 28  
March 21  
April 18  
May 16  
June 20  
July 18  
August 15  
September 19  
October 17  
November 21  
December 19

### 1979

February 6  
March 20  
April 17  
May 22  
July 11 (partial)  
August 14  
September 18  
October 6  
November 20

### 1980

January 8-9  
February 4-5  
March 18  
April 22  
May 20  
July 9  
August 12  
September 16  
October 21  
November 18  
December 18-19

### 1981

February 2-3  
March 31  
May 18  
July 6-7 (partial)  
August 18  
October 5-6  
November 17  
December 21-22

### 1982

February 1-2 (partial)  
March 28-29  
May 18  
June 30  
July 1  
August 24  
October 5  
November 16  
December 20-21

### 1983

February 8-9  
March 28-29  
May 24  
July 12-13  
August 23  
October 4  
November 14-15  
December 19-20

1984  
January 30-31  
March 26-27  
May 21-22 (partial)  
July 16-17  
August 21  
October 2  
November 7  
December 17-18

### 1985

February 12-13 (partial)  
March 26  
May 21  
July 9-10  
August 20  
October 1  
November 4-5 (partial)  
December 16-17

### 1986

February 11-12  
April 1  
May 20  
July 8-9  
August 19  
September 23  
November 5  
December 15-16

### 1987

February 10-11  
March 31  
May 19  
July 7  
August 18  
September 22  
November 3  
December 15-16

### 1988

February 9-10  
March 29 (partial)  
May 17 (partial)  
June 29-30 (partial)  
August 16 (partial)  
September 30  
November 1  
December 13-14

### 1989

February 7-8  
March 28  
May 16  
July 5-6  
August 22  
October 3  
November 14  
December 18-19

### 1990

February 6-7 (partial)  
March 27  
May 15  
July 2-3  
August 21  
October 2  
November 13  
December 17-18

### 1991

February 5-6  
March 26  
May 14  
July 2-3  
August 20  
October 1  
November 5  
December 17-18

### 1992

February 4-5  
March 31  
May 19  
June 30  
July 1  
August 18  
October 16  
November 17  
December 22

### 1993

February 2-3  
March 23  
May 18  
July 6-7  
August 17  
September 21

## FOMC Telephone Conference Calls

### 1976

November 8

### 1977

May 27

October 31 (no transcript)

### 1978

January 5

March 10

May 5

August 8 (no transcript)

### 1979

January 12 (no transcript)

March 3 (no transcript)

April 27

June 27

July 17, 19

July 27 (no transcript)

September 20

October 5, 22

### 1980

February 22 (no transcript)

March 7

April 29

May 6

June 25

July 25

August 22

November 26

December 5, 12

### 1981

February 24

April 28

May 6

June 17

July 17

### 1982

March 2 (no transcript)

May 20 (no transcript)

July 15 (no transcript)

August 27 (no transcript)

September 24

### 1983

January 14, 21, 28

April 29

June 23

July 25 (no transcript)

August 8 (partial)

### 1984

January 11 (no transcript)

March 20 (no transcript)

October 18 (no transcript)

December 7 (no transcript)

### 1985

January 18

September 10 (no transcript)

September 23 (no transcript)

### 1986

January 17 (no transcript)

April 21 (no transcript)

### 1987

February 23 (no transcript)

April 29

September 8 (no transcript)

October 20

October 21 (no transcript)

October 22 (no transcript)

October 23 (no transcript)

October 26 (no transcript)

October 27 (no transcript)

October 28 (no transcript)

October 29 (no transcript)

October 30 (no transcript)

### 1988

January 5

May 6 (no transcript)

May 24 (no transcript)

June 22

July 19

August 5 (no transcript)

August 9 (no transcript)

October 17

November 22

### 1989

February 23 (no transcript)

May 31

June 5

July 26

October 16 (tape only)

October 17 (tape only)

October 18 (tape only)

November 6 (no transcript)

November 27 (no transcript)

### 1990

January 16 (no transcript)

April 11

August 6 (no transcript)

September 7, 17

December 7

### 1991

January 9

February 1

March 26

April 12, 30

May 1

June 10, 24

August 5

September 13

October 30

December 2 (tape only)

December 20

### 1992

January 9

March 11

July 2

December 14

### 1993

January 6

February 18

March 1

October 5, 15, 22

## Appendix III

### House Banking Committee Inventory of Materials Obtained from the Gerald R. Ford Library 1000 Beal Avenue Ann Arbor, Michigan 48109

All of this material has been edited by archivists of the National Archives and Records Administration and is open to public inspection.

#### Federal Open Market Committee Meeting Transcripts

FOMC Meeting	03/29/76
FOMC Meeting	04/20/76
FOMC Meeting	05/18/76
FOMC Meeting	06/22/76
FOMC Meeting	07/20/76
FOMC Meeting	08/17/76
FOMC Meeting	09/21/76
FOMC Meeting	10/19/76
FOMC Conference Call	11/08/76
FOMC Meeting	11/16/76
FOMC Meeting	12/20-1/76
FOMC Meeting	01/18/77
FOMC Meeting	02/15/77
FOMC Meeting	03/15/77
FOMC Meeting	04/19/77
FOMC Meeting	05/17/77
FOMC Telephone Conference	05/27/77
FOMC Meeting	06/21/77
FOMC Meeting	07/19/77
FOMC Meeting	08/16/77
FOMC Meeting	09/20/77
FOMC Meeting	10/17-8/77
FOMC Meeting	11/15/77
FOMC Meeting	12/19-20/77
FOMC Meeting	01/17/78
FOMC Meeting	02/28/78
FOMC Telephone Conference	03/10/78

#### Other Materials from the Chairman Burns Collection

FOMC Meeting Background Notes	03/15-16/76
FOMC Meeting Background Notes	04/20/76
FOMC Background Notes relating to Minutes	
FOMC Memoranda relating to Policy Record	

Files from the Chairman Burns Collection

	Box #	File #
"Government in the Sunshine Act" Files	B52-3	1,6,7
Press File 05/24/76	B90	
Federal Reserve Board - White House Aug-Dec 1975	B117	
Coyne Files	C6	2,3,6
Ken Guenther Files	C8-9	1,2

## Appendix IV

### Responses of Federal Reserve Officials About Transcripts of FOMC Meetings

Governors and presidents	Date of first knowledge of transcripts	Date that individual informed the Banking Committee of personal knowledge of transcripts
Angell	Several years ago	10/19/93
Boehne	September or October 1993	10/28/93
Broadus	October 15, 1993	10/28/93
Forrestal	When he received 10/22 letter	10/28/93
Greenspan	Knew in 1987, then forgot. Told FOMC members on October 15, 1993 that he remembered one year ago. Several days before he sent 10/26/93 letter staff had reminded him that he knew two years ago.	10/19/93
Hoenig	October 5, 1993	11/01/93
Jordan	October 15, 1993	11/08/93
Keehn	October 15, 1993	11/08/93
Kelley	October 28, 1993	10/18/93
LaWare	October 5, 1993	10/28/93
Lindsey	while preparing 10/19 testimony	11/05/93
McDonough	October 15, 1993	10/28/93
McTeer	October 15, 1993	10/28/93
Melzer	1989	10/28/93
Mullins	August 1993	10/19/93
Parry	October 15, 1993	11/05/93
Phillips	October 19, 1993	10/28/93

<b>Stern</b>	<b>October 15, 1993</b>	<b>10/28/93</b>
<b>Syron</b>	<b>October 15, 1993</b>	<b>11/05/93</b>

## Appendix V

### Responses of Federal Reserve Officials About Tape-Recordings of FOMC Meetings

Governors and presidents	Date of first knowledge of tape-recordings	Date that individual informed the Banking Committee
Angell	Orientation in February 1986	10/28/93
Boehne	1976 or 1977	10/28/93
Broadus	During Volcker's tenure (maybe earlier)	10/28/93
Forrestal	1983	10/28/93
Greenspan	Beginning of tenure, August 1987	10/19/93
Hoenig	October 1991	11/01/93
Jordan	While working at the St. Louis Federal Reserve Bank, 1967-81	11/08/93
Keehn	Don't recall (after July 1981)	11/08/93
Kelley	Mid-1987	10/18/93
LaWare	August 1988	10/28/93
Lindsey	When I first came to the Board (November 11, 1991)	11/05/93
McDonough	October 15, 1993	10/28/93
McTeer	October 15, 1993	10/28/93
Melzer	July 1985	10/28/93
Mullins	Before October 19, 1993	11/02/93
Parry	1986	11/05/93
Phillips	December 17, 1993	10/28/93
Stern	Knew of it during FOMC meetings	10/28/93
Syron	As assistant to Chairman Volcker in 1981	11/05/93

