



THE UNDER SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

*Held for
April 29*

APR 22 1970

MEMORANDUM TO: Participants in the Planning Session for
the Proposed Commission on Financial
Structure and Regulation

SUBJECT: Details on the Forthcoming Meeting

Date and Time: April 29, 1970
10:00 a.m. to 4:30 p.m.
(Lunch in the Treasury)

Place: Room 4121
U. S. Treasury Department
15th and Pennsylvania Avenue, N. W.
Washington, D. C.

Participants: See attached list of invitees

Expenses: Travel and other expenses will be fully
reimbursed. Expense forms will be
distributed at the meeting.

Background Material:

The key features of an internal working proposal for
the organization and operation of the Commission and its
staff are described in the enclosed paper.

Purpose of the Session:

This is to be a "brainstorming" session with two major
purposes. The first will be to identify and evaluate
alternative approaches to the organization and operation of
the Commission. The background proposal being distributed is
only for discussion purposes, representing a possible set of

alternatives. We will want your reaction in this proposal, and your views on its major working assumptions. Some examples are:

1. Mandate. What is the appropriate institutional subject range for consideration by the Commission?
2. Procedure. On most issues, the Commission will have to proceed on the basis of existing knowledge and opinion. How can this material best be marshalled for Commission use? What role is appropriate for the staff in supplying information and pointing up issues? Should hearings be held? Should papers be commissioned? Which issues might call for more basic research?
3. Timing. Is it realistic to expect interim Commission recommendations on the leading policy issues within six months? Is it practicable to divide the Commission's activities to permit issuance of an interim and a final report?
4. Staff Organization. Is it desirable and possible to organize the staff activities to include an "implementation" function? (See Tab G of the proposal.) How do we insure that the Commission recommendations receive legislative consideration?

Beyond evaluating this background proposal, the meeting will be open to discussion of any alternative methodology for conducting Commission and staff activities.

The central question will be: "Assuming you are Chairman of the Commission, how would you organize your resources to produce a series of recommendations most likely to yield the desired changes in the financial system?"

The second purpose of this planning session will be to define some of the leading issues deserving the Commission's attention, and to outline a tentative methodology for the analysis of each issue. Some candidates for discussion will be:

1. Social priorities:

Desirability
Mechanism
Special case of housing

2. Specialization:

Portfolio restrictions
Liabilities restrictions
Other limitations, including on one bank
holding companies

3. Supervision

4. Structure:

Branching
Mergers
Competition

5. Reserve requirements

6. Insurance

A more detailed list of areas that may require attention is appended under Tab H. Additions to that list are invited.

Professor Henry C. Wallich of Yale University will serve as Chairman of the session.

I look forward to meeting with you for a mutually productive day of thought and discussion.


Charles E. Walker

Enclosure

PROPOSAL FOR A
PRESIDENTIAL COMMISSION ON
FINANCIAL STRUCTURE AND REGULATION

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Statement from the Economic Report of the
President, 1970

Because our expanding and dynamic economy must have strong and innovative financial institutions if our national savings are to be utilized effectively, I shall appoint a commission to study our financial structure and make recommendations to me for needed changes.

Statement from the Annual Report
of the
Council of Economic Advisers, 1970

Presidential Commission on Financial Structure
and Regulation

Our expanding and increasingly complex economy must have financial institutions reflecting the vitality that comes from vigorous innovation and competition. Financial services required by tomorrow's economy will differ in as yet undefinable ways from those appropriate today. The demands on our flow of national savings, as indicated in Chapter 3, will be heavy in the years ahead, and our financial institutions and financial structure must have the flexibility that will permit a sensitive response to changing demands. Thus the time has come for a thorough examination of needed changes in our financial institutions and our regulatory structure. This study will be carried out by a commission of distinguished citizens to be appointed by the President early this year.

Statement by the Secretary of the
Treasury Before the Joint Economic
Committee, February 19, 1970

There is also a need to make a comprehensive forward looking appraisal of our financial structure and its regulation. The past decade brought profound changes and created new problems. As we look forward in this decade, the volume of potential demand for savings is impressive. It will be increasingly important to insure that our financial structure can adapt flexibly and efficiently. Therefore, the President will shortly be appointing a commission of distinguished citizens to study these matters.

Size and Structure of the Commission

We favor a group of manageable size -- approximately 15 members. Representation would be limited to private citizens, with no Congressional or other public officials serving as members. We see no need for trying to construct a commission based on a balanced combination of specific interest group representatives; however, we believe that representation from the financial industry must not be permitted to dominate the commission.

The Mandate of the Commission and Timing of its Report.

We recommend that the commission be given a relatively broad mandate: to review and study the structure and operation of private financial institutions in the United States and of government regulation thereof, for the purpose of formulating recommendations which would improve the functioning of the private financial system.

This mandate would exclude such areas as monetary policy, international finance, and the market for equity securities; but would go beyond a study of only the depository institutions. However, in addition to giving the commission this broad mandate with no specific time period for reporting, we suggest that the commission be requested to formulate earlier recommendations on those financial issues of more immediate relevance to policy decisions. This phase of the commission report would be expected within 6-12 months, with the final report due sometime later. The first phase should cover such issues as:

- (1) the overlapping jurisdiction of bank regulatory agencies,
- (2) deposit rate ceilings, and
- (3) restrictions on the nature and scope of the activities of depository institutions.

Summary of Congressional Statements and Sentiment

Members of Congress have from time to time recommended the establishment of a commission of the type herein proposed. Members of the banking and currency committees especially recognize the need for such a study. Two such proposals have been introduced in the past year.

