

CHAPTER 7

GROUND ZERO AND BEYOND

1981 – 1985

In 1981, Ronald Reagan became the fortieth President of the United States. Depending on your point of view, he was either the most “ideological” of contemporary Presidents or the most “principled.” By reducing the federal government’s role in American life, Reagan believed, many of the nation’s problems could be solved. Although the new President had an ambitious agenda, it could be enacted only with the support of the Democratic House, support he frequently received. Meanwhile, Paul Volcker remained Chairman of the Board of Governors, where he continued to promote a restrictive monetary policy.

THE REAGAN ADMINISTRATION & THE FEDERAL RESERVE SYSTEM

In *Revolution*, Reagan’s aide Martin Anderson discussed the Administration’s attitude toward the Fed. From the beginning, Anderson observed that “one of the most important components of economic policy is monetary policy.” In the United States, monetary policy “is handled in a curious way,” as it is made by the Fed—which is “independent of the other branches of the federal government.”

Any president has a strong interest in the monetary policy established by the Federal Reserve Board because it can have a major effect on the success of his overall economic policy. But how the president expresses that interest is a delicate and sensitive question. Many people assume that the president makes monetary policy. He does not. *The Federal Reserve Board does and it, as I once heard someone say, reports first to Congress and then to God* [my emphasis] (Anderson 1988 p. 249).

Anderson’s discussion of the Fed is politically sophisticated. He observes, for example, that Reagan’s top officials recognized they could “attempt to persuade or cajole the board,” yet had to be “careful about this.” “Even a hint of a compromise of the board’s integrity would probably cause a backlash,” Anderson asserts. Once the backlash began, it is possible that the President would receive “just the opposite kind of policy” from the one he hoped for (Anderson 1988 p. 250). To influence the Fed, the President’s “major power” over the institution, according to Anderson, is his ability to appoint Board members (Anderson 1988 p. 250).

When Reagan entered the oval office in 1981, he faced a dire situation with the Fed. The nation’s economy was performing poorly—continuing to combine high inflation with high unemployment. In response, Fed officials were pursuing very restrictive monetary policies. Eventually, such policies might work, but elected officials must deal with the here and now. To further complicate matters, Reagan’s economic plan promoted “supply-side economics,” which promised large tax cuts *and* more defense spending. If the federal government stimulated the economy through its fiscal policy, the Fed’s monetary policy would have to be *even more restrictive* to avoid inflation. Accordingly, the Fed’s officials faced a serious dilemma: Should they retain restrictive monetary

policies, even though many would claim such policies undermine the newly elected President's mandate?

From the beginning, Anderson reports, Volcker was "acutely concerned about even the appearance of compromising his independence" (Anderson 1988 p. 250). So concerned was Volcker that he "flatly refused to come to the White House for his first meeting with President Reagan." Similarly, he rejected Reagan's "offer to go to the Federal Reserve Board building and meet with all the members" (Anderson 1988 p. 250).

Since the President needed to meet with the Chairman (and vice versa), both agreed to meet in "neutral territory": the Treasury building. "The first meeting was somewhat bizarre," Anderson reports. At this meeting, Volcker and Reagan were joined by Edwin Meese, James Baker, Donald Regan, Murray Weidenbaum, David Stockman, and Anderson himself. Not long after they all sat down, Reagan asked Volcker how he should respond to "letters from people who raise the question of why we need any Federal Reserve at all." According to these letter writers, Reagan continued, the Fed "causes much of our monetary problems," so "we would be better off if we abolished it" (Anderson 1988 pp. 250 – 251).

The president was serious. I was sitting across the table from Volcker and the view was priceless. His face muscles went slack and his lower jaw literally sagged a half-inch or so as his mouth fell open. For several seconds he just looked at Reagan, stunned and speechless . . . My God, he must have thought, here I am the head of the largest, most powerful banking system in the world and the very first thing this guy—who is going to be president of the United States for at least the next four years—says to me is to justify my existence! (Anderson 1988 p. 251).

Yet Volcker's response proceeded "quickly and smoothly." "Mr. President," the Fed Chairman said, "there have been concerns expressed along those lines, but I think you can make a very strong case that the Federal Reserve has operated well and has been very important to the stability of our economy" (Anderson 1988 p. 251). Reagan accepted Volcker's response. Throughout the controversy over the Fed's legitimate role in American government, which led to many calls for changing the institution's structure and reducing its independence, Volcker had the same position. In a 1982 letter to Representative Reuss, he said:

The present institutional arrangements reflect, in my view, the belief of the Congress that the public interest is served by an institutional setting that can combine experienced judgment and regional representation in its governing bodies and continuity in expert analysis, with a certain insulation from transient political influences. A factor in that approach is recognition that monetary policy manipulated toward short-term or partisan purposes could have potentially adverse repercussions for our economy (*Congressional Record* June 22, 1982 p. 14738).

According to Anderson, a “surprising amount of goodwill” developed between Reagan and Volcker. Ultimately, they agreed on important economic matters. For the President, a “sound, stable, and predictable monetary policy was essential to restoring the economic health of the country.” Volcker agreed. For the Chairman, a major concern was “the independence of the Federal Reserve,” and the President “respected that concern” (Anderson 1988 p. 251).

Others in the administration and in Congress often became impatient with Volcker and his fellow governors and urged Reagan to pressure the Fed, publicly and privately, to follow a different course. That would have been foolish and wrong, almost certainly having the opposite effect from what was intended (Anderson 1988 p. 251).

Other officials supported the Fed much less than Reagan and Anderson. In *Reaganomics: An Insider’s Account of the Policies and the People*, CEA member William Niskanen attacked the Fed. The Constitution, Niskanen observed, provides Congress with the monetary authority. Since 1913, however, Congress has delegated this power to the Fed. Unfortunately, Congress has given “sufficiently redundant or contradictory instructions to permit ‘the Fed’ to chart its own course” (Niskanen 1988 p. 156).

Over time, the Fed has developed “an aura, an influence, and independence that go far beyond the intentions of its creators”—very much like the Supreme Court has (Niskanen 1988 p. 156). While Chairman of the Federal Reserve Board, Paul Volcker was widely recognized as “the second most powerful person in the United States.” But what has the Fed done, Niskanen asked, to earn such respect? In Niskanen’s view, it has done little, if anything, to earn it. Historically, the institution has “demonstrated one consistent bias, at great cost to the nation: the growth of the money supply, in general, has been procyclical.” As a result, money has increased during recoveries, decreased during recessions (Niskanen 1988 p. 156).¹

Although Niskanen was critical of the Fed, he acknowledged that the Reagan administration always “endorsed the independence of the Federal Reserve System” (Niskanen 1988 p. 163). Nevertheless, between October 1982 and December 1984, the “relations between the administration and the Federal Reserve . . . were characterized by an uneasy peace.” The Treasury Department, for instance, frequently criticized the Fed’s monetary policy. Congress and the press responded by criticizing Treasury for “interfering with the independence of the Fed.” Ironically, Volcker’s “frequent criticisms of the deficit . . . were regarded as those of an economic statesman”—causing the Treasury Secretary to “chafe at this asymmetry” (Niskanen 1988 p. 171).

¹ My dissertation is not in economics, but it is important to realize that Niskanen’s argument assumes *the Fed* was responsible for this procyclical money growth. Other economists, though, believe the money supply is largely an “endogenous” factor, one the Fed can influence but cannot control. According to this perspective, it is largely the economy itself rather than the Fed that is responsible for erratic money growth.

Dave Stockman, Marty Feldstein, and Jim Baker, for their own reasons, usually sided with Volcker. The Treasury maintained a general monetarist position but acquiesced to Fed leadership on monetary policy (Niskanen 1988 p. 171).

In July 1983, President Reagan reappointed Volcker, causing a “minor flap” at best. As Treasury Secretary, Regan opposed reappointing Volcker, but he had no one to offer as a substitute. Only Walter Wriston, who served as Chairman of both Citibank and the President’s Economic Policy Advisory Board, emerged as an “alternative candidate of sufficient stature.” Wriston, though, faced serious obstacles: he was not only regarded, by many, as too Monetarist, but also “potentially compromised by Citibank’s portfolio of Latin American debt.” Even if he did not face these problems, two important groups favored reappointing Volcker—all of Wall Street and much of Congress (Niskanen 1988 p. 171).

Consider Niskanen’s own beliefs about the Fed’s role in American government. In the short run, he believed, the Fed’s officials are “more resistant to inflation than are the politicians.” Ultimately, however, elected officials determine monetary policy in one way or another. If Niskanen is correct, the Fed’s independence is similar to Finland’s: it accommodates itself “to the strongest external pressures” (Niskanen 1988 p. 188). Despite Niskanen’s acknowledgment of Volcker’s eight-year term as “the most successful” ever, he argued that the nation missed an opportunity—it should have created a “sustainable monetary rule . . . less vulnerable to political pressure and less dependent on the wisdom of the Federal Reserve leadership.” Pessimistic about future elected and appointed leadership, Niskanen observed that we “might hope for future leaders as wise as Reagan and Volcker.” “A better strategy would be to choose monetary rules and institutional arrangements that are less dependent on the choice of their successors” (Niskanen 1988 p. 189).

What implications does Niskanen’s argument have for administrative legitimacy? He connects administrative legitimacy to organizational effectiveness, which is very important. In chapter two, I discussed the work of Seymour Lipset, who constructed a dichotomy between legitimacy and effectiveness. When critiquing Lipset’s ideas, Rothschild argued that such a dichotomy existed for “analytical and heuristic purposes only.” In the real world, though distinctions can be made between them, the two are linked—or, as Rothschild explains, legitimacy and effectiveness “interact organically.”

