

The Study Commission Syndrome

6/28/70 Nixon Has Named More Than 40 Panels in 17 Months

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Commissioned by the President, studied by the experts, written at length, carefully edited, pronounced as "very important," set in type at government expense—and in limbo.

There it sits, gathering dust somewhere, lost in the bureaucracy, the last report of the now-defunct Eisenhower Commission on Violence. And now still another blue-ribbon commission has been named to study some of the same problems.

Presidential commissions to study some public problem continue to be an exercise in proliferation. Asked how many special study commissions had been formed in the last 20 years, the Library of Congress replied that they were impossible to count but the number is "estimated at several hundred." In the 17 months of his administration, Richard Nixon has appointed more than 40.

As one disgruntled alumnus put it:

"If the subject is a hot potato, if you don't know what to do, appoint a commission."

The Eisenhower commission's final three volumes are yet to be published. They were part of the study made by what was the National Commission on the Causes and Prevention of Violence, headed by Milton Eisenhower, and growing out of the assassination of Robert F. Kennedy.

The commission went out of existence on the last day of 1969 after laboring a year and a half and spending nearly \$2 million. But its work is still incomplete — without the final task force report—and the President has not responded officially to the findings.

In the words of Lloyd N. Cutler, the former executive director of that commission: "It is all written. It is set in type. But it is not being printed until we can obtain another \$35,000."

Someday, presumably, it will see the light. Until then, it helps to explain the views of a Yale law professor

whom the Eisenhower commission consulted.

"We should include as one on our studies," he said, "a study of the violence that results from the frustrations that occur after the publication of these many very significant reports and the fact that nothing gets done about them."

He was speaking as a Washington outsider. In the Capital, where presidential commissions are proliferating along with everything else in government, that kind of frustration is accepted, either cynically or cheerfully, as a price to be paid for services rendered.

Critics notwithstanding, presidential commissions have become a way of life in Washington. To Cutler, they resemble comets that burst on the scene and then disappear only to be seen again years—or decades—later. To one congressman who has been studying them that image is not quite accurate.

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"They are like satellites," says Rep. John S. Monagan (D-Conn.). "They go out, but they keep circling around, you know, and no one really knows how many there are, or what direction they're going in." To Monagan's colleague, Rep. Clarence Brown (R-Ohio), they represent a more serious political phenomenon.

A Fifth Branch

For some time, he says, governmental scholars have suggested that the regulatory agencies, combining as they do elements of the executive, judicial, and legislative functions, formed a fourth branch of government. Brown adds another dimension. The study commissions, he believes, "are a fifth branch of government."

There is nothing new about such commissions and their critics. Both are as old as the Republic itself. The subject is receiving new attention today because of two factors.

On Capitol Hill, a special studies subcommittee of the House Government Operations Committee has been investigating them all year. Two sets of hearings already have been held, and another is planned. Although they have attracted little public notice so far, some of the testimony has been revealing and devastating.

The second factor involves the President. Richard Nixon seems increasingly inclined to turn to the public study group as a means of dealing with a problem.

At the White House, the records office was asked to supply a list of presidential commissions since Mr. Nixon was inaugurated. No such list exists, was the response. Try the press office. The press office suggested the records office. Through other public sources—among them, the weekly presidential documents—The Washington Post put together its own list.

That list keeps growing. So does the criticism, as President Nixon discovered when he named his latest commission two weeks ago.

He appointed a commission to study the causes of campus unrest, the latest in a long line of study that same question. The response to that commission headed by former Pennsylvania Gov. William Scranton was immediate.

What the country doesn't need is another commission to study that problem, said Mayor John V. Lindsay of New York.

Tone Is Critical

Lindsay should know. He was there. As vice chairman of the Kerner Commission report on civil disorders of two years ago, Lindsay saw at first

hand the strengths and weaknesses of these advisory bodies.

For the past two weeks The Washington Post has studied the operation of past and present presidential commissions. Although no single view emerges out of interviews with commission members, staff directors, consultants, congressmen and senators, the general tone is critical. Henry B. Itallaferro Jr., executive director of the Kerner Commission, expressed a common theme.

"I would not be a part of a duplicative effort," he said, "and I personally resent the overuse of the commission device. It would be very difficult to get me to believe it was worth my time again."