One measure, growing out of the need for legislation regulating one-bank holding companies, was introduced by Senator Proxmire as S. 1052 (see Tab D). In brief, the Proxmire bill would temporarily place regulation of one-bank holding companies under the 1956 Holding Company Act; this would result in regulation by the Federal Reserve Board under the relatively tight but fuzzy mandate in that legislation. The bill would also establish a Presidential commission to study banking competition and report back, providing the basis for permanent legislation regulating one-bank holding companies. The structure of the Proxmire commission [section 3(a)(2)] was the basis for the proposed structure of the commission recommended in this memorandum.

Another bill, H.R. 14951 (see Tab D), introduced by Representative Reuss and several other members of the House Banking and Currency Committee, would provide for a commission with a broader mandate (not solely banking competition but the broad aspects of the financial structure as well). This broader mandate (section 3) is favored for the proposed Presidential commission. However, it is questionable whether the Congressional membership on the commission, as proposed in the Reuss bill, would be wise.

Senators Sparkman and Bennett, Chairman and ranking minority member of the Senate Committee on Banking and Currency, have written the President applauding the proposal to establish a commission. (The letter, along with the President's response, is included in Tab E.) Their attitudes are especially important, because the commission proposal has become tangled with the Congressional move to regulate one-bank holding companies. Extremely harsh legislation, which would exclude not only bank affiliates but banks themselves from some traditional and very important functions (e.g., direct leasing, travel agencies), awaits action in the Senate. Senator

Sparkman has stated that his committee will take up such legislation, but first he would be interested in learning of the commission's intention in this area.

As is indicated in the President's reply to the Senators, he desires the chairman of the commission to meet with Senators Sparkman and Bennett soon to discuss the matter. Secretary Kennedy, in testifying before the Joint Economic Committee in March, suggested that certain matters, such as the problem of what is functionally related to banking (the basic issue in the one-bank holding company matter), could be placed first on the agenda of the commission so that an early, interim report could be in the hands of the President within a few months. (Excerpts from the Secretary's testimony are included at Tab F). This may or may not be practicable.

Inasmuch as the ultimate goal of the project is to achieve good legislation in the financial area, it might be wise to consider a staff arrangement specifically designed to deal with the practical and political problems which will arise from the inception of the

Commission until the ultimate implementation of its final recommendations. A detailed note on the role of a possible "implementation staff" is included at Tab G.

91ST CONGRESS
1ST SESSION

S. 1052

IN THE SENATE OF THE UNITED STATES

FEBRUARY 18, 1969

Mr. PROXMIRE introduced the following bill; which was read twice and referred
to the Committee on Banking and Currency

A BILL

To amend the Bank Holding Company Act of 1956 and to
provide for a comprehensive study of banking laws and
regulations by a National Commission on Banking.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Bank Holding Company
4 Act Amendments of 1969".

5 AMENDMENTS TO BANK HOLDING COMPANY ACT OF 1956

6 SEC. 2. (a) Section 2 (a) of the Bank Holding Com-
7 pany Act of 1956 (12 U.S.C. 1841 (a)) is amended by
8 striking out "each of two", wherever such words appear, and
9 inserting in lieu thereof "one".

10 (b) Section 2 (b) is amended (A) by striking "(1)"

1 and (B) by striking “, or (2) any partnership”.

2 (c) Section 2 (d) is amended to read:

3 “(d) (1) Any given company is a subsidiary of any
4 person having control over it.

5 “(2) Any given person has control over a company

6 “(A) if the person directly or indirectly or acting in
7 concert with one or more other persons, or through one or
8 more subsidiaries, has power to vote 25 per centum or more
9 of any class of voting securities of the company; or

10 “(B) if the person controls in any manner the election
11 of a majority of the directors of the company; or

12 “(C) if the Board determines, after notice and oppor-
13 tunity for hearing, that the person directly or indirectly exer-
14 cises a controlling influence over the management or policies
15 of the company.”

16 (d) Section 4 (a) of such Act (12 U.S.C. 1843 (a)) is
17 amended by adding at the end thereof the following: “Not-
18 withstanding the foregoing provisions of this subsection, any
19 company which becomes a bank holding company solely as
20 the result of the enactment of the Bank Holding Company
21 Act Amendments of 1969 may retain the ownership or con-
22 trol of the voting shares of any company which is not a bank
23 or a bank holding company, if such shares were acquired by
24 such bank holding company prior to January 1, 1969, and

1 may engage in any business in which it was engaged on
2 January 1, 1969."

3 NATIONAL COMMISSION ON BANKING

4 SEC. 3. (a) (1) There is hereby established a National
5 Commission on Banking (hereinafter referred to as the
6 "Commission").

7 (2) The Commission shall consist of fifteen members
8 to be appointed by the President as follows:

9 (A) Six shall be from private life and representa-
10 tive of the banking industry; and

11 (B) Nine shall be representative of the public inter-
12 est and may be appointed from private or public life,
13 including persons serving on State or Federal bank
14 supervisory agencies.

15 Not more than three persons appointed to the Commission
16 shall be, at the time of their appointments, employed in a
17 full-time capacity by the United States.

18 (3) The President shall designate one of the persons
19 appointed to the Commission to serve as Chairman.

20 (4) A vacancy in the Commission shall not affect its
21 powers and may be filled in the same manner as the original
22 appointment.

23 (5) Eight members of the Commission shall constitute
24 a quorum.

