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PHASE II OF THE PRESIDENT'S NEW ECONOMIC PROGRAM

HEARINGS BEFORE THE JOINT ECONOMIC COMMITTEE CONGRESS OF THE UNITED STATES OF THE NINETY-SECOND CONGRESS FIRST SESSION

NOVEMBER 18 AND 20, 1971

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PHASE II OF THE PRESIDENT'S NEW ECONOMIC PROGRAM

THURSDAY, NOVEMBER 18, 1971

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The committee met, pursuant to recess, at 10:20 a.m., in room 1202, New Senate Office Building, Hon. William Proxmire (chairman of the committee) presiding.

Present: Senators Proxmire, Sparkman, and Javits; and Representatives Reuss, Moorhead, Widnall, and Conable.

Also present: John R. Stark, executive director; James W. Knowles, director of research; Loughlin F. McHugh, senior economist; John R. Karlik and Courtenay M. Slater, economists; Lucy A. Falcone, research economist; George D. Krumbhaar, Jr., minority counsel; and Walter B. Laessig and Leslie J. Bander, economists for the minority.

OPENING STATEMENT OF CHAIRMAN PROXMIRE

Chairman PROXMIRE. The committee will come to order. First, I want to apologize for having been late. We had a rollcall on the floor of the Senate and other Senators will be over shortly too.

Today we review the economic implications of phase II of the President's new economic program. We are indeed fortunate in having with us today Mr. C. Jackson Grayson whom the President has designated as head of the Price Commission.

We had originally arranged to have Judge Boldt also appear before us today, but Judge Boldt has informed me that subsequent to our request for his presence he and the members of the Pay Board had arranged for hearings in the very important coal inquiry. They have had a very serious problem. They have to deal with it at once. So as a result the judge agreed that he would appear before this committee either on Saturday morning, this coming Saturday, November 20, at 10 a.m., or Sunday morning, at 10 a.m., in the event the coal hearings run into Saturday. If he appears on Sunday the Cowboy-Redskin football confrontation will be an anticlimax which will follow.

Mr. Grayson, we greatly appreciate your appearance here today—particularly in the light of the very heavy burden which has been so suddenly thrust on you.

Mr. Grayson, I hope you understand the basic need for this committee and for the Congress generally to be kept fully informed of the truly revolutionary developments which current wage and price actions portend. Legislation is pending in the House Banking Commit-

tee and Senate Banking Committee relating to your agency and what power and authority an so forth it should have and what policies the Congress will provide for it.

Unfortunately, because hearings have been completed in both the House and Senate, it won't be possible to hear from you or Judge Boldt, two men who are most directly responsible and this seems to be the best opportunity as a joint committee for Members of the House and Members of the Senate to have a chance to hear you.

As you know, there is a deep-seated concern here in the Congress—and indeed throughout the country—that our free market system is in jeopardy, and that the already very complicated and confused framework of controls now being erected will not accomplish the job that has to be done, and that still harsher measures may be instituted when and if phase II does not work.

There is also concern that the program will be inequitable, that the heavy hand of Government will be felt more severely by the weak while the powerful groups, will be more lightly handled, and that the consumer will fare less well than the producer.

Despite all the best intentions, it is difficult to see how this vast economy of ours can be managed with the puny enforcement apparatus now contemplated. If we are to proceed successfully through phase II, many feel either far larger bureaucracy will be needed, or far more widespread exceptions will have to be made and soon.

The current plan is, as we all know, unprecedented in our peacetime history. I hope and I think you do, too, that your job should be to work your way out of business just as soon as possible. Breaking the cost push inflation won't be easy but I personally think you can and should try to within 6 months—in fact before the law under which you are operating expires on May 1, 1972.

I would just like to spend a minute or two more reading the very interesting biography of our witness this morning because I think he is a man who has a most useful and pertinent background.

Mr. Grayson is on leave as professor and dean of the School of Business Administration of Southern Methodist University, and he has been a certified public accountant since 1948, worked briefly as a newspaper reporter in New Orleans, 1949-50, and as a special agent of the Federal Bureau of Investigation, 1950-52; he is the author of numerous articles and books on financial and industrial topics. He is a member of the American Accounting Association, the American Finance Association, the Operations Research Society, the Institute of Management Science, the Society of CPA's of Louisiana, and the World Future Society.

Mr. Grayson, you have an excellent background in accounting and finance which frankly comes as a revelation to me. I thought you were an economist. Having heard many economists before this committee during the last 10 years I think with George Bernard Shaw who said if you laid all of the economists end to end they still couldn't reach a conclusion. So it is good to have a man who can.

I understand you will make a short statement after which you will be available for questions from the members. So go right ahead, sir.

STATEMENT OF HON. C. JACKSON GRAYSON, JR., CHAIRMAN, PRICE COMMISSION, ACCOMPANIED BY DAVID SLAWSON, GENERAL COUNSEL; AND LOUIS NEEB, DIRECTOR OF THE EXECUTIVE SECRETARIAT

Mr. GRAYSON. Mr. Chairman and distinguished members of the committee, I want to express my appreciation also for not scheduling the meeting on Sunday. Having one foot still in Dallas and being here in Washington I am going to assume it is going to be a fair and divided game on Sunday.

I want to introduce to you two members of the Price Commission that I brought with me. On my right, is Louis Neeb, who is the Director of the Executive Secretariat of the Price Commission. On my left is David Slawson, who is General Counsel.

In the interest of brevity I would like to dispense with my prepared statement. These are filed with members of the press and committee.

Chairman PROXMIRE. That will be remarkably brief. There are only three short pages.

Mr. GRAYSON. As I am unaccustomed to reading things, I would like to talk in general to the substance.

I would like to emphasize several key points in the prepared statement. One is that the 2½-percent guideline is an average. I just want to be sure that everyone understands that prices can go above that when justified by costs and productivity and that some prices will go down. We are not expecting every firm to conform to exactly 2½ percent.

Second, the main mechanism we are using in our control system is that of the margin rate. We are not controlling absolute profits. That was a conscious design on the part of the Commission.

Also, I would like to stress that in forming these standards and guidelines, we have talked to many people. We have many inputs from labor, from consumers, from industrialists, who visited with the members of the Commission, and from economists, and we plan to continue this process. We would like to get inputs from this committee, from other Members of the Congress, and also from continuing sources from all sectors of the economy. In fact, I just received a letter last night from Mr. Nader and we are planning to have lunch next week.

We are heavily reliant in this program, as you said, on voluntary compliance. We do not want to set up a large bureaucracy. I did not come to Washington to do that. As I understand from President Nixon's statement to me, this is not his desire. We are planning to gradually decontrol as the target guidelines are being reached. Our desire is not to perpetuate this institution or control mechanism. We will remain only as long as it is necessary.

We need flexibility in this program. The economy is so complex and so diverse and so interrelated that even with my background in the business school and my own training, I could not conceive of some of the things that resulted from phase I controls. So we have designed the program to be as flexible as we can and yet to secure the kind of criteria we regard as important.

Primarily, we want to be sure there is price firmness. This is really the overall guideline and I accept the President's stated goal of reducing the rate of inflation to 2 to 3 percent by the end of 1972.

So price firmness is one of our main criteria.

The other part of the program is public acceptance. Because as I have said on other occasions, without public acceptance, this program won't work; without creating, as you said, a large bureaucracy, and that is not our desire. And last, we must design a program that will be fair. As you said, it must be equitable. This is not going to be easy. We are looking at a very complex economy and we are applying standards and guidelines that will cut across this very complex society. But it is our firm desire to be as equitable as possible and I am instructing every member of the staff, and the Commission members themselves have agreed, that this must be an overriding concern.

That is the end of my remarks and I would like to be available now or at any time in the future, consistent with my workload, to have inputs from you, and receive advice and guidance from your committee. (The prepared statement of Mr. Grayson follows:)

PREPARED STATEMENT OF HON. C. JACKSON GRAYSON, JR.

Mr. Chairman and distinguished members of the Committee, I thank you for the opportunity to appear today to discuss the goals and policy of the Price Commission.

The Price Commission has adopted basic guidelines to achieve the goal of holding average price increases across the economy to no more than 2½% per year. Underscoring this is the principle objective of reducing the rate of inflation to 2 to 3% by the end of 1972. These policies are designed to achieve the President's goals of stabilizing prices, increasing employment, improving our national balance of payments and assuring real economic growth.

Our basic policy dictates that prices not exceed their freeze period levels except as changed by published regulations or on orders of the Price Commission. Price increases will not be allowed except those justified on the basis of cost increases in effect on November 14, 1971, and increases incurred after that date, measured against productivity gains. Furthermore, prices will not be increased to recover, retroactively, costs that may have been incurred in the freeze period from August 14 to November 14.

Price increases which have the result of increasing a company's profit margin beyond what it was in the base period will not be allowed. It should be pointed out that this profit margin limitation does not stop a firm from increasing its profit margin so long as it holds its prices constant. In addition, total dollar profit may be increased through increased output and added efficiency.

I should emphasize that not every price increase in every part of the economy will be rigidly locked to the 2½% figure. Many adjustments will occur both below and above that 2½% working figure; and they will be justified on the basis of cost increases and other factors. But in the aggregate, it is our target that the annual rate of price change will be no more than 2½%.

One of the first actions of the Commission was to put out a public call for comments and suggestions on the most equitable and efficient program to achieve the economic goals of the President. Since that time we have received thousands of suggestions and we are continuing to receive them. After considering these suggestions, we have stated our guidelines.

Our method has been and shall be to review continually the guidelines and their implementation.

The success of this program will depend heavily on voluntary compliance. Without the support of all the people in all sectors of this nation, this program will not work. All citizens must strive to hold down inflation in the effort to create price stability.

We have not created an elaborate set of mechanisms. We are determined that the standards and guidelines will accomplish the objectives, but we have not set up a big bureaucracy to enforce a large control mechanism for the economy.

A rewarding part of my job has been to observe the immediate and ready

acceptance of the price control programs by the American public. By every measure the level of compliance has been extremely high, we count upon a continuation of this.

I see this Commission's role as an integral part of the effort to generate more jobs, increase productivity and stimulate economic growth.

Our desire is to achieve the goals, but we would like to reduce the control mechanism as rapidly as possible consistent with the overall goals.

The magnitude and scope of this task has forced us to feel our way gradually. Our experience to date has shown that it would be presumptions to specify exactly what we need and what we expect in exercising controls and regulations. Therefore, we are hopeful that Congress will allow the utmost flexibility in granting us the latitude necessary to achieve Price Stability.

Chairman PROXMIRE. Thank you very, very much, Mr. Grayson.

The first question that occurs to me is the question of how a businessman who wants to comply with this law, a typical businessman, how he can do so.

I think you would agree with me that the overwhelming majority of businessmen want very much to comply with the law and will do so if they possibly can. In order to do this, first he has to know what his costs are. Second, he has to know what his profit margin was within each of the last 3 years and, third, he has to know his productivity and he has to be able to modify any cost increases which he would like to reflect in his price increases by the effect of his productivity on his costs.

Do you really think that most businessmen are equipped to do this, they know what their productivity is?

Mr. GRAYSON. Mr. Chairman, in the larger sectors, what we are calling the prenotification sector, many firms have productivity figures already worked out. In fact, we have seen these figures in some of the very early submissions.

Chairman PROXMIRE. What proportion of firms would you say have those?

Mr. GRAYSON. I do not know exactly, but in the prenotification sector I would estimate that some 50 to 75 percent of the firms have already calculated at least some rough measures of productivity under which they are estimating.

Chairman PROXMIRE. Adequately to comply? You think adequate to comply with your regulations?

Mr. GRAYSON. As an initial process, yes, but we will want to look at the basis for those calculations.

Chairman PROXMIRE. That means that 25 percent to half of them don't have that and, therefore, are not in a position to comply; is that correct?

Mr. GRAYSON. I assume they will start calculating productivity because that is required on the form they must submit.

Chairman PROXMIRE. Isn't this an enormously complex and difficult job involving judgment and expertise of a high order?

Mr. GRAYSON. It is a job that requires judgment and expertise, yes. As an accountant I know very well the difficulties.

Chairman PROXMIRE. That is the first tier. Those are the first, the big firms that have over \$100 million dollars in sales. How about the firms that have less than \$50 million in sales? How about the great majority of firms that have less than \$5 million? Do you think anything like half or a quarter or 10 percent of those know what their productivity is?

Mr. GRAYSON. Strictly guessing, but in the reporting sector, I would

estimate that 50 percent of the firms may have productivity measures.

Chairman PROXMIRE. 50 to 100? \$50 to \$100 million in sales?

Mr. GRAYSON. Yes, sir, in tier 2 some 50 percent may have productivity measures already. As the data comes in, I will be glad to inform the members of the committee of the actual figures, the general kinds of productivity measures that we are getting.

Chairman PROXMIRE. How about the great generality of firms?

Mr. GRAYSON. My estimate is that down in tier 3, which we are calling the nonreporting sector, there are very few explicit measures of productivity. In these cases we will recognize they do not have productivity figures and we will ask them to estimate these figures and we will recognize that they may be fuzzy.

Chairman PROXMIRE. That means that your regulation is going to be very fuzzy.

Mr. GRAYSON. It is going to have to be flexible. It will be in the beginning. We will have to recognize this fact.

Chairman PROXMIRE. In the beginning we hope this will only last a year or two and we hope, as I said, only last less than 6 months.

In that period of time do you think it is very likely that most of these firms are going to be able to develop this concept and use it?

Mr. GRAYSON. Yes, I think most firms will start. We plan to start a program to increase productivity by talking to the firms and putting it in the press and using the expanded committee on productivity to help us devise effective measures and I think they will begin to develop.

Could I add another statement?

Chairman PROXMIRE. Yes.

Mr. GRAYSON. Productivity is one of the important sectors that we are paying attention to because of the need to have this in our economy. Just an estimate that I have read is that a one-tenth of 1 percent increase in productivity adds \$1 billion to the GNP. I think that the services sector, in particular, where we have not had high productivity compared to other sectors, and where productivity measures are admittedly not well designed, is a target for improvement. It pays to get people to pay attention to productivity. It pays for the country.

Chairman PROXMIRE. Well, now, we get to the next great group, the consumer. How in the world is Mrs. Consumer going to have any idea whether a price increase is legal or not?

First of all, she would have to know the cost and there is no way you can find out the cost of General Motors let alone the cost of Joe's Drive-In. General Motors has refused to reveal that to the unions, they have refused to reveal it to this committee, they have refused to reveal it to the Government. Maybe you can subpoena the records. But if you do you have indicated you are going to keep them confidential. So there is no way the consumer may get the cost, she may be able to get profit margin in some cases. She isn't going to have any idea what the profit is, and without cost or productivity she is in no position to know whether a price increase is justified or not. Furthermore, you can have a very substantial price increase, as I understand—correct me if I am wrong—and still be in complete compliance with the law. The fact that you have a 10 or 15 or 20 percent increase doesn't mean there is a violation. It could be completely justified even though all of the indications may be to the consumer that the particular article she is buying shouldn't have gone up in price. So there is very little ground on which

you could have this great apparatus that George Meany had hoped to put in effect and I think was a great contribution of labor union members acting as groups that would report apparent violations. This won't work, will it?

Mr. GRAYSON. Mr. Chairman, the consumers, I hope, will go into the stores and will look at the base period price. We are requiring all of the retailing and wholesaling firms to post the price which was in effect on November 14.

Now, then, prices will change from that point. As you said correctly, prices can go up above the 2½ percent guideline. The consumer, if he looks at a number of price changes and they are all tending upward, correct, he may not know whether the firm is exactly in compliance or not. However, he can ask the merchant, the retailer, to explain why the prices are going up, and if he believes that there is possibly a violation, he can report this to the local IRS office who can go in and look at the books and determine if the firm is in compliance. But you are quite correct, on the spot the consumer may not have exact knowledge that there has or has not been a violation.

Chairman PROXMIRE. We have had a lot of complaints from consumers that they had trouble enforcing the freeze but the freeze worked well, it had great public acceptance, it was simple, understandable. Any price increase was a violation. Brother, if you got a 2½ percent guideline and said that was the limit of the price increase this would be hard, but when you say that the price increase can go up 5 or 10 percent, you agree that is possible, or 20 percent in some cases, and be proper, then it seems to me there is almost no hope of using the consumer as an effective enforcement agency, and I would agree with you that would be the best and most wholesome agency we can get. So it would seem to me short of a big bureaucracy, which I would agree with you we shouldn't have, we cannot enforce this. This is why I seem to be driven to the notion we should try to terminate the whole program as soon as we can and we should concentrate on those areas of the economy where we feel we had inflation trouble, big unions and big companies, big firms.

Why can't we provide a substantial exemption for those firms that are small, which have not had a price increase, say, over the last couple of years, that exceed the 2 or 2½ percent or 3 percent area. That way you can eliminate out of the act those firms that aren't contributing to inflation. Doesn't it seem logical either you have to have a bureaucracy that can enforce it or you should have exceptions or you are just going to have disregard of the law and growing disaffection. With every week passing people will feel this is becoming a joke and a pretty sad joke.

