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Donald C. Cook: CPA, SEC Chairman, corporate legend, and presidential advisor

Dale L. Flesher^{a,*}, Gary J. Previts^b^a University of Mississippi, USA^b Case Western Reserve University, USA

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ABSTRACT

Donald C. Cook served as a member of the U. S. Securities and Exchange Commission (SEC) from 1949 to 1953 and as Chairman during the last two years. His unique position as the only Certified Public Accountant (CPA) who served as Commission Chairman has been largely unnoticed and elicits the need for a profile about the individual, his background, career, and what, if any, legacy might be related to it. Cook was also unique in that his prior staff experience at the SEC was primarily in the public utilities division. This profile describes and identifies several episodes in Cook's career at the SEC and after. These include other public service positions in government and his executive career at American Electric Power (AEP) as president and board chairman. These years were often filled with controversy and challenges in dealings with the SEC and with issues relating to consolidation among utilities as the country's demand for electrical energy grew substantially. His government service roles beyond the SEC acquainted him with many political leaders. He was an advisor to President Lyndon Johnson, who shared the opinion of others that Cook was "the smartest man in the country" [Johnson, Telephone conversation No. 7070, March 16, 1965].

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Introduction

John L. Carey, writing about the history of the American Institute of CPAs (henceforth American Institute or AICPA) to 1970, observed that up to then three CPAs had served as members of the Securities and Exchange Commission (Carey, 1970). James J. Needham served from 1969 to 1972 coming directly from public practice. He was preceded by Edward T. McCormick who served from 1949 to 1951 after having served at the SEC in various roles since 1934. Donald C. Cook served from 1949–1953

Cook, who began his SEC career in 1935, was a member of the American Institute from 1944 but was not identified by Carey as also having served as SEC Chairman. It appears the fact of Cook's unique position as a CPA and Commission Chair, as well as his other career activities, have been overlooked in the history of accounting and regulation.

The purpose of this paper is to provide an initial biographical profile of Cook, who as a CPA and later an attorney, had a remarkable career in public service, politics and industry. The paper recaps episodes of his career at the SEC, highlights his extended career as a major corporate executive, and industry leader, and as

someone who served in a variety of public capacities and being acknowledged in press reports to be a member of the 'kitchen cabinet' of President Lyndon Baines Johnson.

Early years

Cook was born in Escanaba, Michigan, on April 14, 1909. High school classmates described him as an outstanding student and active in school organizations (SEC Nominee Recalled as Escanaba Student, 1949). In the summer of 1935, after Cook received an undergraduate (1932) and an MBA (1935) at the University of Michigan, he began working immediately at the SEC as a financial examiner in the Registration Division. Three years later, he transferred to the Public Utilities Division and remained there until 1945. The principal accounting and auditing development of the early era of the SEC period was the McKesson-Robbins fraud. The matter was addressed principally in the Office of the Chief Accountant by the youngish newly installed William W. Werntz, who was assisted by several of the other staff of that office, including Andrew Barr and Earle C. King, who would ultimately become Werntz's successors. The Report of the McKesson investigation names many individuals who were involved but Cook is not identified as being involved. This was in a sense a classic 'auditing' failure investigation and Cook had chosen to follow a path less traveled, the arena of public utility regulation. While on the SEC

* Corresponding author.

E-mail addresses: acdLf@olemiss.edu (D.L. Flesher), gjp@case.edu (G.J. Previts).

staff, he took law courses from George Washington University at night, earning two law degrees by 1940. In 1943 he married Winifred V. Carlson; they had one son.

From 1945 to 1949, Cook practiced law and accounting in the Washington, DC area and served in various government and Congressional staff roles. The 1944–45 *Yearbook* of the American Institute (published in 1946) listed Cook (who had joined the Institute in 1944 after passing the exam in Maryland) as being the Executive Assistant to the Attorney General of the United States (*Yearbook, 1946*). The *Yearbook (1946–1947)* gave the same affiliation, but the *Yearbook (1947–1948)* listed Cook's affiliation as "partner, Cook and Berger, attorneys-at-law, Ring Bldg., Washington, DC." His obituary also listed positions as special counsel to the House Committee on Naval Affairs, and director of the Office of Alien Property in the Justice Department (1946–47). The latter assignment later led to a high profile role in 1964 during the Johnson Administration as head of a seven-member Attorney General's Advisory Committee regarding the controversial disposition of General Aniline & Film (GAF) stock representing US assets confiscated during World War 2, which the government was offering for sale. GAF began as American IG, the American holdings of German IG Farben. During World War 2 a Swiss intermediary company was established per claims of the US Government to front for IG Farben as to the ownership of GAF. This invoked a section of the Trading with the Enemy Act. As millions of shares were at stake the contest related to whether or not public sales of GAF shares would maintain American control over the class of 20,000,000 common shares with potential value of between 200 and 300 million dollars (*Lambeth, 1964*). The dispute was resolved with the proceeds of the public auction being split between Interhandel and the US Government. Interhandel subsequently merged with UBS, providing substantial cash to propel UBS into a top spot among Swiss banks thereafter. Adding to his previous favorable reputation in government, the resolution of this matter raised the profile of Cook as a knowledgeable "money man." The GAF case was still gaining headlines when it was identified that Cook would be nominated for Secretary of Treasury in March 1965 (*New York Times News Service, 1965*). No other candidates had been vetted, yet Cook declined this position and thereafter also declined leading the New York Stock Exchange, apparently for compensation related reasons (*Gould, 1967*).

