

MEMORANDUM

August 25, 1938

CONFERENCE ON MONDAY, AUGUST 8, 1938 RELATIVE TO PROPOSALS OF THE NEW YORK STOCK EXCHANGE AND THIS COMMISSION FOR THE SAFEGUARDING OF CUSTOMERS' FUNDS AND SECURITIES.

PRESENT: William McChesney Martin, President  
New York Stock Exchange

Edward E. Bartlett, Chairman of the Board  
New York Stock Exchange

Mr. Paul Shields

William O. Douglas, Chairman  
Securities and Exchange Commission

John W. Hanes  
Assistant Secretary of the Treasury

Francis T. Greene, Assistant Director  
Trading and Exchange Division

Chairman Douglas opened the conference by a statement that he had reconsidered the advisability of immediate publication of Part II of the Whitney Report dealing with the above proposals. He stated that his reconsideration resulted from a fear that the publication of the Commission's report at this time might jeopardize the success of the efforts of Messrs. Martin, Shields, Bartlett and certain other officials of the New York Stock Exchange to bring about the adoption, first, of a central depository for customers' funds and securities and, secondly, of a trust institution which would assume, subject to customer's order, full control of customer's funds and securities.

The Chairman requested an expression of views on the part of those present. The representatives of the New York Stock Exchange were unanimous in saying that in their opinion publication of Part II of the Whitney report at this time might well create a strong sentiment adverse to the central depository and the trust institution. It was pointed out that in a number of respects the lengths to which the Commission proposed to go under Sections 8 (b), 8 (c) and 19 (b) of the Exchange Act might be construed by the membership as a threat and might create an adverse reaction in the Street. More important, it was felt that the detail in which the report would describe the trust institution would develop resistance in the street to it. Hence, it was felt that the Exchange should have more time to do an educational job on it and to lay the groundwork for it.

After discussion it was agreed that Part II of the Whitney Report would be withheld until October 1, 1938 on condition that the President of the Exchange and others would use their best efforts to bring about the adoption by the Exchange of a definite program for the establishment, first, of a central depository thereafter of a trust institution. The representatives of the Exchange stated that, given time to negotiate the proposals, they felt that by October 1st they would probably be able to report definite advancement made towards these two objectives.

It was made clear by Chairman Douglas that should the efforts of the Administration of the Stock Exchange to bring about the adoption of a program revolving about a central depository and ultimately a trust institution be unsuccessful, the Commission would promptly release the Whitney Report discussing all of the proposals which might thus become necessary. The Chairman also pointed out that in the absence of concrete steps towards the fulfillment of proposals of a central depository and a trust institution the Commission might find it necessary to recommend to the Congress a program of legislative action, segregating the brokerage and banking functions or subjecting brokerage firms to the same type of suspension as banks. The details of such proposed legislation were not referred to.

In effect, the results of the conference were a "best efforts" agreement on the part of Messrs. Martin, Shields and Bartlett to bring about the acceptance of the central depository by the Exchange prior to December of 1938. In discussing the time schedule the Chairman made it clear that the Whitney Report would have to be in the hands of the printers in time for its publication January 1, 1938 at the very latest, an earlier publication, being more desirable.

FTGreene/lr