## Appendix VI

### Responses of Governors on Submitting Notes on October 15, 1993 FOMC Conference Call

Alan Greenspan, Chairman	"I have no notes regarding the October 15 conference call. For this call, the FOMC secretariat has a tape-recording, a transcript of the tape, and a memorandum summarizing the views expressed on various alternatives for information release."
David Mullins, Vice Chairman of the Board of Governors	"Since I did not participate in nor did I receive a briefing on any conference call on Friday, October 15, 1993, I can provide no information on questions 8a through 8i."
Wayne Angell	"I did not take any notes during the October 15, 1993, conference call."
Edward Kelley	"I was out of the country throughout the week which included Friday, October 15, 1993, and did not participate in a conference call which I understand occurred on that date."
John LaWare	"I took no notes during the call and my executive assistant was not present."
L. Lindsey	"I do not have, nor did I even have, notes, tape-recordings or memoranda regarding the conference calls."
Susan Phillips	"I did not participate in the October 15, conference call. I was attending some meetings in Iowa."

## Appendix VII

### Responses of Presidents Who Refused to Submit Their Notes on the October 15, 1993 FOMC Conference Call

<b>Richard Syron, Boston</b>	<b>"My staff and I have some brief, handwritten notes on the disclosure issue, some of which are from the conference call." [notes not sent]</b>
<b>Edward Boehne, Philadelphia</b>	<b>"I did not take notes during the call. Richard Lang, who was not present for the entire call, took incomplete, handwritten notes. The appropriate procedure for obtaining FOMC-related material not regularly released is to make the request through the office of the Chairman of the FOMC." [refusal to send notes]</b>
<b>J. Alfred Broaddus, Richmond</b>	<b>"This question directs me to provide an extraordinary disclosure of internal deliberative documents and information. I feel obliged to decline to provide such deliberative information at this time, particularly information that may involve individuals whom you have asked me not to consult and that could affect their rights and interests or that would involve otherwise privileged communications. I hope you will understand that my reluctance to release details of internal Federal Reserve conversations unilaterally without the opportunity to consult others affected does not arise from any disrespect for you or your Committee, but from a sense of fairness and obligation to the Federal Reserve System and its officials. As a matter of information, I will tell you that we have no tape-recording of this meeting or memoranda regarding it." [refusal to send notes]</b>
<b>Thomas Melzer, St. Louis</b>	<b>"There were no tape-recordings or memoranda that were prepared by me or my staff regarding the October 15 conference call. I made a few brief notes solely for my personal use; presumably my staff did the same." [notes not sent]</b>

<p><b>Gary Stern, Minneapolis</b></p>	<p><b>"Preston Miller, of our staff, made notes but I am not at liberty to disclose them because they are regarded as information of the FOMC and are subject to restrictions on the disclosure of FOMC information contained in the Committee's Rules Regarding Availability of Information, 12 CAR 271 (Rules)." [refusal to send notes]</b></p>
<p><b>Robert D. McTeer, Dallas</b></p>	<p><b>"While I do not believe that I have any information that will add to what I've already related, I respectfully urge you to deal with Chairman Greenspan as the spokesman for the FOMC on the questions of releasing internal documents after the FOMC has had a chance to deliberate." [refusal to send notes]</b></p>

## **Appendix VIII**

### **Transcripts and Memoranda from the Federal Open Market Committee**

**Arthur Burns Collection  
Gerald R. Ford Library  
Ann Arbor, Michigan**

**Memorandum from the  
Federal Open Market Committee  
April 7, 1976**

**Arthur Burns Collection  
Gerald R. Ford Library  
Ann Arbor, Michigan**

BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM

# Office Correspondence

Date April 7, 1976

To Chairman Burns

Subject: Examples of Potentially  
Troublesome Passages in the  
February 1975 Memorandum of Discussic

From Arthur L. Broida *AB*

Given below are illustrations taken from the FOMC memorandum of discussion for February 1975 of passages which could prove troublesome if released prematurely. The illustrations are divided into two groups: (A) those which could excite curiosity and lead to requests for staff reports or other documentation, and (B) those which could be subject to misinterpretation.

Only one of the statements cited (No. 2 in Group B) was released to the plaintiff in response to the recent Court order. A number of others which might reasonably be considered to be factual in whole or part were withheld on one of the grounds cited in our response to the Court--mostly, on the ground that they related to procedural matters. This Court (or some later one) may, of course, disagree with our judgment and order the release of such statements.

- A. Illustrations of statements which could excite curiosity and lead to requests for staff reports or other documentation.
1. "...staff documents indicated that the Committee had failed to achieve its targets for the aggregates because of the constraints it had placed on movements in the Federal funds rate." (p. 12)
  2. "...the staff had explored several different methods of formulating the policy alternatives, and had concluded that the current format probably was the clearest." (p. 53)

3. "...the code used to transmit recommended changes in discount rates was in the Federal Reserve code book that was available to quite a few people in the System."  
(p. 75)

4. "A table in the green book, for example, indicated that the economic stimulus or net change in tax receipts in fiscal year 1976 that would result from Administration tax proposals amounted to \$10 billion." (p. 41)

5. "...a chart portraying the long-run growth paths for  $M_1$  associated with the various policy alternatives had been included in the blue book at times in the past."  
(p. 52)

B. Illustrations of statements that could be subject to misinterpretation.

1. "The question of the appropriate length of the lag had been raised from time to time by Committee members, and after a new analysis the staff had reached the conclusion that the lag could be shortened significantly without militating against any legitimate purpose of the Committee." (p. 11) (This passage could have proved particularly troublesome if the Committee had decided not to reduce the lag.)

2. "...three of the largest banks in his District with whom he had had contacts recently had volunteered the information that they were continuing to pursue very restrictive policies. In several major cities, they were denying credit to borrowers who would have been welcomed a year ago." (p. 78) (This passage was released to plaintiff. Subsequently, one Committee member remarked that it could be interpreted as an indication that the Committee was encouraging restrictive lending policies when, in fact, that was not the case at all.)
3. "...it was particularly important that whatever differences might exist within the System be debated around the table and not aired in public." (p. 8)
4. "...relating to the use of the term 'non-voting member'...there had been some little difficulty recently because of misunderstandings that had arisen in the Congress." (p. 14)
5. "A number of other subjects of common interest to Board members and Reserve Bank Presidents were then discussed, including the extent to which it was appropriate for Reserve Bank Presidents to communicate

certain types of information to the directors of their Banks, and the procedures that had been followed in connection with a recent discount rate action." (pp. 14-15)

6. "...it would be best if the (discount rate) reduction followed rather than led actions abroad. Toward that end, the Board might consult with other central banks.... Some consultations of that sort had occurred regarding recent reductions in the discount rate." (p. 26)
7. "They (the directors of the Dallas Bank) had gone along with invitations to be in the first wave of the last two reductions in the rate..." (p. 86)

DRAFT

April 8, 1976

TO: Federal Open Market Committee      SUBJECT: The FOMC memorandum  
FROM: Chairman Burns                      of discussion

During the special FOMC meeting held on March 29, 1976, I indicated that I was giving serious thought to recommending to the Committee that the memorandum of discussion be discontinued. After further consideration, I have decided to make that recommendation.

My conclusion reflects our experience in connection with the recent Court order that we make "segregable facts" from the memorandum available to a plaintiff. The effort to comply with the Court order in an appropriate manner required the expenditure of a tremendous amount of time by our senior staff and a considerable amount of my own time, which I can ill-afford. Moreover, the premature disclosure of "segregable facts" could, in some cases, do damage to the work of the Committee--particularly if the present Court or some later one rules that we acted inappropriately in withholding certain facts about foreign currency operations and procedural matters.