Until now, we have examined major philosophical arguments—with some claiming the Fed is legitimate because it restrains the President’s power, others claiming it is illegitimate because it is unrepresentative, and so on. But Niskanen’s argument is much simpler: the Fed is not accomplishing its objectives, so its ability to govern should be restricted in the most serious way. Instead of providing the Fed with conflicting objectives and administrative discretion, the Congress should establish a strict monetary rule. That monetary rule, in turn, would make the Fed’s actions automatic, depriving it of any real power to govern.

Niskanen is not, of course, the first person to make such a proposal. As we know, the Monetarists had been saying such things for years. But Niskanen is the first top Administration official I have found who made such an argument publicly. When making monetary policy, other top officials have recognized, the Fed needs some discretion. At the very least, these officials kept their concerns about the Fed as private as possible. They did not write books publicizing them.

Niskanen's analysis, furthermore, shows how important philosophies of politics and conceptions of human nature are to administrative legitimacy. In the minds of so many, public administration is a technical enterprise, which is far from the truth. To understand public administration generally and administrative legitimacy specifically, we must examine our core beliefs about political life and human nature. Niskanen is a libertarian, currently Chairman of the Cato Institute, who believes human beings can accomplish very little through government. At best, government is a "necessary evil." It is a force, in the classical view, for protecting individual rights, nothing more or less. Only by having clearly defined goals and extremely limited discretion can public administrators be effective, legitimate agents of democratic government—this is, in effect, Niskanen's view. More than anything else, it is a remarkable testament to how someone's political philosophy affects his views of administrative legitimacy.

THE TREASURY DEPARTMENT & THE FED

The Treasury Department and the Federal Reserve have always had a complex, if not contentious, relationship. During the early 1980s, this was especially true, as Treasury Secretary Donald Regan and other department officials exhibited hostility toward the Federal Reserve System—especially its role in American government. In September 1981, Regan attacked the Fed's monetary policy, claiming it was too tight. Because Reagan campaigned against "easy money" during the 1980 Presidential race, the Treasury Secretary was careful not to advocate an extremely loose policy. According to Regan, "we are coming to a time here where a change has to be made," and Fed officials "have to be very sensitive" to that. For good or ill, Regan did not say exactly how much he believed the Fed's policies should change. Nor did he attack the Fed's legitimacy *per se*. "I'm not going to try to tell the Fed, since I am Secretary of the Treasury, and they're an independence group, exactly what mechanisms to use," Regan told a press conference (*Congressional Record* October 6, 1981 p. 23433).

By 1982, however, Regan was more comfortable attacking the Fed's legitimacy directly. During that year, he supervised a Treasury Department study addressing the Fed's monetary policy and its independence. Beryl W. Sprinkel, who served as Under Secretary for Monetary Affairs, reported:

There is, on the one hand, an argument to keep the Fed independent to avoid the problem of an Administration running away on an inflationary policy. But on the other hand, the President is elected by all the people, and he has a right to put his policies into being and to be held accountable for them. And since we have been down here, we

have not gotten the kind of monetary policy that we asked for
(*Congressional Record* June 22, 1982 p. 14738).

The Treasury Department's hostility toward the Fed did not register well with many Republicans on Capitol Hill. Senator Jake Garn, for example, served as Chairman of the Senate Banking Committee, and he rejected restrictions on the Fed's independence out of hand. When Congress responds favorably to Treasury's suggestions, Garn believed, the institution is "trying to find a scapegoat for its own problems." He continued:

I'll be darned if we're going to put the Congress or the Administration in charge of monetary policy. I don't think we want the people who so badly mismanaged the fiscal policy of this country to manage monetary policy (*Congressional Record* June 22, 1982 p. 14738).

Sometimes Secretary Regan attacked the Fed mercilessly; other times he was more understanding of the difficult position it was in. In June 1982, as just one example, he attacked the Fed for having an "erratic" monetary policy. Yet only a week earlier, he endorsed the Fed's monetary policy, the same one he later criticized. When asked by a reporter to explain the inconsistency, Regan only said: "Well, we've [the Treasury Department] recognized the problems they've had. We recognize the practical difficulties they're facing" (*Congressional Record* June 22, 1982 p. 14738).

CONGRESSIONAL PERCEPTIONS OF THE FED'S RELATIONSHIP WITH THE PRESIDENT
Under the law, the Fed is independent of the President—but many in Congress believed that Reagan was at least partly responsible for high interest rates anyway, which is interesting. On this view, the Fed is only independent in theory, not practice. On October 28, 1981, Representative William Hughes expressed concern about the nation's economy. It was "moving into a mild recession," he believed. To keep the recession from becoming much worse, "substantial steps" should be taken "to relax the oppressively tight money policies of the Federal Reserve."

From the beginning, Hughes acknowledged that the Fed "is an independent body"—but he believed, too, the President could influence its policies greatly. The President can, for example, have a "direct discussion" with the Fed Chairman about the institution's policies. Additionally, because the President appoints Governors (including the Chairman and Vice Chairman) subject to Senate confirmation, he can make sure these Fed officials "are in touch with the real needs of those in the economic mainstream." Above all, the President should take action to "influence the Fed to loosen its stranglehold on investment and prosperity" (*Congressional Record* October 28, 1981 p. 25912). In the new administration, however, neither the President nor his top officials have tried to restrain the Fed. They have, in fact, "expressed firm administration backing of Federal Reserve Board deeds" (*Congressional Record* October 28, 1981 p. 25912).

On March 17, 1982, Representative Alexander made a speech entitled, "The President Is Responsible for High Interest Rates." According to Alexander, the Fed has *never*—not once in its entire history—been "at odds with the wishes of an administration." And that,

he believes, is the way it should be. It “places responsibility for economic policy . . . where it properly belongs—on the President as well as the Congress, not the Federal Reserve” [my emphasis] (*Congressional Record* March 17, 1982 p. 4559).

For Alexander, the Fed’s supposed dependence on the President should be formally established. As a result, along with 38 other Representatives, he introduced a resolution directing the “President to consult with the Federal Reserve concerning its restrictive monetary policies and report those consultations to Congress” (*Congressional Record* March 17, 1982 p. 4559). All this was to no avail: like so many legislative proposals against the Fed, this one never passed the House, much less the Senate.

CONGRESS & THE FEDERAL RESERVE

From 1981 to 1985, Congress addressed the Fed’s legitimacy in many important ways, and I discuss the most important of these now.

THE FEDERAL RESERVE REFORM ACT & SIMILAR PROPOSALS

On April 21, 1982, Senator Cranston of California introduced the Federal Reserve Reform Act. This Act, similar to others introduced over the years, would have restructured the Fed—reducing its ability to govern independently of elected officials. According to Cranston, such action was necessary to increase the “responsiveness and accountability of the Federal Reserve System to Congress and citizens.” If this legislation had been approved, it would have given “Congress and the President greater influence over the Federal Reserve Board and monetary policy” (*Congressional Record* April 21, 1982 p. 7319).

The provisions of this legislation—most of which were included in previous legislation—are not worth exploring in detail. Very briefly, the legislation would have returned the Treasury Secretary to the Board of Governors. It would have required the Fed to go through the regular appropriations process. It would have *coordinated* the Chairman and Vice-Chairman’s terms with the President’s. And it would have reduced the Governors’ terms from fourteen years to seven.

Even more important than the provisions themselves, I believe, is Cranston’s commentary about them. From the beginning, he quoted Milton Friedman’s dictum favorably: “Monetary policy . . . is too important to be left in the hands of central bankers.” In an ideal world, the Senator contended, the Fed would be abolished “as an independent agency” and placed under the Treasury’s jurisdiction, hence the President’s. But that reform, no matter how worthwhile it may be, would never pass—its chances are “virtually nil” (*Congressional Record* April 21, 1982).

Knowing Congress would not abolish the Fed, Cranston introduced (what he described as) “very moderate” changes. Despite its modest changes, the legislation would “provide for participation of elected, politically accountable persons and their representatives in the formation of monetary policy.” By making such changes, for instance, Congress could “end the political isolation” of the Fed. To his credit, Cranston connects his proposed changes to democratic theory—arguing that monetary policy “should be part of

the economic policy of the elected administration, supported by a majority of the elected Members of Congress” (*Congressional Record* April 21, 1982 p. 7319).

In the Spring of 1982, the Fed’s monetary policy was yielding high interest rates. Whether this policy is right or wrong, Cranston argued, it is “inconsistent with representative democracy for such tremendous power to be wielded by a board that is not politically accountable.” As the Fed exists today, “unelected, unaccountable, and, for the most part, unknown individuals” make policies affecting interest rates, unemployment rates, and inflation rates for all Americans. Even worse, these individuals are “answerable to no one,” making their power “awesome” indeed (*Congressional Record* April 21, 1982 p. 7319).

They can, without any accountability, heat up the economy or cool it down, bring housing construction to a dead halt and throw hundreds of thousands of people out of work, force credit rates so high that retailers go broke. Even a fractional change in their calculations can raise or lower the gross national product by tens of billions of dollars (*Congressional Record* April 21, 1982 p. 7319).

Later, on July 29, 1982, Senator Dan Coats made similar remarks while introducing legislation to “make the Federal Reserve more accountable to the American people.” Elected officials, as Coats acknowledged, bear partial responsibility for high interest rates. Still, when citizens ask Members of Congress to whom the Fed is accountable, “we must answer ‘no one.’” Unfortunately, the “average American has virtually no say in the decisions of the Fed,” which is especially disturbing since these decisions affect individuals’ lives so deeply (*Congressional Record* July 29, 1982 p. 18567).