Cook's legal and accounting writings and presidential advising

Cook was a regular if not prolific contributor to professional and legal journals. He authored articles in such prestigious journals as the *Harvard Law Review* (*Cook & Feldman, 1953a,b*), the *Chicago Law Review* (*Cook, 1950*), the *George Washington Law Review* (*Cook, 1939; Cook, 1941*), the *Michigan Law Review* (*Cook, 1968*), and *Virginia Law Review* (*Cook & Cohn, 1959*). These publications were all public-utility related.

As early as the 1950s American Electric Power (AEP) had been in a dispute with the AI[CP]A's standard setter, The Committee on Accounting Procedures (CAP). The issue was deferred taxes and over the issue of capitalization of leases as well. The first issue had resulted in a suit against the AICPA by AEP that was subsequently decided by the U. S. Supreme Court in the Institute's favor (*Zeff, 1987*). In the early 1960s Cook took up the AEP's objections to the capitalization of leases, which had carried over to the Accounting Principles Board. An important example of Cook's writing on an accounting topic appeared in 1963 in the *Harvard Business Review* (*Cook, 1963*). In this paper, Cook argued against capitalization and pointed out that capitalization was contrary to the assumptions in the Public Utilities Holding Company Act of 1935, a law with which Cook was quite familiar (*Cook, 1963*). This 1963 paper is an important example of his style of both accounting and legal rea-

soning, contrasting 'market based accounting principles' with those mandated by legislation. In a somewhat unusual format, the paper ends with an Editor's Note regarding current research and response to a request of the AICPA's director of accounting research, Professor Maurice Moonitz. Moonitz relates the historical developments of professional authoritative literature on leasing and concludes by referring to the ongoing study on reporting leases in financial statements being done for the Accounting Principles Board (APB) by Professor John H. Myers of Northwestern University.

Cook's standing as an 'expert' on accounting matters was noted in a speech given in 1963 by then SEC Chief Accountant Andrew Barr. While reviewing the topic of the influence of government agencies on the development of accounting principles, he noted recent disagreements regarding the treatment of the investment tax credit, and the difficulty of achieving resolution as follows:

Two well-known experts on utility accounting debated the accounting treatment of the investment tax credit at the Great Lakes Conference of Railroad and Utilities Commissioners in June of this year. Leonard Spacek (ed note: Arthur Andersen & Co.'s leader from 1947 to 1970) analyzed the legislative record and concluded that unless his marshalling of the facts from the record was wrong there is only one proper basis of accounting for the credit and that is to record it as a credit against property cost, either directly or in an account offsetting the cost. Donald C. Cook, reviewing the same legislative record, said in opposition to Mr. Spacek's views that "The whole legislative history of the statute makes entirely clear that a tax reduction in each successive fiscal period ['flow through'] was intended by the Treasury and by Congress" (*Barr, 1963*).

Placing Cook in such comparatively high esteem, Barr affirmed his appreciation for Cook's capacity for articulate expression. All told, Cook's intellectual capability to develop and present competing views in legal matters and in accounting theory discussions were of a quality and from a position that was carefully regarded by others in these professions.

Cook worked with and began a long friendship with Lyndon Johnson while Johnson served as a Congressman in 1943. When Johnson became a Senator, he asked Cook for assistance in 1950 on a study being conducted by the preparedness subcommittee of the Senate Committee on Armed Services. Cook complied with the Senator's request even though he was working full time as an SEC Commissioner. He spent his Saturdays and Sundays working for Johnson. On January 31, 1951, Johnson entered into the Congressional Record a five-page statement lauding Cook's contribution to the subcommittee. Johnson noted that Cook's night and weekend work netted him "not a penny out of it." Press reports that surfaced when Johnson became President in November 1963 expanded upon this role, noting: "One of Johnson's proven friends in industry is Donald C. Cook.... President of American Electric Power Services Corp. Cook quit the chairmanship of the Securities and Exchange Commission in 1953 to become chief counsel of Johnson's Senate preparedness sub-committee." (*Associated Press, 1963*).

Upon becoming President, following the assassination of John F. Kennedy on November 22, 1963, Johnson remembered his old friend and quickly called Cook for advice. Eight days after becoming president, Johnson discussed several issues with Cook, including Viet Nam and the possible replacement of Henry Cabot Lodge. Johnson then offered to send a car for Cook so they could discuss other issues in person (*Johnson, 1963*). In late 1964, Johnson told an FBI investigator that Cook "would be the ablest member of my cabinet," if he agreed to serve (*Johnson, 1964*). Then, in early 1965 when discussing the appointment of a new Secretary of the Treasury, Johnson told Senator Everett M. Dirksen that Robert McNamara had called Cook "the smartest man in the country" (*Johnson, 1965*). Altogether, there are around 100 surviving

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