The staff has developed a proposal for meeting the needs now served by the memorandum of discussion in other ways. Although I have not yet had an opportunity to study their suggestions in detail, I believe they are worthy of consideration by the Committee.

DRAFT  
4/8/76

TO: Federal Open Market Committee      SUBJECT: Proposed procedures if  
FROM: The Secretariat                      memoranda of discussion are discontinued

The purpose of this memorandum is to suggest alternative means of serving certain needs now served by the FOMC memoranda of discussion in the event that the Committee decides to discontinue those memoranda. Briefly, the proposal consists of the following elements:

1. Expand the Record of Policy Actions (the Policy Record) to include a fuller account of the considerations underlying the actions reported there, including more information on any significant differences of view expressed by members.

2. Expand the Minutes of Actions (which would be retitled "Minutes of the Federal Open Market Committee") to include an account of the considerations underlying nonpolicy (procedural) actions, and the reasons for dissents, if any, whenever the action is preceded by a substantive discussion and a public record appears desirable. Like the present minutes of actions, the new minutes would be made available for public inspection with the same delay as the policy record--currently, 45 days.

3. Place in the Committee's files (with copies distributed to the members, if desired) (a) various kinds of materials now included in or attached to the memoranda of discussion, such as oral reports by staff, and written reports on international meetings by Committee members;

- (b) memoranda from the Secretariat summarizing the considerations underlying nonpolicy actions that are preceded by a substantive discussion but for which a public record does not appear desirable; and
- (c) memoranda from the Secretariat summarizing informal Committee understandings and any other developments at the meetings for which a record is desired.

4. Discontinue the current practice of making a permanent record of virtually every statement by every speaker on every issue raised at a meeting.

Each element of this proposal is discussed in more detail in the first section below, and illustrations of the suggested treatment of various types of materials are given in a series of attachments. The question of the timing with which information of different kinds is made public is considered briefly in the second section.

### Elements of the Proposal

#### 1. Expand the Policy Record

One purpose of the policy record is to comply with the Freedom of Information Act for "current" publication of statements of general policy. However, its original--and still primary--purpose is to comply with a requirement of the Federal Reserve Act that the Board include in its Annual Report to the Congress a statement of the reasons underlying Committee actions on "all questions of policy relating to open market operations" and the votes on such actions. For this purpose, policy actions have long been defined as votes to change any of the following four instruments: the domestic policy directive; the authorization for domestic open market operations; the foreign currency directive; and the authorization for foreign currency operations.<sup>1/</sup>

---

<sup>1/</sup> Policy actions are also published in the Federal Register in compliance with the Freedom of Information Act. (The full text of the policy record is incorporated by reference in the Federal Register.)

The policy record also provides information about Committee decisions that do not conform to the definition of a policy action but are believed to be of wide public interest. For example, the one-year ranges for growth rates in the monetary aggregates have been reported in the policy record since they were first adopted in April 1975 in response to House Concurrent Resolution 133. A second example is the guidelines for operations in agency issues; the original guidelines and all subsequent changes have been reported in the policy record.

Under the proposal, more information would be provided on the considerations underlying the policy actions and, when appropriate, on the other decisions now included in the policy record. In reporting the reasons for the policy embodied in the domestic policy directive, for example, an effort would be made to reflect more fully the significant differences in the concerns expressed by members and in the specific objectives they articulated during the discussion. As at present, the reasons for any dissenting votes would be given whenever the dissenting members so desired.

An illustration of the manner in which such policy actions might be reported (based on the meeting in December 1975) is shown in Attachment A. For comparison purposes, the corresponding material from the policy record published for that meeting is also shown in the Attachment. The detailed report in the December memorandum of

discussion--which occurs on pages \_\_\_\_\_--is not reproduced in the Attachment because of its length.

Attachment B illustrates the way in which the Committee's discussion of the longer-run target ranges might be summarized in the policy record. The illustration is based on the decision taken last October, and the corresponding material from the published policy record is again shown. The detailed report appears on pages \_\_\_\_\_ of the October memorandum of discussion.

2. Expand the minutes of actions (retitled "Minutes of the FOMC")

At present, the minutes of actions for a meeting consist of a list of all actions taken by formal vote of the Committee at that meeting, including policy actions (also reported in the policy record) and nonpolicy (procedural) actions, and the votes on each action. The minutes include no information regarding the reasons for any of the actions or the reasons for any dissents; for most nonpolicy actions such information is now provided only in the memorandum of discussion.

Many of the kinds of nonpolicy actions taken by the Committee elicit discussion only on rare occasions. These include approval of minutes, approval of the Manager's operations, agreement on date of next meeting, agreement on tentative meeting schedule for next year, ratification of inter-meeting actions, election of officers, and selection of a Reserve Bank to execute System transactions.

Other kinds of nonpolicy actions, while usually handled in a routine fashion, occasionally are preceded by discussion. These include review and acceptance of the report of the periodic audits of the System Account, annual review of authority to lend securities from the System Account, and annual authorization to renew standby swap arrangements.

Still other kinds of nonpolicy actions often (or usually) are preceded by more or less extended discussion. These include revisions in guidelines for operations in agency issues, revisions in System Account allocation procedures, amendments to the FOMC Regulation and Rules (of Organization, Procedure, and Availability of Information), delegations of authority to act on Committee's behalf, authorizations to Manager to undertake negotiations (e.g., looking toward some specified swap line increase), approval of proposed letters (e.g., to Congressman Patman, responding to request for recent memoranda of discussion), changes in the lag for release of the policy records, and agreement on procedures for release of other kinds of information.

Although nearly all of such nonpolicy actions are unanimous, dissents do occur occasionally. For example, Governor Bucher dissented from a proposed letter to Congressman Patman because he thought a 5-year lag for release of the memorandum of discussion was too long, and Governor Coldwell dissented from the decision to reduce the lag for the policy records from 90 to 45 days because he preferred a lag of 60 days.

The proposal contemplates adding material to the present minutes of actions only for nonpolicy actions for which it appears desirable to make a public record of the Committee's reasons for taking the action, and the reasons for any dissents (if the member wishes to have them recorded). The present practice of simply stating the action would be continued (a) for policy actions, since they would be explained in the policy record, (b) for nonpolicy actions of a routine kind, since no explanation would be required, and (c) for nonpolicy actions for which no public record is desired.

An illustration of the explanatory material that might be provided for selected nonpolicy actions is given in Attachment C. The illustration is based on the Committee's action in March 1975 to reduce the lag for the policy records from 90 to 45 days.

3. Place various materials in the Committee's files

The materials that would routinely be placed in the Committee's files (with copies distributed to members, if desired) would include (a) the Manager's and Deputy Managers' oral reports on foreign currency and domestic open market operations; (b) oral staff reports on the economic situation and outlook and on prospective financial developments; and (c) written reports by members or staff on international meetings. Summaries of oral reports on other matters (e.g., reports by Committee Counsel on status of law suits) could be treated in the same way whenever desired.

Similar treatment would be accorded occasional memoranda from the Secretariat of two kinds:

- A. Memoranda concerning nonpolicy actions for which it is desired to have a permanent record but not to make that record public by inclusion in the minutes. An illustration is provided in Attachment D, which summarizes the Committee's discussion in August 1975, when it accepted the latest report of examination of the System Account.
- B. Memoranda concerning any other developments at meetings for which a record is desired. These developments may take a variety of forms, as suggested by the following illustrative list:
  1. Informal guidance to Manager (e.g., not to accumulate foreign currencies beyond some specific limit. For an illustration, see Attachment E).
  2. Informal decisions, such as the following:
    - (a) Decisions not to take recommended actions. (For an illustration, see Attachment F, relating to a staff committee recommendation to undertake operations in finance bills.)

- (b) Decisions to undertake procedural experiments. (For an illustration, see Attachment G, relating to a "tracking experiment" in blue book.)
  - (c) Decisions with respect to Committee procedures for formulating its directives and targets (e.g., discussions of reports of Maisel and Holland Subcommittees on Directive; discussion of procedures in response to House Concurrent Resolution 133; discussions of relative emphasis to be placed on  $M_1$  and  $M_2$ ).
  - (d) Decisions regarding the content of the policy record (e.g., with respect to reporting specifications in numerical form).
  - (e) Decisions with respect to responses to law suits against FOMC.
3. Appointment of, and charges to, subcommittees and staff committees.
  4. Comments on, or discussions of, fundamental principles that should guide System operations (e.g., role of operations in coupon issues; strategy of foreign exchange market intervention).