1 (b) (1) The Commission shall study and appraise the
2 role of banking in the national economy with a view to deter-
3 mining whether existing State and Federal statutes, regula-
4 tions, and bank examination procedures promote vigorous
5 competition in the banking industry and in the economy
6 consistent with reasonable safety of depositors' funds. Such
7 study and appraisal shall include but not be limited to—

8 (A) restrictions on bank entry;

9 (B) restrictions on the formation of branches of
10 banks;

11 (C) restrictions on the investment powers of banks;

12 (D) restrictions on the payment of interest on bank
13 deposits;

14 (E) reserve requirements of banks;

15 (F) merger policies affecting banks;

16 (G) restrictions on banks engaging in nonbanking
17 activities;

18 (H) restrictions on bank holding companies; and

19 (I) the desirability of consolidating Federal bank
20 supervisory functions into one agency.

21 (2) The Commission shall report its findings, together
22 with such recommendations for legislative and administra-
23 tive action as it deems advisable, to the President and to the
24 Congress not later than June 30, 1971.

25 (c) (1) The Commission, or any three members thereof

1 as authorized by the Commission, may conduct hearings any-
2 where in the United States or otherwise secure data and ex-
3 pressions of opinion pertinent to the study. In connection
4 therewith the Commission is authorized by majority vote—

5 (A) to administer oaths,

6 (B) to require by subpoena the attendance and testi-
7 mony of witnesses and the production of all documentary
8 evidence relating to the execution of its duties,

9 (C) in the case of disobedience to a subpoena issued
10 under this subsection to invoke the aid of any district
11 court of the United States in requiring compliance with
12 such subpoena,

13 (D) in any proceeding or investigation to order
14 testimony to be taken by deposition before any person
15 who is designated by the Commission and has the power
16 to administer oaths, and in such instances to compel
17 testimony and the production of evidence in the same
18 manner as authorized under subparagraphs (B) and (C)
19 above, and

20 (E) to pay witnesses the same fees and mileage as
21 are paid in like circumstances in the courts of the United
22 States.

23 (2) Any district court of the United States within the
24 jurisdiction of which an inquiry is carried on may, in case
25 of refusal to obey a subpoena of the Commission issued under

1 paragraph (1) of this subsection, issue an order requiring
2 compliance therewith; and any failure to obey the order of
3 the court may be punished by the court as a contempt thereof.

4 (3) The Commission may require directly from the
5 head of any Federal executive department or independent
6 agency available information which the Commission deems
7 useful in the discharge of its duties. All departments and
8 independent agencies of the Government shall cooperate
9 with the Commission and furnish all information requested
10 by the Commission to the extent permitted by law.

11 (4) The Commission may enter into contracts with
12 Federal or State agencies, private firms, institutions, and
13 individuals for the conduct of research or surveys, the prep-
14 aration of reports, and other activities necessary to the
15 discharge of its duties.

16 (5) The Commission may delegate any of its functions
17 to individual members of the Commission or to designated
18 individuals on its staff and to make such rules and regula-
19 tions as are necessary for the conduct of its business, except
20 as otherwise provided in this section.

21 (d) Members of the Commission who are appointed
22 from the Government shall not receive additional compen-
23 sation by reason of their service on the Commission, but
24 they shall be reimbursed for travel, subsistence, and other
25 necessary expenses incurred by them in the performance

1 of the duties vested in the Commission. Other members of
2 the Commission shall receive compensation at a rate of \$100
3 for each day engaged in the business of the Commission,
4 and shall be reimbursed for travel expenses, including per
5 diem in lieu of subsistence, as authorized by law (5 U.S.C.
6 5703), for persons in the Government service employed
7 intermittently.

8 (e) (1) The Commission may, without regard to the
9 provisions of title 5, United States Code, relating to appoint-
10 ments in the competitive service or to classification and Gen-
11 eral Schedule pay rates, appoint and fix the compensation
12 of an executive director. The executive director, with the
13 approval of the Commission, shall employ and fix the com-
14 pensation of such additional personnel as may be necessary
15 to carry out the functions of the Commission, but no indi-
16 vidual so appointed may receive compensation in excess
17 of the rate authorized for GS-18 under the General Schedule.

18 (2) The executive director, with the approval of the
19 Commission, may obtain services in accordance with section
20 3109 of title 5 of the United States Code, but at rates for
21 individuals not to exceed \$100 per diem.

22 (3) The head of any executive department or inde-
23 pendent agency of the Federal Government may detail, on
24 a reimbursable basis, any of its personnel to assist the Com-
25 mission in carrying out its work.

1 (4) Financial and administrative services (including
2 those related to budgeting and accounting, financial report-
3 ing, personnel, and procurement) shall be provided the
4 Commission by the General Services Administration, for
5 which payment shall be made in advance, or by reimburse-
6 ment, from funds of the Commission in such amounts as may
7 be agreed upon by the Chairman of the Commission and
8 the Administrator of General Services. The regulations of
9 the General Services Administration for the collection of
10 indebtedness of personnel resulting from erroneous payments
11 apply to the collection of erroneous payments made to or on
12 behalf of a Commission employee, and regulations of that
13 Administration for the administrative control of funds apply
14 to appropriations of the Commission.

15 (5) Ninety days after submission of its final report the
16 Commission shall cease to exist.

17 (f) There are authorized to be appropriated such sums
18 as may be necessary to carry out the provisions of this
19 section. Any money so appropriated shall remain available
20 to the Commission until the date of its expiration, as fixed by
21 subsection (e) (5).