Mr. GRAYSON. In the large sector I agree with you and this is where we are applying the prenotification reporting requirement. We are applying very explicit audits of their increases of prices. However, I think that it is important also to include the third tier in the standards and guidelines because I believe that most people want to cooperate with this program. I don't believe that people will become disaffected because I think most every citizen would like to change the inflationary psychology. So it was our thought that this would make them feel part of the total program, that they, too, are responsible for helping to make this program work. By covering them, we hope they will feel

that reversing the inflationary psychology is a part of their responsibility. The IRS is working with the monitoring station that you mentioned and is considering the idea of getting consumers to go around to the various stores and shop competitively and in coming to the IRS to get investigations. While we weren't going to work directly with them, the IRS is.

Chairman PROXMIRE. Let me ask one other question before my time is up. I am very concerned with your profit margin device. It seems to me that you strike right at the heart of the most effective discipline in the free enterprise system. Once you tell a businessman that he cannot increase his profit margin, it seems to me that the incentive for a businessman to cut his costs, to be efficient, to stay up night and day to try and work a more efficient operation, is going to be eliminated.

Now, it is true that he can increase his profits by expanding his sales, but unless you apply this profit margin on an industrywide basis and not firm by firm, it seems to me this could be very, very counterproductive.

You have, for example, the automobile companies coming in now. American Motors got a 2½ percent approval of their request. I understand Ford is going to ask for 2 percent and Chrysler for a little over 5. General Motors perhaps nothing.

Well, now, these are big firms and maybe they have different motivations, but a smaller firm might say why should we work like the dickens to hold our costs down, it is always tough to do, when if we hold our costs down we are not going to be able to make our judgment as to what the market will take with respect to our price, we are going to have to hold our prices down and we are not going to increase our profits at all? Why not relax and let costs rise?

If you do that, of course, the productivity that we need so badly, the discipline we need so badly overall to hold prices down is going to go out the window.

Isn't this profit margin concept a bad concept to use to apply to the individual firms?

Mr. GRAYSON. The Commission has discussed this matter at length because we recognize this margin was the best rule that we could find out of many. We examined a lot of alternatives and we did not believe what you said will occur for some of the following reasons. One, there still is competition in the marketplace. I still believe—

Chairman PROXMIRE. If there is, you don't need controls.

Mr. GRAYSON. Competition in the last few years was not as effective without the wage and price guidelines that the President instituted during the freeze and I think need to be continued in phase II. So I believe that the competitive factor will still operate to a great extent within these overall standards and guidelines; that competition will be effective because firms will not want to merely increase costs and thus take on the industry leaders whose prices are being controlled very carefully. So I think that the larger firms will tend to become pacesetters and the firms at the lower level will not be able to increase their costs and reduce their efficiency because the competitive factor would tend to reduce that.

One other point. A firm whose profit margins are above the base period which wants to reduce costs can do so and there is an incentive. Then they can reduce costs and increase profits if they leave their prices at the same level.

We do not say to firms who are above their marginal rates in the prior period, you must reduce prices to get back down to the marginal rate. We say if you want a price increase then you must come in and request it. They can't be above the marginal rate. For the inefficient producer whose profit margin rate is below that of his base period, it is to his advantage to be as efficient as possible to get his profits up but without increasing his cost.

Chairman PROXMIRE. The incentive is reduced compared to the situation you have with a free market.

Mr. Widnall.

Representative WIDNALL. Thank you, Mr. Chairman.

Mr. Grayson, Senator Proxmire has already spoken about the price increase granted to American Motors and the proposed increases for Ford and General Motors.

As an economist, you yourself know what a tremendous impact the auto industry has on the country. Wouldn't price increases of automobiles be reflected greatly in other parts of the economy?

Mr. GRAYSON. Obviously autos are one of the most visible signals in the economy and they do have an impact on the economy. We looked at the particular situation of American Motors, using data which they submitted to us, and on this basis we thought they justified the price increase that they requested.

Representative WIDNALL. But this is a very sensitive sector of the economy and can have a tremendous effect on other segments.

In a November 11 statement, the Price Commission said under the administration's stabilization program it will at certain times issue such regulations as necessary to cause windfall profits to be converted into price reductions.

Could you give a hypothetical case in which this might occur to illustrate the intent of their proclamation?

Mr. GRAYSON. One example might be in a long-term or construction contract that was bid and included costs for continuing inflation. This is, by the way, what we are trying to break, this expectation of inflation. And the prices were set on that expectation. Then along came the freeze and the wages did not rise or other costs did not rise as they had expected and it was in their pricing structure. So in a sense, the firm realized unintended "windfall profits" caused by the operation of the control mechanism itself. So in those cases we are going to ask the firms to make price reductions.

Representative WIDNALL. Is that what you mean by "windfall profits"?

Mr. GRAYSON. Yes, sir; that is a good example of a case or a firm that had increased prices just prior to the freeze under the expectation of wages going up and wages did not go up, so they received a profit because of the operation of the control mechanism.

Representative WIDNALL. Part of the problem prior to the freeze has been the fact that labor, management, and all other segments of the economy have been anticipating inflation and writing into their own bids their wage demands and other things in anticipation of an increase of maybe 15 percent in the cost of living, and this has been a very vicious round and has contributed a great deal to inflation.

Do you find any evidence yet of the desire, real desire, on the part of labor and management to forgo this anticipation?

Mr. GRAYSON. Well, we don't have factual data yet in the Price Commission coming from the operation of phase II. We just have our first few filings. In phase I there was a degree of voluntary compliance. I think there is some evidence that most Americans do want the cycle of which you spoke to break and, therefore, I think more people, labor, and management, will be willing to accept lower increases in wages and lower price rises.

Representative WIDNALL. I have talked to a number of citizens back in my own constituency since we have gotten into this wage-price freeze program and many of them who are in labor, who are union laborers, have said to me they would rather have a stable dollar so they could count on it and know week by week what they would have in purchasing power than have an additional wage increase. I think that that is the hope and the will of most of the American people. This would be the greatest benefit to them rather than continued wage increases and fringe benefits.

In your prepared statement you said in ruling on price increases, one aspect of the Commission's policy is that, and I quote, "Prices will not be increased to recover retroactively costs that may have been incurred in the freeze period."

Would you comment on the projected effect of the Pay Board's action either to approve or disapprove retroactive pay, or stated more broadly, the relationship between the two bodies and their policies?

Mr. GRAYSON. I agree with what you said, Congressman, the fact that most Americans do want this cycle broken. I want to emphasize that the Price Commission is not a business body. It has not been set up this way. Price stability is a benefit to labor, a benefit to every consumer, every person in the country, no matter what the particular segment in which they are working. So I want to emphasize that we are not oriented to any one sector of the economy.

In answer to the question about the operation of the program resulting in stability in trying to reach the goal which we are seeking, we are very anxious to recognize that the whole country suffered during the freeze period. It suffered in the sense of having inequities result, not the whole country, but there were inequities. Some people were hurt more than others. But it was a period of time that the President felt necessary to stop that inflationary cycle, freeze it momentarily.

Now, what we are saying is that in the Price Commission we are not permitting firms to increase their prices to recover their costs that may have occurred during the freeze period, and this is called retroactive pricing. We would like to start now, as of November 14, and go forward instead of looking backward.

In fact, we just made a decision with one company that came in with a request that it lost money during the freeze period because of the operation of the program and it would like a price increase to recover those costs, and we denied the increase.

Now, let's take the case if the Pay Board were to grant the pay increase during the so-called freeze period, we would not automatically grant a price increase to cover that but we would look at the particular situation to see if some inequities have resulted, by particular exception to the firm. The general policy is that we will not allow a firm to price retroactively for losses.

Representative WIDNALL. One more question. On CBS, "Face the Nation," this past Sunday, you referred to the need for giving increased attention to the problem of measuring productivity in the various service industries.

Could you give us any description of what methods the Price Board would be able to use in measuring productivity in the services sector?

Mr. GRAYSON. We have already contacted the expanded Committee on Productivity to work with them to devise measures for improvement of the measuring process in productivity. We are going to ask firms in that sector to start to think of ways themselves. We are working with the Health Services Industry Committee, and the Committee on State and Local Government Cooperation. The Rent Committee is being formed and we will have our first meeting next Tuesday. We are trying to get all sectors to begin to work with us to devise measures of productivity in services. But today I cannot give you the exact techniques by which that is being done. I have directed a committee within the Price Commission to begin immediate work on designing programs working with the services sector of the economy to do this.

I charged the Committee on the Health Services Industry the other day to begin this process, for example.

Representative WIDNALL. My colleagues suggested to me that an example of measuring productivity in the services sector might be the undertakers.

Mr. GRAYSON. I never thought of that particular example.

Representative CONABLE. Better bury that question.

Representative WIDNALL. The chairman said too great a push.

Chairman PROXMIRE. Congressman Moorhead.

Representative MOORHEAD. That is a difficult act to follow, Mr. Chairman.

I appreciate very much your statement and brevity and also commend you on undertaking this very difficult job.

Is there any legislation that you need from the Congress now before the expiration of the Economic Stabilization Act? Is there any question of the administration's bill that you need urgently today?

Mr. GRAYSON. My main hope is that the entire bill will be pushed through as rapidly as possible so as to enable us to move forward, and you are asking is there any particular segment more important than another?

Representative MOORHEAD. Yes. From conversations I have had just this morning, it would appear probably unlikely that the entire bill will be passed before the adjournment. But if there are sections of the bill that you need urgently before next year, I would like to know what those sections are. Maybe we can pass those if you really need them.

Mr. GRAYSON. This is the first time I have had a reason to think about that. I have never thought of the segmentation of the bill itself. I guess I would have to go through it bit by bit.

I think every component of the bill is necessary. One aspect I would stress in particular is the flexibility that is in the bill and is very important for us to preserve.

Representative MOORHEAD. It seems to me under the existing bill you have, it couldn't be more flexible than the existing law.

Mr. GRAYSON. That is a strong desire of mine. Mr. Slawson was saying one part of it is the Administrative Procedure Act, the exemp-

tions of this Commission from that act. We have no intention of trying to upset due process or not have the public have a part in the operations of the executive branch but there is a tradeoff between that and the timely need to make decisions, and this particular part of the bill would enable us to move ahead with dispatch and not slow down the economy.

Now, we will be inviting people, as I said, to appear before us. We welcome their views. But if we were to get into a whole series of hearings on companies that needed price increases, it might work the opposite effect and ruin the economy of the country, which is not our desire. I think that is a very important part of the bill.

Another, Mr. Neeb is indicating, is the ability to obtain the data. Suppose a company submitted to us data which they said was exactly correct and you must accept our word. In many cases we obviously would, but in other cases we might say we want more records and we would like the power to subpoena that information so that we have a basis for making that decision.

I may have just answered this question ad hoc and neglected the other aspect of it.

Chairman PROXMIRE. I think this is such an important question. I would hope that when you correct your remarks, and as soon as possible, you give us your response to this.

Our committee, the Banking Committee headed by Chairman Sparkman, who is here this morning, is going to finish marking up the bill in committee today but we would certainly like to know as rapidly as possible so we can give you what you must have, because Congressman Moorhead points out this may not clear the House and Senate and conference by adjournment.

Senator SPARKMAN. May I say, in addition to that, not only do we hope to finish it today but we plan to report it to the calendar on Saturday and take it up in the Senate on Monday. So we are moving right along with the whole bill, not just parts.

Representative MOORHEAD. On the House side the Banking and Currency Committee will take the bill up on Tuesday, November 30, and with that statement from the chairman of the Senate committee it may be that we will act in time. There is the thought of adjournment and I want to be sure if there are certain sections that you really absolutely have to have, and it looks as though we may not get the full bill through both Houses, we certainly want to consider taking up those urgent matters. If the Price Commission could advise us it would be greatly appreciated.

Mr. GRAYSON. I will be glad to get my staff to prepare a statement and submit it to you.

(The following information was subsequently supplied for the record:)

ECONOMIC STABILIZATION PROGRAM,
THE PRICE COMMISSION,
Washington, D.C., November 19, 1971.

HON. WILLIAM PROXMIRE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PROXMIRE: During my testimony to the Joint Economic Committee on November 18, I agreed to send you a memorandum stating the sections, if any, of the President's Bill to extend and amend the Economic Stabilization

Act of 1970 which I believe ought to be enacted soon for the purposes of the Price Commission, even if congressional action on the full Bill must be delayed.

It is my conclusion that there are no such sections of the Bill. The Price Commission needs the entire Bill as soon as the Congress can feasibly enact it.

Although there are some sections which the Commission might need more quickly than others, predicting which sections those will be is much too subject to error to make the prediction worthwhile. I believe that the interests of the Commission would be better served by not making the action of the Congress on the Bill more difficult by asking that Congress act in a piecemeal manner.

May I take this opportunity to thank you again for the courtesy with which you and all members of the Committee treated me and for the many valuable suggestions and comments given to me during the course of the hearings.

Sincerely yours,

C. JACKSON GRAYSON, Jr.,
Chairman.

Representative MOORHEAD. Following up the question that Congressman Widnall posed to you. If the Pay Board does go along with retroactive wage increases, will this cause difficulty for the Price Commission, particularly in view of your statement that prices will not be increased to recover retroactively costs that may be incurred in the freeze period from August 14 to November 14?

Mr. GRAYSON. Yes, sir; it would give us difficulty, because our guidelines say the firms cannot price to recover retroactive price increases. If it happens, then we would look at the individual firms that were affected and we would have to see whether or not we can minimize the price increase effects, but under our guidelines they do not now automatically get price increases because of the pay increases.

Representative MOORHEAD. What is the position of the Price Commission on contracts validly entered into before August 14 which provide for price increases? Before or after November 14—the example being a lease that had annual increases, a lease executed well ahead of the August 14 deadline?

Mr. GRAYSON. If they are in the prenotification sector, even though the contract was entered into before August 14, they must come in to get price increases approved. If they are in the reporting sector they can go ahead and make adjustments but they must be sure the cost is offset by productivity and recognize the overriding constraints of not increasing in the profit margin. We will then look at that and audit it. In other words, the fact they entered into a contract does not mean they can go ahead but they must operate that contract within the standards and guidelines.

Representative MOORHEAD. So it is your position that under the legislation and the Executive orders you can in effect nullify contracts validly entered into before the price freeze?

Mr. GRAYSON. That is correct.

Representative MOORHEAD. What is your position with respect to such things as increases in mass transit fares? Is this under your jurisdiction? Do you have any problem whether it is a public corporation or a private utility?

Mr. GRAYSON. We have a section in our standards and guidelines on regulated industries and if they fall within that category, as public transportation would, we would let them continue to create their pricing mechanisms within the regulatory bodies as they are now established. We don't want to invade that process. We couldn't take on the workload. We don't have the experience in each of the diverse sectors

of the regulated industries so we are not presuming to go into that process and actively control it. However, we have set up some kinds of, if you want to call them, watchdog constraints so they are under surveillance of the Price Commission and we will look at the decisions that are being reached in an effort to be sure that they are operating within the overall guidelines of 2 to 3 percent. You can think of that as kind of a review process, in some cases it might be, but we want to be sure they are conforming to the overall guidelines.

Representative MOORHEAD. As I understand it, many publicly owned mass transit systems are not subject to utility commissions, they are not private. How does your Price Commission feel about these?

Mr. GRAYSON. Then they would come under the category, I think, of the services sector and can operate under the rules which are very similar to the manufacturing sector and they would still be subject to the same surveillance mechanism without going through the regulatory body process if they are not being controlled already.

Representative MOORHEAD. You have said and the administration has stated on many occasions that the success of the program depends upon public confidence and public support, yet the administration bill requires you to keep secret a lot of the information that you obtain.

How can you have public confidence if the public can't see the figures and data upon which you base your decisions?

Mr. GRAYSON. First, we are going to make available, when a firm files, the knowledge that the firm has filed and the decision will be also announced. Now, in between, is the basis of your question. We will look at the data of firms and be making decisions. If such data were made available to the general public, what we would be doing is opening up the corporate records of most of the major concerns of the Nation, and I think this opening up completely would be a change in the total practice of the free enterprise system and we would lose a large measure of the voluntary compliance on the part of many of those firms.

We do have certain sanctions, obviously, we can impose, but as I have stated over and over again, it depends upon voluntary compliance from the business sector, from the labor sector, from the average consumer, from everyone, so we are trying to strike a fair balance between the disclosure on the one hand and getting the acceptance by the public on the other. This is a fair decisionmaking process.

Representative MOORHEAD. Of course, I agree with you that matters that would be classified as trade secrets and the like have got to be kept confidential. But I am also Chairman of the Government Freedom of Information Committee and I believe that, wherever possible, there should be full disclosure so that the public will have confidence that the decisions you make are based on reasons and adequate data.

Mr. GRAYSON. Could I ask my General Counsel to make a brief statement? We have been discussing this subject in recent days.