To address this problem, Coats believed that Congress should begin “extending to the executive branch greater responsibility for its economic policies.” His legislation, therefore, would have coordinated the Chairman and Vice Chairman’s terms with the President’s. Doing so would have several advantages, according to Coats. First, it would “allow the President to appoint his own Chairman”—while providing, too, “greater flexibility” to the elected administration for coordinating monetary and fiscal policy. Second, it would “permit the will of the people to be more precisely carried out.” Third, it would “introduce accountability” into the Fed’s operations. For all these reasons, the President’s term should be coterminous with the Chairman’s and Vice Chairman’s (*Congressional Record* July 29, 1982 p. 18567).

THE INITIATION OF IMPEACHMENT PROCEEDINGS AGAINST PAUL VOLCKER & OTHER FED OFFICIALS

In 1981, Representative Henry Gonzalez introduced a bill of impeachment against Paul Volcker, which he reintroduced in 1983.² When analyzing Gonzalez’s views as a whole,

² Some question whether either the Fed’s Chairman or its Vice-Chairman can be *impeached*. According to Gonzalez, each can be because Article II, Section 4 of the Constitution says that the “President, the Vice President, and all civil officers of the United States shall be removed from office on impeachment or conviction of treason, bribery, or other high crimes and misdemeanors” [my emphasis]. Surely, Gonzalez

not just on impeachment but others as well, we discover that he had a deep-seated animus toward the Fed. He would make virtually any argument—even if it was entirely inconsistent with an argument he had made previously—so long as it questioned the Fed’s legitimacy.

Consider, for example, the argument Gonzalez made in 1981. In a letter to the *Washington Star*, he attacked Paul Volcker for having too little independence from the President rather than too much. The Fed, Gonzalez observed, is “supposed to be independent of the White House, but all evidence suggests that it is merely a messenger boy for the Oval Office” (*Congressional Record* July 24, 1981 p. 17235). Although Fed officials are not “supposed to respond to the whims of the White House,” that is what they do, in Gonzalez’s view.

Continuing with his theme of a White House-dominated Fed, Gonzalez observed that Paul Volcker and others privately attack Reagan’s economic policies as “reckless” and perhaps “ruinous.” Why, Gonzalez wondered, do the Fed’s officials not make these arguments publicly? No longer should the American public “put up with the pretense that the Fed is either independent of White House demands, or even that it knows what it’s doing” (*Congressional Record* July 24, 1981 p. 17235).

But Gonzalez’s position was contradictory at best, disingenuous at worst—for after attacking the Fed’s officials for their (supposed) subservience to the White House, he did not propose reforms to make the Fed more independent, hence strengthening its ability to govern. What Gonzalez proposed, rather, was the exact opposite: transforming the Fed’s supposed *de facto* dependence into actual, undeniable legal dependence. He concluded:

Why should we pretend that the Federal Reserve should maintain the image of independence, if it swings with the political wind? Why not just put it under the Treasury, where its actions would be seen for what they are, namely, instruments of political policy, and similarly accountable? (*Congressional Record* July 24, 1981 p. 17235).

At any rate, this argument is inconsistent with Gonzalez’s later statements—most notably, an argument he made less than one year later, on March 2, 1982. The Fed must be reformed, Gonzalez claimed then, because it was accountable neither “to the Congress or the Executive branch of government” [my emphasis]. Consequently, the Fed “is completely out of control of the American people” (*Congressional Record* March 2, 1982 p. 2752).

At first, Gonzalez provided few specifics about exactly why Paul Volcker—and eventually all FOMC members—should be impeached. On September 21, 1981, when Gonzalez spoke in favor of impeaching the entire FOMC, he insisted that he was serious about this effort. To some Members of Congress, the resolution of impeachment was

observes, the Fed Chairman and Vice-Chairman are “civil officers of the United States” (*Congressional Record* April 5, 1982 p. 6572). As such, they can be impeached.

extreme; surely Gonzalez was not serious about it, they thought. Responding to such beliefs, Gonzalez insisted that he was “sincere in my purposes for these actions,” since the Fed’s officials were guilty of “high crimes and misdemeanors.” Unfortunately, he did not specify very clearly what these “high crimes and misdemeanors” were. As Gonzalez himself admitted, the resolutions were deliberately written “in general terms” with very few specifics. Until Congress gives serious consideration to his resolutions, it is “useless to be more specific,” he claimed (*Congressional Record* September 21, 1981 p. 21464). Gonzalez expounded on this theme:

The impeachment resolutions are couched in general terms because I feel that if and until I do get serious consideration, it would be useless to be more specific. If I do get serious consideration, the bill of particulars will be drawn up (*Congressional Record* September 21, 1981 p. 21464).

But how could Congress act without more specifics?

True, Gonzalez provided a *few specifics*—but they were not nearly serious enough, I think, to justify impeachment. First, both Senators and Representatives have “noted the arrogance with which the Federal Reserve Board condescends to take time and come before us and then to snort at us.” Of particular repugnance, in his view, are Fed officials like Paul Volcker who blame tight money on the “social programs you must cut further” (*Congressional Record* September 21, 1981 p. 21464).

Since when has our American government permitted the creation, the existence, and the perpetuation of a system where the most important power granted this Congress has been usurped by this body and then dares challenge the Congress as to its jurisdiction (*Congressional Record* September 21, 1981 p. 21464)?

Second, Gonzalez attacked Paul Volcker and the other FOMC members for catering to the few. Fed officials, he believed, have been “responsive only to less than eight banks, not the general banking industry” (*Congressional Record* September 21, 1981 p. 21464). Nor was this only way the Fed catered to the few. At one Committee hearing, Gonzalez recalled several years later when he was still promoting impeachment, he questioned Volcker about the Fed’s policies. In response to the Representative’s questions, the Chairman admitted that the Fed’s monetary policies—which were extremely tight then—would “detrimentally affect” the “standard of living of some Americans.” Gonzalez was furious, for the Americans to whom Volcker was referring were “the little guys, the little people, the ones [who] elect us and keep us in office.” Supposedly, these Americans’ representatives should be “looking after their basic interests.” Because of the Fed’s power, though, elected officials cannot do so, which led Gonzalez to ask Volcker a pointed question:

So, Mr. Chairman, since when do you arrogate to yourself this tremendous power and admit that it is in your power to affect vast

segments of the American people as to the deterioration of their standards of living? (*Congressional Record* January 6, 1983).

While promoting impeachment from 1981 and 1983, Gonzalez added charges whenever he felt like doing so. On January 6, 1983, he accused FOMC officials of perpetuating a “terrible fraud . . . on the American people” and the Treasury Department by leaking information to “certain banking interests headquartered in New York.” Specifically, Gonzalez believed that the FOMC leaked information the Hanover Manufacturers Trust, which used the information to make an “unconscionable profit” (*Congressional Record* January 6, 1983 p. 144).

Eventually, Paul Volcker and other Fed officials testified before the House Banking Committee about this issue. In response to questions from committee members, Fed officials told the Committee: “I’ll promise you we will look into it and we will investigate.” True to their word, Fed officials did commission a study, one produced by a New York law firm. It concluded that the Fed mistakenly released information to the Hanover Trust. Gonzalez attacked the report, however, since it was produced “by a lawyer member of the law firm in New York *that does business with bankers*” [my emphasis] (*Congressional Record* January 6, 1983 p. 143). How many New York law firms have never had legal dealings with bankers? Not many, I expect.

On June 21, 1983, Gonzalez claimed that Volcker should be impeached, since he “has been in conflict of interest.” Unfortunately, he did not say exactly *how* this conflict of interest manifested itself. In the very next breath, as if trying to explain what he meant by that term, Gonzalez said:

He has been in complete abdication of the trust placed in him and the Federal Reserve Board. Why? Because the legal definition of the Federal Reserve Board and therefore its Chairman is that it is the fiscal agent of the US Treasury (*Congressional Record* June 21, 1983 p. 16663).

It is not clear why Gonzalez connected conflict of interest to an “abdication of trust.” Although some public officials may violate the public trust, this is not *necessarily* a conflict of interest. Public officials can violate the public trust in other ways as well, even when no clear conflict of interest is present. Even worse, Gonzalez’s discussion of the “legal definition” of the Board of Governors was inaccurate. *One* of the Fed’s duties is to serve as the Treasury’s fiscal agent, but this is just one of its major responsibilities. By law, the Fed is responsible for *four major areas*. First, it establishes monetary policy. Second, it supervises and regulates banking institutions. Third, it serves as “lender-of-last-resort” for the financial system. And, lastly, it provides financial services to the federal government, the public, financial institutions, and foreign institutions. In this capacity, it often serves as the Treasury’s fiscal agent—even with financial services, however, it is not *just* a fiscal agent of the federal government (Board of Governors 1994 p. 1).

Over and over again, Gonzalez showed that he could not separate his hostility toward the Federal Reserve System from his hostility toward its leaders. In the same speech advocating impeachment of the FOMC, for example, Gonzalez retorted:

The Federal Reserve Board has not only been runaway, but it has been wholly unaccountable to the point that it has reached a degree of unacceptable arrogance. It is a creature of Congress. It is not a body that was borne from the outpouring of a great god, Angus, as the Greeks used to describe it. It is a humanly created body (*Congressional Record* September 21, 1981 p. 21464).

As this shows, few could preach against the Fed as strongly as Gonzalez. On March 2, 1982, he asserted that both the President and the Congress were “being held hostage . . . to this runaway Board that in its arrogant posturing before the Congress” is running the country. In this speech, Gonzalez claimed that the FOMC was a “secret committee,” one able to “make or break any administration in power, for it will determine exactly what it is the Treasury bill or note is going to call for” (*Congressional Record* March 2, 1982 p. 2753).