91ST CONGRESS
1ST SESSION

H. R. 14951

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 24, 1969

Mr. REUSS (for himself, Mr. ASHLEY, Mr. MOORHEAD, Mr. ST GERMAIN, Mr. HANNA, and Mr. ANNUNZIO) introduced the following bill; which was referred to the Committee on Banking and Currency

A BILL

To establish a National Commission on Financial Institutions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 ESTABLISHMENT OF COMMISSION

4 SECTION 1. The National Commission on Financial In-
5 stitutions (referred to in this Act as the "Commission") is
6 hereby established.

7 MEMBERSHIP OF COMMISSION

8 SEC. 2. (a) The Commission shall be composed of—

9 (1) three Members of the Senate, two appointed
10 by the majority leader of the Senate, one by the minor-
11 ity leader;

1 (2) three Members of the House of Representa-
2 tives, two appointed by the majority leader of the House
3 of Representatives, one by the minority leader; and

4 (3) six members appointed by the President of
5 the United States, one of whom he shall designate as
6 chairman.

7 (b) Any vacancy in the Commission shall not affect
8 its powers but shall be filled in the same manner in which
9 the original appointment was made.

10 (c) Seven members of the Commission shall constitute
11 a quorum.

12 DUTIES OF THE COMMISSION

13 SEC. 3. The Commission shall make a full and complete
14 review and study of the structure and operation of financial
15 institutions in the United States and of State and Federal
16 regulation thereof, for the purpose of formulating and recom-
17 mending to the Congress legislation which would improve
18 the functioning of the system.

19 COMPENSATION OF MEMBERS OF THE COMMISSION

20 SEC. 4. (a) Except as provided in subsection (b),
21 members of the Commission shall each be entitled to receive
22 \$150 for each day (including traveltime) during which they
23 are engaged in the actual performance of duties vested in the
24 Commission.

25 (b) Members of the Commission who are Members of

1 Congress or are employed in a full-time capacity by the
2 United States shall receive no additional compensation on
3 account of their service on the Commission.

4 (c) While away from their homes or regular places
5 of business in the performance of services for the Commission,
6 members of the Commission shall be allowed travel expenses,
7 including per diem in lieu of subsistence, in the same man-
8 ner as the expenses authorized by section 5703 (b) of title
9 5, United States Code, for persons in the Government serv-
10 ice employed intermittently.

11 **DIRECTOR AND STAFF**

12 SEC. 5. (a) The Commission shall have a staff director
13 who shall be appointed by the Commission and who shall be
14 compensated at a rate not to exceed the rate in effect for level
15 IV of the Federal Executive Salary Schedule.

16 (b) The Commission may appoint and fix the compen-
17 sation of such personnel as it deems advisable.

18 (c) The staff director and staff of the Commission may
19 be appointed without regard to the provisions of title 5,
20 United States Code, governing appointments in competitive
21 service, and may be paid without regard to the provisions of
22 chapter 51 and subchapter III of chapter 53 of that title re-
23 lating to classification and general schedule pay rates.

24 **ESTABLISHMENT OF THE ADVISORY COMMITTEE**

25 SEC. 6. (a) There is hereby established a committee of

1 fifteen members to be known as the Advisory Committee on
2 Financial Institutions to advise and consult with the Com-
3 mission. The Advisory Committee shall be appointed by the
4 Commission.

5 (b) Members of the Advisory Committee shall not be
6 deemed to be officers or employees of the United States by
7 virtue of their service and shall receive no compensation, but
8 shall be reimbursed for travel, subsistence, and other neces-
9 sary expenses incurred by them by virtue of their services to
10 the Commission.

11 GOVERNMENT AGENCY COOPERATION

12 SEC. 7. The Commission is authorized to request from
13 any department, agency, or instrumentality of the United
14 States any information and assistance it deems necessary to
15 carry out its functions under this Act. Each department, ag-
16 ency, and instrumentality of the United States is authorized to
17 cooperate with the Commission, and to the extent permitted
18 by law, to furnish information and assistance to the Commis-
19 sion upon request made by the Chairman or any other mem-
20 ber when acting as Chairman.

21 REPORT TO THE COMMISSION; TERMINATION

22 SEC. 8. The Commission may submit interim reports to
23 the President and to the Congress at such times as the Com-
24 mission may deem appropriate, and shall submit its final
25 report within three years after the date of enactment of this

1 Act. The Commission shall cease to exist sixty days after
2 the submission of its final report.

3 ADMINISTRATIVE SERVICES

4 SEC. 9. The General Services Administration shall pro-
5 vide administrative services for the Commission on a reim-
6 bursable basis.

7 AUTHORIZATION OF APPROPRIATIONS

8 SEC. 10. There are hereby authorized to be appropri-
9 ated, out of any money in the Treasury not otherwise
10 appropriated, such amounts, not to exceed a total of
11 \$900,000, as may be necessary to carry out the provisions
12 of this Act.

REC'D FEB 28 1970

THE WHITE HOUSE
WASHINGTON

February 19, 1970

Dear Wallace:

Thank you for your February 4 letter concerning the establishment of a Presidential commission on financial structure and regulation.

Your offer of cooperation in expediting the commission's work is most welcome. I hope to announce the members of the commission soon, and at that time I shall request the chairman to meet with you to discuss the commission and its work.

With warm regard,

Sincerely,



Honorable Wallace F. Bennett
United States Senate
Washington, D.C.

February 4, 1970

The President
The White House
Washington, D.C.

Dear Mr. President:

We strongly commend the decision, announced in your Economic Report, to appoint a panel of distinguished citizens to study the financial structure and make recommendations to you for needed changes. As your Council of Economic Advisers so aptly points out, the financial services needed in the future will differ from those that are appropriate today, and the demands on the flow of national savings will be heavy. Accordingly, they reason, this nation's financial institutions and financial structure must have the flexibility that will permit a sensitive response to changing demands.