Mr. SLAWSON. I personally have not had a chance to go into the details on the language of the new bill. My concern has been primarily with existing legislation. But as I read it, in substance, we would not be changing much from how the Freedom of Information Act presently applies to us and that act, frankly, really throws the problem at us rather than solves it. It tells us that we should not disclose confidential information but leaves necessarily a wide discretion on what is

confidential, so we are thrown back on the balancing the Chairman referred to. On the one hand, we have to recognize that the companies have some things that would be harmful to them and to competition if they were disclosed, and on the other we have got to disclose enough so we can have a fair public knowledge of what is going on and eventually a fair public participation in our procedures too. Presently my biggest task force, which is not very big—we don't have that many people working—they are working on this problem.

Representative MOORHEAD. Thank you. My time has expired.

Chairman PROXMIRE. Mr. Conable.

Representative CONABLE. Thank you, Mr. Chairman.

Mr. Grayson, your directness and apparent fairness have already created a very good reputation for you and I think you have enhanced that reputation by your appearance here today. I want to thank you for accepting a very thankless job, generally, and one which I think is going to require broad shoulders; before you get through you are going to have to carry a lot of burdens.

I think your success is going to depend in part at least on a successful fiscal policy here in the Congress and in the administration. You are going to have to become more repressive in holding the lid down if we turn up the heat under the pot as time goes on.

I am wondering if you are going to have any role in dealing with Congress on this issue? Certainly a runaway national deficit could seriously impair the effectiveness of your work.

Do you have any thoughts about that?

Mr. GRAYSON. I was asked a similar question on "Face the Nation," which was how can you possibly hope to succeed when you don't have all of the cards, and I know of very few situations in my life or that I have read about where any group has all of the cards. But it is going to be difficult to operate if we don't get voluntary compliance. We interpret that very broadly to mean responsible action on the part of any sector that influences prices, and I do intend to make my views known in general to people in other branches that affect prices. For example, to Arthur Burns. I talk to him. I obviously cannot control anything he does but I can certainly communicate my feelings to him and he has talked to me. There are other groups that I will be talking to but I cannot control other sectors and, yes, your answer is quite true, they can influence our success.

Representative CONABLE. To what extent are you going to be expected to speak through the Cost of Living Council, for instance?

Mr. GRAYSON. I have not been instructed in any way that anything I say must be cleared with the Cost of Living Council.

Representative CONABLE. In other words, you consider the Pay Board in performing its function to have a good degree of independence.

Mr. GRAYSON. Yes. I am going to coordinate every action I take and obviously will be talking everyday to Don Rumsfeld, the Executive Director of the Cost of Living Council, but I have not had any kind of directives that I must clear everything I say or do.

Representative CONABLE. Well, of course, we all hope there will be coordination, and particularly coordination between what you are doing and what we are doing here. We have to a substantial degree control of causes while your body is going to be dealing largely with

the effects. I think you have a good deal to do with public confidence in the overall program, but you are obviously going to be effected in major ways by what we do here.

On the business of guidelines, one of the concerns we have had generally has been that guidelines would become a floor as well as a ceiling, and I am wondering how long it will be before we know whether all of those who have to get prior approval of price increases are going to be inclined to come in and ask for 4 or 5 percent in the hope they will get something, and on the basis of their feeling that they should have some insurance in case their costs go up.

Do you see a great glut of applications coming in? I notice the automobile industry has been pretty prompt in knocking on your door and I am wondering if this is going to be a pattern that is going to assert itself? Is everybody going to want to apply as high as possible with the hope that they will get at least 2½ percent and possibly more? How about that?

Mr. GRAYSON. I discussed this myself with members of the staff and Commission members earlier and there may be some firms who want to adopt such strategy. There are two factors. One, I think everyone wants this program to work, business and labor and others. So there is some constraint that is internalized in the persons submitting that report because they want this program to work. That is No. 1. And I still will keep it there.

No. 2, if a firm does engage in this practice of trying to go for the maximum, "I think I will raise it higher because you are going to cut," then they are going to be back again. And so there will be a look at what happened as a result of their expectations in terms of what they think their costs are going to be. So, if they have overestimated and their prices result in extra profits above the rate, we will roll them back.

Representative CONABLE. The third point, of course, is competition. You are still relying on that to do some—

Mr. GRAYSON. Very definitely so.

Representative CONABLE. Well, you feel that the credibility of the program requires a guideline and not simply an unspoken guideline in your own heads. It was my thought perhaps when this was first coming up that we might be able to adopt a system where there would be no announced guidelines in order to have the restraint of uncertainty keeping people from getting out too far on a limb. Almost everyone will think they will be assured of 2½ percent at this point.

Mr. GRAYSON. Again competition. A firm that goes for 2½ percent and finds out it can't sustain it in the marketplace is going to have to come down. We discussed the floor concept, the price becoming a floor. It must be cost justified. They can't raise their prices 2½ percent because they would like to. They must have the cost to justify that.

Representative CONABLE. Now, the Chairman alluded to the problems of a consumer deciding whether or not a price increase was justified or not. I have heard some comments coming from the Pay Board about the use of volunteers. Labor, for instance, has announced that they are going to put volunteers in the field to ride herd on prices.

Do you have anything you would like to add to that? Are there any semiofficial volunteer groups that are in contact with you that are offering services and what mechanism do you have for coordinating

their work and being sure that there is some sort of watchdogging the vast area of small business that is not going to be directly under pressure except from the consumers?

Mr. GRAYSON. Mr. Perlis of the AFL-CIO came to see me and we have talked to him about the watchdog concept of numbers of people in different parts of the country. What we have said is we encourage people to monitor by asking differences between the base price and current price, so we are not going to specifically organize these groups ourselves but we are saying we do want the average citizen to help monitor. When he wants to seek help in terms of how he should go about this, then he can contact the local IRS office or contact the Price Commission and the Director of Public Affairs and we will provide him with the information.

Representative CONABLE. One last question. Your new rent rules provide that the base price for a rental unit is the rent charged for the same unit or a substantially similar unit during the freeze base period, and, you interpreted 10 percent of similar apartments as the number on which the base price may be established.

Why did you take such a small percentage as 10 percent? Is that based on the uniqueness of real estate? Is that the reason that you have taken such a small sampling and does it amount to anything at all if you have such a small percentage?

Mr. GRAYSON. Let me ask Mr. Neeb to comment on this.

Mr. NEEB. Actually, sir, the 10-percent rule dates back to the freeze and that was the definition used in the freeze to determine the existence of a transaction for freeze purposes. The 10-percent figure actually dates back to the Korean war experience where they also used 10 percent, 10 percent of the certain number of transactions setting the ceiling for that.

Representative CONABLE. So there is a precedent for this despite the fact it seems like an unreasonably small percentage?

Mr. NEEB. Yes, sir; there is.

Representative CONABLE. All right, thank you.

Chairman PROXMIRE. Mr. Reuss.

Representative REUSS. Thank you, Mr. Chairman, and welcome, Mr. Grayson.

A week ago the Price Commission adopted a guidepost which says price increases may be granted to reflect cost increases if they don't result in an increase in profit margins per dollar of sales applicable in the base period.

A very distinguished Republican, Murray Weidenbaum, former Assistant Secretary of the Treasury for Economic Affairs, has criticized that guidepost saying, "It gives the appearance of being weighted too heavily in favor of business." And what he points out, and I think with some justice, is that a seller may have the same profit margin in terms of sales today as in the base period, but it could be that as a result of sales increasing due to the general effectiveness of the President's new economic policy, that his profits in terms of his investment have gone way up yet you would let him increase prices under your guidepost.

Weidenbaum says, "Isn't this unfair to labor and the rest of the consumers?" Why not do like the Renegotiation Board does, look at a firm's capital investment. After all, investment and profit is what

makes our economy tick. Why give people a bonanza, in other words?

Mr. GRAYSON. One, we did not want total absolute profit control. That was one of the initial things we accepted as being a basis for our standards.

If you look at the return on investment as the control mechanism, then you are looking at absolute dollar controls.

Now, we believe that the margin rate method heads in the right direction; that is, it encourages a firm to seek more volume. It can make for absolute profits in the measure but we think it is going in the right direction to get more investment and also get more capacity utilized in the country of the Nation's production capacity. We are now at 73.8 percent. If you increase the investment of volume then we are going in the right direction and as a byproduct, which is not the responsibility of this Commission, but a byproduct hopefully will lead to reduction in unemployment.

Representative REUSS. Then you wouldn't agree with Mr. Weidenbaum's criticisms that your price increase guidepost in effect allows industry to make exorbitant profits on its investment and still get a price increase?

Mr. SLAWSON. I think the hypothetical question is simply wrong. Under the hypothesis you gave, the company would make more profits, but it would not be allowed to increase prices.

Representative REUSS. Because of the productivity factor?

Mr. SLAWSON. No; because if I follow the question correctly, it would make increased profits only because its volume had increased and its fixed cost stayed the same. And unit costs had gone down.

Representative REUSS. That is what Mr. Nixon hopes to do with his new economic policy. It is a reasonable thing to hope for.

Mr. SLAWSON. So the margin would increase totally, the firm would make more profits, but it would not have grounds to increase prices. So you don't have any contribution to inflation in that situation.

Representative REUSS. Maybe I don't understand the guideposts but I had thought that as long as profits per dollar of sales were not increased in their percentage that a price increase was in order.

Mr. SLAWSON. No; you have to meet both requirements. You have to show that there has been a cost increase in order to increase prices, whereas in Mr. Weidenbaum's example, costs had decreased.

Representative REUSS. Right.

Mr. SLAWSON. And that the price increase, if granted, would not increase your margin over that of the base period.

Representative REUSS. I understand that. Let me get on equal footing with you. All of that is true, but Mr. Weidenbaum and working people, and I think myself, think that this gives a seller a price increase just through coming in and showing that his costs have increased, he can pass it all on in a price increase, provided only that it doesn't increase his profits per dollar of sales, but his sales may have doubled hence his profits on his investment may have gone up very markedly yet you are allowing him to have a price increase.

Mr. SLAWSON. I think in the common example if he was making more profits, even if he had certain cost increases, he would by definition of the hypothetical have increased productivity.

Representative REUSS. Not by the time he comes in and says, "thank you very much, I am increasing my prices."

In your statement you said, Mr. Grayson, you have gotten a lot of suggestions before issuing your guidelines and that "Our method has been and shall be to review continually the guidelines." Would you review the one we are talking about in the light of our conversation, because it seems to me that if the Renegotiation Board says investment is an important factor, that you should take it into account because it is necessary, as you have demonstrated, to make all elements of society think that they are being fairly treated and if it comes to light that sellers can increase prices even though their profits on investment have doubled, it simply wouldn't sit very well with the fellow making \$6,000 a year who is told that is all he can make.

May I have your assurance you will consider this?

MR. GRAYSON. You have my assurance.

Representative REUSS. One final question. How many professional employees does the Price Commission now have in Washington or anywhere else?

MR. GRAYSON. 240 is the morning count. We are expanding daily at a rapid rate.

Representative REUSS. Those are professionals?

MR. GRAYSON. About three-quarters of them are professionals and we are expanding momentarily. I think we will stop at a plateau around 300 and see how we are meeting our workloads and also depending on the budget we shall be able to get.

Representative REUSS. Get enough to do the job and not one body more.

MR. GRAYSON. In fact I am instituting another thing this morning which is inside our own Commission, a team of people to watch our productivity.

Representative REUSS. Well, that sounds fine.

Thank you, Mr. Chairman.

Chairman PROXMIRE. Senator Sparkman.

Senator SPARKMAN. Mr. Grayson, most of the questions I would be concerned with have been asked. I want to say that you have got a terrific job and I want to be cooperative and I am sure all of us do.

There are one or two little things I wanted to ask you about, though. You said a few minutes ago, I think you said that each retail store was required to mark prices on the individual items as of November 14 or 15, whatever the date is.

I think I have had more complaints on that than any other one thing from little stores, the family store, a store that carries a stock such as a hardware store, thousands of individual items, with perhaps only a couple of people working in the store. They tell me it is just an impossible task for them to carry on their business.

Now, Under Secretary Walker, testifying before our committee one day, when I brought up the question, said that was going to be taken care of, taken out for such stores. Has anything been done?

MR. GRAYSON. A firm should post all food items. We thought this was such a sensitive sector, affecting every consumer in the Nation, we wanted all food prices posted, the base period price and the actual.

Now, for the other stores, such as the hardware store you pointed out, we said not to post all of the prices because we thought that would be too burdensome. So we may require 40 items to be posted

in each department or items in those departments which account for 50 percent of the total sales, whichever is less. So this reduces the posting requirement from an absolute total of every single item in the store.

Senator SPARKMAN. The little stores I am thinking about don't have departments.

Mr. GRAYSON. Then, no in those cases.

Senator SPARKMAN. Just a store operated by maybe a man and his wife, perhaps a married son or somebody like that, and some of these are grocery stores.

Anyhow, I want to mention that to you because I think I have had more complaints on that than any other one thing.

Mr. GRAYSON. I think in cases like that we certainly are looking at this rule to see if we couldn't, in cases of small firms like that, say the whole store is a department, in a sense, trying to help. We are examining that rule and as you give us information, for example, on the burdens this is requiring versus the lack of information to the consumer, we will look at the revision of that rule.

Senator SPARKMAN. Now, you said awhile ago, when Mr. Moorhead asked you a question about the most important parts of the bill, you or your counsel referred to the Administrative Procedure Act. You probably know that our committee has taken away that exemption and instead we have written into the bill simple safeguards that we think ought to be given. I doubt that there would be any great opposition from you on that but I just thought I would mention that to you because we feel such things as hearings, the opportunity to file a complaint, get consideration, and things of that kind ought to be carried forward and we felt that the complete exemption wouldn't do it unless the Commission did it out of the goodness of its heart.

May I say with reference to our bill, we are complete with the exception of two proposed amendments that we have been dragging purposely to see if we got some action out of the Wage Board on this very vexatious question of retroactive. You have nothing to do with that except that you have an interest in it, but it is a matter of great concern to us. And the other amendment is the expiration date. I was surprised you didn't mention that. It seems that might be one of the most important features of the bill.

Do you believe we ought to extend it for a year?

Mr. GRAYSON. Yes, sir; I do. I should have mentioned that. If it is a short time limit and there is knowledge that the whole Commission might lose part of its powers, enabling parts of that bill, then we have another problem of uncertainty. People might start to take strategies or actions based on the knowledge that certain things were going to happen on April 30 and we would have again another set of circumstances that I think would not lead to a healthy recovery. I think the longer time span is essential.

Senator SPARKMAN. Well, I would say that I have supported that stand. I know there are some members of our committee who feel otherwise and I don't know what the outcome of the vote will be. We have been waiting on these two matters in the hope that we would get some word from the Wage Board, but we have gotten nothing definite yet. I believe that the Chairman is coming up probably Saturday or Sunday, sometime soon.

Chairman PROXMIRE. Mr. Boldt will testify either Saturday morning at ten o'clock or Sunday morning at ten o'clock before this Committee.

Senator SPARKMAN. We can't hold up these amendments any longer, we have to act on them. We are meeting at two o'clock this afternoon. I may say even though this is not a part of your job, it is something you must be interested in. I just fail to understand some of the actions of the Wage Board and I certainly deplore some of the inactions and I wish very much that we might have known just what to expect before we had a contest in our Committee on these two particular amendments.

I certainly appreciate your coming this morning and our sympathy is with you. I can remember two wage and price control periods with which I was somewhat connected, one in 1942 and one in 1950. I know something of the difficulties and I think I do know one thing, and you have stated it, and that is in order for you to succeed you must have support of the public.

Mr. GRAYSON. Absolutely.

Chairman PROXMIRE. Senator Javits.

Senator JAVITS. Just to continue what the Chairman has said. I believe that the people, notwithstanding that there is no war on, do consider this a great national emergency and are ready to cooperate, and I would not assume that you have to draft them into this; they are anxious to work with you. I hope that the whole department will operate that way and I think that that will be your answer to not building up the huge bureaucracy.

Also I would like to thank you, Mr. Chairman, Mr. Grayson, for undertaking this job. It is not often that men who can do very well without it are willing to take on such onerous responsibilities. I think the country ought to express itself to you whether it agrees with your individual policy, in appreciation for being willing to take it on.

Mr. GRAYSON. Thank you, sir.

Senator JAVITS. One of the things that is going to be paramount in the view of many people, because of the nature of your responsibilities, is how do they get to you. In other words, how are you made responsive to people? They don't elect you, they didn't install you, you weren't even confirmed by the Senate—which incidentally I think would have been a very good idea, and I hope the President will come around to that view.

But tell us how you feel you will make yourself responsive to the—

Chairman PROXMIRE. Would the Senator yield on that point? I hate to interrupt in the middle of a question. We discussed this in our committee. We would provide that any future appointee must be confirmed by the Senate, and I think that there is a sense that in acting on this bill we will confirm en bloc the members, and for that reason I would hope we could put into the record your biography and whatever other material might be useful to the Senate when we act.

Senator JAVITS. Would you do that now, Mr. Grayson?

Mr. GRAYSON. Yes. I would also like to put in the biographies of other members of the Price Commission.

Chairman PROXMIRE. Yes.

(The information referred to follows:)

BIOGRAPHY OF HON. C. JACKSON GRAYSON, JR.

