SUBMISSION ON POLICY ISSUES IDENTIFIED IN THE INTERIM REPORT

Submitted By: Elisa Barwick
Email: [redacted]
Phone Number: [redacted]
Submission for: My Self
Name of other person, business or organisation:
Do you agree to your submission being published: Yes
Do you agree to your full name being published: Yes
Your submission:

Dear Commissioner Hayne,

The *1933 Glass-Steagall Act*, which was critical economically to US President Franklin Roosevelt's economic recovery program and restored faith in the banks, was politically possible because of the Pecora Commission, an investigation into the causes of the Great Depression which achieved very little until a period of ten days at the very end of its hearings. Australia needs Glass-Steagall for the same reasons, and urgently, as many warn we are facing the risk of a new global financial crisis. Australia implementing Glass-Steagall would be a history-making initiative which would encourage other countries to do the same so we are prepared as we face the new crisis, or even avoid it. I thus copy below some words from a historical account of Ferdinand Pecora's intervention, which did change history (if you have time I really recommend reading the entire book).

Australia's Financial Services Royal Commission has already made an incredible impact, including overseas, given the gravity of what it has exposed--thanks to your tenacity and that of your excellent counsels assisting. Now it remains to finish the job, for which your final hearings in November and the period between then and your final report in February will be vital.

Yours sincerely (and good luck),

Elisa Barwick (Glenroy, Melbourne)

The following excerpt of the introduction to the 2010 book, *The Hellhound of Wall Street: How Ferdinand Pecora's investigation of the Great Crash forever changed American finance* by Michael Perino (Penguin Books), reveals how rapidly Australia's royal commission could bring about real change. In such case it could become a catalyst for Glass-Steagall banking laws as the Pecora Commission was for the original *Glass-Steagall Act* in 1933.

"Pecora was ambitious, and he certainly loved the limelight, but he was no more a demagogue than [President Franklin] Roosevelt. He was avowedly liberal and reform-minded; to those who knew him best he was an idealist with 'an inveterate passion for justice'. No Wall Street expert, his conclusions about the impropriety of certain stock market practices were sometimes off base. In the end, though, those missteps didn't matter. His success lay not in his talent for inciting passions and inflaming prejudices nor in the intellectual purity of his arguments, but in his ability to crystallise the zeitgeist of the early Depression years—the politicians' vague and vitriolic denunciations of Wall Street and the bitter grousing of a broken-down populace—into hard facts and concrete evidence.

"Ultimately, the acclaim Pecora garnered was justified because the hearings he led fundamentally changed the relationship between Washington and Wall Street. Before 1933 the federal government had taken a hands-off approach to the stock market. But the hearings, and the public clamour they created, changed all that. In his Inaugural Address, Roosevelt declared, 'There must be an end to a conduct in banking and in business which too often has given to a sacred trust the likeness of callous and selfish wrongdoing', and he called for 'strict supervision of all banking and credits and investments'. Many would argue that the former is still all too true, but Roosevelt at least delivered on the latter. Over the course of Roosevelt's famous first hundred days in office and then in the year following, Congress passed and Roosevelt signed a flurry of banking and securities legislation, most of which still governs our financial markets today. The first federal securities laws, federal deposit insurance, and the creation of the Securities and Exchange Commission all trace their roots back to that fertile political soil.

"Pecora made it all possible because his investigation created the sensational headlines necessary to galvanise public opinion for reform. As Benjamin Cohen, a lawyer and one of the primary drafters of those laws, put it, bankers were 'so discredited in the public eye that Congress was ready to pass anything'. Securities and Exchange Commission historian Joel Seligman argues that 'effective securities legislation might not have been enacted had Pecora's revelations not galvanised broad public support for direct federal regulation of stock markets'. Even Roosevelt drew a direct link between the wrongdoing Pecora uncovered and his ability to push through reform legislation. The legislative changes flowed right out of the hearings. 'We built completely on his work', James M. Landis, former commission chairman and another drafter of the securities laws, observed. Most famous congressional hearings take the name of the committee chair, but Pecora's stellar performance was so dominating, his questioning so riveting, and his investigations so thorough that the Banking and Currency hearings eventually became known simply as the Pecora hearings.