4. Discontinue practice of making a permanent record of all comments at meetings

The present memorandum of discussion is an inefficient document in two respects. First, it is probably true that no essential purpose is served by preserving much of its present content. For example, questions put to the staff, and the responses, often involve elaborations of points made adequately in the written and oral reports to the Committee. Also, many of such exchanges are concerned with technical issues of only transitory interest.

Secondly, the form of the document--a largely chronological account of an oral discussion--poses difficulties for the reader interested in an understanding of the issues the Committee faced and the judgments it reached. To extract that information, the reader has to carry out an analysis of those parts of the discussion that interest him. Under the proposal the Secretariat would, in effect, be making such analyses in the course of preparing the expanded policy records, the expanded minutes, and the various proposed memoranda to records. If this work is done skillfully, most readers would be better served than they are now.

Some members of the Committee may value the present memoranda of discussion because they provide a record of their own remarks on policy (or other) issues. An alternative means of serving that purpose would be for the Secretariat to supply the member with copies of the transcripts of his remarks.

Timing with which information is made available to the public

As indicated earlier, the proposal contemplates that the new minutes of the FOMC, like the present minutes of actions, would be made available for public inspection with the same delay as the policy record. A Federal Court has found that the present lag of 45 days for the policy record is inconsistent with the Freedom of Information Act, and it has ordered the Committee to make such records available as soon as they are approved. Even if this ruling (which has been stayed) is overturned by a higher Court, the Committee may decide to reduce the lag--perhaps to 30 days.

The proposed expansions of the policy record and minutes would increase the amount of staff time required to prepare drafts of these documents, and probably would also increase the frequency of members' comments on drafts. Some means of expediting the drafting and clearance of the documents obviously would be required if deadlines were shortened.

At present, shortly after each meeting the Secretariat places on file in the Board's Public Information Office an abbreviated version of the minutes of actions--known as the "selected list of actions"--which differs from the full minutes mainly in excluding information on policy decisions which are deferred for 45 days. It is presumed that present practices with respect to the selected list of actions would be continued. If so, the selected list would differ from the final minutes in a second respect: it would not include the material added to the minutes themselves with respect to reasons for nonpolicy actions and any dissents.

At present, the memoranda of discussion for a calendar year are transferred to the National Archives after the close of the fifth succeeding year. If the Committee adopts the proposal to replace the memoranda of discussion with expanded policy records, expanded minutes, and memoranda to records, only the last would not be in the public domain 45 (or fewer) days after the meeting.

#### Attachments

**Transcripts from the  
Federal Open Market Committee  
March 29, 1976**

**Executive Session**

**Tape 1**

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Ann Arbor, Michigan**

First of all, here's a document and the amount of factual material  
and I can see that document ~~that~~ is not going to stay with the plaintiff, it'll  
be on capital hill before very long and I can't derogatory statements that might  
be made on capital hill. This is what that Committee. They sit around, and  
they talk and what they know and the number of ~~xxxx~~ fact that they consider is  
very scanty, it's a talking Committee and that would cause some ~~misconduct~~  
mischieff. Next, I became aware of a fact ~~is~~ that individual statements, you see,  
can so easily lead to this or that member of the Congress to ask for documentation  
which obviously must exist; and additional reports. Now, I recognize that the  
~~the~~ recommendation of the Coldwell Committee would reduce that burden and reduce  
that difficulty and that was the purpose of that Committee's recommendation.

think

I don't/these difficulties are going to be eliminated. I see myself, unfortunately  
having to devote a good deal of time after the Committee staff has done its work,  
they'll come to me ~~and~~ with questions because there's a gray zone always and it's  
pretty large. I see also the very real possibility that after all that is done,  
they'll be individual statements that will be picked up by members of the Congress,  
or members of the press or both, that will cause us additional work and what is  
worse than that, embarrassment. And therefore, I want to ponder this matter  
further, but 2 weeks from today when ~~xxxx~~ I think the next FOMC meeting, regular

meeting is scheduled,

Broids 3 weeks.

CB Three weeks from today, the chances are that I will be recommending to the Committee that we do away with the memorandum of discussion and that we expand the policy record, so that the public will be informed rather promptly, not only our decisions, but the reasons for our decisions, and any shadings of views within the Committee. Now, it means a break with tradition, but so does the sanitized version that the Coldwell Committee had recommended. We live in a new world and I think we better adjust to it. I have not reached a ~~fix~~ firm decision on that--it's a painful decision for me, but that is the way in which my thinking is going. I mention it now to you because we'll have to reach a decision, I say have to, we don't, but we should, we would reach a formal decision at the next meeting one way or another. That's all I have to say.

Mayo Will there be any more information about the status of Government in the Sunshine by that time?

CB Well, we may have a little ~~more~~ more information. That isn't going well in the legislation. Our efforts to defeat it are now

~~more~~

prospering. We still have chance, but it doesn't look very good to me. Do you have any more detailed knowledge?

TJOC \_\_\_\_\_ if I may Mr. Chairman, I brought to the Board's attention at the last meeting, the ~~effort~~ \_\_\_\_\_ of the judiciary committee in a 2 day session last week, to enquiry into possible conflicts with the existing Sunshine legislation proposal versus the administrative procedure act, the Freedom of Information Act, the Privacy Act provisions, ~~the~~ The Deputy Attorney General calling to the Committee's attention several areas in which he felt the proposed legislation if enacted in its present form conflicted with existing provisions of law and these other statutes. He has altered amendatory language in several instances. Mr. Chairman the <sup>e</sup>xact impact of which we don't know at this moment, but it could somewhat improve the position of the agencies, but the Chairman, I think, is quite correct that substantive provisions of law as now proposed generally requiring open meetings stand pretty well in place and they won't be impacted by these other amendatory proposals.

CB Well, we may have a change on the House floor, ~~if~~ If we do, I have excellent ~~my~~ reasons for thinking that we could help get constructive assistance from the Senate conferees.

Coldwell May I inquire Mr. Chairman the relevance of the Government in the Sunshine in question with the memorandum of discussion.

CB Well, I think that that is a complicated legal question, which involving the FOMC that Tom is still in process of studying. Is that correct Tom?

TJOC It is sir. I can, does the Chairman wish me to comment at all, I don't intend to ...

CB Depends on Mr. Coldwell, whether he wants to hear the complications. I don't ~~fix~~, if he will may, and therefore he's ~~ix~~ entitled to.

Coldwell Just a splash windshield opinion, Mr. O'Connell. What do you think that we would have to yield in our memorandum of discussion, if we had ~~xxxxxx~~ at this time the Government in the ~~Shine~~ Sunshine law.

TJOC Governor, my backseat opinion is that that would depend one on the full applicability of the Government in the Sunshine law as finally enacted to this Committee. If it should be a judge fully applicable to this Committee, than thus an open meeting I think, academic the issue now of what form a memorandum of discussion \_\_\_\_\_ take ~~xxxxxx~~ because, \_\_\_\_\_ you would then have to determine what ~~from~~ portions of that Committee meeting could be closed. If closed, what portions, all having been transcribed, what

portions could be deleted, and ~~it~~ <sup>we're</sup> then back to the same game we're now playing with the memorandum of discussion. It is involved, Mr. Chairman, that's ~~my~~ my point.

CB Any other question? Mr. Broida has an <sup>ment</sup> ~~announcement~~ to make.

Broida We've left a little form on top of your packages for you to indicate whether you would like these materials mailed to you at your bank or whether you don't want them and you'd like us to destroy them. If you check the appropriate box, sign your name, and ~~x~~ leave them at your place, we'll pick ~~x~~ them up. If you want to carry them with you, leave ~~them~~ it unsigned.