C. Jackson Grayson, Jr., was appointed Chairman of the Price Commission by President Richard M. Nixon on October 22, 1971. He is on leave as Professor and Dean of the School of Business Administration of Southern Methodist University, Dallas, Texas.

Chairman Grayson was born October 8, 1923, at Fort Necessity, Louisiana, and was graduated with a Bachelor's Degree in Business Administration from Tulane University in 1944. He received a Master's Degree in Business Administration from the University of Pennsylvania in 1947 and a Doctor's Degree in the same field from the Graduate School of Business Administration, Harvard University, in 1959. His Master's thesis was "The Yardstick Power Program of The Tennessee Valley Authority" and his doctoral dissertation was "Decision under Uncertainty—Drilling Decisions by Independent Oil and Gas Operators."

Dr. Grayson was a member of Beta Gamma Sigma honorary scholastic fraternity.

During World War II, he served with the U.S. Navy in the South Pacific and from 1947 to 1949 was an instructor in the School of Business Administration at Tulane University. He served as an Assistant Professor in the School and as Assistant to the Vice President of the University from 1953 to 1955. He was an Assistant Professor in the Graduate School of Business Administration at Harvard from 1958 to 1959, then returned to Tulane to be Associate Professor of the School of Business Administration from 1959 to 1963. He was Associate Dean of the School from 1961 to 1963 and Dean and Professor from 1963 to 1968 when he left to take similar posts with the School of Business Administration at S.M.U.

Chairman Grayson served as a Professor at the Management Development Institute in Switzerland in 1963-64 and was a Visiting Professor at the Graduate School of Business at Stanford University in the spring of 1967.

At various times, he has been an instructor in the Graduate School of Credit and Financial Management; the Motorola Executive Institute; the IBM Executive Development Program; the Sun Oil Company Executive Program, and the Northwestern Transportation Center. He has participated in seminars on quantitative methods, information and control systems, computers and financial models and has served as a consultant to the Sun, Humble and Marathon Oil Companies and to the Standard Oil Company of Ohio; to the Comptroller General of the United States, and to the Stanford Research Institute. He was consulting editor of the Financial Executive's Handbook in 1968.

Chairman Grayson has been a Certified Public Accountant since 1948. He worked briefly as a newspaper reporter in New Orleans in 1949-50 and as a Special Agent of the Federal Bureau of Investigation from 1950 to 1952. He is the author of numerous articles and books on financial and industrial topics.

He is a member of the American Accounting Association, the American Finance Association, the Operations Research Society, the Institute of Management Science, the Society of CPA's of Louisiana and the World Future Society.

Chairman Grayson is married to the former Barbara Schmidt and has three sons: Christopher Jackson Grayson, Michael Wiley Grayson and Randall Charles Grayson.

 BIOGRAPHICAL DATA ON MEMBERS OF THE PRICE COMMISSION

C. Jackson Grayson, Jr., 48, of Dallas, Tex. Dean of the Business School of Southern Methodist University. He has formerly served as Dean of the School of Business at Tulane University; as a special agent for the FBI, and as a reporter in New Orleans. He is a graduate of Tulane University, the University of Pennsylvania, and of Harvard, where he received his Doctorate of Business Administration. The President has appointed him Chairman of the Price Commission.

William W. Scranton, 54, of Dalton, Pa. Presently the President of the National Municipal League and Chairman of the President's Commission on Campus Unrest. He formerly served as a Special Assistant to the Secretary of State, as a member of the Pennsylvania Congress, and as Governor of Pennsylvania. He is a graduate of Yale University.

John William Queenan, 65, of Greenwich, Conn. He recently retired from the accounting firm of Haskins & Sells where he was a Managing Partner. He is a

past President of the American Institute of Certified Public Accountants, and is a graduate of the University of Illinois.

William T. Coleman, Jr., 51, of Philadelphia, Pa. Presently a partner in the law firm of Dilworth, Paxson, Kalish, Levy & Coleman. He is also the President of the NAAOP's Legal Defense Fund, and is a consultant to the U.S. Arms Control and Disarmament Agency. An author of numerous legal writings, Mr. Coleman has also served as a member of the Legal Advisory Committee to the Council on Environmental Quality, and as a member of the National Commission on Productivity. He is a graduate of the University of Pennsylvania and of Harvard University.

Marina V. N. Whitman, of Pittsburgh, Pa. Professor of Economics at the University of Pittsburgh. She is also a senior staff economist on the President's Council of Economic Advisors, and a staff economist for the Pittsburgh Regional Planning Association. She is the author of several books on Economics, and is a graduate of Radcliffe and of Columbia University.

J. Wilson Newman, 62, of Short Hills, N.J. Vice Chairman of the Board of the National Bureau of Economic Research. A former Chairman and Chief Executive Officer of Dun & Bradstreet, he also served on the President's Task Force on Improving Projects of Small Businesses. A member of the New York Bar, he is a graduate of Clemson and of NYU Law School.

Robert F. Lanzillotti, 50, of Gainesville, Fla. He is also a consultant to the Department of Justice's Antitrust Division. He has been a Teaching Fellow at the University of California, a Research Associate at the Brookings Institution, and a Professor of Economics at Washington State University and at Michigan State University, where he was Chairman of the Department of Economics. He is a graduate of American University and of the University of California.

Senator JAVITS. I thoroughly agree with our chairman and my beloved friend and distinguished chairman of the Banking and Currency Committee.

Mr. Grayson, now, responding to my question, how do you intend to maintain a relationship where the public feels that you will be responsive? I use the word "responsive" not to imply that you are going to obey the public's sweeping clamor or however one ascertains what it may demand, but that you let people feel that you are listening, you are hearing what they say.

Mr. GRAYSON. Several mechanisms. One, I did ask, and meant it sincerely, that people write me letters with ideas. I announced that very early and I must have had 7,000 to 10,000 letters come in and I am reading as many as possible. Second, I have had Mr. Neeb set up a section within the Price Commission to receive visits from any groups that would like to come and talk to the Price Commission. It will be he, members of the Commission or myself, time permitting, who talk to them directly so we get a feel for the pressure that people are feeling or desires of any sector.

Third, we are setting up a section within the Commission to look at the decisions that are being made in an effort to understand how they are relating to the overall policies and we will then revise those policies if they aren't getting the desired results.

And, fourth, we are asking people around the Nation to send us comments, using the monitoring process of IRS. We will then ask IRS what is the general nature of the inquiries and we plan to use that information in an effort to understand whether our policies might be going counter to the wishes of the public.

Senator JAVITS. Will this question, this item appear on the Commission's agenda periodically, the public relationship between the Commission and the people of the country?

Mr. GRAYSON. Very definitely. Personally I plan to go out, not sit in my office in the Price Commission, and get out and meet people, the average person that is being affected by this.

Senator JAVITS. Now, there is a widespread feeling that the 2½-percent guidelines concentrating on your department is going to be a floor rather than a ceiling. How do you answer that?

Mr. GRAYSON. There must be a justification for costs. That a firm cannot say the 2½ percent means I can go up to 2½ percent. He cannot unless his costs have risen.

Senator JAVITS. You start from the freeze and from then on it is a cost justification with a roof of 2½ percent, a ceiling, except in exceptional circumstances as you have defined them by regulation, and will develop them on a case-by-case basis?

Mr. GRAYSON. Yes; we are not using the phrase 2½-percent ceiling. However, we are saying that is an average and that everyone should seek to operate in this range over the whole economy.

Senator JAVITS. But it is the outlook of the Commission, that is the very point of my question—how do you look at it?

Mr. GRAYSON. I think an example is that increases getting a higher percentage would obviously be subject to closer and closer scrutiny.

Senator JAVITS. You look at it rather as a climatic than a fixed figure: is that correct?

Mr. GRAYSON. That is correct.

Senator JAVITS. It creates the climate, it is the norm?

Mr. GRAYSON. Yes, sir.

Senator JAVITS. Am I right in that?

Mr. GRAYSON. That is correct.

Senator JAVITS. Very good. It is very important we get it clear.

Now, there are some feelings, Mr. Grayson, that you ought to publish case-by-case rulings like the Treasury does, because of the tremendous range of variables in the operation of the Commission.

Have you made any plans for that?

Mr. GRAYSON. We intend to do so. We intend to publish every single decision that this Commission reaches and list in general the factors that were taken into consideration in that case but without going into the detailed data.

Senator JAVITS. How soon do you think you can initiate that?

Mr. GRAYSON. We have already initiated that with the announcement of the American Motors decision.

Senator JAVITS. And you will pursue it?

Mr. GRAYSON. Yes.

Mr. SLAWSON. Also, Senator Javits, we are working with the Internal Revenue Service and the whole mechanism of their ruling procedure will also be available to us. We can get a ruling without having a specific price increase request, if you desire it, from the IRS.

Senator JAVITS. And that will be published, too?

Mr. SLAWSON. Yes, sir.

Senator JAVITS. Now, just two general questions. What do you say about the productivity connection? This is a big item. I think you know this has been one of my very, very strong feelings and I have tried to express it in legislation myself. Can you give us the relationship between the Price Commission and the National Commission on Productivity and other efforts to improve the productivity of the country?

Mr. GRAYSON. I will ask Mr. Neeb to be my representative, the liaison with that expanded Committee on Productivity and we hope to hand to them a series of questions that we would like answered, such as how can you measure the productivity of a physician, a lawyer, a service industry, a babysitter, a large company—

Chairman PROXMIRE. Babysitter?

Mr. GRAYSON. If we don't increase the productivity then we are going to be facing rising inflation and we have got to get the productivity and the price factors more in conjunction.

Senator JAVITS. So you consider this an extremely high priority; is that correct?

Mr. GRAYSON. Yes, sir; very high.

Senator JAVITS. Can you tell us whether you have made any input with the President on the methods by which productivity could be improved and increased?

Mr. GRAYSON. I haven't directly communicated the specific factors to the President but through the Cost of Living Council we will keep direct communication flowing to the President.

Senator JAVITS. Direct communication is different from some programming effort. For example, I have a bill in, I probably will get hearings on it, urging productivity councils of World War II style on the local level and the plant level; that is, management, labor, public, to deal with absenteeism, alcoholism, motivation, grievances, et cetera, which fall outside of the collective-bargaining pact. I just mention that because that is the point of my question.

What kind of input do you see the Commission making on this subject?

Mr. GRAYSON. As I said earlier, we are forming a group within the Commission called a productivity group to look at this and I will use your suggestion very strongly and I will come back to you, sir, and tell you what we are doing and ask for suggestions.

Senator JAVITS. Thank you very much.

One last question. My office, which is fairly alert economically, like Senator Proxmire's and a few other offices here, points out that during the freeze manufacturers and retailers did not materially increase their inventories to take advantage of frozen prices.

Now, this suggests to us that stimulation to the economy will not necessarily result from wage-price stability but rather through new initiatives, investment tax credit, tax reduction, if I can win on it, direct job development credit.

What do you people think about it?

Mr. GRAYSON. I say we—I am speaking as Chairman of the Price Commission—

Senator JAVITS. What do you think about it? That is much more fair.

Mr. GRAYSON. In this case I think that what you cite, the action on inventories, has been caused by some wait-and-see attitude, what is phase II going to look like? Now phase II has emerged and there are clarifications being made every day in the standards and guidelines. I think this mood of uncertainty will disappear and people will have confidence that prices aren't going up and that the pay is firm and that we do have the stability of the dollar and productivity in the country so that I think people will change their behavior.

Senator JAVITS. Toward a more normal acquisition of inventories?
Mr. GRAYSON. Yes.

Senator JAVITS. Don't you think that requires also some form of international currency agreement to perfect what you just said?

Mr. GRAYSON. I am reaching outside of my area of competency, sir.

Senator JAVITS. Thank you very much.

Chairman PROXMIRE. I am very, very impressed by you. You are not only a most intelligent man, you are extraordinarily temperate in your responses and I like you very much. But when you start talking about getting into measuring the productivity of babysitters and lawyers and maybe Senators, we have had the General Accounting Office, at my request, institute a study of the productivity of the Federal Government workers and they made a little progress. But it is a study that has been going on for years. Maybe at the end of this year they may come up with beginning preliminary suggestions. Now, I hope you are not going to be in business for 4 or 5 or 6 years, that in a matter of months, which I think we all hope, 18 months, I say 6, maybe 18 months, you will be out of business, and to fool around with the productivity of babysitters and of individual people in the service agencies, it seems to me this is a waste of time, especially when you have so few people working.

How many people are on the staff of the Productivity Commission at the present time, do you know?

Mr. GRAYSON. Two.

Chairman PROXMIRE. There you are. This obviously isn't going to be done. I get back to the point I was trying to make when you have this complicated new concept and you try to apply it across the board in this enormously complicated economy, you just have a situation which is just not going to be workable. I would hope we would confine this system as much as possible to the big firms, over \$50 million, where you may have some possibility of making some progress in that area.

Mr. GRAYSON. Mr. Chairman, I do not want to ever say that I think that is very simple and we are going to come up—

Chairman PROXMIRE. It is not going to be workable.

Mr. GRAYSON. I think it is going to be workable in the larger sector.

Chairman PROXMIRE. Maybe in the larger sector.

Mr. GRAYSON. In the other areas we need every person thinking about productivity. That announcement that all sectors ought to be thinking about this may lead to a stimulus for everyone to start coming up with ways to increase productivity. I can't provide all of the answers from Washington, no member of the Commission can.

Chairman PROXMIRE. I want to see that detailed study of the productivity of babysitters. Will you be able to hold down prices if wage increases of the kind recently settled and negotiated and agreed to, 39 percent over 3 years, 42 percent in 46 months? If those settlements are agreed to, is there any prospect you could succeed?

Mr. GRAYSON. Without equal productivity that kind of pattern repeated would lead to increases in price levels.

Chairman PROXMIRE. There is no way you can have stable prices or a 2½- or 3-percent increase when you have that kind of increase.

Mr. GRAYSON. Not unless productivity can equal the pay.

Chairman PROXMIRE. As I understand it, the productivity measure is a nationwide productivity measure that has to be applied. You are not going to permit wages to go up 15 percent in a year or 10 percent in a year simply because productivity in that industry has gone up, are you?

Mr. GRAYSON. We would permit an increase if the productivity genuinely goes up.

Chairman PROXMIRE. Think of all the inequities you have. Think of the industry in which there is no productivity increase, wage-earners are going to be discriminated against. Their wages can't go up. We have had some experience in this regard. The wage price guidelines we have had from 1962 to 1966 had nationwide productivity increases related to wage increases. The permissible wage increase was 3.2 percent. It applied to firms with both very big and very small productivity increases.

Mr. GRAYSON. I would say that is a question for Judge Boldt. On the price side, if we get pay increases without the productivity, we will be in trouble.

Senator JAVITS. Before we pass that by so quickly, it is a fact the way you induce a productivity increase is often by increased compensation. Therefore, you cannot have, can you, Mr. Grayson, a flat rule that intraindustry productivity increase will not be a factor. If you did that you have no inducement whatever. Isn't that true?

Mr. GRAYSON. Yes.

Senator JAVITS. And you have a gray middle in which nobody needs to increase because what is the use of increasing, it will only benefit millions of people and not just me.

Mr. GRAYSON. On productivity and the way we want to get it across, when we say productivity we mean productivity of the entire firm, which means a return to capital as well as a return to labor.

Senator JAVITS. Yes, I understand that, but I do think I appreciate the chairman's feeling, it is quite characteristically deeply felt, in which I agree, but you don't think we can have the added factor or added fact to the inducement of level to improve the productivity.

Mr. GRAYSON. That is right. Where you have industries, such as the appliance industry, and such, as many of the new technology industries, where you have rapid increases in productivity, normally you have quite high wages and you are going to get higher increases in wages, and then you have food industries and others where you have almost no increase in productivity. Where it is inequitable and unjust, if a manual worker, and many of them in the appliance industry and others are people who didn't require great skill, gets a big wage increase because the productivity is up contributes very little to it.

Senator JAVITS. Let me get into something else. What proportion of the price increases which you will be dealing, where you require reporting and notification, are in the wholesale and industrial price index? Have you computed that? Do you have any idea? It seems to me that your principal rulings and determinations are where you have consumers such as automobiles or the wholesale price is such as steel and many other big manufacturing firms. In the services you are probably not going to get notification. By and large these are smaller firms. What has happened is we have a pattern of inflation much greater in the services than you have in the wholesale price area and durable

goods area. The result is if you maintain prices of $2\frac{1}{2}$ to 3 percent for durable and wholesale prices you are not going to achieve your goal of $2\frac{1}{2}$ to 3 percent of the economy as a whole. Services have been continuously rising more rapidly and they are likely to continue to be. I will realize you have some concentration in the health services area, but by and large, isn't it likely to be necessary to hold down wholesale prices and perhaps durable goods prices even more than the $2\frac{1}{2}$ percent on the average if you are going to achieve your goal?

Mr. GRAYSON. We are seeking an overall average of $2\frac{1}{2}$ percent. Services are going to have some more inflationary aspects and they will have to be offset.

Chairman PROXMIRE. That is right; you are going to have much less control over services. There you have no reporting required. You do have spotchecks and so forth. But with no significant enforcement machinery you won't have much.