Some Members of Congress responded to Gonzalez’s rhetoric, but not too many; Representative Mattox was on them. On July 31, 1981, Mattox announced he supported Gonzalez’s impeachment resolution. “Mr. Volcker and the folks at the Federal Reserve do not understand the nature of what they are doing,” Mattox asserted. In other words, they are not making policy “with a malicious intent.” But regardless of what their intent may be, it “is obvious that they are a danger to themselves and the communities in this country by the policies they are setting up” (*Congressional Record* July 31, 1981 p. 18990).

To Mattox, Congress must gain control of the Fed. The nation’s legislators, he believed, must regain “the power that was granted to us by the Constitution, the power over the money system and the money supply” (*Congressional Record* July 31, 1981 p. 18991). As a start, they could remove all FOMC officials from office.

Over a period of several years, Gonzalez spoke in favor of impeaching not just the Fed’s Chairman, but the whole FOMC. He was persistent, if nothing else. But the effort failed. The impeachment campaign—which Gonzalez began in 1981—had not even received a hearing in the House Judiciary Committee by 1983, two years after the resolutions were introduced (*Congressional Record* January 6, 1983 p. 144). At the beginning of his effort, Gonzalez wrote the Judiciary Chairman, saying the resolutions were “not a political ploy.” The Judiciary Chairman, in response, said that “he could not guarantee a hearing, but was instructing the staff to evaluate the resolutions.” But two years later, Gonzalez admitted that he had no “reaction from any staff or staff counsel” about whether they had even “analyzed the resolution” (*Congressional Record* January 6, 1983 p. 144).

Gonzalez's effort was not successful—but he was not the only one fighting the Fed either. On February 4, 1981, Representative Byron Dorgan introduced a bill entitled, “The Paul Volcker Retirement Act of 1981.” Under this bill, any Fed Chairman could be removed by a three-fifths vote in both the House and the Senate. Dorgan's remarks about his bill are important, since they contrast the apparent accountability of elected officials with the supposed unaccountability of Fed officials. “When an elected official,” Dorgan asserted, “does not measure up to the expectations of his or her constituents, that official finds himself or herself out of office after the next election.” In the private sector, business executives lose their jobs when their performance is poor. Compared to the mighty Fed Chairman, with his cushy employment contract, business executives and elected officials have a pretty rough time:

[T]he Chairman of the Federal Reserve Board, the individual in this Nation who is most responsible for one-half our economic policy—our monetary policy—is not accountable to anyone. No matter how much hardship the Fed's policies inflict upon the American people, the President and Congress can do virtually nothing about it (*Congressional Record* February 4, 1981 p. 1649).

Amazingly, neither the Congress that passed the Federal Reserve Act nor the President who signed it “intended for the Fed and its Chairman to have this kind of power.” President Wilson, in fact, claimed that “the system of banking and of issuing money” must be “vested in the Government itself.” In Dorgan's view, the Congress should “take President Wilson's advice” and make major changes to the Federal Reserve System (*Congressional Record* February 4, 1981 p. 1649).

For Dorgan, the real question was “who's in charge” of the economy. Governance of the American economy, he believed, is like a football team with “two signal callers.” To correct this problem, Dorgan believed the nation must coordinate its monetary policy with its fiscal policy.

Of the two principal tools of economic policy, only one—fiscal policy, or Government taxing and spending—is under control of the elected Representatives of the people. The other tool, monetary policy—the size of the money supply—is managed and controlled by the Federal Reserve Board and the American banking community. This system of having one American economy, but two signal callers on economic policy is just not working (*Congressional Record* February 4, 1981 p. 1673).

In Dorgan's view, too, the Fed is “controlled by big bankers,” so it is not “independent.” If the ICC were controlled by the railroads, we would not say it is “independent.” So why should we apply a different standard to the Fed? Like taxing and spending, the money supply is a public issue. Some people want to expand it; others want to contract it. And some entity “must decide between them,” which makes this decision “the public's business” (*Congressional Record* February 4, 1981 p. 1674).

[To Dorgan,] a little job insecurity does wonders where entrenched power is concerned, and I am proposing a little job insecurity for Mr. Volcker and his successors . . . [This] would make the Fed Chairman listen. It would give the people of this Nation a silent seat in the closed room in which the Fed's Open Market Committee meets to decide how much money we will have (*Congressional Record* February 4, 1981 p. 1674).

STATE MEMORIALS CONCERNING THE FED

From 1981 to 1985, six state memorials concerning the Fed were sent to Congress. Two were radical calls to abolish the Fed; two were moderate calls for a GAO audit; two were mere policy recommendations. In 1982, the Arizona House and Senate approved a memorial urging Congress to abolish the Fed. In this memorial, the state legislature observed that Article I, Section 8 of the Constitution provides *Congress* with the monetary authority, not the Fed. Despite this Constitutional requirement, the Federal Reserve Act of 1913 “transferred the power to borrow money on the credit of the United States to a consortium of private bankers.” In the Arizona legislature’s opinion, Congress could not “delegate any powers that it has received under the Constitution” because Article I, Section I places *all legislative power* in Congress.

Not only was the Federal Reserve Act of 1913 “imposed upon the People of the State of Arizona in violation of the provisions of Article I, Section I”; the Fed also has “threatened the integrity of government through [its] arbitrary and capricious” monetary policy. As a result, in this memorial, the Arizona legislature urged Congress to repeal the Federal Reserve Act *immediately* (*Congressional Record* March 22, 1982 pp. 4897 – 4898).

Indiana’s House and Senate passed a very similar memorial. Like Arizona’s, Indiana’s legislature observed that the Constitution provides Congress with the monetary authority. Like Arizona, too, Indiana argued that *all legislative authority* is vested in Congress, so neither Senators nor Representatives could delegate it to an administrative agency like the Fed.

A consortium of private bankers [who are] not subject to any official periodic review or oversight by Congress has unconstitutionally controlled the economy of the United States through the Federal Reserve Act since 1913 (*Congressional Record* May 19, 1983 p. 13110).

Not surprisingly, with all that said, the Indiana memorial urged Congress to repeal the Federal Reserve Act of 1913.

In 1983, the Virginia General Assembly passed a memorial supporting “a complete annual audit of all the activities of the Federal Reserve System by the GAO.” Such an audit is necessary, the legislature claimed, for several reasons. First, the Fed influences

both the nation's economy and the world's. Second, the System's total operating budget exceeds \$920 million dollars. Third, the Fed affects individual rights. And, lastly, the Fed has "never been completely audited by any agency" (*Congressional Record* April 21, 1983 p. 9490). In addition to Virginia, the Indiana legislature submitted a memorial calling for an audit of the Fed, using very similar language when doing so.

In 1981, the North Carolina General Assembly passed a memorial concerning the Fed, but this raised nothing more than policy questions. The North Carolina legislature, in its memorial, observed that the Fed had "imposed" a "year-long policy of credit restriction and high interest rate policies." In the process, the Fed's policies had had a negative effect on "the nation's productive activity and the standard of living of our people." After presenting these issues, the North Carolina legislature urged the Fed to adopt policies "foster[ing] plentiful economical credit for manufacturing, farming, and related productive enterprises" (*Congressional Record* July 10, 1981 p. 15498).

In 1983, the North Dakota Legislative Assembly passed another memorial addressing important policy questions. While recognizing how important it is to protect "the economy from the ravages of inflation," the legislature believed, too, that we should not repeat "the cycles of boom and bust" of the "past two decades," which have harmed American businesses and farms so badly. Farmers and businesses in North Dakota, for example, have been facing "unprecedented interest rates," and these have made it difficult "to obtain the capital necessary for the continued operation of their businesses." At the same time, the nation has experienced volatile interest rates "that just a few years ago would have been unheard of." As a conclusion to their memorial, the North Dakota Legislative Assembly urged the Fed "to consider carefully the impact of its decisions about money supply and interest rates on the economic good health of America, especially as those decisions affect agricultural states like North Dakota" (*Congressional Record* April 14, 1983 pp. 8634 – 8635).

ON THE REBOUND: DEFENDING THE FED

Throughout this time, supporters of the Fed were not silent, especially since the assaults seemed so serious. On October 27, 1981, Rep. Andy Ireland of Florida defended the Fed's legitimacy. Discussing various editorials in the *Florida Times-Union*, which he had inserted into the record, Ireland argues that the "independence of the Fed must be preserved." This independence, he believed, was important because a democratic society must have "institutions capable of *withstanding the pressures of the moment* for the advantages of the future" [my emphasis] (*Congressional Record* October 27, 1981 p. 25638).

In its editorial of October 7, 1981, the *Florida Times-Union* argued that the Fed's ability to govern independently of the executive branch "has worked," though "by no means perfectly." The Fed's independence, as virtually everyone must admit, "has not worked as well as it could." But that is because of too much politicization rather than too little. Unfortunately, the institution "has tended to yield, more than necessary, to political pressures" (*Congressional Record* October 27, 1981 p. 25638 – 25639).

As for Congressional proposals to restrict the Fed's ability to govern, the *Florida Times-Union* opposed them all. All they would do is to "hobble the Fed." "With a President packing its membership and Congress controlling its purse strings, the board would have no independence." In an October 14, 1981 editorial, the newspaper characterized the proposals as "tunnel vision of the narrowest variety." By loosening the money supply, which Congress would undoubtedly do if it controlled monetary policy, it would be "impossible" to restore "the economy to health" over the long-term. To receive the short-term gains of "politicizing the Fed," society would have to sacrifice long-term stability and prosperity (*Congressional Record* October 27, 1981 p. 25639).

Interestingly, this is not just an economic matter. High inflation is "a real threat to stable government and democracy itself," so controlling it "is a matter of survival." By limiting inflation—which is in the public interest, whether we recognize it or not—the Fed promotes stable government and democracy (*Congressional Record* October 27, 1981 p. 25639).