Coldwell If I could Mr. Chairman, I'd like us to return to this question of the memorandum for just a moment. I think it will be well for members of the Committee with ~~whom~~ \_\_\_\_\_ think on the problems of deleting the ~~memorandum~~ memorandum of discussion entirely, or maintaining in an abbreviated or edit form, it would seem to me that the problems which have to be addressed in making this decision, center on 2 or 3 points. First, how much trouble it's going to be and delete segregable facts. Second, how much staff time and member debate would have to go into a discussion of an enlarged policy record, And thirdly, whether the Committee is overreacting to a potential mischief which might be down the road, and whether to move in an anticipation

we're  
portions could be deleted, and ~~to come~~ then back to the same game we're now  
playing with the memorandum of discussion. It is involved, Mr. Chairman, that's  
my point.

CB Any other question? Mr. Broida has an announcement to make.

Broida We've left a little form on top of your packages for you to  
indicate whether you would like these materials mailed to you at your bank or  
whether you don't want them and you'd like us to destroy them. If you check the  
appropriate box, sign your name, and leave them at your place, we'll pick them  
up. If you want to carry them with you, leave them unsigned.

Coldwell If I could Mr. Chairman, I'd like us to return to this  
question of the memorandum for just a moment. I think it will be well for  
members of the Committee with whom \_\_\_\_\_ think on the problems of deleting  
the memorandum of discussion entirely, or maintaining in an abbreviated or  
edit form, it would seem to me that the problems which have to be addressed  
in making this decision, center on 2 or 3 points. First, how much trouble  
it's going to be and delete segregable facts. Second, how much staff time  
and member debate would have to go into a discussion of an enlarged policy  
record, And thirdly, whether the Committee is overreacting to a potential  
mischief which might be down the road, and whether to move in an anticipation

ing of that mischief or wait until the mischief shows up.

CB Well, as I suspect things earlier whether or not \_\_\_\_\_  
the one question that I think Mr. Broida would be able to answer, ~~xxxxxi~~ is now  
the policy record, now do you have, you send it around to members of the  
Committee, do ~~you~~ you not?

Broida Yes sir.

CB And ~~xxxxxx~~ do you find many criticisms made by members of  
the Committee.

Broida Very, very few, Mr. Chairman. I'd say about, perhaps 8  
~~xxx~~ of the 12, or maybe one, ~~a~~ occasionally 2 comments, but most of the time  
we get no comment from the \_\_\_\_\_.

CB Well, ~~±~~ I would draw the inference from that, that if the  
present memoranda were doubled their lengths that there would be more comments  
but that it would not be a huge burden on ~~xxxxxxx~~ the secretariat. Is that  
a fair inference?

Broida I believe so.

Coldwell Well, I would challenge that only to the extent that if  
we're attempting in doubling the size of the policy record~~x~~ to obtaining the  
flavor of each members' position, that it is going to ~~place~~ \_\_\_\_\_ discussion.

CB That isn't what I had in mind. Now Governor Wallich argued the case for the kind of document that I have in mind. I don't think that this policy record should identify individuals.

Coldwell I don't mean indentify.

CB I don't think by name, and I don't think that the flavor of each individual's thinking should be represented. Here is \_\_\_\_\_, let's say we do it by symbols. Here is A's thinking, here is B's thinking. Now, prevailing sentiment the divergent viewpoints, now if let us say a member of the Committee felt that the policy record as prepared by the staff did not convey the majority thinking, did not convey divergent sentiment that he has \_\_\_\_\_ that he expressed clearly to the Committee, and which is not recorded in these minutes, he would suggest <sup>a</sup> ~~the~~ sentence or a paragraph and I would expect the secretary to adopt it. Do you have any opinion, Mr. Wallich?

Wallich Well, @ I'm wondering what would happen for instance with let us say, complete minority points of view. One member of the Committee were to hold a view totally different from others, this presumably would ~~have~~ have to be stated. It would also be stated that there was little support for it, something that conveys the balance of the meeting.

**Transcripts from the  
Federal Open Market Committee  
April 20, 1976**

**Tape 5**

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Ann Arbor, Michigan**

Holland

Well chuck, well I'll come to that in a minute.

I'm trying to think now about the specifications sheet ~~xx~~. The specification sheet is not a good ~~lx~~ vehicle for release in my judgment because its too bold, its too bald.

They are ~~dx~~ simply numbers and none of the qualifications around them that appear in

the language that are used in the policy record entry. However you could pick up the

language in the policy record entry that is now used there, marry it right with the ~~dire~~

the staff has already done experiments in that fashion and produce I think an acceptable

kind of version. Now the reason for not voting and then just telling the staff putting

them into the policy record entry I believe is a reason that looks forward to the kinds

of pressure this committee may be under from courts and from citizenry in terms of

making information available. Formal vote information may indeed be pryed out of you at

some stage sooner than the reasons therefore. And it is the development of the reason

and the back ground therefore that make the policy record late, late--in terms of 30 or

45 days, whatever the Committee decided to do. Therefore it seems to me the Committee

would be well advised to adopt these numbers in a form where it would not feel embarrassed

or open to misinterpretation if indeed they were pryed out of us on the very afternoon

the meeting and by folding them into the policy record the language would be acceptable

CB Afternoon, I'm just not following you. If they were pryed out of us

on the afternoon of the meeting. This is on the assumption of this court decision?

**Transcripts from the  
Federal Open Market Committee  
April 20, 1976**

**Executive Session**

**Tape 8**

**Arthur Burns Collection  
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Ann Arbor, Michigan**

?Eastburn

There~~re~~ reason I asked that question, <sup>was</sup> it seemed to me we had

incur ~~some~~ certain costs in cutting out the memorandum of discussion in

terms of implications to others on the outside that we're being more ~~subject~~ <sup>secretive</sup>

~~causing~~ if you want ~~x~~ to put it that way, that this is a devious way ~~of~~ to get~~ting~~ around the law.

CB

That depends how we present it. Now I would want to present

this, I would want to make a virtue of this, and never mind how we arrived

at it. We were not seeking virtue for the sake of virtue, I'm not going to

argue that, but if let us say we decide to drop the memorandum of discussion,

<sup>all</sup> ~~with~~/right than we're doing away with an instrument of ~~secret~~ retained

in the Archives for a period of 5 years. We have a policy record and that

policy record is now going to be very much fuller than it was, so the public

will be informed promptly and ~~much~~ more fully, that's another ~~in~~ <sup>virtue</sup>.

A third as we go along with--if we <sup>adopt</sup> ~~dumb~~ the second suggestion, you see,

cutting the ~~tool~~ <sup>period</sup>, that goes further in that direction and I would

present it as a ~~deliberate~~ attempt on the part of the Federal Reserve

to rid itself of the perenial charge of secrecy. I think that's the way

~~xxx~~ <sup>to</sup> ~~present~~ <sup>it</sup> /to the public. Historically, it didn't arise that way,

that's true, but I think that is not any unfair interpretation.

**Transcripts from the  
Federal Open Market Committee  
May 18, 1976**

**Executive Session**

**Tape 1**

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5/18/76

Exec. Ses.

Tape 1

-7-

It does seem to me that it kinds of aims a great deal of the material that is familiar to every reader of the newspapers who know GNP was such, employment was such and so forth, now it's interesting to somebody who studies these matters carefully to know what information the Committee had, that could easily be accomplished by saying information was available up to such and such a date on particular..

CB That wouldn't help/historian very much. It would make his task much more difficult.

Wallich Yes, but the general reader of this \_\_\_\_\_, such a reader is really very familiar with all the data that are in that record besides their release with a dealy of 30 days or what ever, so that they are not even a useful way for him to recapitulate this information. The interesting information for the reader, I think, is ~~re~~ what the projections were of the staff \_\_\_\_\_, that's new information. My suggestion is that we emphasize the latter and deemphasize the former.

CB I follow the trend of thinking and I don't think I wholly agree for 2 reasons. One is purely formal. We're describing this document as an expanded policy record. We're providing more information than in the

past. And that is partly the justification for eliminating the memorandum of discussion. Now on the basis of this concept the document should be longer, you see, must be longer, and this is a formal consideration that cannot be neglected, and we need some additional pages. Now as for the information that is contained about the economy, well, I think you credit individuals who follow the Federal Reserve with more knowledge than I think many of them really have. I think it's a <sup>ful</sup> useless summary. Those who feel that it merely repeats that which they already know will have no difficulty skipping paragraphs or pages. Those on the other hand, who may find such a recapitulation useful, or it find that they derive new knowledge--knowledge for the first time will have an opportunity to be instructed fully. And therefore, while I understand these criticisms, I think that if anything this document maybe criticized on the ground, coming back to my first formal point, that it is not long enough. Now when this document was first shown to me, it was hardly longer, or just about a page or two longer-- 2 pages longer than a policy record was in the past. And I told members of the staff, well that will not do. I'm not going to ~~xxxx~~ tell you how to add additional pages, and I'm certainly not going to say that we should do anything <sup>that</sup> /remotely resembles padded, but produce several additional pages.