Mr. GRAYSON. Let me say very frankly, Mr. Chairman, there is no way for us to absolutely know that our $2\frac{1}{2}$ -percent guideline is exact. The way we have designed the standards, margin rules, and base period is exactly going to cause us to come in at $2\frac{1}{2}$. I can't say that. But I can say we have looked at the figures and done the best we can. Assuming productivity is lower in the service sector and higher perhaps in the manufacturing sector, and that the price increases may be lower in manufacturing and wholesaling but higher in the services, but on the average will come out to $2\frac{1}{2}$. If it does not move that way, we will be constantly revising our guidelines slowly to move in that direction. I don't want to give the impression we have just a great econometrical model and we know exactly where it must go.

Chairman PROXMIRE. I wonder what you are talking about when you say inflation $2\frac{1}{2}$ to 3 percent. There are so many measures. The Consumer Price Index, GNP deflator. As I understand, the GNP deflator for the third quarter shows a 3-percent increase.

Mr. GRAYSON. We haven't picked one of the indexes as being the one. The one most often cited is Consumer Price Index. We are going obviously by that, but we are trying to look at the inflationary psychology of people, and if they are looking at the wholesale price index we are also monitoring that very closely.

Chairman PROXMIRE. How about bank profits? Who is going to be looking at those? Is that under Mr. Burns?

Mr. GRAYSON. Banking? No; bank profits are in the services sector.

Chairman PROXMIRE. Well, then, your guidelines, your guidelines for profits will apply to banks too?

Mr. GRAYSON. Yes.

Chairman PROXMIRE. How will you be able to administer it? Their price is the interest rate by and large on the loans.

Mr. GRAYSON. We don't cover interest rates but we—

Chairman PROXMIRE. If you don't do that you can't have a very effective control of banks because that is meant for business.

Mr. GRAYSON. I don't hold all of the cards. Overall we will subject them to the net profit margin test.

Chairman PROXMIRE. What good will it do if you don't do anything about the prices they charge on their loans?

Mr. GRAYSON. The other fees and prices are the ones that will be under control, the charges they have on fees and accounts, lock boxes, trust fees, et cetera.

Chairman PROXMIRE. That is a very minor part of their business.

Mr. GRAYSON, one factor which I presume went into your 2½ percent price increase goal was the Price Board's 5½-percent guideline on wages and the other was the productivity. There have been a lot of estimates if we have the kind of improvement in economy that most economists are talking about, a \$100 million improvement, the productivity coming up 4 percent this coming year, not 3 percent. If that happens will you then adjust your guidelines?

Mr. GRAYSON. That is correct.

Chairman PROXMIRE. And you will be shooting then at a lower price.

Mr. GRAYSON. I would hope eventually.

Chairman PROXMIRE. Or would you permit wages to go up more?

Mr. GRAYSON. I hope that there will be equal sharing, there will be sharing of productivity gains between capital and labor and eventually we move not between 2 to 3 percent inflation goal but down to zero.

Chairman PROXMIRE. Your concentration will be on getting the price increase down rather than adjusting on the side of permitting wage increases to go up?

Mr. GRAYSON. That is the pay board side and our side is the price side.

Chairman PROXMIRE. Let me ask you, suppose a firm has a 5½-percent increase in costs but has no figures at all on its productivity. This is going to be very typical. Could they take the 3-percent assumption as productivity increases in the economy and would you permit as a rule of thumb a 2½-percent price increase?

Mr. GRAYSON. I don't think automatically. I think 3 percent is an overall macrofigure, taking service, manufacturing, retail, wholesaling, et cetera, into account.

Chairman PROXMIRE. Then they are out of luck, they couldn't have any price increase at all?

Mr. GRAYSON. They can come in and request one and state what they believe their productivity to be and we would sit down and work with them and see if we concur.

Chairman PROXMIRE. What would you look at?

Mr. GRAYSON. Our output per man-hour or quality of the service or time to do the service.

Chairman PROXMIRE. Isn't it difficult for you with 200 to 300 you will have on your Commission to look at that?

Mr. GRAYSON. We are looking. That is why in part of the bill we need the funds to enable us to get the right kind of person. We are going to get the best economists.

Chairman PROXMIRE. With 10 million firms in this country, how long can you possibly, really how can you make any kind of judgment for the big ones?

Mr. GRAYSON. The big ones will be the ones we will be concentrating on more. We plan to publish how the big ones are doing.

Chairman PROXMIRE. Even though you could assign one or two or three people to a very big firm and they will have an army of econo-

mists and statisticians and accountants and cost accountants, experts and so forth. Aren't you overmatched?

Mr. GRAYSON. I wouldn't think it would be a good strategy for a firm to try and snow us with an awful lot of figures and data. It would take us longer to work on it.

Chairman PROXMIRE. You are in a position you have to pretty much accept what they give you?

Mr. GRAYSON. Not if we have the subpoena power to get the records. We have bright people on the Commission and I think we can go in and dig for the right data.

Chairman PROXMIRE. There has been very little discussion of the nonwage costs that influence prices. All the concentration has been on the wage side and there are many other elements that go into prices. One of them I can think of right away is Federal antitrust policy, also Federal tariff policy, the effect, for instance, of the oil import quota.

To what extent are you going to be active in trying to secure policies that will be less inflationary on the part of the Federal Government?

Mr. GRAYSON. We must stay within the context of the Price Commission, within price stability, and the other kinds of appropriate activities which are in the area you mentioned. We certainly are not going to try to use price as an effort to cause action in the other area. I am not going to go into the antitrust area.

Chairman PROXMIRE. I would think recommendations from you, you are leading the fight on prices, all of the attention is going to have to be focused on you, you could issue a statement about how helpful it would be if the Federal Government has an anti-inflationary stockpiling policy and import control policy, it would be mighty welcome. I don't expect you to be a Ralph Nader but occasional statements explaining why the Federal policy is helpful or is not helpful, it seems to me would be very welcome.

Mr. GRAYSON. I do not consider it is our responsibility to influence other Federal policies. I think we must stick to prices. We make the basis known in general for our decision but I do not want it to become the practice of advising other agencies of Government.

Chairman PROXMIRE. What arrangement do you have for sitting down and dealing with Arthur Burns or with Mr. McCracken?

Mr. GRAYSON. On the Cost of Living Council, there we have a representative, Mr. Neeb, who will be attending the sessions and then occasionally I may attend. Informally I will talk with members.

Chairman PROXMIRE. You will have regular sessions with the Federal Reserve Board and Council of Economic Advisers?

Mr. GRAYSON. We do have with the Cost of Living Council.

Chairman PROXMIRE. Wouldn't that be a good idea?

Mr. GRAYSON. We might take that into consideration.

Chairman PROXMIRE. I would think it so important in the whole operation.

Do you think that your Commission should have the authority to intervene as a party of interest in cases before Federal regulatory agencies, FCC, CAB, ICC, and so forth?

Mr. GRAYSON. Yes.

Mr. SLAWSON. Yes.

Chairman PROXMIRE. You would intend to do that?

Mr. SLAWSON. Our present relations require that they certify to the company that gets a price increase under their authority that it meet our guidelines. So in effect we are kind of constructively a party even though we are not there.

Senator JAVITS. Could I ask a question which ties into the one you asked before?

I tried to help when this thing was being set up of yourself and the Pay Board by making it clear to labor that each of you would be autonomous and that you would not be subject to review or veto by the Cost of Living Council?

Could you explain, because I think it is critically important, the relation that has now developed between the Price Commission, as an example, and we will ask the same thing of the Pay Board and the Cost of Living Council?

Chairman PROXMIRE. I intended to get into that. I am delighted Senator Javits has asked about that. Frankly, let me add to his question. I understand that policies were pretty much handed down by the Cost of Living Council to your Commission; your Commission was given rather direct instructions.

Mr. GRAYSON. No.

Chairman PROXMIRE. Is that true?

Mr. GRAYSON. That is not true. When I came to Washington, I asked where all of the files were, where the paper was relative to what we should look at and the staff work. There had been some but they asked us to request whatever we wanted and made available whatever we requested. But I received no instructions from the Cost of Living Council, or any members thereof, as to how we were to proceed or whatever standard or guidelines we were to look at. That has been preserved until this date formally. I have designated Mr. Neeb to be my representative on the Cost of Living Council and on the Pay Board, and he will be in those sessions, not the Pay Board, but the Cost of Living Council and liaison to the Pay Board and we will consult with them but we are and have been to this moment autonomous.

Senator JAVITS. And you intend to stay that way?

Mr. GRAYSON. Yes, sir.

Senator JAVITS. So long as you are chairman?

Mr. GRAYSON. That is correct.

Senator JAVITS. Thank you.

Chairman PROXMIRE. Let me elaborate a little more on that.

An article in the morning's Washington Post describes a dinner meeting the Price Commission had with a number of individuals who have had previous experience with price control—people such as Gardner Ackley and Michael DiSalle. I think it is excellent that you had this meeting. These people have a wisdom based on experience upon which we should all draw.

This article in the Post also states that some of the participants in this meeting got the impression that much of the substance of the price guidelines was handed down by the Cost of Living Council.

I recognize that the Cost of Living Council, acting for the President, has final responsibility for the anti-inflation program but your response is that they gave you no directions, that you were told could call on them if you wanted to but you were free to determine whatever policies you wished.

Mr. GRAYSON. That is absolutely correct.

Senator JAVITS. That was the origin incidentally of my question in addition to my own efforts which went to the labor side to induce them to cooperate by the representation to them that it would be complete autonomy.

Chairman PROXMIRE. Now, I don't expect you to respond to the first part of this, but the heart of one of the difficulties we have now in the wage negotiations is that these settlements they say are based on catch-up, that they need a 42-percent settlement or 39 percent over a period of years because they have to catch up with what happened before. The same kind of thing will be coming before you with respect to Chrysler. As I understand, Chrysler's request for a 5.9-percent increase consists of two parts, a 4-percent increase to cover cost already incurred but not compensated for and 1.9 percent to cover a wage increase later this year.

I wonder if the 4-percent increase for Chrysler isn't a direct contradiction of the statement that you made here this morning if this is a fair description of what they are requesting.

Mr. GRAYSON. That 4-percent figure, I do not know if that is the exact breakdown they put on file. We have asked for additional data. But what you allude to is not correct, they are not allowed a price increase to recover a catchup.

Chairman PROXMIRE. They are not allowed?

Mr. GRAYSON. They are not allowed. What they are doing in their request is to price to recover costs that are going to be incurred on or after November 14. So it is not a catchup.

Chairman PROXMIRE. I am going to ask one more question. You have been very responsive and I must say I am deeply impressed by your capability but I would like to ask one other question.

The chairman of the Banking Committee protested about all of the complaints he has had from small firms about posting prices. I have got a little different request, it comes not from a grocery store but from the staff of the Banking Committee. Maybe their ivory tower innocence is the reason they put it the other way. Wouldn't it be helpful to the consumer if in addition to posting prices, that the firms were required to, the stores were required to post the percentage increase so the consumer would have some knowledge of what this situation is so he would have an immediate signal?

Mr. GRAYSON. We will take that under consideration.

Chairman PROXMIRE. Okay. Thank you very, very much.

The committee will stand in recess until either Saturday morning at 10 o'clock or Sunday morning at 10 o'clock.

(Whereupon, at 12:05 p.m., the committee was recessed, subject to call of the Chair.)

PHASE II OF THE PRESIDENT'S NEW ECONOMIC PROGRAM

SATURDAY, NOVEMBER 20, 1971

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, D.C.

The committee met, pursuant to recess, at 10 a.m., in room 318, Old Senate Office Building, Hon. William Proxmire (chairman of the committee) presiding.

Present: Senators Proxmire, Sparkman, Bentsen, and Percy; and Representatives Reuss, Widnall, and Conable.

Also present: John R. Stark, executive director; Loughlin F. McHugh, senior economist; Courtenay M. Slater, economist; Lucy A. Falcone, research economist; George D. Krumbhaar, Jr., minority counsel; and Walter B. Laessig and Leslie J. Bander, economists for the minority.

OPENING STATEMENT BY CHAIRMAN PROXMIRE

Chairman PROXMIRE. The committee will come to order.

There is a vote going on right now in the Senate and other Senators will join us shortly.

We are fortunate today to have present Hon. George H. Boldt, Chairman of the Pay Board, one of the two principal panels appointed by President Nixon to guide phase II of his new economic program.

In all probability the Pay Board decisions will be the determining factor in shaping developments not only on the wage front, but on the price front as well. For Mr. Grayson, who appeared before this committee this past Thursday, made it quite clear that decisions on price increases will be governed by the extent and size of the pay boosts granted. Obviously some consideration will be given to productivity changes, but, as was made clear last Thursday, knowledge as to precise measurement or productivity on a plant, firm, or even industry basis is extremely limited. We shall spend some time exploring this issue today.

As I indicated in my opening remarks when Mr. Grayson appeared, there are fundamental issues at stake in the development of phase II policies which go to the very heart of our free enterprise market system. Not only here in Congress, but throughout the country, there is grave concern that our system as we have known it is in great danger, that Washington will now be deciding what wages are to be paid, how resources are to be allocated, what profits will be earned—in short, a developing regimentation governing the lives of all of us.

We all know that many serious inequities developed in the phase I wage-price freeze. The people put up with these magnificently because there was the hope that the back of inflation would be broken, that the freeze would be temporary, and that the inequities would be righted in the period following the freeze. There is very little that I have seen so far in phase II which promises fulfillment of these hopes. We are looking forward to some reassurances today as Judge Boldt outlines the Pay Board's functions and the decisionmaking process.

We have all been reading and hearing about the intensive deliberations of the Pay Board, and we appreciate, Judge, your taking the time to appear before us this morning.

We wanted you on Thursday but understood you had a very vital coal hearing, and we are happy to have you now.

You know how timely your appearance is. The Congress is now deliberating the question of the extension of the Stabilization Act, which, of course, is the basis for the authority under which you operate.

The House Banking Committee will go back to marking the bill up a week from Tuesday; the Senate committee has reported the bill to the floor but floor deliberations will not start for another week at least.

Before you begin I would like to place in the record a few biographical facts. I do not yet have the official record of your background, but I understand that you were appointed to the U.S. District Court of Western Washington by President Eisenhower in 1953. You presided over some nationally reported trials. You handled, as a member of a panel of judges named by Chief Justice Warren, hundreds of price-fixing cases against major electrical companies. You dismissed the first antitrust suit of the Nixon administration. You are known not only for your flexibility, but for your firmness.

Congressman CONABLE.

Representative CONABLE. I would like to add to your welcome to Judge Boldt. I think the Nation is watching you and your Board with great interest, sir. We are aware of the sensitivity of the work you are doing. We are aware of its tremendous importance if we are going to get inflation under control. I would like to express the gratitude of the majority of those in Government for your willingness to take on this unpleasant, difficult, complex, but terribly necessary assignment. We are grateful to you, sir.

It is not going to be a pleasant task for you. It is going to be a task requiring a great deal of responsibility and we know you are capable of it. I want you to know the great bulk of people here in Congress are backing you in your efforts to try to sort out the terribly complex issues you are going to have to deal with.

Chairman PROXMIRE. Congressman WIDNALL.

Representative WIDNALL. Judge Boldt, I, too, want to welcome you here before the committee today. I think you have an extremely important task, a thankless task. I do not believe you are ever going to get a medal for your participation in this. You are liable to have more lumps than pats on the back.

You are the key, I think, to the credibility of the whole operation. You have a distinct reputation for fairness, as I understand

your past record, and I think that we are very fortunate in having you willing to undertake the tasks at hand. Good luck.

Chairman. PROXMIRE. Judge, we do have your biography. Without objection, it will be put in the record.

(The biography follows:)

BIOGRAPHY OF HON. GEORGE HUGO BOLDT

Judge George H. Boldt was born in Chicago, Illinois, on December 28, 1903, and moved to Montana as a child.

He received his B.A. and LL.B. from Montana State University. He practiced law in Helena for one year and thereafter in Seattle.

During World War II, he served with the O.S.S. in Burma and in China.

After World War II the judge returned to the practice of law as a trial attorney with a leading Tacoma, Washington, law firm.

In 1953 he was appointed a U.S. District Judge for the Western District of Washington. He recently assumed senior status as a U.S. District Judge.

The judge is a trustee of the University of Montana Foundation, a member of the Standing Committee on Rules of Practice and Procedures for Federal Courts, and a member of various other national judicial committees and legal organizations.

He is married to the former Eloise Baird of Stevensville, Montana. They have three married children and eight grandchildren.

Chairman PROXMIRE. Omitted from my statement is that you have a B.A. and an LL.B. from Montana State University; that you practiced law in Helena.

During World War II, you served with the O.S.S. in Burma and in China. After World War II, you returned to the practice of law as a trial attorney with a leading Tacoma, Wash., law firm.

In 1953, you were appointed a U.S. district judge for the Western District of Washington. You recently assumed senior status as a U.S. district judge.

You are a trustee of the University of Montana Foundation, a member of the Standing Committee on Rules of Practice and Procedures for Federal Courts, and a member of various other national committees and legal organizations.