In Congress, Rep. Dannemeyer of California argued that the Fed was just a "convenient scapegoat" for elected officials. Members of Congress, in his view, cannot "place all responsibility" for the unfavorable economy on the Fed. Quoting the *Washington Post's* "excellent commentary" on this issue, Dannemeyer argued that Congress and the President were largely responsible for the economy's problems, not the Fed. In the past and continuing to the present day, for instance, Congress and the President have "been unwilling to control expenditures or to levy sufficient taxes to pay for them." Now, however, these same politicians "are trying to unload the responsibility" for these "mistakes at 21st and Constitutional Avenue, and they should not be allowed to get away with it" (*Congressional Record* February 10, 1982 p. 1442).

In "Cranston's Questions about the Fed," George Will rejected the arguments supporting the Federal Reserve Reform Act. At the time, some argued that "an independent Fed is an anomaly in a democratic system, because all who exercise power should be held directly accountable to the electorate." But this argument "read too much rigor into democratic theory." Even more important, it applies less to the American polity than to others, since we have always had a "practice of tempering democracy." Similarly, others have argued that the President is responsible for economic performance, so he should formulate both fiscal and monetary policy. Without doubt, an asymmetry exists between the "large economic duties assigned to the president by public opinion" and "the weak executive instruments for performing those duties." Perhaps, in this case, it is public opinion that should change, not the executive's instruments. At the institutional level, by contrast, the "primary incongruity" is the "feebleness of the president's control of the budget," which a line item veto could remedy (*Congressional Record* February 25, 1982 pp. 2540 – 2541).

THE FEDERAL RESERVE BANKS

During this time, some Reserve Banks used their annual reports to legitimate the Fed. Instead of focusing on all these reports—regurgitating, in many instances, the same arguments and themes over and over—I want to focus on the Federal Reserve Bank of

Chicago's 1982 annual report. In my view, this report is an excellent example of how the Reserve Banks have legitimated the System as a whole and their roles in it. More than any other concept, the Reserve Bank of Chicago used the "public interest" to legitimate both the System and itself.

From the beginning, the Bank described its three major roles—making economic policy, serving as a regulator, and providing services. None of these responsibilities, the report insisted, could be met without "our 3,000 dedicated employees." In the 1982 report, in particular, the Bank focused on "these employees and the roles they play in serving the public interest" (Federal Reserve Bank of Chicago 1982 p. 3).

As a policymaker, the Fed serves the public interest. In the Reserve Bank of Chicago's report, it connected the Fed's policymaking function to its decentralized structure. The Fed's "regional structure, a feature it shares with few other central banks around the world, is one of the System's greatest strengths." Especially in the economic policy realm, the Fed's regional structure "enhances its ability to serve a broad and diversified public interest" (Federal Reserve Bank of Chicago 1982 p. 4).

The Reserve Bank's discussion was, if nothing else, politically sophisticated, as the report connected the Fed's decentralized structure to the nation's political philosophy and its political values. When elected officials established the Fed, they created a "network of regional Reserve Banks," hoping to disperse the Fed's "own power and influence." Similarly, because the nation's philosophy has always favored decentralized government, elected officials wanted "to encourage regional influences" within the new institution. Even in the 1980s, when American government was more centralized than anyone could imagine when the Federal Reserve Act of 1913 was passed, the "original concept of decentralized authority" remains. After all, the Reserve Bank Presidents, directors, and research staffs continue to play "important economic policy roles." While doing so, they serve the ideal of decentralized government, which is so fundamental to the American polity (Federal Reserve Bank of Chicago 1982 p. 4).

Continuing this theme, the Reserve Bank of Chicago argued that the regional structure "serves to insulate monetary policy from undue political influence." At a more practical level, dispersing authority this way "provides an effective mechanism for collecting up-to-date and reliable information on which to base policy decisions" (Federal Reserve Bank of Chicago 1982 p. 4).

How does this Reserve Bank achieve these lofty objectives? According to the report, while conducting research, the "fundamental focus . . . is on the key economic developments and issues in the District." Even more important than other areas, perhaps, this is important for the Chicago Bank, as it "serves on the nation's most important regions." Then and now, it serves "most of Illinois, Indiana, Michigan, and Wisconsin plus all of Iowa." The industries in this District—which include steel and agriculture and farm implements and transportation, among others—are important to the entire country. The Reserve Bank of Chicago serves the public interest by considering how the Fed's policies, whether made nationally or regionally, affect these industries. In fact, the

Reserve Bank of Chicago is not alone in being especially concerned about the industries in its district: “Such activities,” it reported, “are more or less duplicated in each of the Federal Reserve Districts” (Federal Reserve Bank of Chicago 1982 p. 4).

Not that the Reserve Bank’s studies help the Fed’s policymakers only. To the contrary, they “provide a basis for sounder decisions by policymakers at the state and local level” more generally “by illuminating those factors that underlie the District’s present condition” (Federal Reserve Bank of Chicago 1982 p. 4).

As for the Fed’s independence within government, this “serves to insulate policymaking from short-run political considerations.” However important that independence may be, it “is in no way meant to diminish” the Fed’s “responsibility and accountability to the public.”

In fact, it has been the System’s experience that to preserve the independence that the nation’s lawmakers have granted it, the Federal Reserve must assure that its policies and actions are responsive to the public interest (Federal Reserve Bank of Chicago 1982 p. 5).

While monetary policy is a “macro-level” issue, the Fed also serves “micro-level” objectives. Specifically, the institution not only has responsibility for regulation, but also serves as the “lender of last resort.” At this level, the Reserve Bank’s report contends, the “concern is for the performance of the financial system and the institutions that comprise it.” Because of the Federal Reserve, both the system as a whole and its institutions are forced to “serve and promote the public interest” (Federal Reserve Bank of Chicago 1982 p. 8).

The Fed’s opponents have long argued that it serves the private interests of banks, not the public interest. But according to the Reserve Bank of Chicago, the “well-being of individual institutions is only the focus of these Reserve Bank activities.” It is not “the ultimate goal.” Rather than protecting the “stability of each institution *per se*,” the Fed—and the Reserve Bank of Chicago, in this case—seeks “to contain the effects of any instability.” The “underlying concern,” the report claimed, is with the “welfare of the community and the public generally.” Contrary to much popular wisdom, the underlying concern is not for “the institution and its stockholders” (Federal Reserve Bank of Chicago 1982 p. 8).

Over time, the Fed has protected “bank safety and soundness,” serving the public interest while doing so. Recently, in fact, the public’s concern about “financial institution operations have broadened in scope.” As a result, the “sphere of the System’s regulatory authority and activities” have expanded in some ways as well. Since the late 1960s, for example, Congress has passed several laws to ensure “the public is treated fairly in its dealings with financial institutions.” So by the 1980s, the Fed had to implement the Truth in Lending, Equal Credit Opportunity, and Community Reinvestment legislation, to name just a few (Federal Reserve Bank of Chicago 1982 p. 10).

As a provider of services, the Fed's responsibilities have changed. Before 1980, when Congress passed the Monetary Control Act, the Reserve Banks "provided financial services, such as check collection, currency and coin transportation, securities safekeeping, and wire transfers . . . at no charge" to their Member Banks. After the 1980 legislation, however, all depository institutions "have direct access to Federal Reserve services on a fee basis." According to the Reserve Bank of Chicago's report, this has been a positive change, for it lets the System serve the public interest more effectively than ever. By improving the "level of service for all depository institutions," the Fed has provided incredible benefits to "the public, which can expect greater efficiency in the nation's payments system" (Federal Reserve Bank of Chicago 1982 p. 12).

ACADEMIC & POPULAR ANALYSES OF THE FEDERAL RESERVE

From 1981 to 1985, several essays addressing the Fed's legitimacy were published in both the academic and the popular press. At this point, I discuss the most important of these.

VOLCKER'S LEADERSHIP & THE FED'S LEGITIMACY

In 1985, Andrew Bartels, former staff member of the Subcommittee on Domestic Monetary Policy, published an article in *Challenge* entitled, "Volcker's Revolution at the Fed." He began by noting the recent "remarkable reversal of political roles between the Federal Reserve and the Congress and the president." Not too long ago, Chairmen "did what presidents wanted them to do," he asserts (Bartels 1985 p. 35).³ And during the mid-to late-1970s, Congress was debating legislation to restrict the Fed's independence.

By 1985, however, such threats were gone. Amazingly, by the mid-1980s, the Fed was not only making monetary policy, but influencing fiscal policy as well. Both the House and the Senate were attempting to reduce the budget deficit, a goal Volcker had promoted for years. As for the deficit reductions Congress was contemplating—these, too, were "proposed by Volcker last year" (Bartels 1985 p. 35).

"The Fed's role in the budget process," according to Bartels, "is only the latest indication of a Volcker revolution in the status and role of the Federal Reserve." More and more, monetary policy—which the Fed controls—has begun "to dominate macroeconomic policy." In consequence, Paul Volcker is routinely seen as the nation's "second most powerful person." Commentators describe him as only the second most powerful, perhaps, because "he lacks the president's control of the military" (Bartels 1985 p. 35). Moreover, Congress no longer criticized the Fed's monetary policy, but usually "commended Volcker for his wisdom." In the process, Congressional members began to request his "advice on budgetary and economic matters, or at worst praise him with faint damns." At the same time, analysts on Wall Street and elsewhere "look to the Fed, not

³ Many would disagree with Bartels, noting that Volcker's predecessors always had much discretion. Neither William McChesney Martin nor Arthur Burns routinely did what Johnson or Nixon or Ford wanted them to. Most of the time, they made policy independent of the President, sometimes hurting his interests while doing so. Martin, for instance, was unwilling to help finance the Vietnam War for Johnson. And Burns, so often depicted as dependent on Nixon, is portrayed by that President's aides as someone who acted quite independently of the White House.

the White House or Capitol Hill, for indications of where the economy is heading” (Bartels 1985 p. 36).