**Transcripts from the  
Federal Open Market Committee  
January 17, 1977**

**Tape 2**

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Gerald R. Ford Library  
Ann Arbor, Michigan**



operation, providing for open meetings, closed meetings, and the parallel requirements of the preparation of transcripts or minutes, depending on the type of meeting that's closed. And otherwise providing for the procedural identified step of noticing the advance requirement for notice of the meeting, the votes and so forth. I hope that they closely adhere to the statute and that they don't go beyond that. Thus following the mandate the Chairman has given in the adoption of them.

CB You might indicate what kind of meetings will be open to the public.

TJOC At this time the regulation's clearly contemplate that matters dealing with consumer affairs, by their nature, will be open to the public. Otherwise, the Board's regulation announce its intent to close such meetings as are allowed in the other 9, <sup>really</sup> ~~reading~~ 10, total 10 exemptions of the statute. It is contemplated that on the whole more, I believe, more meetings of the Board will be closed than will be open, although there are specific subject matters that, subject to approval <sup>or</sup> of adoption by the Board will be open to the public. The OSCA type meetings, being an example of them

CB I think the Bank Presidents would be especially interested in the question, whether matters that come before Mr. Coldwell's committee involving Federal

be  
Reserve Banks in general, would/handled in open session or in closed session, whether  
Federal Reserve Bank budgets would be handled in open or in closed session, could you  
address this range <sup>(of thinking)</sup> ~~effect~~.

TJOC

I could Mr. Chairman, taking the specifics for instance of a  
personnel action within a Reserve Bank <sup>that</sup> under procedures is normally presented to this  
Board for confirmation<sup>or</sup> approval. It is hoped that by definition of the exemption  
for personnel matters, which is found in the statute, that such discussions by the  
Board could be closed. The issue of a Reserve Bank budget, there is no straight exempt.  
for an agency<sup>y/s</sup> ~~es~~ budget or for a Reserve Bank budget, as would be the case here, for  
closing such a meeting. However, depending on the nature of the item in the budget  
being discussed, for instance, if it involved or contemplated the acquisition of ~~the~~  
a building site, and so forth. Item<sup>s</sup> such as that we find, we believe, could under  
one of the exemptions, such as section 9(b) for premature disclosure could place the  
agency at an operating disadvantage. We will look for such closure possibilities.

CB

Let me indicate this too. If Federal Reserve Bank budgets were  
to be handled in an open meeting, then our public image, if nothing else, would require  
that we devote a good full day to consideration of those budgets. Otherwise, we<sup>w</sup> simply

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rubber stamping what ~~is~~ <sup>done</sup> a Committee had, and we're not doing our job.

Jackson It is mostly likely that the Committee meeting would be open too under those circumstances.

CB Now I hope you would do more research on that question because the Board does not have that much time. It's largely the Committee's job. The Board traditionally has <sup>not</sup> spent a day on the budget. Now maybe we should, but if we spend a day that, <sup>we</sup> we don't have too much time. You know that this is a very hard working Board.

TJOC Well, Mr. Chairman, I believe <sup>that</sup> Governor Jackson's point was that if that particular budget examination were done by a Committee of the Board, that if the Board were required to have an open session so would the Committee. I believe that was the point he was making.

CB Well then maybe the Committee ought to be a smaller Committee.

TJOC It's possible. If it were a Committee, for instance, a one-man Committee together associated with staff of the agency, rather than 3 members of the Board, I believe that it escapes the definitional impact of the statute and would not be subject to the Sunshine Act.

CB Suppose that we have a recommendation such as we had from the New York Bank, the Kansas City Bank, concerning new computers, now would that have to come before the Board in open session?

TJOC Mr. Chairman, the matter presently to the best of my understanding is delegated to the Bank Activities Committee for initial determination and a recommendation to this Board.

Coldwell The final determination if its within our limits.

TJOC Final determination by the subcommittee within a certain dollar limit. If it came within that dollar limit, thus the decision could be made <sup>or</sup> ~~or~~ delegated authority by the Committee, the Committee would first have to ask, must this be open to the public. Its the matter of the purchase of equipment. If there were nothing in that consideration Mr. Chairman, the disclosure of which at that time would jeopardize the ability of the Committee to direct and achieve a purchase within a given dollar amount and it wouldn't adversely effect the competitive <sup>trust</sup> ~~trust~~ of such proposal, it would have to be open to the public.

CB What about the question of general level of salary increases or a guideline for salary increases within our Federal Reserve Banks?

TJOC

Two possible exemptions from open meeting Mr. Chairman. Very

briefly one under exemption 2 relating solely to the internal personnel rules and practices of an agency. We would have to urge that a discussion of that matter insofar as it relates to the banks, comes within this exemption because <sup>(?)</sup> we're a unified System and that this being back personnel matters is also an agency personnel matter, namely of the Board. If that were to fail I would next turn to section 9(b) that says, you may keep a meeting closed if in the case of an agency, disclosure would likely to significantly frustrate implementation of a proposed agency action. If by open discussion of this issue of salaries, namely, the level <sup>at</sup> of which we are going to establish them, what we perceive to be the market level, we were to thus bring into play competitive forces that made it necessary for us to raise those salaries or otherwise, adversely effect our action, ~~It's~~ possible we could close the meeting, otherwise, it would have to be open.

Jackson  
Volcker

The best <sup>to</sup> ~~is~~ answer <sup>(to)</sup> this Mr. Chairman, is have one open and then nobody

would show up after that.

Gardner

Well, we haven't discussed regulatory matters and a good deal of

this Board's time is spent on regulatory decisions, and Tom I believe because of the

nature of such decisions that we <sup>could</sup> close those meetings.

CB Except on consumer areas.

Gardner I'm talking about a bank holding company application, some matter involving individual institutions.

TJOC I have no reason to believe Governor Gardner that in almost every case, such items could be <sup>?</sup> [the subject to] closed meetings. There is a requirement in the statute that goes beyond the conduct of the meeting itself, namely, as to either the transcript that is prepared or that the meeting is closed pursuant to one of four specific exemptions, you had minutes instead of a transcript. Any meeting that is close pursuant to section 7, 8, 9(a), and 10, you may have minutes. If those minutes or the transcript are later found to contain nonsensitive items, that is, conversations references, or inclusions that were not subject to closure, that portion of the transcript or the minutes must be made promptly available to the public. Now that contains caution for the Board and for the FOMC should it come ~~out~~ <sup>under the</sup> statute. The result would be <sup>you could</sup> to close the meeting, but immediately you must review the transcript to determine whether portions must be made available to the public.

Partee Tom you didn't mention transcript when you were talking in terms of the possible implications of the Committee coming under--is that because the

exemptions make the minutes possible?

TJOC That's correct.

Partee In both cases?

TJOC The nature of our closing exemptions would make the minutes the name of the game.

Partee But again you'd have the question of sensitive and nonsensitive parts in the minutes.

TJOC Yes you would.

Coldwell You have another question which I probably can answer myself, but maybe I'd better get some guidance. If you have a consent calendar item, that is just as much as a decision as a regular calendar item.

TJOC Under the present format of the Board's operation Governor, that is correct. It's possible, and this would be up to the Board and the Chairman, it's possible that consent calendar items can be because their nature largely a circularize-  
what  
tion function as much as/was formerly known as a consent calendar. That could thus remove those from any form of Board agenda.

Coldwell So you don't have a Board meeting?

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TJOC

That's correct. If they were the only items, and the Board

adopted that method of circulating to the Board members for reading and for initial approval, the discussions in Congress indicated this is perfectly appropriate.

Coldwell

Also dangerous.

CB

Mr. Coldwell, have you given any attention to these rules that the

staff is working on?

Doldwell

Yes.