As chairman and ranking minority member of the Senate Committee on Banking and Currency, we are keenly aware of the responsibilities the Congress shares with you in this important area. Unfortunately, the problems which confront us are increasingly complex, and the analysis and study on which to base answers to the problems are all too scarce. Let us cite only three examples.

Inasmuch as financial institutions are subjected to varying degrees of government regulation, the extent of that regulation must be carefully calibrated if innovation and competition are to be fostered rather than stultified. Yet the system of regulation for deposit-type financial institutions -- commercial banks, mutual savings banks, savings and loan associations and credit unions -- has grown without plan. The needs of the 1970's may not at all be served by a regulatory network that evolved largely in the depression of the 1930's.

Your distinguished panel could therefore provide significant help to our committee by suggesting revisions in the regulatory structure.

The President
Page Two
February 4, 1970

Second, legislation passed by the House and now pending in the Senate would specifically delineate the functions of commercial banks and their affiliates. We do not prejudge this issue. But clearly the systematic studies which your commission would carry out could be of inestimable help in our deliberations on this important matter.

Third, for the second time in only four years, the process of savings "disintermediation" -- or the shifting of funds from the deposit-type financial institutions to more attractive market investment -- has impinged sharply on the availability of funds for housing. The result has been an almost disastrous contraction in housing construction. This is probably our most serious single current financial problem.

Our committee is constantly working on it and will continue to do so. We hope that this commission will be able to supply us with new ideas and approaches that will help close this tragic gap.

Because of the importance of these and many other issues in solving the financial problems of the 1970's, we stand ready to cooperate to the fullest in expediting the commission's work.

Respectfully yours,

John J. Sparkman
Chairman

Wallace F. Bennett
Ranking Minority Member

Excerpts from Secretary Kennedy's
Testimony Before the Joint Economic Committee,
February 19, 1970

SENATOR SPARKMAN: Both Chairman McCracken and Chairman Burns said that they were in favor of early action on the One-Bank Holding Company Act, in accordance with the statement that has previously been made by President Nixon. And the answer was in the affirmative. Do you have a position on that?

SECRETARY KENNEDY: I have a very strong position on this, Senator. ... I am not in favor of the legislation passed by the House. I think it is not good legislation, and it should be changed. ...

Now, we do have a recommendation for a Presidential commission to study broad aspects of many fields here. And I think there is a great need for this, because we need to study the flow of savings and the savings institutions, the questions of fixed rates, and what that has done to hurt us in some of these fields that are so important to us, such as housing. We need to look at the competitive factors. So this would be a broad study.

The President, I would be in hopes, would have this commission appointed promptly. And I should think one area that they could look at could very well be the competitive factors. ...

I would like to see their study. I think that they can move promptly, and that legislation can be forthcoming even if it goes through that commission. If the Senate wants to move separately on it, we will be prepared. But I should think that what we want in the end is very good legislation.

* * *

SENATOR SPARKMAN: I assure you I am very much in favor of that study. How soon will that commission be set up, do you know?

SECRETARY KENNEDY: I should hope within the next few weeks, two or three weeks at least. We will move promptly on this one, because it is timely and there are many areas that we should be taking a look at that might be helpful, and get some early answers as part of the problem rather than delaying to the end.

* * *

REPRESENTATIVE MOORHEAD: Mr. Secretary, this commission that you have described to Senator Sparkman, is that going to be just a one-bank holding company study?

SECRETARY KENNEDY: Oh, no. That is a very broad study, covering the whole savings flow of funds and administrative setup of the supervisory agencies, getting to some of the questions Senator Sparkman was directing.

REPRESENTATIVE MOORHEAD: Would it be possible, Mr. Secretary, to have the commission break out the one-bank holding company and issue a report on that as Chapter I before a complete study is made? I am afraid this is going to be delayed too long if we wait for a study.

SECRETARY KENNEDY: We have not defined the metes and bounds in terms of reference to the commission precisely. That will take some doing once we get the chairman of the commission. But it makes some sense, in my judgment, just thinking aloud with you for the moment, Congressman Moorhead. There are some areas we would like their judgment on as early as possible to see if there is anything that can be done in some of these fields on the savings flows now, on rate structures, or anything else, plus the one-bank holding company thing, and get action as soon as we can on that, and then have them devote their attention in the second phase to the broader, longer range, which

might take a year or a year and a half. But in this calendar year there are many things that I would like to have their judgment on as soon as possible if we can get it.

REPRESENTATIVE MOORHEAD: Have you asked Senator Proxmire or Senator Sparkman to postpone action on the one-bank holding company legislation until the completion of this study?

SECRETARY KENNEDY: I have not.

REPRESENTATIVE MOORHEAD: Do you recommend it?

SECRETARY KENNEDY: There have been discussions with them telling them about the commission. I have not participated personally. We have not asked them to withhold action. I think it makes sense to me that they know what we are proposing and take that into account in the time frame of their judgment as to what should be done.

* * *

SENATOR PROXMIRE: ... Do you still feel that prompt action [on bank-holding company legislation] is a desirable thing in the light of the commission proposal?

SECRETARY KENNEDY: I think my definition of promptly could be extended to cover this calendar year.

* * *

REPRESENTATIVE REUSS: ... As I Understand your position, it is that you still believe, as you did last year, that prompt action on one-bank company legislation is necessary and desirable, but that you construe the word "prompt" as meaning sometime in this current calendar year of 1970. Did I hear right?