In his essay, Bartels argued that a “dominant Fed is a new phenomenon,” a development caused by four factors. First, Congress from 1975 to 1979 only imposed minor restrictions on the Fed—requiring its officials, for example, to publish reports about its monetary goals and to testify before Congressional committees about them. This had an ironic effect: because a vocal minority in Congress wanted severe restrictions on the Fed’s ability to govern, the restrictions that passed *strengthened the Fed’s power and influence*. More than anything else, these modest restrictions showed that Congress was unwilling to restrict the Fed’s power much at all.

Second, Paul Volcker became Chairman in August 1979. Experienced in both the Treasury Department and the Federal Reserve, Volcker was not only politically astute; he believed that “a truly independent and conscientious Fed was needed” as well (Bartels 1985 p. 38).

Third, Ronald Reagan was elected President in 1980, bringing with him a strong opposition to “government management of the economy.” Rightly or wrongly, Reagan’s attitude was that “the economy would take care of itself if the government got out of the way” (Bartels 1985 p. 38). Reagan’s “abdication” of economic management, as expected, “created a vacuum.” And the Fed quickly filled it.

Fourth, the Fed’s policies have promoted prosperity—by making pragmatic monetary policy, accepting neither the Monetarist nor the Keynesian orthodoxies, it produced “declining inflation and strong economic growth after 1982” (Bartels 1985 p. 39).

What about the Fed’s legitimacy? At the outset, Bartels acknowledged that the Fed “is currently so dominant in economic policy” that it is difficult to imagine it “reverting to secondary status.” Nevertheless, he believed that *that* is likely, as the “central bank’s preeminence over the president and the Congress” is “not a natural or sustainable situation.” Eventually, therefore, either the Congress or the President or both “will reassert authority.” In the future, the Fed’s independence could be threatened by a declining economy, a more “activist” President, or the “departure of Paul Volcker.” “However independent and strong the Fed may be,” Bartels contended, “it cannot openly challenge the will of an assertive president.” Similarly, Congress could restrict the Fed’s ability to govern. The Fed, no one can ever forget, is “a creation of the Congress and enjoys its independence at the sufferance of the House and Senate” (Bartels 1985 p. 40).

Bartels concluded by discussing how the Fed should be reformed. His overall philosophy of Fed legitimacy—that is, its right to govern and its appropriateness for a constitutional democracy like ours—was described in an important paragraph.

Volcker’s revolution is a fragile and precarious one. Never before has the Fed been so dominant in economic policymaking. No institutional base exists for that preeminence apart from the Fed’s historic and

legislated independence. Sooner or later, efforts will be made to end the Fed's current economic supremacy in economic affairs. *Such efforts will be appropriate as well as inevitable, because elected officials in a democracy should have authority over economic policy* [my emphasis] (Bartels 1985 p. 40).

Although Bartels believed elected officials should control economic policy, he saw serious "limits to reassert presidential or Congressional authority over the Fed" (Bartels 1985 p. 40). He recognized, in particular, the "major advantages that the Fed's independence offers," which include its ability to both "take a longer-term perspective" and "react quickly . . . to changing economic circumstances." By restricting the Fed's independence, government officials may have "less ability to react to economic crises and carry out long-run strategies" (Bartels 1985 p. 40).

Before proposing his own reform, Bartels examined the traditional ways of influencing the Fed. Theoretically, Presidents can control the Fed through their appointment power—yet it is difficult to develop a majority; even when Presidents do that, Governors "may go their own way once appointed." Because the Fed has a "long institutional history and identity as an independent body," Governors will not "defer too much to much to the president" (Bartels 1985 p. 41). The Congress, of course, could restrict the Fed's independence, but so far has not done so.

In light of the thin record for legislation, congressional changes in the Fed and monetary policy may seem improbable. Nonetheless, the possibility of legislation in the coming years cannot be dismissed. In that possibility lies both the greatest hope for more coordinated and accountable monetary policy making and the greatest risks of a more nearsighted and rigid Fed (Bartels 1985 p. 41).

When reforming the Fed, policymakers should "preserve the advantages of the Fed's independence while assuring its accountability." To this end, they should pass legislation requiring the Fed to establish "nominal GNP growth targets" in "consultation with the president and subject to veto by the Congress." At the operational level, this policy would require the Fed to make few changes. From a political perspective, however, it would guarantee that "its objectives are those of elected officials," making certain Volcker's revolution is "consistent with democratic principles" (Bartels 1985 p. 42).

CONTROLLING THE FED

In "Defrocking the Fed," originally published in the *Washington Monthly* in June of 1982, Jonathan Alter challenged the Fed's legitimacy and promoted several reforms. In most of his essay, Alter described the Fed's unique position in American government. Paul Volcker is the second most powerful person in America, yet he "grant[s] few interviews and hold[s] no press conferences." Indeed, his spokesperson claimed that "there is no *demand* for press conferences," which is amazing considering the Fed's power [his emphasis] (Alter 1982 p. 13). Additionally, most members of Congress "still know next to nothing about the Fed and believe, wrongly, that it is somehow an

independent agency beyond their control.” The Fed’s exemptions from the Congressional appropriations process, GAO audits, civil service requirements, GSA procurement regulations, and Freedom of Information Act requirements: all these contribute to the Fed’s “aura of mystery and wonder around itself.”

The success of that imagery has meant that the Fed gets treated differently than other agencies—so differently, in fact, that over the years it has almost ceased to be viewed as an agency of representative government at all (Alter 1982 p. 13).

Alter connected the Fed’s power to the “impulse, first expressed around the turn of the century . . . to delegate society’s important tasks to groups of professionals believed to have more expertise than everyone else.” In 1922, Walter Lippman wrote *Public Opinion*, in which he rejected the “insatiable and unworkable fiction that each of us must acquire a competent opinion about public affairs.” What Lippman favored was a “specialized class” that would work for the interests of society (Alter 1982 p. 14).

Of course the problem with this specialized class idea has always been that for all its supposed advantages, it clashes quite strongly with another idea—namely American democracy. In the years since professionalism firmly entrenched itself, the best way to make sure the two ideas didn’t clash has been to develop some form of popular supervision, or at least some skepticism (Alter 1982 p. 14).

With many public agencies, newspaper coverage has been part of this “popular supervision.” With the Fed, though, this has not been the case—largely because “the press has never shown much interest in hard reporting on economic policy” (Alter 1982 p. 14).

In addition to its insulation from politics, the Fed has become powerful because it controls monetary policy. Contemporary economic theories, especially the Monetarist school, have placed “the most important function of the Fed—control of the money supply—at the very center of economic policy.” Obviously, Monetarists do not approve of the way the Fed has *made* monetary policy. By having so much “faith in the *function* of the Fed,” however, the Monetarists have created the perception that the institution is “the temple in which all should pray” (Alter 1982 p. 14).

By lobbying members of Congress, the Fed has increased both its legitimacy and its power. Although Fed officials make “several trips each year to Capitol Hill,” their “most effective lobbying is conducted at the Federal Reserve’s Washington buildings.” Inside its buildings, the Fed conveys an “air of Smithsonian refinement.”

The grandeur of [these buildings] provides some indication of why smitten congressmen mistake the Fed for a fourth branch of government. Suffice it to say that the inside of the headquarters at 20th and Constitution NW looks very different from the department of

interior building across the street. If the squash courts don't convince you, consider the art exhibits in the elegant foyer. The exhibit this spring was entitled "The Hague School and Its American Legacy" (Alter 1982 p. 15).

This carefully cultivated image is important to the Fed's legitimacy, and it is worth exploring in some detail. By creating the "aura of a tasteful, trustworthy bank," the Fed is "less likely . . . to get pushed around just like another agency." The Fed's building itself, Alter observed, has an "almost languid confidence and solidness," which contributes to the belief in its legitimacy. A Fed staffer, who had previously worked on Capitol Hill, discussed Congressional visits to the Fed:

Your car pulls into the Fed garage, and you are whooshed up to the chairman's private dining room, which looks out over the Washington Monument, the Jefferson Memorial, and half the rest of the city. It is not only highly elegant, but quiet, very quiet. These congressmen have just come from noisy offices where phones and buzzers and constituents are ringing in their ears all the time. Now they're in the Fed and the phone never, *ever* rings. If there is a call, the phone is simply brought into the dining area. Maybe it's Brussels calling the chairman. But he's in no hurry. Everything's very slow, and impressive for its slowness [his emphasis] (Alter 1982 p. 16).

The Fed knows how to use its banking constituency too, the very constituency it regulates! In 1980, for example, Volcker encouraged his banks to lobby for the Monetary Control Act. That Act, in turn, increased the number of banks subject to "certain Fed regulations" (Alter 1982 p. 16).

Because of the Fed's cultivated image, which includes the "smooth, seasoned judgment of a Walter Wriston or Paul Volcker," the editorial pages usually side with it over Members of Congress. Also it is, according to Alter, easier to attack the "politicians in Congress and the administration" than the Fed's "professionals and experts" (Alter 1982 p. 16). "This is particularly true for the people in the community whose voices would carry the most weight in the first place—namely other professionals and experts," he believes (Alter 1982 p. 16).