CB

*Have you been involved?*

Coldwell

*Yes.* Governor Gardner, Mr. Allison, and I spent a couple of hours on

this subject just prior *to this meeting.*

CB

I hope you <sup>*will*</sup> find ways of dealing with Federal Reserve Bank problems

so that as few of them as possible need to be handled in open session.

Coldwell

*I think we have.*

CB

You think you've already done that.

Coldwell

Well, we're headed in that direction. I'll let the Vice Chairman

on that subject.

Gardner

We have a plan. The problem is Mr. Chairman that as you know,

if a Committee regardless of its size is delegated to act for the Board, <sup>*e*</sup> then it

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becomes subject to Sunshine by that delegation. So we are working on alternative ways.

Now a number of the Board committees, in fact, the majority do not have delegated authority, and they can meet without violating any law in closed session because they're only advisers or what have you.

CB      You see, this question about Federal Reserve budgets disturbs me because these budgets are worked out very extensively by our staff. They're worked on very extensively by Coldwell's Committee. I work on it to some degree with Mr. Coldwell outside the Board room. The amount of time that has been spent by the Board as a whole on Federal Reserve Bank budgets hasn't been large because of all of these preparatory steps. All right, now you have an open meeting and there maybe some newspaper fellows there and Gardner's common cause, and what's this Ralph Nader's crowd, and what not. Here let us say we take up a budget coming to \$600 million plus, and we do that within <sup>an</sup> / hour, and well we'd look very bad. Therefore, if that were the case I would consider it my duty to just stretch it out over a day, well that's terrible. ~~Then~~ we'd look good or reasonably good in Mr. Nader's eyes, but we'd <sup>by</sup> destroy or reduce our effectiveness. Now there must be an answer to that. Well we have enough ingenuity in this room I think to find the answer, but I don't think we have found it yet.

**Transcripts from the  
Federal Open Market Committee  
February 15, 1977**

**Executive Session**

**Arthur Burns Collection  
Gerald R. Ford Library  
Ann Arbor, Michigan**

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Executive Session

Burns

Good morning gentlemen, I was just about to apologize

for being late and I am sorry but I had a breakfast meeting and I couldn't get

away on time but a ~~colleague~~ colleague of ours suggested that this might be a 10 minute

meeting and in view of his wise pronouncement I am not going to apologize.

But I am sorry to be late. I think as you all know we have a we've planned a

luncheon to honor one of our colleagues Lyle Gramley who has left the Federal

Reserve but has not left this city. The we will begin this meeting being in

Executive session with a report by Mr. O'Connell who will recommend to the

Committee that the FOMC agree that the meetings of the FOMC are not covered

by the Sunshine act. Now just a word of introduction This is the finding by

Mr. O'Connell and he has done a very extensive research on the subject his

conclusion is firm. I have been keenly aware of the fact that this conclusion

if adopted by the Committee could cause us some difficulty on Capital Hill. because

some members of the Congress interested in the ~~Sunshine~~ Sunshine law apparently have

been under the impression that the FOMC is covered. And I've been a little concerned

about the finding by our counsel on the ground that some member of the Congress

interested in this subject might propose an amendment to the Sunshine law under

which we might lose the two amendments we want. We fought hard to win and we finally

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did win at the last session of the Congress. And therefore I have discussed this subject with considerable care with Senator Ribbicoff, Senator Percy, Senator Childs Congressman Brooks, Congressman Thesell and I have also talked this over in length with John Gardner of common cause. And as you may know, John Gardner and his group played a very important role in getting this legislation in action. And I wanted to make sure that this ~~find~~ finding by our counsel is not interpreted first as a circumvention of law and second that there will be or may not be a move in the Congress to amend the Sunshine Act. These conversations with the members of the Congress have gone well and they understand the position that Mr. O'Connell has reached which I am recommending that the Committee adopt. We don't have any actual assurance that there will not be congressional action but as of today I have no reason to ~~expect~~ expect it. That's all by way of introduction and the floor is yours Tom.

O'Connell

Mr. Chairman the members of the committee, I believe, have received advanced to the meeting Memorandum of law as set forth as the Chairman has indicated the conclusion that I have reached on researching this issue. And accompanying that memorandum was a proposed statement of policy that I have recommended and with concurrence with the Chairman the language has been adopted for the Committee study that would set forth as published the Committee's statement in view if the ~~work~~

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concurrs and the position that I recommend May I take just a few brief moments and restate in summary form, what I believe is a sustainable position with reference to the outcome of the steady of the steady done. The issue of course is whether or not the statutory language per se of the legislative history of the statute can reasonably be read so as to exclude ~~it~~ from its coverage the FOMC. As you have read in the memorandum page position guide certainly by definition of the term agency which is contained in the statute there are three basic tests that an agency must meet as to whether or not it's covered. Then one, is whether or not it's an agency as in that statute. The Committee such an agency, secondly whether that agency membership is composed of body through a more enforced Committee meets that requirement test. And the third whether or not the members of such collegial bodies two or more in number have been appointed to such position by the President of the United States at the advice and consent of the Senate. If that final test is met the agency is covered. And of course it is on the last third criteria that I have taken the position the FOMC is not covered. But the simple reason that of the body composed, the Board Members, of course, are appointed to the Board by the President by the advise and consent of the Senate, but they are ex officio members of this Committee by statute members of the Board



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as  
are designated by members of the FOMC and of course at any given point in time the  
five serving Presidents are not appointed by the President with the advise and consent  
of the Senate. So the houses ~~does~~ body does not meet the so-called agency test with  
the meaning of the statute. Nor, in my judgment, is the FOMC in any sense to be con-  
sidered to be the subdivision of the agency, which is also component part of that ~~position~~  
definition. On examination, there is no function performed by this Committee that  
can be said to be the result of or the direct follow-up of the delegation of  
authority ~~is~~ under the Board Committee. Its principle functions are defined by  
statute and by ~~the~~ some regulations issued ~~in~~ pursuant to that statute. The  
Committee is a functioning agency for other purposes and within the meaning above  
the law. The Committee knows it is an agency within the meaning of the administrative  
procedure act--which is ~~to~~ USC. The Committee is an agency and ~~has~~ has  
taken that position with respect to the freedom of information act. But for purpose  
of the Sunshine Act I am perfectly well satisfied that the start ~~of~~ the  
composition of the Committee as explained by statute, viewed in the light of the  
definition of agency within the Sunshine Act reasonably postures the Committee is not  
being covered by that act. I cite in my memorandum of long, Mr. Chairman and member  
of the Committee, statutory reference to the historical point as this bill was going

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through the Congress that support this position. One such being the extract contained in the memorandum of an exchange by Miss Abzug sponsored bill in the House when asked 'by a member of the ~~congress~~ Congress as to the actability of the term "agency" and she very clearly stated that the test of agency status is the definition itself And she gave an example of ~~xxxxxx~~ an ex officio status of an ~~xxx~~ agency that would not be covered by the act for the simple reason that the members were not appointed to such position by the President. Although she admitted that they were appointed to another position by the President, it was the body of which the question raised statute's actability that was the test that's ~~forming~~ forming that same rational that we shall have. I must admitt, and the Committee members have seen and have had a chance to look at the memorandum. There is ~~xxxx~~ contrary legislative ~~ix~~ history in the form of the debates on the floor of the house. But I point out that on careful study, I ~~xxxx~~ adjudge those quoted portions of the debates to have assumed the status of coverage for the FOMC and then to have discussed other collatera<sup>a</sup> issues such as who is a member assuming that the agency is covered. Such as the right to close ~~the~~ meeting and withhold a transcript. In that exchange it was assumed that the FOMC was ~~mentioned~~ mentioned in these two or three phases. The sentence carried was something like the FOMC, it can close its meetings so it was a stated assumption