He added:

"At least they read some of our rhetoric, but rhetoric, like commissions, is most effective when it's not overused. We're satiated."

His remark about reaching a wide audience invariably is cited as one of the positive aspects of a commission. More than 2 million copies of the Kerner Commission report were sold, for instance. The Eisenhower Commission on violence did not reach as high a number at once, but it has had a more sustained impact over a greater period of time. That was true because the commission carefully released its various studies separately, each time making page one news and the evening television news program.

Others say commissions are helpful in pinpointing specific problems, in focusing national attention on them, and in building support for reform. The reports have an influence that lasts for years in academic and public circles.

Commissions at their best can advise, inform, mobilize public support, chart new territory, and improve old problems. They also can—and do—serve less noble ends. They can obfuscate, avoid or shift responsibility, discredit earlier studies, float trial balloons, elevate private careers at public expense, and postpone action on urgent questions. They are also subject to varying political and economic pressures. Often, they end up taking the safest course.

Strikingly Familiar

But the heart of the criticism concerns what happens after they have finished their work. Over the years, their recommendations have a strikingly familiar sound.

Thus, the report of the Wickersham Commission in 1930 differed only slightly in its basic findings from those of the Katzenbach Commission of

1965—or the Eisenhower Commission on violence last year.

Thus, when the Eisenhower Commission began its work it examined the detailed work of a commission on crime in the District of Columbia. It had disclosed how weak and paralyzed the criminal justice system was. The present study group immediately discovered that virtually none of those earlier recommendations had been carried out.

Thus, Dr. Kenneth B. Clark telling the Kerner Commission:

"I read that report of the 1919 riot in Chicago, and it is as if I were reading the investigating committee on the Harlem riot of '35, the report of the investigating committee on the Harlem riot of '43, the report of the McCone Commission on the Watts riot (of 1965).

"I must again in candor say to you members of this commission—it is a kind of Alice in Wonderland. It is the same moving picture reshown over and over again, the same analysis, the same recommendations, and the same inaction."

Thus, Judge A. Leon Higginbotham, vice chairman of the Eisenhower Commission, confessing to a personal sense of what he calls increasing "commission frustration." The judge has served on three other national fact-finding commissions, and says: "The problems of poverty, racism and crime have been emphasized and re-emphasized, studied and re-studied, probed and re-probed." The landscape is littered with unimplemented recommendations of previous commissions.

He says, "I see nothing which is being done on the domestic front to eradicate the causes of violence." And: "Just as many children are going to be bitten by rats next year as last—and probably more."

Thus, Dr. Nathan Caplan, a psychologist at the University of Michigan who did field work for the Kerner Commission on the Newark and Detroit riots. "Goals aren't worth a goddamn thing unless there is commitment." That commitment, he thinks, is totally lacking. "The Kerner Commission's call for re-ordered priorities has been completely ignored."

No Implimentation

Central to all of these criticisms is one charge: There has been little or no implementation of the various commission's findings. Even strong congressional backing often brings the same results.

The example of a presidential commission appointed by Dwight Eisenhower during the bitter Joseph R. McCarthy period is a case in point. The commission grew out of a time when government employees were

under attack for suspected "security" violations. One of its aims was to protect the national security while preserving basic American rights.

Sen. Norris Cotton (R-N.H.) was one of those appointed to the commission. Now he recalls his work with the same frustration voiced today by Judge Higginbotham.

"Senator Stennis and I introduced a series of bills implementing the commission's recommendations and pushed as hard as we could to get action," he says. "However, the administration that appointed the commission showed absolutely no interest in it.

"There may have been some of our suggestions adopted in later legislation, but if they were they were only fragmentary bits from the report. I personally feel the study and recommendations we made, assisted by some of the best minds and counsel in the country, deserved more consideration than they received."

Being ignored is nothing new in commission lore. After all its work, and the national attention its report generated, the Kerner Commission didn't merit a single presidential word until 21 days had passed—and then Lyndon Johnson mentioned it in a casual way. Its findings, as the commission had been warned, were politically damaging. They were therefore, presidentially unpalatable. Another blue-ribbon commission under Mr. Johnson was ignored in the same way, and for the same motivations. Although its members had been told they would be received by the President personally to present their report, the conclusions of the Automation and Technology Commission backing such controversial ideas as a guaranteed annual income made them too hot to handle. The report was suddenly dumped on the press without any advance warning. Not a single commission member was present to answer or explain the findings.