In the end, Alter believed that the Fed should be reformed, but it should not be abolished. Congress, as a start toward reforming the institution, should begin to eliminate "the Fed's special exemptions, starting with the appropriation process." Requiring the Fed to "appear each year like every other agency, hat in hand," may reduce its arrogance. Most importantly, it would make the institution more compatible with democratic principles. For those who think Congress has "bungled fiscal policy"—so *it* certainly should not become more involved with monetary policy, the argument goes—Alter had only scorn. The "remedy for the imperfections of democracy," he believed, "is not less democracy, but more" (Alter 1982 p. 21).

The issues at stake are not the value-free formulations of scientists, but matters of wealth and fairness and just about everything else at the very heart of representative government (Alter 1982 p. 21).

INCREASING THE PRESIDENT'S AUTHORITY OVER THE FED

During this time, several scholars argued that the President's authority over the Fed, in one way or another, should be strengthened. Interestingly, such commentaries came from both the left and the right—with the libertarian Milton Friedman agreeing with the liberals James Tobin and Lester Thurow on this issue.

In *The Zero-Sum Solution: Building a World-Class American Economy*, Thurow characterized economic policy during the Reagan Administration as “tight high-interest-rate monetary policies and loose large-deficit fiscal policies.” In his view, the Democrats should “choose the opposite mix—low interest rates, loose monetary policies, and tight budget surplus fiscal policies” (Thurow 1985 p. 325). Such policies, whether good or bad, are easier to state than to implement—and Thurow is well aware of this. To even begin to achieve these goals, he argued, requires “a restructuring of America's monetary institutions.” Unlike other countries, where the central bank is “part of the finance ministry and subject to direct government control,” the United States has a very different system, as we know.⁴ So long as the elected government controls its central bank, any of the bank's failures becomes “a failure of the administration in power.” So long as the elected government does not, it can avoid blame for the bank's failures.

And in the United States, the elected government can do just that—blaming the independent Fed when monetary policy is not appropriate. In 1982, for instance, the Reagan Administration denied that *it* was responsible for the nation's economic ills. Rather than accepting responsibility themselves, Reagan officials claimed the Fed had not “eliminated erratic movements in the supply of money.” It was monetary policy rather than fiscal policy, they were able to say, that was causing economic problems. “*Such a division between economic power and political responsibility must end,*” Thurow argued [my emphasis] (Thurow 1985 p. 325).

To this end, Thurow believed that “the time has come to end the independence of the Fed and place it under the jurisdiction of the elected leader of our nation—the President” (Thurow 1985 p. 325). In Thurow's view, neither the arguments originally made to justify the Fed's independence nor those made recently make sense. Of course, some argue that independence is necessary because “the politicians” are “too incompetent or too untrustworthy to control the money supply.” This argument, however, is “both wrong

⁴ At the time Thurow was writing, the Bank of France was controlled by the elected government. In other Western European countries, such as Spain and Belgium, elected governments controlled their countries' central banks. In Japan, the central bank is under the elected government's control—Thomas Cargill, in a comparative analysis of the Bank of Japan (BOJ) and the Federal Reserve, reported that the Japanese central bank is “clearly . . . dependent on government.” First, appointments to the bank's boards (the policy board and the executive board) are for “shorter periods of time than appointments to the Board of Governors.” Second, the government is not only represented on the policy board, but also plays a “direct role in the appointment process” of both boards. Third, BOJ governors almost always have an “extensive government background.” Most importantly, by statute, the Ministry of Finance must “supervise the BOJ.”

and irrelevant.” The President is “competent enough to have his finger on the nuclear weapon,” so certainly he is “competent enough to control the money supply.” As for Congress, because it is “competent enough to control taxes and expenditures,” it “is competent enough to approve changes in the rate of growth of the money supply.”

But what if, as some argue, our elected leaders really are incompetent? Even assuming this was true, it does not mean that unelected officials should make the monetary decisions. To reach that conclusion requires another premise, one Thurow found unacceptable. “It is fundamentally anti-democratic to have such powers wielded by individuals who have not been elected by the public,” Thurow asserted. If the people elect incompetent officials, assuming for the moment that they do, “they must live with them.” In a democratic system, the people have a “right to make mistakes, but no unelected official has a right to make mistakes for them” (Thurow 1985 p. 326).

In this vein, Thurow was especially concerned about the Reserve Bank Presidents’ presence on the FOMC, since they “owe their jobs to local bankers who have not in any sense been legitimized by a democratic appointment process.” But his concerns did not stop there. To be sure, seven FOMC members are members of the Board of Governors, officials who have been appointed by the President and confirmed by the Senate. Yet all this provides, according to Thurow, is a “quasi-democratic element” to the System. Because the Governors serve fourteen-year terms, it is likely that “the appointees of defeated politicians are running the economy with monetary policies contrary to the wishes of the newly elected leaders of the country.”

Paul Volcker, for example, was appointed by President Carter yet served almost three years until August 1983 without President Reagan’s approval. Whatever you think about President Reagan, he deserved to have his own person at the helm of the Federal Reserve from the beginning. If he wanted Volcker, he could have reappointed him at the beginning of his administration rather than in the summer of 1983 (Thurow 1985 p. 325).

This is not, as Thurow emphasized, merely a theoretical enterprise. It is especially serious because citizens elect Presidents and Members of Congress—and reject them too—largely on “their ability to generate a prosperous economy.” As a result, elected officials “deserve both the controls and the responsibilities that this implies.” If the Fed was unable to govern independently of the President, he could no longer “hide his failures behind an ‘erratic’ money supply beyond his control.” Similarly, if the Fed was no longer independent, no President would “have to put up with an incompetent Fed” (Thurow 1985 p. 326).

Monetary policy should be made the same way fiscal policy is. With fiscal policy, the President “proposes changes”; then the Congress accepts or rejects his proposal. With monetary policy, the President “should propose an annual interest rate target.” Congress, in response, should either accept the target or modify it. After Congress does so, the President should “be responsible for managing the monetary system in accordance with

that target.” Obviously, this is similar to the President’s responsible for fiscal affairs—after Congress passes the budget, he is “responsible for managing expenditures” in accord with it (Thurow 1985 pp. 326 – 327).

What about the Federal Reserve? What should happen to it? According to Thurow, it should be “placed inside the normal government structure.” As a practical matter, he did not care whether the Fed is placed in the Treasury Department or becomes “a separate cabinet department” itself, so long as *the President is responsible for the policies it makes* (Thurow 1985 p. 327).

Milton Friedman reached similar conclusions in “The Case for Overhauling the Federal Reserve,” an article published by *Challenge* in 1985. At the outset, Friedman placed great emphasis on the *Fed’s institutional structure*—arguing that “monetary developments” have “been determined far more by institutional structure . . . than by the intentions, knowledge, or personal characteristics of the persons” supposedly in charge. At the outset, too, Friedman connected legitimacy to effectiveness. If, he argued, the “present monetary structure” was producing “satisfactory results,” society should “leave it alone.” Because the Fed is not producing satisfactory results, it should be reformed. “No major institution in the United States has so poor a record of performance over so long a period yet so high a public reputation as the Federal Reserve,” according to Friedman (Friedman 1985 pp. 4 – 5).

Friedman proposed five potential solutions, moving from “the least to the most radical.” Three of these raised questions of administrative legitimacy, so I will discuss them. Because the other two (which just happen to be the most radical) deal with technical issues of economics, I do not discuss them.⁵ First, Congress could impose a monetary rule, which would reduce the Fed’s discretion substantially. In previous years, Friedman argued that the monetary rule should focus on M1. By 1985, however, his focus had changed, largely because the Fed “has been unable or unwilling to achieve such a target.” In its place, Friedman proposed to focus on “the Fed’s own interest-bearing obligations, the monetary base.” That base, in turn, is not only closely related to national income, but also “can be controlled within very narrow limits within very brief time periods” (Friedman 1985 p. 7).

To achieve this goal, Friedman proposed a *constitutional amendment*, which opponents of the balanced budget amendment (and, most likely, many others) would attack for “putting algebra” in the Constitution. For good or ill, his amendment would provide Congress with authority “to authorize non-interest-bearing obligations of the government . . . provided that the total dollar amount outstanding increases by no more than 5 percent per year and no less than 3 percent” (Friedman 1985 p. 7). If the Constitutional

⁵ Specifically, Friedman argues that money could be competitively issued, cutting government out of the process entirely or partially. Or “high-powered” money could be frozen, which raises the same legitimacy issues as a monetary rule. Under this proposal, the Fed’s ability to govern—its ability to determine, within a very broad range, what monetary policy to adopt—would be threatened severely (Friedman 1985 pp. 8 – 11).

amendment was unacceptable, Congress could establish a monetary rule by statute. But Friedman, once so confident about a monetary rule, had begun to have doubts about how effective it would be. By the 1980s, in fact, he had become less optimistic about the likelihood of “either persuading the monetary authorities to follow it or legislating its adoption” (Friedman 1985 p. 7).

Second, Congress could separate regulatory functions from monetary functions. As the Fed existed then and as it exists now, it has responsibility for both, with regulatory activities absorbing most of its time. Because the Fed has responsibility for each, Friedman believed, “accountability for monetary control” is weakened. To remedy this problem, the Fed “should be stripped of its regulatory functions.” These regulatory functions, for their part, should be exercised by *one agency*—which would possess the regulatory authority currently dispersed in four places: the Fed, the FDIC, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency. And this new agency would have no monetary authority, only regulatory (Friedman 1985 p. 7).

Under this scheme, a separate “monetary-control agency” could be established—an agency with responsibility for nothing more than “determining the total quantity of high-powered money through open market operations.” This agency not only would have a “clear, highly visible” function, but would be “subject to effective accountability” too (Friedman 1985 p. 7).