You are also married, have three children, and eight grandchildren.

That will be in the record. Go right ahead.

STATEMENT OF HON. GEORGE H. BOLDT, CHAIRMAN OF THE PAY BOARD, ACCOMPANIED BY TOM GAVETT, ACTING EXECUTIVE DIRECTOR

Judge BOLDT. Mr. Chairman and distinguished members of the Joint Economic Committee, may I just express my appreciation for your kind comments about my personal situation. It may be well that one in my situation, who is beyond flubbing for anything, as you wish to state in Montana, who is at the stage of life where all he can hope to do is make a contribution to the well-being of the Nation he loves, is very fortunate, no matter how many lumps he takes, for what honor will come to him personally as a result of this endeavor.

I would like to introduce Mr. Tom Gavett, who has been the Acting Executive Director for the Pay Board these last several weeks. And may I pay my respects to him by saying the 16- to 18-hour days he has been spending have been tremendously appreciated and are of an inestimable value to the Board.

I regret not being able to accept your invitation to appear before the committee until now but, as I believe you know, this has been due to the overwhelming press of urgent business and problems before the Pay Board, the latest of which were resolved only yesterday afternoon. I will be pleased to give you any information I can and will see to it that you promptly get any additional information you may desire.

On October 15, 1971, by Executive order, the President initiated a program for orderly transition from the 90-day wage-price freeze to a more flexible system of economic restraint on prices and wages designed to stop the rise in the rate of inflation. The target of the program is to reduce the rate of inflation to 2 to 3 percent by the end of 1972. Two of the operating agencies in that program are the Pay Board and the Price Commission.

As you know, the Board is composed of 15 members, consisting of five representatives each from labor, business, and the public. I am a public member, and also Chairman of the Board.

I conceive it to be the function of the Chairman to preside over meetings of the Board, to expedite Board business as much as reasonably possible, to see to it all points of view are presented and as much factual data as possible are developed with respect to each matter upon which the Board must make a decision. I vote only when a tie is presented and, therefore, speak only occasionally to the subject matter under discussion but I weigh the evidence and the arguments as they are presented, very much as I have been doing now for nearly 19 years on the bench.

I have no authority to speak for the entire Board except after the Board has adopted a policy or made a decision and only to announce the ruling. I cannot speak for any other member of the Board or speculate as to what the Board may or may not do with respect to any matter that may come before us, any more than I speculate on the result of the lawsuit before the trial commences. Therefore, I must limit my testimony to that which has actually occurred in Board business without attempting to suggest what the Board may or may not do in the future.

The votes on the initial policies governing pay adjustments adopted November 8, 1971, were, as you know, 10 to 5. I am pleased to report that since then several important matters have been decided by unanimous votes, and that individuals in the three representative groups have voted differently than some or all of the other members of the same group. To me this indicates that the Board members are not only dedicated Americans and persons of great distinction, but men of character and courage who will vote according to their individual opinions and convictions.

Unfortunately it happened that the Pay Board was confronted with some of the most difficult and contentious problems almost the very first day we met and that has continued up to now. I am sure that we are going to have many more difficult problems in the future, but I hope that they will not be as contentious as some of those we have had to date.

The actions of the Board to date, after the organizational period concerned with rules and procedures for our meetings and similar matters, briefly stated, are as follows:

One of the most important policies adopted thus far is the 5½-percent general wage and salary standard applicable to new pay agreements and practices effective after the end of the freeze on November 13. This standard applies to all forms of compensation for personal services, including fringe benefits, and to all Americans unless specifically exempted.

The standard may be reviewed by the Board from time to time, taking into such factors as the long-term productivity trend of 3 percent, cost-of-living trends, and the objective of reducing inflation.

Under Board policies, contracts existing before November 14, will be allowed to operate according to their terms subject only to review when challenged by a party of interest or five more members of the Board.

The challenge procedure has already been invoked in the bituminous coal wage agreement. This, as you know, resulted in a decision by a divided vote of 10 to 3 rejecting the challenge and permitting the contract to operate according to its terms during its first year.

I emphasize that only the first year was reviewed and considered by the Board primarily, although, of course, results in the latter years would have some bearing.

Fortunately, because as of yet we do not have subpoena power, the United Mine Workers Union and the Bituminous Coal Operators Association, which bargains for the mineowners, voluntarily and jointly appeared before the Board and made a full presentation of the basic facts pertaining to the contract and their views regarding its effect upon inflation. Each of the speakers was interrogated by various members of the Board and the resulting dialog was extremely helpful in presenting the situation to us. As a consequence, we were able, after many hours of deliberation and study, to vote on the matter within 36 hours from the time it was submitted to us.

The Board has also ruled that no payments will be made retroactively for the period of the 90-day freeze. Some exceptions have already been spelled out, such as: Situations where prices were raised in anticipation of wage increases that were not put into effect because of the freeze; certain identifiable historic bargaining relationships generally known as tandems; certain one-time occasions for fringe benefits that were irrevocably lost during the freeze; and anyone whose pay was \$2 per hour or less. It may well be that other instances of severe inequity will be heard by the Board, and that other exceptions will be claimed as involving severe inequities. If and when those arise, we will deal with them upon their facts and upon their merits as we judge them to be.

We have delegated to the Construction Industry Stabilization Committee the handling of situations in that industry, working under our guidelines. This committee was created under a prior Executive order. We have also decided to allow the resumption of longevity increases and automatic progression within the rate range under plans existing prior to November 14, without regard to the 5.5 percent standard.

I believe this brief statement will give you some idea of what we have accomplished working 16-18 hours a day, including weekends, for the past few weeks.

I will, of course, respond to any inquiry which any of you gentlemen wish to put to me.

Chairman PROXMIRE. Before we question you, Judge Boldt, I neglected to call on Senator Percy who would like to make a comment.

Senator PERCY. Judge Boldt, even though you have spent most of your life in Montana and Washington, you were born in Chicago—

Judge BOLDT. The 34th ward.

Senator PERCY. On behalf of Mayor Daley, I say once a Chicagoan, always a Chicagoan.

I just want to warn you, that when my turn comes to ask you a question, the coal pay increase will be simple compared to the question I am going to put to you. I am going to ask you what you are going to do about Vida Blue's frozen salary of \$14,000; he was just announced this week as the "most valuable player." I will give you at least an hour before I get to my turn, to think about it and decide how you are going to answer that, because the sports world is hanging on that answer.

But we welcome you very much indeed. This will not be an unfriendly session, I hope.

Judge BOLDT. I suspect, Senator, some similar inquiries of that kind will be made and I have in mind Vida Blue and one or two other gentlemen whose salaries have been recently increased.

It is a pleasant thing, to start on a pleasant note. Thank you, sir.

Chairman PROXMIRE. Judge, we are hoping to continue on a pleasant note, but I think we have to come to the big issue before all of us. Yesterday I was shocked and astonished and surprised to see your first decision which, in a sense has to be a patternmaking decision, provided for what the industry and labor people said was a 15-percent, first-year increase for the coal workers, and the public members said was a 16.8-percent increase.

I realize there are elements involved, it is a catchup, a welfare fund problem, and so forth. But how in the world can you expect to have a stabilization program if the Pay Board is going to start right off with an increase that is three times over your guidelines?

Judge BOLDT. There are two or three sections to the question. I will try to treat each of them as I recall them.

In the first place, I am sure you know I did not vote.

Chairman PROXMIRE. I know that. I know the public members not only voted against it, but were critical of the decision.

Judge BOLDT. We had preferred a proposal that would have been, in our judgment, more desirable.

Chairman PROXMIRE. You wanted a 12.5-percent increase.

Judge BOLDT. Something to that effect, but it is spelled out in the detailed statement issued by the public members.

In the second place, the views of those who voted for this decision have, to some extent, been spelled out in a statement made by the business members and I cannot speak for them. Their justification of their vote is there, and our justification for our vote is also on record.

Now, how can we do it? In one respect, one phase of it, at least the mineworkers' situation is unique and nonrecurring or very likely not to recur, and that has to do with the welfare fund which they all expressed in their presentation as being the key to the entire situation. Without going into the details of that, a substantial part of the increase is accounted for in that way, which brings it down to a lower level.

Chairman PROXMIRE. To 4 percent. That would bring it down about 11 percent.

Judge **BOLDT**. It is more than that, maybe 5 percent.

However, I am not a statistician, nor am I an economist. I have to rely on the testimony of people in those fields which, of course, I have listened to for 19 years or so, and often had to make a decision between diametrically opposed viewpoints. That is the way of the judicial system and for me it happened to be so in this instance as well.

Anyway, now you say this is likely to be a precedent-setting situation. Well, the business members expressly disclaim that in their point of view, and for me it is not precedent-setting because I did not agree with it. And for the public members, all five of us—

Chairman **PROXMIRE**. Let me get at this. One of the elements that seemed to be agreed upon by public members and also the nonpublic members was that the catchup principle was a legitimate principle, at least there is a very substantial proportion of the increase both, in the amount you would have granted, the public members would have granted, in the amount that was actually decided on as catchup. If this principle is accepted, it seems to me there are going to be many contracts involving millions of workers where you are going to go substantially over 5½ percent; is that correct?

Judge **BOLDT**. No; it is not correct.

Chairman **PROXMIRE**. Why not?

Judge **BOLDT**. I mean your statement of our position is not correct. In the first place, after we, the public members, made exhaustive examination—and keep in mind we have some of the most eminent economists in the Nation among the public members—the analyses we made showed there was no occasion for catchup, if you are speaking of wage lag; that the situation with respect to the mineworkers could be viewed very favorably with that of the general—

Chairman **PROXMIRE**. Then what you are telling me, in your view, there was no occasion for a catchup. If there had been, however, the assumption from your response is you would have favorably considered perhaps a catchup element; is that correct?

Judge **BOLDT**. We gave it a very thorough research in order to determine if there were one, and if there had been one, in our judgment, I suspect we would have. But we never got to the point of making a decision on it because we determined that it was inapplicable.

Chairman **PROXMIRE**. The basic question that seems to me is evident in the country, if you are going to allow a 12½-percent or 16-percent or 17-percent increase to this big union, it is going to be very difficult to expect other unions to accept a 5½ or 6 or 7 percent, without their being determined to go out on strike if necessary.

Judge **BOLDT**. That was one of the factors that led the public members to oppose the decision that was made. I cannot say for one moment it may be interpreted that way throughout the country. But I can only assure you, at least with respect to the public members, it is not a precedent, and the business members have all joined in the statement saying they do not consider it a precedent for any other determination.

Chairman **PROXMIRE**. Unspoken here was the fact that the coal miners had been on strike, and the expectation that if the Pay Board did not act favorably, they would continue on strike. Was this an element, in your judgment, in the decision on the part of the Board to go ahead and grant this very large increase?

Judge BOLDT. We were not unaware of the fact that the workmen have been on strike and that there was a probability or possibility that they might continue the strike in the face of our decision, if it had been adverse, even to the extent of a reasonable modification. We knew that was a possibility, but I have to emphasize to all of you gentlemen, that the public members are constantly aware of the fact that we represent all of the American people, including, of course, union and nonunion workers, and the public generally. A very heavy burden that rests upon us to do that which we think is just and right and fair and equitable, not merely to a segment of the economy, but to all Americans.

Chairman PROXMIRE. I realize that, but the public members are a minority. I understand you have taken a position, it is an understandable position, you will not vote unless it is a tie vote. Therefore, there are five business members and five labor members, and only four public members voting under most circumstances. However, you do have the tie vote.

Judge BOLDT. I did not vote on that one. I did state my position.

Chairman PROXMIRE. The fact is, the Board has taken a position which must seem to most Americans to be very soft on holding down wage increases, at least in the beginning.

Judge BOLDT. This is one of the things we public members feared, and I suspect the other members, too.

Chairman PROXMIRE. Now, consider what this does to our whole economic process. Under present circumstances, there is far less incentive for an employer to be tough in his negotiations with the union. We have price regulations now that enable him to pass through his increased costs, including his labor costs, on higher prices. So he is not going to take as tough a stand, perhaps, as he took in the past. It is easier to pass the buck to you. Your Board has now taken its initial pacesetting position. Whether it is a precedent or not, it is viewed by many workers and many people in the country as the first one they know about, the most visible, and apparently the Board is not determined to hold down wages to a noninflationary level, at least in some cases. Doesn't this strike you as raising very serious questions about the effectiveness of the whole stabilization program?

Judge BOLDT. Actually, in my judgment it does not. Perhaps this is because I have from long experience an abiding faith in the American people. I think that the American people, despite the fact they receive momentary rebuff or something may occur with which they are not entirely happy, are not going to abandon what they know to be essential for this Nation, namely, controlling inflation.

Chairman PROXMIRE. You are the heart of it. You are the ones, it seems to me—unfortunately it is a tough position to be in—you have to bite the bullet, you have to be the ones who say "No." If you do not do it, the Senate and Congress it seems to me have to pass new legislation to provide for some other system for accomplishing this end.

Judge BOLDT. All I can do is point out to you and the American people that in my judgment this is not a precedent-setting situation and the majority of the Board has so indicated. This indication was made by 10 members; namely, those representing the public and those representing business.

Chairman PROXMIRE. Judge, my time is up. But, you know, every time we pass legislation we want to get passed, and people say it will be a precedent, we always say it is not a precedent. But saying so does not prevent it from becoming a precedent. It has got to be a precedent. The fact you did it makes it a precedent, as you well know, and it is going to be looked to as such by the country.

I realize very fine people have consented to take a most difficult job. This may not be a precedent to them, but it is going to be much, much harder, it seems to me, for them to resist the kind of pressure they are going to get in the future, having done this.

Congressman WIDNALL.

Representative WIDNALL. Thank you, Mr. Chairman.

Judge Boldt, you have announced workers may receive retroactive pay increases if their firms announced the price increases prior to the freeze, in anticipation of increased labor costs. Is the situation of school districts which raised their taxes because of the freeze in anticipation of increasing teachers' salaries analogous to the price increase situation?

Judge BOLDT. Congressman, in action taken yesterday, we determined by vote that the situation of teachers should not be treated as a class. We determined that their situation is to be treated along with all other people in this respect, and I cannot prejudice the precise situation which you describe. If and when the issue is raised, we will certainly look into it fully to see whether or not it fits this particular situation. I cannot prejudge it. We do not have the facts upon which to deal.

Representative WIDNALL. I do not quite understand your answer. You say that the issue has not been raised. The issue certainly has been raised throughout the country.

Judge BOLDT. In the Board. Let me explain the action that we have taken.

Chairman PROXMIRE. Judge, could I interrupt for 1 minute to say, some of us have to leave. That was a rollcall. But we will be back.

Judge BOLDT. Yes.

We have determined not to treat teachers as a class with respect to retroactive increases, and that is what you are speaking of; is it not, sir?

Representative WIDNALL. What must be done to bring it to a head then?

Judge BOLDT. That they would be governed by rulings and policies pertaining to all workers as and when they are promulgated, hopefully very shortly.

Now, if the teachers should claim that there is something unique about their situation which entitles them to some special treatment as a class, and through the regular channels they present that issue to the Board, we will, of course, deal with it and examine it and determine whether they should be treated separately from all other workers in the country. I should say, incidentally, in making that decision, we were supported by a report of a new Advisory Committee on State and local government.

That Committee sent to us a document and supporting material which, in brief, stated that they had examined exhaustively the situation of teachers and had found them to be in a situation no different

than that of other workers. And this was passed by a very distinguished committee, including, I believe, one or two governors and various other distinguished members, and by an overwhelming majority. I recall that the vote was some 15 or 14 or something of the kind, to two or three. These people studied the teacher situation very extensively and reached the same conclusion we have now reached.

Representative WIDNALL. I cannot see how you could have arrived at that decision when in so many instances where the teachers' contracts had been already entered into for a specific date in advance, just a few days after, in most cases; the time of the freeze, and provision had been also made in order to pay for that in operating budgets and in the whole handling of their affairs within the town.

Do I understand you do not have official cognizance of this problem of the teachers at this time?

Judge BOLDT. Of course, we know in general that there are peculiarities about hiring practices in this profession and we know that there are features of it that, perhaps, are not parallel to other situations. We know that. But the precise extent and nature of it and whether there is some specific exception which should be made with respect to teachers has not yet been presented to us.

Representative WIDNALL. Well, Judge Boldt, how will it get officially before you? Who makes the application? Who intercedes for the teachers in order to present it to the Board so you will have official notice and so something about it?

Judge BOLDT. The procedures for bringing matters of this kind were on the agenda and would have been decided had it not been for the bituminous coal situation, which suspended other matters which are before the Board, but which have not been fully developed. However, yesterday we did authorize the staff to prepare regulations that would provide for forms whereby people wishing to make a claim for retroactivity could make application and thus present their matters to us.

Representative WIDNALL. In your testimony you stated:

Under Board policies, contracts existing before November 14 will be allowed to operate according to their terms subject only to review when challenged by a party of interest or five or more members of the Board.

Why wouldn't that apply to the teachers?

Judge BOLDT. This does not deal with retroactivity, Mr. Widnall. This deals with contracts existing before November 14, and which are permitted to go into effect as of November 14.