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without itimized evaluation of the language and statutes. Overall I adjudge the  
legislation legislative history to balance in favor of a position now taken by  
thus recommending the position that is contained in the memorandum. And as  
reflected in the statement policy. The recommendation for adoption of that statement  
I submit that it has been very carefully prepared to adhere as closely  
as possible to the language of the statute without the exaggeration of the statement  
of the Committee of its position that upon examination of its own operated procedures  
the Committee has determined that its present procedures, if continued to be followe  
even though it demurs from the position of legal technical coverage by statutes, in  
fact there is a compliance of the spirit of the Sunshine Act. And more particularly  
the fact that the Committee under its present practice releases its records of the  
policy actions roughly a month following each of the respective meetings. And as now  
written and as has been expanded on the Committee's action of several months ago is a  
very full explanative text that when viewed as compared with coverage by the  
Sunshine Act where the Committee could under the technical terms of that Act which  
hold major portions, if not all certain transcripts for months even a year or whatever  
period the Committee determined under the particular exemption required further holdin  
as its now written there is basicly nothing that is withheld per se in the narrative

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contained in the record of policy action which is released about a month ~~xx~~ after the meeting. So in that sense, and as the Chairman has advised each of ~~the~~ the members of Congress with whom we earlier were eluded, we feel that there is ~~is~~ full deliverance in the spirit of the Sunshine Act and that we can go forward in that spirit and that we are not in any sense cutting short the rights of the public with respect to the Sunshine Act. Mr. Chairman, I think that is roughly those are the points I wanted to cover

Roos Mr. Chairman, does the emphasis that we're placing on this argument on whether or not members of the FOMC are appointed by the President, confirmed by the senate, does that strengthen Mr. Royce's position that on the ~~point~~ appointment of Reserve Bank Presidents, and will that stimulate further efforts, you think on his part based on this Government in the Sunshine issue to try to force through Congress ~~the~~ the bill that he was unable to get out of the Committee last year. Is that

Burns Let me make an introductory comment and then turn the legal question over to Mr. O'Connell. The all that we intend to release to the public is the statement of policy described as attachment B rather than the lengthy legal opinion that has been developed by Tom O'Connell. I think the legal opinion is a document to this Committee and there is no intention to release that. Tom would you be good enough to

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O'Connell

Mr. Roos it's , as you well know it's difficult to respond to what will trigger Mr. Royce into further action. At the present time in the present setting of the pleadings of the Royce suit , it is now on appeal and I should advise the Committee that at this time ~~max~~ the burden is on Mr. Royce's counsel to file his brief in support of his appeal. As of last night he had not filed the brief so I don't know particularly the points he would make. It is possible if he knew of this content he could address himself in some just position urging the thesis of this position as against us. I have ~~talked~~<sup>thought</sup> this out I have discussed it with my colleagues none of us, including myself are in the view that it offers a position that would weaken the Royce suit. I am not aware, really, of any rational. It is possible he could attempt to interpret the Sunshine Act.

Burns

Yes Mr. Black

Black

Tom, is it possible we might do that all the time, not issuing our statement of position but the other actions which we worked on under the Government in the Sunshine Act.

O'Connell

I am sorry Bob I didn't hear the last part, excuse me.

Black

I was just saying is it possible that it would be better if we did not adopt the first part of the recommendation issuing a statement that we

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don't think we have covered first merely acting as if we were.

O'Connell

I have an opinion on that President Black. To the contrary

I believe that our position is far better secured by the issuance of a statement policy of the nature I have recommended similar to our action by the Board with respect to the labor position several years ago when we issued a statement of policy with respect to the System's position on labor management. In this case I have had calls from a number of public interest groups, I have had calls from the Hill, from the editors of two newspapers stating an assumption that the recently published Board regulations ~~will~~ under Sunshine as they were released here some two weeks ago were seeming to cover the FOMC. Do they cover it. and my ~~xx~~ response has been that the matter of coverage of the sunshine act has yet to be determined by the Committee and shortly we would announce the position. I am concerned that if we don't published a statement of policy in which we forthrightly set forth the Committee's position and explain at the same time equal exposure as if covered, we will have either law suits compelling the publication of regulation or a constant demand when they hit at us where are a regulation. This will at least serve that purpose so the public will know there will not be regulations covering the FOMC.

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Burns

There is an additional comment we've been advised by two of the men whom I mentioned, very influential. Greatly involved in this legislation to put out such a statement of policy.

Gardner

Tom isn't it true that we cannot pretend that we are covered by the FOMC because part of the rather by the Sunshine Act because a part of what you have to do is public regulations, if in fact you are covered by the Sunshine Act. We have already gone past the date on that.

O'Connell

Well, Governor, your point is well taken sitting now at the 14 of the month. If we were to issue today a proposed regulation covering the Committee and allowed 30 days as required by law we are then at March 14 to days subsequent to the release date. Better late than never would be the attitude we have to exhibit. I urge that at this time if we are sued following issuance if the Committee adopts the statement of policy and a court were to require us then to cover under Sunshine and we issued the regulation we'd be even that much more late, so the matter of a few days I think we probably wouldn't be at all decisive. I should say, Mr. Chairman and Governor Gardner's question I have great difficulty, I believe I mentioned in a previous Committee meeting in lightly recommending that this committee adopt

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the position of coverage when there is clear appearance of noncoverage for the reason that I don't know the administrative capability under law of an agency taking to itself the coverage of a statute where it implies, and as a matter of fact, expressly involves cutting of the time in which the agency has to answer a suit under the law. It gives jurisdiction in many courts of law that otherwise would not have jurisdiction over this Committee if it were an ordinary law suit. It renders certain of the rights of this Committee negative by law, and I don't believe that the Committee has the right as a matter of law to adopt these positions ~~that~~ thus covering up otherwise towards rights. So that it would take an act of Congress or a declaration by a court of law in my judgment to cover us under this law.

Burns

There is one there are two supplementary observations that I would make. One is that the point that Tom has just made. was made, Tom accompanied me to the meetings with the legislators and Tom developed this legal point in grave detail and the members of the Congress with whom we met were very much impressed by it. That point number one, Point number two if the mood should develop within the Congress to amend the sunshine law on the ground that here is a loophole and the loop hole ought to be closed. If the move if a serious move along these lines developed, then I might very well come before the Committee and suggest that we take the step of declaring

**Transcripts from the  
Federal Open Market Committee  
August 16, 1977**

**Tape 7**

**Arthur Burns Collection  
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ought to fight it and see what happens because we don't want ~~the~~ the key to the kingdom being taken in case to court.

Fraser

Why don't we do what Tom suggested, Mr. Chairman, and <sup>give me</sup> ~~if~~ show

another shot at <sup>dealing</sup> ~~dealing~~ them out in effect. Seeing whether he can get any clear indication of whether or not they intend to take it to court before we make a decision in a vacuum.

Gardner

I think that more ~~is~~ likely <sup>will</sup> inspire them to take it to court.

Gentlemen I want to make these points. When I ~~was~~ considered this matter first with Mr. Broida, I did not consider it in the context of what the Chairman has just described. I thought about it a good deal, I want to also try to reinforce the point I made. Those of us who sit at this Board are fully experienced in the tyranny of a recorded meeting. And <sup>our</sup> ~~our~~ meeting discussion are inhibited. Now during those FOMC meetings in 72, 73, 74, and 75, you had no such experience. You knew perhaps that your memorandum of discussion would be prepared and released five years later. We sit here with a green light, I don't see it this ~~morning~~ morning it inhibits us as a Board of Governors. We're fully subject to ~~the~~ Sunshine and my experience with the discussions that take place <sup>--</sup> and I have not reviewed those five years of minutes that will eventually become available <sup>--</sup> <sub>λ</sub> Lead me to believe

that the proper course of action is not to do a disservice to those who sat on those Committees over those years and spoke their minds with only the condition that they <sup>knew</sup> ~~new~~ their thoughts might be fully disclosed five years later. And suddenly rush into court or rush into the New York Times with five years of FOMC discussion. Now

Lilly Does 5 months difference make, is it all that much difference

Burns Yes, but that 5 months applies to the other way too. Why can't they have patience for another <sup>?</sup> reason, 5 months. Why? But they are going to get it by January, why can't they be patient? Why should we deviate from a rule that we've established, in a political environment that could lead to mischief as far as interpretation of this Board's action is concerned.

Lilly In the first place, I think, I'll pick up Phill's remarks I think times have changed since 4 years 7 months ago. We've had two very significant pieces of legislation that both say that this ~~is~~ is no longer appropriate, this keeping things for 5 years.

Burns Well, now, but your statement is inaccurate.

Lilly Well, we have Sunshine in Government and we have the Freedom of Information ACT.