Political Interference

Occasionally, a commission encounters the grossest kind of political interference, if not from a President or the President's men, then from a jealous or frightened executive agency. That's what happened to the National Commission on Urban Problems headed by the then Sen. Paul Douglas of Illinois. It labored for two years from 1967 and 1968.

The Douglas Commission took its presidential charter seriously. Indeed, too seriously, it now seems clear. It held hearing in 22 cities, visited ghettos, published five volumes of testimony, issued 20 independent studies, a voluminous final report. Looking back on the experience now, its former ex-

ecutive director, Howard E. Shuman, says reflectively:

"Through the existence of the commission, it had to struggle for its soul and its very existence. It operated in an atmosphere of both hostility and neglect, and at times it seems the intrigue by some internal staff and executive branch figures paralleled events in the Balkans which led up to World War I."

From the beginning, he says, the commission had to contend with a bitter struggle with the Department of Housing and Urban Development (HUD). It appears that HUD was afraid the findings would expose that agency's own shortcomings. HUD, according to Shuman, did not want an independent group making a critical analysis of its programs. It even wanted to stamp a number of the critical reports "secret."

He says the agency attempted to rewrite the President's recommendations to the commission; it tried to control the money; it objected to the national hearings; it fought publication and sought to suppress some of the studies.

After overcoming all those obstacles, the Douglas Commission completed its work—and the White House refused to accept its final report. Shuman says the commission was told early in December, 1968, to submit its final report to President Nixon. It refused and met its legally imposed deadline of December 31. Then it disbanded on schedule.

Shuman, who is the exponent of the "hot potato" theory of creation, now works for Sen. William Proxmire (D-Wis.). And despite his experiences with the Douglas Commission, he thinks such groups can perform a useful function.

The Same Furrow

Criticism of commissions increases as you get closer to Capitol Hill. Sen. Abraham Ribicoff (D-Conn.) is typical of many legislators. Commissions, he says, are always plowing the same furrow time and time again, turning up the same men and the same witnesses. Their work is repetitive and duplicative. As has happened in his own case, commissions often repeat material already covered by a senator's own committee.

"The desire for unanimity in commissions invariably leads to a watering down of strong ideas and strong views," Ribicoff says. "It would be much better for commissions to issue minority and majority opinions, but they don't do that. There's a feeling that they don't want a divided report. So they water it down. It's too bad, because often the strong ideas are very good."

Perhaps because they feel their own

prerogatives are infringed upon by commissions, congressional figures invariably make another criticism. In the end, they say, commissions must turn back to the Congress anyway for the enactment of legislation. Wouldn't it be more efficient and effective to strengthen the congressional committee powers to investigate and act upon national problems?

That doesn't mean Congress turns its back on commissions as such. Just last week the report of the National Commission on Product Safety was issued to general acclaim. The commission was appointed by Lyndon Johnson two years ago. Its recommendations dealing with consumer protection, including the call for the establishment of a new federal agency, seem certain to receive favorable congressional treatment.

"It's the only one I know of that is going to have an impact," says Michael Pertschuk, chief counsel for the Senate Commerce Committee. "Most of them are just useless."

'Like a Grand Jury'

In spite of all the criticism and the frustrations expressed, few who served on a presidential commission feel it was all without merit. Whatever the shortcomings, the commissions can add to the public knowledge and understanding. They are, at best, primarily educational.

"It is like a grand jury" says Dr. Walter Menninger, of the Menninger foundation, who served on the Eisenhower Commission, "but it is without the power of indictment, except in a public sense."

He and most of the others interviewed think the commissions can be useful vehicles if the public and the President want to employ them effectively. In neither case has that record been praiseworthy. Generally speaking, action has not been forthcoming. The promise remains unfulfilled.

A number of thoughtful commission critics have suggested Americans draw from the British tradition of the Royal Commission. In England, after a Royal commission report is published, the government customarily puts out its own white paper within six months to a year later. The government then clearly gives its own views on the commissions proposals. More important, it states its own proposals for action.

The Commission system is credited with being a major source of social reform in Great Britain.

That might work here; it might not. At least it is worthy of further study. If that suggestion is not enough, there is a last alternative.

The President can always appoint a commission to study the commissions.