Representative WIDNALL. I still do not quite understand, because it seems to me these contracts were existing.

Judge BOLDT. This is the so-called deferred category.

Representative WIDNALL. And actually before November 14, and actually all of the cases I know about existed just prior to the freeze.

Judge BOLDT. If teachers claim they come under what we call 4 (B), which is the category pertaining to deferred increases, they certainly should claim it and act on it. We did not think it so with respect to retroactivity.

Representative WIDNALL. That is all.

Representative REUSS. Judge Boldt, let me take you back to the happy days when you were a district judge in the State of Washington.

Judge BOLDT. They were not all happy days.

Representative REUSS. Suppose the U.S. prosecuting attorney, when you were on the bench in Washington, had brought before you a usurer caught redhanded, in flagrante delicto, in violation of the usury statute which says 5.5 percent is the maximum interest which can be charged. Suppose he were caught redhanded charging 16.8-percent interest. Would you, as a district judge sitting in that case, have felt justified in saying 16.8 percent is not unreasonably inconsistent with the 5.5-percent criminal statute?

Judge BOLDT. Well, the analogies between the two situations—

Representative REUSS. Imperfect?

Judge BOLDT. Yes; in many respects. In the first place, of course, we would have to have a jury trial, and what a jury might do or not do is impossible to determine.

Representative REUSS. Suppose he waived a jury?

Judge BOLDT. Even that would not help. The program that we have adopted under our policy decisions is deliberately planned and intended to have some degree of flexibility to allow for consideration of equity and fairness. The usury statute is inflexible and absolute. If you exceed the standard, you are sentenced to 1 year if found guilty. That is not the case in our situation. The plan presupposes that almost all Americans want to end inflation and that the vast majority of them will be willing to make some sacrifices in order to accomplish that end.

If it turns out otherwise, the plan will not succeed.

We are trying to be as fair as we possibly can in every instance to allow for every deserving situation in the light of our objective. To seek perfect justice, perfect equity in this world is a noble ideal and one we should all adhere to constantly, but to achieve it in dealing with this vast and very complex problem, perhaps the most complex ever existing, and reach complete equity and justice for every individual, is more, I am afraid, than we fallible human beings will be able to accomplish.

Representative REUSS. Let me ask you, Judge Boldt, your view of the general philosophy of what you on the Pay Board are supposed to do. A wage increase that in no way impels a price increase; does such a wage increase concern you?

Judge BOLDT. I would not think that that would be the sole criterion of the situation. It might be one to be taken into account. But I would have to consider it in the light of all of the existing circumstances, of which that might be one.

Representative REUSS. The fact that a wage increase does not compel a price increase, would not that more or less divest you of any urge to restrain that increase?

Judge BOLDT. It would be a factor on the side and not interfering with it.

Representative REUSS. I read yesterday's decision of the Pay Board, by both the business members and the public members. You know this is not a personal observation, because you did not participate in the decision.

Judge BOLDT. I made it of record that I joined the public members. Had I voted, I would have voted with the other public members.

Representative REUSS. Right. I find neither the business members nor the public members saying a word about the effect of the wage increase on the price of coal. Now, that to me seems to be the \$64 ques-

tion. That is what I am interested in. If coals can be dug at double the wages that are now paid without compelling an increase in the price of coal, I would say that that wage increase, far from being against the public interest, was in the public interest. We want consumer demand, to reduce our 6-percent unemployed. What about that? I find it very curious.

Judge **BOLDT**. That question is, primarily, of course, for the Price Commission. I think the Chairman of the Price Commission has recently issued a statement which at least indirectly bears upon that matter. The matter of whether prices should or should not be raised is for them, and not for us. Of course, what we do is going to be of critical importance to them and I suspect yesterday's action will be of critical importance to them.

Representative **REUSS**. Well, it will be, but after the fact. I put it to you that whether we have a separate Price Commission and Pay Board, or a unified board—and I would not have any particular preference either way—it has got to be the task of the wage adjudicating board to look at its effect upon prices. That is the name of the game. I cannot evaluate yesterday's decision. If it does not necessitate a price increase. I remain quite imperturbable about it. If it does, I share Chairman Proxmire's outrage. But I do not know, and I cannot tell from the decision.

Judge **BOLDT**. You may be very sure that the effect of allowing the contract to stand unmodified, the effect of that one question is a matter of great concern. But in the last analysis, you must remember that I as an individual and the public members did not agree with the decision that was made. We are not crying about it; we are not going to throw in the sponge about it; we are going to go on and accept that decision as it has been made and do our utmost to carry on to achieve our goal, even though we would have preferred another decision.

I do know that the coal industry has indicated they are going to promptly seek an increase in prices. It is, I believe, before the Price Commission now. The public members did their utmost to minimize the problem for the Price Commission, and that is all that we can do.

Representative **REUSS**. I put it to you though, with all respect, that the Pay Board seems to me to be flying blind here. It does not make an inquiry into the price effect of a given wage adjudication. You said, "Oh, this will cause some price increase." Well, do tell. Will it be a 16.8-percent increase? Or an 11-percent price increase, or a 1-percent price increase?

It would seem to me this is the great question, and that a decision on the wage matter has to be geared into its price effect.

Judge **BOLDT**. During the presentation of the union and operator positions, this subject was one of very considerable interrogation. There was no unanimity even among the operators as to what effect it would have. But apparently everybody agreed it would have an effect on prices. I would suspect, without knowing, that the owners are expecting to escape having to bear a part of that burden by increased prices. But I do not know; anybody else's guess is as good as mine.

Representative **REUSS**. I have an interest in what we are doing here, because I was in some way the father of the law—or at least if it works, I will claim to be the father of it. I would really hope that the Pay Board and the Price Commission would pull themselves together.

I do not think that you can issue an intelligent wage decision without knowing the price effect, and that is the time to put your heads together. Your Honor, interplead the Price Commission, if need be. Bring them into the room, go get the records on productivity, profits, and historic patterns of the coal industry. Believe neither what the operators nor the union says about absorbability. Find out for yourselves. And in the next such case—and you are going to get them all of the time—you are going to come up with a decision which will be a little better calibrated to do the job of manicuring those wage increases which are actually going to cause price increases.

Judge **BOLDT**. Well, I can tell you that we are certainly not operating in a vacuum. Mr. Grayson's office is on the next floor below mine, and he and I personally hit it off very well from the moment we first met a few weeks ago. We are doing everything we can to advise each other of problems arising that will affect each other. And beyond that, I do not know what more we can do.

Representative **REUSS**. I think you are a delightful man and a patriotic one, and I am happy you are there, and I wish you well.

Judge **BOLDT**. I am happy to hear you can say that much for me.

Chairman **PROXMIRE**. Congressman Conable.

Representative **CONABLE**. Thank you, Mr. Chairman.

Judge **Boldt**, the extent which you are in the middle must be apparent from the discussion here this morning already. I except those present, but if you had not granted the pay increase for the coal workers you could be quite sure there are many people in Congress who would be excoriating you for your lack of humanity. The fact is that we passed the buck to you through the Economic Stabilization Act, and we reserve the right to talk out of both sides of our mouths.

Congress has a rather bad record in dealing with wages in the transportation industry, where we have done a lot of ad hoc in the past, and we are grateful not to have to continue that bad record now that you are in operation.

But, of course, we reserve the right to criticize, and there will be a great deal of rhetoric from different points of view here in Congress, depending on which way you come out.

Now, one of the reasons we are not good at handling this sort of thing, of course, here in Congress is our accessibility to the interests that are pressing for certain results. This raises the question of the whole manner of your operation. I assume that at this point you have been meeting pretty much around the clock and that you have not been accessible in the sense that you can be lobbied like Congressmen one way and another. You do not have a specific constituency pressure that we do.

I am wondering if in the manner of your operation the tripartite members of your Board have the opportunity to caucus in the consideration of their specific interests. The business members for instance. The labor members. I wonder if you have anything to preclude the use of the unit rule with respect to decisions. You mentioned that in some cases people have voted against other members representing the same interests they do, and there has not been necessarily unanimity.

The fact is that inflation has been a great safety valve in the relations between labor and management in the past, and there has been a great tendency of management to get together with labor and say, as

long as we can pass it on, we will give you fellows what you want. And that, of course, is an implication that is raised by the unanimity of vote on the coal issue by labor and management.

What do you have to say about the safeguards in your procedures to insure that you do have objectivity, that you prevent the formation of interest groups that will, in effect, bargain for their interests? This is one of the big problems of a tripartite board, the possible combination of interests of this sort. What in your procedures do you have to protect the American people from this kind of collusion?

Judge **BOLDT**. The tripartite approach, of course, does have some of the hazards and objections that you have noted. But I think it is like living in a free country. At times things happen that are disturbing to some or most of us. But that is just the price of having to live in a free country. And so it is for this.

I think the idea of having a tripartite board is excellent, provided that all of the Board members remember first that they are Americans above any other thing that they are; and second, that they are all united in a program to try to control inflation, which is a serious threat to our national economy.

I must say that while I feel very strongly and differ strongly with some of the views of other members, although not expressing myself as vehemently as some of them do—and I make no criticism of that, it is my training to be restrained and moderate in expressing my views, and so I claim no credit for it. It is just the way I was "brung up" as we used to say.

But I have seen no evidence as yet that any of the members of the Board have not approached their responsibilities in exactly the way I have indicated. They have what to them seem very compelling reasons for the positions they take, and they contend that it will not impair the effort to control inflation. I long since learned that if someone disagrees with me it does not necessarily mean they are wrong and I am right. We can only exercise our best judgment in each instance and that is exactly what I believe the labor and business and public members have done.

Now, to be more specific, you asked if we have some arrangement to communicate with each other instead of from a microphone, figuratively speaking. Yes, certainly. We are all housed in a relatively small area, much less than the size of this room, and we all have offices there, and the individual members confer with other individual members frequently, and at times whole delegations confer with each other.

For example, I personally have spoken not once but several times to every one of the labor members and the management, about various matters. I am sure others have done it as well, seeking out an explanation of their situation, and offering some explanation of mine, hoping to come to some agreement. In a number of instances that has been successful. In a number of them, it has been notably unsuccessful. But that is just the price of doing business in a free world.

Representative **CONABLE**. Have you established a rule to meet every afternoon, or do you meet morning and afternoon and night? Do you have a certain amount of time set aside for the study by the members of the issues before them? How do you set up your procedures?

Judge **BOLDT**. Yes, sir; we do.

One of the great problems for us during the last several weeks has been the fact that we are not adequately housed. Second, we had so many pressing problems to deal with that we just could not take the time to set down some ground rules about how we were going to proceed. We are doing that now. We have concluded that we do need time for the staff to prepare staff papers and gather statistical information and data and the like. We have to allow them more time because working all night is no good for "Jack" or anybody else. And that is what they have been doing, literally working through the night to have material available.

And so we have established the program, which can be changed, that henceforth, where we can, we are going to meet 3 days a week, on Tuesdays, Wednesdays, and Thursdays, to give ample time for staff work and for us to read and digest the results.

Representative CONABLE. Where does your staff come from, from existing Government agencies?

Judge BOLDT. Yes.

Representative CONABLE. And do you have control over your staff or are they provided by others?

Judge BOLDT. I should mention that. It is an important matter. Initially we had no staff at all. The day I arrived in the office, I was No. 1. And so we went out and we were given the freest hand to get active people to come in. It was successful from the beginning because a great many active experts from various Federal agencies responded to our call.

Representative CONABLE. But does each of the tripartite groups have its own staff? Do they have any control over who is working for them? Or do you have to personally choose all of the staff yourself?

Judge BOLDT. We have one staff for the Pay Board. I suspect that each individual Board member has his staff, whether it consists of one or more persons. I am sure, for example, that the labor members have very, very elaborate staffs of economists and other people of that kind. I know that because no less an authority than Mr. Meany has assured me that they do.

Have I satisfactorily answered you?

Representative CONABLE. Thank you.

Chairman PROXMIRE. Senator Sparkman.

Senator SPARKMAN. Judge Boldt, I am very glad you are here today. I have listened to you with a great deal of interest.

I am a rather optimistic person myself, but I have difficulty going along with your extreme optimism that the American people will accept this without much remembering that—I just do not believe that you can get across convincing arguments, after they read in the newspapers that this is a 15.6 or 16.8 increase, and try to compare that, contrast that, with the 5.5 increase that was earlier announced.

By the way, I just looked at one of our leading newspapers in the country over there a few minutes ago. The screaming headline was "Big Coal Contract Approved." And in the first sentence, it gives the figures that it represents 15.6 or 16.8 or somewhere between those two figures.

I am not in any sense trying to condemn, I cannot because I do not know anything about it, except what I have read in the papers. But I do think, I cannot help but think, it is going to give you trouble. I sup-

pose you expected that anyhow with other contracts that come up. And, of course, they will come up.

As I understand it, though, you had no vote on this, you vote only in the case of a tie?

Judge BOLDT. Yes; but I announced my position.

Senator SPARKMAN. You announced your position?

Judge BOLDT. That is right.

Senator SPARKMAN. Oh, yes. And you were with the other four public members on this.

Judge BOLDT. That is correct.

Senator SPARKMAN. By the way, did the management members say anything at the time to the effect that they would have to come in for price increases?

Judge BOLDT. During the discussion?

Senator SPARKMAN. Yes. I am talking about when you had your hearing, or whatever it was.

Judge BOLDT. The operators and the union?

Senator SPARKMAN. Yes.

Judge BOLDT. Oh, yes.

Senator SPARKMAN. Did they say how much the price increase was?

Judge BOLDT. As I recall, there was some discussion back and forth about it among the operators. They were not in total unanimity, but it was indicated it would be about \$1 a ton.

Senator SPARKMAN. A dollar a ton?

Judge BOLDT. Yes, sir. Over existing prices, which as I understand, range from \$67; as the current price.

Senator SPARKMAN. Six to seven?

Judge BOLDT. \$67, as I understand it.

Mr. Gavett tells me that is right.

Senator SPARKMAN. What would that represent in percentage?

What was the impact—of course, I realize this not your problem.

Judge BOLDT. Somewhere around 14 or 15 percent, I suspect.

Senator SPARKMAN. I thought they were trying to cut inflation in two. This is multiplying it.

Judge BOLDT. But the prices have not been allowed yet.

Senator SPARKMAN. Do you think they will not be?

Judge BOLDT. I do not know.

Senator SPARKMAN. I believe that was one of the exceptions that the Price Board set; was it not? If increased costs necessitated increased prices?

Judge BOLDT. By the way, the dollar figure, Mr. Gavett calls to my attention, is over a 2-year period.

Senator SPARKMAN. Oh, yes.

Well, now in this question of retroactivity, that is something that is a part of your Board's concern; is it not?

Judge BOLDT. Yes.

Senator SPARKMAN. Have you by any chance been informed of the amendment that our committee put on the bill relating to that?

Judge BOLDT. I have heard that there was such an amendment.

Senator SPARKMAN. The substance of it?

Judge BOLDT. The substance of it as I understood it from the newspaper account, was that it would just completely allow all retroactivity. I have not seen that.

Senator SPARKMAN. Do you accept all newspaper accounts that you read?

Judge BOLDT. Well, I was just going to say—

Senator SPARKMAN. Certainly if you read that, that would not be correct.

Judge BOLDT. You mentioned newspaper accounts, Senator Sparkman, and I want to hasten to advise you now, that since I have been here these past 4 weeks, almost everyday there have been statements in the press purporting to emanate from Board members or a reliable source, or such like, and they were just categorically untrue. Nothing like it had happened.

Incidentally, in the dissertation the other day, Governor Moore of West Virginia, in his presentation on the coal contract said to me something to the effect that the press in West Virginia had reported that the Board had indicated it was going to reject this contract, and immediately several mines were shut down as the workmen went on strike.

I assured Governor Moore that nothing could be further from the truth. No such statement had ever been made to my knowledge by any Board member. It was totally untrue. But apparently, according to the Governor, it had shutdown some mines.

So I am not unfamiliar, you understand, with the unreliability of press accounts, because I never read one about a trial that I presided over that was without many serious errors and inaccuracies, despite the fact that in my court I have "open sesame" to the papers. If they cannot find an answer to something, they can come to me and I will give it to them, if it is proper for me to give it to them.

So I am not unacquainted with that situation. I place no reliance on what I heard about what Congress is proposing to do with respect to retroactivity. I have heard that there is a proposal which would legitimize all the provisions in existing contracts retroactively.

Senator SPARKMAN. Let me say I did not intend to provoke a discussion of the press. They work under great difficulty and they have great difficulty sometimes getting the correct answers, and there is always a matter of interpretation.

Judge BOLDT. Certainly.

Senator SPARKMAN. But I just wanted to say that that is entirely incorrect, if you got that impression, because our amendment, I think you will find upon study—by the way, you may be surprised to know this was developed in large part from an amendment proposed by the administration. I do not think it goes anywhere near as far—

Judge BOLDT. I suspect if I had read it more carefully my understanding might be different. I never read so much in my life in so short a time as I have in the last few weeks. That includes briefings by some of the most capable briefers in the country on very important matters.