"In short, the hearings played a critical role in our financial history. And they almost didn't happen.

"Almost, that is, but for Pecora's prodigious legal skills mixed with a healthy dose of luck and what can only by described as impeccable timing. In fact, most of the Pecora hearings would never have occurred without a single, decisive turning point, a key moment that made the rest of the hearings and reform legislation possible. Before Pecora's appointment as chief counsel, the hearings had dragged on for nearly a year. Despite a great deal of early effort and promise, they had made little discernable headway and the resolution authorising the investigation was about to expire. Nearly everyone believed the probe would limp quietly offstage, accomplishing nothing and leaving Wall Street untouched. The turning point—and the primary inspiration for Roosevelt's line about the money changers fleeing the temple—came in late February 1933, just a few short weeks after Pecora was first appointed counsel. It was just ten days, the ten days in which Pecora examined the officers from National City Bank (now, a few name changes later, Citigroup), particularly its chairman, Charles E. Mitchell. Pecora too recognised the key role this brief period played, writing that in those few days 'a whole era of American financial life passed away'."

Perino compares Pecora with the major target of his ten-day inquiry , "Sunshine" Charlie Mitchell. Mitchell was a big-shot "banker of bankers", world renowned, and a leading figure in New York's social elite. Pecora was an Italian immigrant who had just a few hundred dollars to his name. Mitchell, who pioneered stock- and bond-selling to the middle class, "had testified in congressional hearings before and had emerged unscathed". On the other hand, Pecora, whose name was unknown in New York, "had been committee counsel for just a few weeks and had almost no time to investigate the bank's complex and far-flung operations". Later in the book, Perino provides more insight into Pecora. He was a lawyer who "knew very little about the inner workings of Wall Street", but he did his homework. Pecora did not allow an inch of wiggle room to Mitchell, an expert in his field, recalling details of documents he had raced through in his prior inspections of bank ledgers and minute books. "Pecora had all the facts at his fingertips and if someone tried to dodge and weave he was ready", said Perino. From all accounts, Pecora was "completely in charge of the hearing room and at times he genuinely seemed to be having fun".

At the start of the hearings, however, "Nobody was expecting very much from Pecora", wrote Perino. But "Just ten days after the City Bank hearings began, Mitchell would walk out alone, discredited and disgraced. The bank quickly accepted his resignation."

"Pecora had shown that the bank and its securities-trading arm had engaged in all sorts of unsavoury behaviour. It sold worthless bonds to investors without fully disclosing their risks, manipulated its own stock price and the stock prices of other companies, and lavishly compensated its executives as the country plunged into depression. It's almost impossible not to hear in today's financial problems the echoes of those hearings held more than seventy-five years ago. Most Americans then blamed Wall Street and the banking sector for the ills facing the country. There was populist outrage over excessive executive compensation. The markets seemed to be awash in manipulative short selling, in favourable deals for the fortunate few, and in dodgy loans that were foisted on unwary investors. Against the backdrop of the then exploding banking crisis, the disclosures were riveting and, ultimately, revolutionary.

"While the investigation continued to produce stunning revelations for months—including a dramatic confrontation between Pecora and JP Morgan Jr later that spring—it was those ten days that set the tone for everything that followed. It was then, when banks across the country were shuttering, when City Bank's executives were in the dock, and when Pecora led America through the bank's financial machinations, that the federal government crossed its regulatory Rubicon. This was the turning point in which the relationship between Wall Street and Washington was forever altered. ...

"Those ten days were a vivid sign that something fundamental had changed in the power structure of the country.

"This is the story of those ten days."