SECRETARY KENNEDY: I think that is right. I would be in hopes that if the Senate wants the commission to take a look at this specifically they can comply within relatively short time. Because a lot of work has been done, we have had the hearings, and there are a lot of facts available in the supervisory agencies, and we have a tremendous input to the commission that would be helpful. I think it can be done.

REPRESENTATIVE REUSS: I am glad to hear you say that, because I too think that the Congress ought to fish or cut bait on the one-bank holding companies this year.

When you say that promptness means this year 1970, that means that you do not consider it necessary to wait around for the deliberations of the Commission on Financial Institutions which the President says -- obviously they are not even appointed yet and they cannot complete their deliberations in time for

Congress to consider them this year.

SECRETARY KENNEDY: I would not agree to that. I headed a commission that did complete a report and finish it in six months. If you take one facet of this, they could probably do it in two months. So I do not think it is an impossible task. This commission will be appointed promptly. And if in their discussion and in their studies they should find some great difficulties in this, I would not have any hesitancy, in the interest of good legislation in this field, in having it go over to another year. I am not pushing that way. I want good legislation in the end, not just a time frame.

SENATOR PERCY: I would like to indicate also that I think it is most important that we have the right legislation. ... And when we have as much confusion about it as we have right now, and we are not sure what the implications of it might be, I think there should be prompt appointment of those who are to study financial institutions, and that they should be told that there is a sense of urgency. They are all going to be honorable people.

* * *

REPRESENTATIVE REUSS: ...Do you really believe that this commission can be appointed, take office, hire a staff, and make its preliminary reconnaissance [before Congress adjourns this Session]? ... Does this really seem realistic?

SECRETARY KENNEDY: Based on my experience at the Budget Commission, they could do it. I think it can be done.

But I again want to emphasize that I think it is far more important to have good legislation than to have just a bill passed.

REPRESENTATIVE REUSS: Except that last year you were before the Banking and Currency Committee saying that it was imperative -- and I agreed with you -- that we do something about one-bank holding company legislation.

SECRETARY KENNEDY: I feel that way, and it is so stated in my testimony.

* * *

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ROLE OF THE "IMPLEMENTATION STAFF"

This discussion of a possible staff mechanism to be utilized in connection with the Commission on Financial Structure and Regulation does not deal directly with the function of the academic staff. Rather it focuses almost exclusively on the establishment of a staff function with the primary responsibility for dealing with the practical and political problems which will arise from the inception of the Commission until the ultimate implementation of its final recommendations. Roughly, this function can be broken into the following three categories:

1. INDUSTRY LIAISON: Constant contact should be maintained with all segments of industry which are being scrutinized by the Commission in order to keep industry fully apprised of the results of the academic study as they develop and of the proposals that are being considered by the staff and the Commission.

This would be for the purpose of affording industry some informal but effective method of reacting to the various alternatives being considered before they become finalized. In this manner, if there are practical problems which would arise under a particular proposal which have not been discovered by the staff, industry would have an opportunity to explain the problem, and perhaps, offer an acceptable alterna-

By meticulously following such a procedure, there will be an automatic system of checks and balances between the ideological and practical considerations that will be dealt with in the study. With all of these considerations on the table before it, the Commission can then consciously choose between alternatives with less risk that there will be serious and unknown side effects of its decisions.

In this manner, it should be possible to minimize the controversy which might arise as a result of the Commission study. Otherwise, it is certain that the affected industry will lobby strenuously against proposals they find particularly odious. Such lobbying could jeopardize the entire Commission proposal, even though some parts may not be particularly controversial.

It should be acknowledged that there is the possibility of duplication here, since the academic staff will undoubtedly be exposed to some of the practical objections which industry may have. It is important, however, that such "duplication" not be minimized, since industry will be thereby afforded the maximum opportunity to resolve its problems, and the political implications of these problems will receive early attention.

2. AGENCY LIAISON: Much that was said in the previous section is equally applicable here. There could be even more duplicate contact since the academic staff will in all likelihood rely heavily on the various involved government agencies for data and suggestions. However, even here it is very important that the implementation staff maintain constant contact with the agency involved in order, among the other considerations already discussed, to focus particularly on two important questions: (1) What practical problems will arise both to the agency and the affected industry as a result of the various proposals considered, and (2) Where there are such practical problems, are the benefits to be gained by a particular proposal worth the price that will have to be paid?

By paying particular attention to these questions, the implementation staff should be able to maintain the necessary check against what may be hyper-arduous arguments by industry. Also, the facts and considerations obtained here will be particularly useful in presenting the ultimate proposals to Congress. Legislative committees seem to pay particular attention to the appropriate government agencies with respect to the possible practical impact of new proposals.

Of course, there are other obvious advantages to be gained by maintaining close contact with the affected agencies. These considerations are for the most part so mundane that their treatment here would serve little purpose.

3. CAPITOL HILL LIAISON: Many commissions have done a great deal of hard work and produced lucid and highly lauded reports, which are promptly forgotten and never implemented. This, unfortunately, has been the case even though in most instances substantial Congressional representation is had on these commissions.

In fairness, it should be noted that some of these commissions do not have the primary objective of legislative implementation of their proposals. However, many do and have still met the described fate.

There are two primary reasons for this. The first is the problem discussed in number one above -- the affected industry does not have sufficient input in the final product and therefore does what it can to lobby against objectionable provisions. Since the commission proposals are often viewed as a complete entity, the Congressional committees may be reluctant to do anything other than accept or reject the entire package. The result generally is that the entire proposal languishes and ultimately dies in committee.