Third, the Fed’s independence could be ended entirely. Congress could, just by enacting legislation, “end the independence of the Fed by converting it into a bureau of the Treasury Department.” By so doing, Congress would end the “present division of responsibilities for monetary and fiscal policy.” The current system produces, in Friedman’s view, ridiculous outcomes: the Board of Governors blames fiscal policy for economic problems; the President and the Treasury Secretary blame monetary policy. If Congress placed the Fed under the Treasury Department’s jurisdiction, the nation would have “a single locus of authority that could be held responsible” (Friedman 1985 p. 8).

Friedman’s last point is misleading. If his plan were adopted, we may be able to say that the monetary authority was possessed by a “single locus . . . that could be held responsible.” But economic policy as a whole would not be controlled by a “single locus.” The President would still submit an executive budget to Congress; Congress would still approve the federal budget, sometimes differing drastically with the President over what the nation’s fiscal priorities should be. Fiscal policy, then, would continue to be established through a complex interchange between two branches, the legislative and the executive.

Returning to Friedman’s proposed reform, many argue that this would politicize monetary policy, but he turns this argument on its head—viewing *that* as yet another reason for “eliminating the central bank’s independence.” In the United States and other democratic countries, he argued, “even those central banks that have been nominally independent in the fullest sense of the term have in fact been closely linked to the executive authority.” Even assuming the central bank could be completely independent,

though, it should not be. From a political standpoint, it is simply inappropriate “to have so much power concentrated in a body free from any kind of direct effective political control.” From an economic standpoint, an independent central bank disperses responsibility unwisely, becomes highly dependent on personalities, and provides “undue emphasis” to bankers’ views (Friedman 1985 p. 8).

On August 15, 1982, James Tobin, the eminent economist, wrote the lead article in *The Washington Post* Outlook section. His article, “Stop Volcker from Killing the Economy,” was largely concerned with technical economic arguments rather than administrative legitimacy. Tobin, however, did make an important attack on the Fed’s legitimacy, comparing the United Kingdom with the United States. In Great Britain, Tobin observed, Margaret Thatcher’s government made conquering inflation its number one goal. Accordingly, British citizens have “been paying the cost [of this emphasis] for three years,” while the “promised benefits have yet to materialize” (*Congressional Record* August 20, 1982).

Whether we approve of this policy or not, at least it was promoted by the nation’s *elected government*. In the United States, by contrast, the government is promoting a similar policy, one whose “author is not Ronald Reagan.” Instead, it is Paul Volcker and other FOMC members who are making such a policy. Tobin continued:

The president has never told the American people that recovery and prosperity must wait until inflation is expunged. Nor has the Congress, for sure. Maybe the president and Congress didn’t understand the consequences when they blithely assigned the task of disinflation wholly to the Fed and went off on their “supply-side” spree. Now the consequences are clear for all to see, and *elected officials cannot responsibly leave to the Federal Reserve alone policy choices so crucial to the economic health of the country and the world for years to come* [my emphasis] (*Congressional Record* August 20, 1982 p. 22675).

CONCLUSION

Now it is time to review this chapter’s major themes, discovering what they tell us about the Fed’s administrative legitimacy.

First, we discussed the Reagan Administration’s attitudes toward the Federal Reserve. By examining books by two top economic advisors, we discovered some differences within the administration itself. President Reagan, for his part, supported the Fed’s legitimacy throughout his term. Admittedly, during his first meeting with Paul Volcker, the new President asked him why the Fed should exist at all. Shocked, of course, by the audacity of such a question, Volcker answered him clearly. Afterwards, President Reagan never questioned the Fed’s right to govern or its appropriateness for a constitutional democracy like ours. But some in his Administration—Donald Regan and William Niskanen, in particular—continued to question the Fed’s legitimacy. Nothing

came of their arguments, however, perhaps because most top officials supported the Fed. If nothing else, these advisors recognized, the institution was a useful scapegoat for the economic problems of the early 1980s.

Second, we examined the Congressional assaults on the Fed, which included rhetorical attacks, proposed legislative restrictions, and pending impeachment resolutions. In the process, we saw how Representative Gonzalez was the most vehement spokesman against the Fed. We saw, too, that his ideas were unacceptable to most Members of Congress. His impeachment resolutions, for example, never even received a hearing in the House Judiciary Committee. Even so, these resolutions remain important; they are part of the public argument about the Fed's legitimacy. Of particular importance is Gonzalez's hostility toward Volcker's interference with fiscal policy. In cooperation with the President, Congress has the right to establish fiscal policy. For the economy to perform better, though, Volcker insisted that the nation's elected officials must make different decisions about fiscal policy. To Gonzalez, this was the height of arrogance—the Fed, which is *Congress's agent*, is attacking the very institution that created it! Only an arrogant, "runaway" institution would question the prerogatives of elected officials.

Examining the attacks as a whole, a key issue emerges: the Fed Chairman has incredible job security, a fact encouraging Byron Dorgan to introduce the "Paul Volcker Retirement Act." Representatives must stand for election every two years; Presidents, every four; Senators, every six. But the Fed Chairman has a four-year term in that position, and a fourteen year one on the Board itself. Because the Chairman's term is not concurrent with the President's, furthermore, newly elected administrations have to settle—whether they like it or not—for the previous administration's choice as Chairman. For elected officials who favor a strong President, this situation seems intolerable. Likewise, for elected officials who believe the most powerful public officials should be directly accountable to the electorate, this situation seems intolerable.

Third, we examined memorials from state legislatures on the Fed, two of which challenged the institution's legitimacy in the most serious way: Arizona's and Indiana's. Time and time again, the diehard opponents of the Fed's legitimacy connect their views to the United States Constitution, offering a decidedly simple argument. The Constitution provides the Congress with the monetary authority, so the Fed's power is illegitimate. As a result, the Fed has no right to govern, since doing so violates an explicit provision of the Constitution.

Clearly this argument smuggles in a *particular view of the Constitution*—that is, one forbidding the Congress from delegating its authority to administrative agencies. Although Congress's power to delegate its legislative authority to administrative agencies has not been a major issue before the Court (at least not in the past sixty years), the argument itself remains important. From a theoretical standpoint, my dissertation has not attempted to evaluate the arguments *per se*, but to present them and examine their underlying assumptions. From a more practical standpoint, nothing prevents the Court from becoming concerned, once again, about delegation—perhaps reviving the

“nondelegation doctrine.” As the Court’s recent decisions on the relationship between the federal and state governments show, issues we once thought were “settled” can resurface. Although it remains unlikely, a future Court could rule that the Fed, as constituted now, has no constitutional right to govern.⁶

Fourth, we discussed the Reserve Bank of Chicago’s 1982 annual report, a report showing how important the “public interest” is to administrative legitimacy. Throughout its report, the Reserve Bank connected the Fed’s right to govern and its appropriateness to the public interest. Because the Fed serves the public interest—not only while making monetary policy, but also by providing services and regulating financial institutions—it is legitimate. Moreover, the Reserve Bank’s report used the ideal of decentralized government, which is so fundamental to the American polity, to support the Fed’s legitimacy. All in all, the Reserve Bank presented a sophisticated argument, defending the System as a whole and its role in it.

Fifth, we discussed academic and popular analyses of the Fed. In several of these, increasing the President’s control over the institution was either an explicit or an implicit theme. On this issue, Lester Thurow’s arguments in *The Zero Sum Solution* were the most direct and hard-hitting—but Milton Friedman, too, argued that the Fed should be placed under the Treasury Department’s jurisdiction, hence the President’s.

At issue is the right of elected officials to control economic policy, and Bartel’s article addressed this most clearly. “Elected officials in a democracy should have authority over economic policy,” Bartels claimed. Elected officials cannot control economic policy, however, without having authority over fiscal policy *as well as* monetary policy. In the United States, this is precisely what elected officials do not have, so somehow opponents of the Fed’s legitimacy must provide both the President and the Congress with *substantial legal authority* over the institution. As it exists now, either the President or the Congress or both can urge the Fed to change its policies. But after listening to their complaints, the Fed can continue to chart its own course, no matter how ardently elected officials disagree.

By examining the academic and popular analyses, I also introduced the concept of the *carefully cultivated image*. Certainly the arguments the Fed’s officials and their supporters make are important, but the words do not stand-alone. Indeed, the image the

⁶ The nondelegation doctrine does not prohibit *all* delegation; what it prohibits is delegation without adequate standards. In the *Schechter* decision, the Court upheld delegation to the Federal Trade Commission (FTC) and the Interstate Commerce Commission (ICC), finding that Congress had provided adequate standards to guide the agencies’ use of their delegated powers. Even if the Court revived the nondelegation doctrine, then, it could still hold that the Fed’s governing authority is constitutional. But I am not sure how likely this scenario is, as Congress has not provided the Fed with clearly defined standards for exercising its discretion. In the monetary policy area, for example, Fed officials not only have to promote contradictory goals—full employment and low inflation—but also can use all the tools of monetary policy (open market operations, discount rate, required reserve ratio) as they see fit. As I understand the *Arizona and Indiana legislature’s resolutions*, too, they support an extreme version of the nondelegation doctrine: they oppose delegation, whether standards are attached to it or not. Their view is supported by David Schoenbrod’s recent book *Power Without Responsibility: How Congress Abuses the People Through Delegation*, which I discuss briefly in my concluding chapter.

Fed cultivates supports the arguments themselves. In some ways, this image is a completely separate strategy of legitimization. To those who think the Fed is, in effect, a fourth branch of government—with fourteen year terms, exemptions from the annual appropriations process, exemptions from civil service regulations, it certainly seems like one sometimes—the image the officials cultivate responds to their concerns. Through this image, the Fed's officials are saying in effect: sure we have privileges other agencies lack, which often raise special questions of legitimacy, but *look at us*; we neither look nor act like any other agency. So why should we not be treated differently?

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