The second problem is that, while there are Members of Congress on the commission, all members of the appropriate committees are not involved and do not know what is going on. In most instances, the Members of Congress on the commission do not devote a great deal of time to the activities of the commission. Many times they will send a representative to the commission meetings rather than attend themselves. The result is that they do not have an in-depth knowledge of the commission product; they may not be particularly "sold" on some of its provisions; and they may be put in an embarrassing position when Members of their legislative committees (generally junior to themselves) raise one or more objections to the provisions of the report.

These individuals may feel an obligation to defend the commission report since they were part of it, yet may be less than enthusiastic about the proposal at best, and may be in a spot with respect to their fellow committee Members. Rather than meet the issue head on, the result many times is no action. At other times, the action may be

greatly delayed; when it comes, so many compromises may be effected that the end product bears little resemblance to the commission proposal.

It is assumed that this Commission will have no Congressional representation. Some have opined that this is a mistake. To the contrary, this can be a decided plus if it is handled properly.

There is no reason to have Members of Congress involved in the routine considerations of the Commission. As noted, they are very seldom more than superficially involved, even when they are members.

The importance of having Congressional involvement arises primarily when there is some controversy to be resolved. Generally, in the past, the controversy has arisen too late from the standpoint of the commission -- it comes after the commission report. Even when it is timely, the only Congressional involvement is from the Congressional members on the commission. In that case, they may be put in an embarrassing position because the

other members of their Congressional legislative committee may not agree with how the issue was resolved. The result can be another dead commission report.

The implementation staff should arrange to keep all members of the appropriate legislative committees apprised of the major decisions and issues being handled by the Commission as these decisions and issues arise. Before controversial decisions are made, these committee members should be contacted, briefed on the problem, and their advice and thoughts be obtained. Subsequently, when the Commission makes its decision, the committee members will know what is going on, and ideally, will see the results of their advice in the decision of the Commission. If the advice of a key individual is not taken, special steps can be taken to assuage him, or at least minimize what may be his displeasure.

This is probably an oversimplification of this particular function and problem. An infinite number of situations involving not only Congress, but industry as well, can be

visualized in which the inter-relationship of Congress, industry, government agencies, and the Commission itself may cause considerable problems to the objective of final implementation of the Commission recommendations. These situations can be handled on an ad hoc basis as they arise if the staff and specific mandate are there for the purpose.

INTERNAL STRUCTURE

Ideally, one person should have primary responsibility for each of the two major staff functions, under the person responsible for the entire staff effort. Neither of these should be autonomous, since the end product must be an amalgamation of their efforts. Nor should one be subordinate to the other. Each function is separate and distinct, but must be complementary. Perhaps they would best be described as equal partners working toward the same objectives from different perspectives.

There will probably be times when the two may seem adversary -- the academic may be striving for a reform which may be objectively desirable but is so controversial

that its adoption might jeopardize the other proposals of the Commission. Under that circumstance, it will be necessary for each of the staff divisions to fully understand the position of the other. Working together on such problems, they should in most instances be able to devise an alternative which is acceptable to both points of view.

When such a situation arises, it should be explained fully to the Commission from both viewpoints, the proposed alternatives be explained, and the Commission then make its decision with all considerations before it.

If the internal working arrangement is to be as suggested above, the organizational chart should make this clear. It is particularly important that all affected by the Commission undertaking -- industry, government agencies, the press, Capital Hill -- be aware of the dual staff functions and their purposes. If this is made clear, then the proper flow of information, ideas, recommendations, complaints and problems will be greatly facilitated.

SIZE OF STAFF

It is impossible at this point to make other than broad recommendations in regard to the size of the staff. A desirable objective would

be to keep the staff as small as possible in order to minimize confusion. The Commission will have access to government and industry personnel for the purpose of data gathering, which will aid the objective of minimizing size.

Once we assume that a small staff is desirable, the question of just how small will have to wait until the details of the Commission's mandate and priorities are established and its operating procedure decided.

If the study is to proceed single file on delineated issues, with a predetermined list of priorities, the staff can be made much smaller than if the study is to go forward on all fronts simultaneously.

METHOD OF APPROACH

In this regard, the single file method seems most desirable. It will allow the Commission to focus its attention on a series of narrow problems rather than be simultaneously concerned with a number of issues. Usually, when the latter arrangement is adopted, the commission has split itself into sub-groups, each responsible for a particular segment of the study. Unfortunately, this reduces drastically the amount of attention a particular issue receives from a number of diversified individuals.

By adopting the single file approach, all members of the Commission can focus equally on all issues. As decisions are reached on the issues, it should be made clear that, initially, all decisions are tentative. Naturally, the resolution of issue "A" may very well have some bearing on the resolution of issue "D", and vice versa. Consequently, once all issues have been treated, a recapitulation by the Commission will be necessary in order to bring all loose ends together.

It is assumed that the Commission will be directed or will desire to make interim recommendations. Such interim recommendations can be made with the specific caveat that they are interim, and may be subject to some suggested modification in the final recommendation, in order to make them dovetail.

APPENDIX:

SAMPLE LIST OF POSSIBLE ISSUES

A. Some General Considerations

1. Purpose of private credit institutions and markets.
 - a. Future role vs. present role
 - b. The case for specialized intermediaries
2. The bases for financial regulation.
 - a. Safety vs. flexibility
 - b. Appropriate regulatory criteria
 - c. Uniformity and equity in treatment

B. Special Institutional Issues

1. Commercial banking.
 - a. Sources of funds
 - (1) deposit rate ceilings.
 - (2) interest on demand deposits.
 - (3) capital adequacy and the issuance of capital notes and debentures and other non-deposit sources.
 - (4) restrictions on types of deposits.
 - (5) emergency liquidity sources -- adequacy.
 - b. Uses of funds
 - (1) portfolio limitations.
 - (2) reserve requirements.

(3) portfolio adjustment ability.

(4) restrictions on the nature and scope
of operation -- what is functionally
related to banking?

(5) influence on tax-exempt securities market.

c. Regulatory Issues

(1) overlapping regulatory jurisdictions.

(2) branching)
(3) mergers) considerations of optimum
structure and size

(4) Federal vs. state chartering

d. Other

(1) commercial paper market -- a third
banking system with no regulation?

2. Savings and Loan Associations/Mutual Savings
Banks

a. Sources of funds

(1) deposit rate ceilings.

(2) restrictions on types of deposits.

(3) emergency liquidity sources -- adequacy.

(4) FHLBB advances as permanent source.

(5) competitive ability vis-a-vis banks.

(6) capital adequacy -- alternate sources of
funds.

b. Uses of funds

- (1) portfolio restrictions.
 - (a) by geographic area.
 - (b) by credit instrument.
- (2) reserve requirements.
- (3) portfolio adjustment ability.
- (4) non-financial activity -- proper nature and scope of operation.

c. Regulatory issues

- (1) state vs. Federal charter.
- (2) FHLB membership vs. non-membership.
- (3) mutuals vs. stock.
- (4) deposit insurance -- mandatory?
- (5) branching, mergers, and other considerations of optimal size and structure.

d. General questions

- (1) the mortgage [non]market and the thrift institutions -- structural problems.
- (2) specialized intermediation in a period of high interest rates -- how can the institutions improve their cyclical viability?

3. Life Insurance Companies

a. Sources of funds

- (1) fixed vs. variable annuities.
- (2) inflation and the share of savings going to life insurance companies -- competitive ability.
- (3) emergency liquidity sources.
- (4) capital adequacy.

b. Uses of funds

- (1) portfolio restrictions.
- (2) reserve requirements.
- (3) the policy loan problem.
- (4) role in the mortgage market.
- (5) variable vs. fixed income investments.
- (6) portfolio adjustment ability.

c. Regulatory issues

- (1) state vs. Federal regulation.
- (2) adequacy of consumer protection.
- (3) extent of interstate regulatory harmony.

4. Other Insurance Companies

a. Portfolio restrictions

b. Reserve requirements

- c. State vs. Federal regulation
- d. Influence of New York State law
- 5. Private Pension Funds
 - a. Adequacy of disclosure
 - b. Necessity of regulation
 - c. Institutional impediments to certain types of investment (mortgages)
 - d. Impact on labor mobility
- 6. State and Local Retirement Funds
 - a. Portfolio restrictions
 - b. Institutional impediments to certain types of investment (mortgages)
- 7. Credit Unions
- 8. Finance Companies

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THE DEPARTMENT OF THE TREASURY

DATE 4/10

TO Herbert Stein

For your information and files.

Room 3025

Robert L. Joss

Ext. 2096

NAME OF AGENCY Department of the Treasury Office of the Secretary		PRECEDENCE ACTION: INFO: TYPE OF MESSAGE ☐ SINGLE ☐ BOOK ☒ MULTI ADDRESS		SECURITY CLASSIFICATION STANDARD FORM 14 REV. MARCH 1964 GSA REGULATION 201-20-604 14-303
ACCOUNTING CLASSIFICATION		THIS BLOCK FOR USE OF COMMUNICATIONS UNIT		
MESSAGE TO BE TRANSMITTED (Use double spacing and all capital letters)				TELEGRAPHIC MESSAGE OFFICIAL BUSINESS U. S. GOVERNMENT
SECRETARY KENNEDY HAS ASKED ME TO INVITE YOU TO ATTEND A MEETING OF FINANCIAL AND ECONOMIC SPECIALISTS TO DISCUSS THE PROPOSED PRESIDENTIAL COMMISSION ON FINANCIAL STRUCTURE AND REGULATION. THIS WILL BE AN INFORMAL PLANNING SESSION FOR THE PURPOSE OF DEFINING THE APPROPRIATE MANDATE AND PROCEDURE FOR THE COMMISSION AND ITS STAFF. WE WILL MEET ON APRIL 29, 1970, FROM 10:00 AM TO 4:30 PM IN ROOM 4121 OF THE TREASURY DEPARTMENT, WASHINGTON, D.C. PLEASE ADVISE MY OFFICE OF YOUR ABILITY TO ATTEND. TRAVEL AND PER DIEM WILL BE PAID. FURTHER INFORMATION ON THE MEETING WILL FOLLOW RECEIPT OF YOUR ACCEPTANCE. I HOPE YOU CAN BE WITH US FOR THIS SESSION.				THIS COL. FOR AGENCY
CHARLS E. WALKER ACTING SECRETARY OF THE TREASURY				DO NOT TYPE MESSAGE BEYOND THIS LINE
NAME AND TITLE OF ORIGINATOR (Type) Robert L. Joss, Assistant to the Assistant Secretary for Econ. Policy		ORIGINATOR'S TEL. NO. 964-2096		DATE AND TIME PREPARED 4/10/70 3:15 pm
I certify that this message is official business, is not personal, and is in the interest of the Government.		SECURITY CLASSIFICATION Unclassified		PAGE NO. 1 NO. OF PAGES 1

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