I do think now I recall there was some qualification.

Senator SPARKMAN. Unreasonably inconsistent?

Judge BOLDT. Yes.

Senator SPARKMAN. Yes.

Judge BOLDT. There is one thing about that subject, though, that I want to mention. It has been very much in the minds of the public members, and I think of the other members as well, that this freeze stopped the clock and it caused something more than inconvenience to

all Americans, whether they were union members or nonunion members, and some loss of some kind or other was sustained. Nobody has talked about providing any retroactivity for the rest of the country. This is one of the factors that we have had in mind with respect to it.

Senator SPARKMAN. Of course, that clock has been started again now; has it not?

Judge BOLDT. Yes, sir.

Senator SPARKMAN. My time is up.

Chairman PROXMIRE. Senator Percy.

Senator PERCY. Judge Boldt, before I get into Vida Blue, I have a question about an even more current and pressing problem that will, perhaps, be presented to you. Yesterday the AFL-CIO convention warmly approved, after apparently giving a very cool reception to the President, a pay increase for George Meany from \$75,000 a year to \$90,000, a 20-percent increase, and for Mr. Kirkland, AFL-CIO secretary-treasurer, from \$45,000 to \$60,000, an increase of 33 $\frac{1}{3}$ percent. The increases were given apparently without any change in title or responsibility, although Mr. Meany has not had an increase since 1965. These are to be effective next week.

First, is it necessary for these wage increases to be presented to the Pay Board before they become effective? Second, can Mr. George Meany, as a member of the Pay Board, vote on his own pay increase? And third, what is your guess as to how you might be inclined to vote or how you think the Pay Board might react to wage increases of this size?

Judge BOLDT. Well, I will try to answer each of those questions of your inquiry. And if I miss one, please remind me.

Senator PERCY. I certainly shall.

Judge BOLDT. I want to emphasize that the standards of the Pay Board are applicable to Vida Blue and Mr. Meany and everybody else in the country. And the average specified is 5.5 percent in all new contracts. So the general standard is applicable.

But you must keep in mind it is an annual aggregate within a given economic unit. And if in Mr. Blue's economic unit he can be permitted the raise that he has received, and that economic unit still comes out with an annual average of 5.5, there is no problem.

Senator PERCY. Could we deal just with George Meany and Lane Kirkland first, because I think their case would be quite pertinent.

Judge BOLDT. To begin with, we are authorized to have, and I think we will have—although it has been on the agenda for several days, having to be postponed because of what were more critical matters—the appointment of an executive compensation committee, and when Mr. Meany's problem arises, if it does, it would be first submitted to that committee. We will give them a period of time to see what they can come up with on it.

Senator PERCY. Will that committee be appointed this week?

Judge BOLDT. Hopefully so, Senator. But I am very hesitant now to predict when anything can be done. It is almost as impossible to do as to predict when a trial will end.

Senator PERCY. But the pay increase becomes effective next week—at the end of the present convention—and they have to decide how to make out Mr. Meany's check. It is subject to the Pay Board's rules? Is that clear?

Judge **BOLDT**. If we are just thinking about Mr. Meany, it should not give you too much concern, because he would have to turn it back, should it be disallowed. It is a relatively minor matter considering that we are dealing with the interests of millions of Americans in the field of executive salaries.

Senator **PERCY**. Right.

Judge **BOLDT**. We should be allowed a reasonable time to develop a procedure for dealing with it. And in the event those who pay Mr. Meany, pay him and they have to ask for it back, that will be a problem for them to meet when the time comes. I am not overly inclined to expedite any matter to precipitate an unthought-out solution simply because of some individual situation.

Senator **PERCY**. As I understand the procedure, though, you take the number of executives in the economic unit, that would be probably the officers, national officers of the AFL-CIO.

They would be permitted a 5.5-percent increase for that group. If the two officers whose wages have been increased, or say, adjusted, because they have not had an increase for a number of years, eat up all of the 5.5 percent, there is nothing left for anyone else then. And if the aggregate then exceeds 5.5 percent, is the unit likely not to approve such increases?

Judge **BOLDT**. Well, again, Senator, the standard as you know is 5.5 percent. As the policy statement itself provides (this is under 4(A) of our policy statement) in reviewing new contracts and pay practices, the Pay Board shall consider on-going collective bargaining, pay practices, and the equitable position of the employees involved, including the impact of recent change in the cost of living upon an employee's compensation.

Those are rather strange words, of course, but they indicate that there is some leeway in determining in a particular situation what may be allowed under that section.

Senator **PERCY**. The reason I ask about Vida Blue is because I do not dare go home today. Yesterday my son asked me—it is the only question in 5 years he has asked me to ask in the Senate—"How about Vida Blue's salary?" When I came home and said we did not have this hearing yesterday, he asked, "When is the hearing going to be held?" He pointed out an article in the Washington Post—and I think this is an extreme case of how you apply this policy—but here we have a man frozen at \$14,000, who is voted the American League's most valuable player, who received the "Cy Young" award for being the League's outstanding pitcher. He has to moonlight, doing commercials, in order, as he puts it, "to keep from mugging" and the President of the United States has called him the most underpaid player in baseball.

Now, how does he take what he should get as an adjustment or an increase and divide that by all the other players, and then apply the 5.5 percent to that? Are there exceptions, in other words, for situations of this type?

And I ask this question not only for Vida Blue, but to try to illustrate that will have to be a great deal of flexibility and use of common-sense in the Pay Board's decision.

Judge **BOLDT**. The definition of an "appropriate employee unit" as adopted by the Board reads as follows:

An appropriate employee unit in the measurement of change in wage or salary level is a group composed of all employees in a bargaining unit, recognized employee category, in a plant or other establishment, or in a department thereof, or in a company or in an industry as best adapted to preserve contractual or historical relationships.

Now, how that will work out for Vida Blue remains to be seen. All you can tell your son, I think, is that you put in a pitch on the thing and it will be given full and careful consideration.

Senator PERCY. I do not know if that will be reassuring to Vida Blue or not, or to my son, but I will pass it on anyway.

Judge Boldt, during World War II, labor and management were very conscious of achieving several common objectives: Increased output, low costs, high quality—all because of the national interest in high productivity to help win the war. Productivity signs were set up across the country, by departments, by plants, by areas, and so forth, and a tremendous job was done.

Today we have another kind of a crisis, not a war, but really we are under attack. Our economic stability is under attack. The dollar is under attack, and whether or not we can survive in world markets is very much a key issue in our beleaguered balance of payments.

Would it be an important factor in considering pay increases, as well as wage increases, if we could really get productivity up over the 3 percent level we achieved from 1950 until the mid-1960's? In the last few years we have had virtually no productivity increase and even in the last days of the 1960's it was as low as 2 percent. Would it help companies and industries justify better pay and keep markets for themselves and make it unnecessary to raise prices if they can demonstrate to you that they have really made an all-out effort to increase productivity?

Judge BOLDT. I would say without hesitation, of course they would. I point out, however, that there is a productivity commission which is studying this precise problem. And beyond affirming my agreement with what you have said, I can say no more.

Senator PERCY. I would ask unanimous consent, Mr. Chairman, to insert in the record at this point, a letter that I have sent to 500 top manufacturers in the State of Illinois, an article from the Chicago Tribune and editorials from the Illinois State Journal, commenting on talks I have had with our major labor people in Illinois on the necessity of increasing productivity, and the uniformly fine response I have had from both labor and management.

Chairman PROXMIER. Without objection, that will be printed in the record at this point.

(The letter, article, and editorials follow :)

U.S. SENATE,
Washington, D.C., November 8, 1971.

DEAR ILLINOIS BUSINESSMAN: Because it seems likely that controls on prices will be in effect for the foreseeable future, the moment seems right to take major steps to improve productivity on our own initiative. My recent experience indicates that labor now seems willing to take a new look at the problem of productivity.

Our state's major labor organization has responded to my call for department-by-department, plant-by-plant productivity councils—much like those that proved their usefulness during World War II. When I expressed this need at the State Convention of the Illinois Federation of Labor, AFL-CIO, last month, I had a surprisingly positive reaction, which is reflected in the enclosed news story and editorials.

Moreover, the Business Council, which met on October 15-16, emphasized the need for productivity improvement and new ways to achieve it. Bob Ingersoll of Borg-Warner stressed at this meeting the need for a productivity drive on a national scale. If you would like to have a copy of his talk as well as others given on the same subject, I would be pleased to send you copies.

We have no reason to be proud of recent national productivity performance. From 1965 to 1970 average annual productivity growth fell to 2.1%, compared with an averages growth of 3% from 1950 to 1965.

Working men and women are increasingly aware that inflation erodes the buying power of their paychecks. Now is the time, in my view, for business to take advantage of labor's new concern for the need to improve productivity. It is my hope that Illinois business can immediately launch a productivity effort based on individual initiative and creativity.

You know better than I what specific steps you can take. But here are some areas for consideration.

First, of course, is to make the most efficient use of capital. Federal policy must grow industry to generate and keep enough profit to install the most modern capital equipment and to afford substantial research and development. For this reason, I have supported the reinstatement of the investment tax credit and liberalized depreciation and amortization rules. I feel sure business will respond to these measures with increased investment.

Second, I hope that in Illinois we can make special efforts in another area—the work place itself. Together with labor we should take a fresh look at work rules and at in-plant programs for upgrading workers' skills. What kinds of incentives, other than wages, are being offered? Can new programs or special bonuses for groups or teams of workers who are especially productive or inventive be introduced? Have we asked the men and women who run our processes how they can be improved—for their own ideas on speeding the system and eliminating waste? Would the introduction or strengthening of profit-sharing schemes help?

Third, can we take a new look at the human side of enterprise? We may be so absorbed in increasing productivity through technical innovation that we forget that human initiative is the key to substantial future productivity growth in an increasingly service-oriented economy. A concentrated effort to make people feel that their energies are being well used and that they are important as individuals may be a major productivity spur in a work force increasingly oriented toward "knowledge workers."

The best way to implement a national productivity drive is on a plant-by-plant basis. Establishing in-plant productivity councils, representing top management and workers, to take a fresh look at the way things are done, and the ways they can be changed and improved, could be an effective device for instilling an awareness of the constant need to increase efficiency and output.

A supplementary way to organize a productivity effort, concurrent with a plant-level productivity drive, would be through productivity councils established on an industry-by-industry basis. Associations of manufacturers in Illinois could establish productivity councils that would identify productivity bottlenecks that are common to each industry, and seek to remove them through individual action and consultation with labor.

We are entering a period characterized by some as one of lasting Federal controls on economic activity. I do not agree. I think we can—and must—return to a revitalized free enterprise economy as soon as inflation has been brought under control.

I have suggested ideas for you to consider. As a former businessman, I know that Federal Government policy can impede effective business operations. I would like to have your suggestions for actions that my colleagues and I might take in Washington, and I would like to know of your experiences with productivity efforts. Your ideas, together with those of your fellow Illinois business leaders, will help us establish a common ground of understanding to improve productivity now, during Phase II, when it is most important. I would appreciate hearing from you.

Sincerely yours,

CHARLES H. PERCY,
U.S. Senator.

[From the Chicago Tribune, Oct. 5, 1971]

PERCY ASKS STATE LABOR CHIEFS TO BOOST OUTPUT

(By James Strong)

SPRINGFIELD, ILL., Oct. 4— Sen. Percy [R., Ill.] today appealed to Illinois labor leaders to join with business and government to break down barriers to increase productivity as the key to restoring the nation's economy.

Percy urged a voluntary plan in Illinois as the forerunner to a national productivity drive administered under the Cost of Living Council aimed at eliminating absenteeism, poor work quality, and poor work practices which have stifled American competitiveness in the world market.

In a speech before more than 2,000 delegates to the Illinois AFL-CIO Convention here, Percy proposed voluntary restraints under productivity councils to oversee wages and prices in relation to productivity. The purposes would be to determine possible wage-price guidelines and to recommend changes in eliminating obstacles to increased productivity.

SHARE IN PROFITS

Percy called for vast profit-sharing plans from "the executive suite to the assembly line.

"My experience in business suggests that employes will become very strongly motivated if they have a financial stake in the efficiency and profitability in their company," Percy said.

Before speaking to the state convention in the state armory, Percy, who last year was the first Republican senator invited to a state AFL-CIO convention in nearly three decades, held private sessions with Stanley L. Johnson, state AFL-CIO president, and the 19-member executive board.

PLANS OTHER PARLEYS

During the meeting with the labor leaders, Percy explained that he will also confer with top state businessmen and government officials.

It was learned that Percy plans to outline in detail his views on the productivity drive, labor's opposition to current wage-price freeze policies, the import surcharge, dollar devaluation, and trade issues in a Senate speech tomorrow.

Percy, who received an ovation, at last year's convention from the representatives of 1.1-million AFL-CIO members in Illinois, again was warmly received. He boasted of his pro-labor record, saying, "I will match my record of five years in the Senate and 25 years in private industry with anyone."

REMINDERS FOR DELEGATES

He reminded the delegates of his stand in favor of national health insurance and welfare reform, consumer protection legislation, and other labor backed issues.

Shortly before Percy arrived at the armory, Gov. Ogilvie, who at first accepted, then declined, an invitation to speak at the Monday session, came under attack by several delegates for vetoing an antistrikebreaking bill and his failure to sign workmen's and unemployment compensation bills.

Neal A. Bratcher, a delegate from Chicago Local 93, American Federation of State, County and Municipal Employees, demanded that all the convention programs bearing a full-page advertisement with Ogilvie's picture welcoming delegates to the convention be collected by the sergeant of arms and "thrown in the trash can."

Johnson appealed to the delegates not to take action saying, "total record is not in on any official, including the governor, and we don't want to condemn anyone until the whole program is in."

The convention then voted to tear out the page bearing Ogilvie's picture. Among other Republicans in the program booklet prepared by the Springfield Building and Trades Council were Atty. Gen. William J. Scott, and Rep. Paul Findley [R., Ill.].

Earlier, Johnson in his opening convention speech, urged the federal government to assume the burden of mounting welfare costs and leveled criticism at Ogilvie and state legislators for failing to provide at least 10 per cent pay increases for state employees after they voted themselves 45 per cent pay hikes.

[From the Illinois State Journal, Oct. 8, 1971]

AT LABOR CONVENTION : GOOD ADVICE FROM PERCY

It is encouraging to note that U.S. Sen. Charles H. Percy received a standing ovation when he proposed a system of plant-by-plant "productivity councils" during his address before the state convention of the Illinois Federation of Labor, AFL-CIO.

Percy is a co-sponsor of the National Productivity Act now pending in the Senate which would attempt to "eliminate excessive absenteeism, scrap and reworked, poor quality work and work practices that contribute to cost and make American products less competitive in domestic and foreign markets."

It is an alarming decline in American productivity that has contributed as much as anything to the nation's economic troubles including high unemployment. Economists have consistently pointed out that in too many instances American goods are no longer competitive in world markets.

A first step in correcting the current imbalance in foreign trade, they say, is a return to the traditional American quality of workmanship of the past.

If this is to be accomplished the support of organized labor must be forthcoming. The response which Percy received from the more than 2000 Illinois convention delegates that the rank and file leadership of labor not only recognizes the problem but is eager to help do something about it.

The Illinois AFL-CIO could take the lead in this effort by following a Percy suggestion that the delegates not wait for passage of the pending bill, but to act now on their own to set up going councils with management to work out plant by plant programs to improve productivity.

[From the Chicago Daily News, Oct. 6, 1971]

STRAIGHT TALK TO LABOR

Senator Charles H. Percy went to the heart of the whole economic problem with his proposal to the Illinois AFL-CIO convention for a system of plant-by-plant "productivity councils." The fact that the 2,300 delegates gave him a standing ovation is immensely encouraging. Perhaps the vital lesson about productivity and its relation to everybody's prosperity is getting through.

Percy urged labor-management councils to work toward eliminating "excessive absenteeism, scrap and rework, poor quality work and work practices that contribute to cost and make American products less competitive in domestic and foreign markets."

He also proposed that workers share in the results through profit-sharing plans. That would not only be an equitable way of rewarding more effective efforts—it would also serve to remind the workers of the connection between efficiency and their own well-being.

Percy's proposal coincides with the National Productivity Act now before the Senate, and with the administration's nationwide effort to use greater productivity as a weapon against inflation and the economic threats from abroad.

The efforts are timely; lagging productivity has been steadily draining the worth of the dollar at home while putting the United States at a growing disadvantage in competition with more productive nations.

U.S. News & World Report pointed out in a recent article that the United States trails all other major free world nations in productivity gains. It reported that average annual increases in manufacturers' output per man-hour in the United States, 1965-70, was 1.9 per cent per year. West Germany's was 5.3 per cent, France's 6.6 per cent, Sweden's 7.9 per cent, and Japan's a whopping 14.2 per cent.

How did Japan, so roundly trounced in World War II, manage to come roaring to the top of the postwar list in productivity and therefore prosperity? In part by labor and management coming together in much the same way Percy is suggesting.

"We are not hostile toward management," U.S. News quotes a Japanese worker. "Managers are employees, too. We're all on the same team and must co-operate for the good of our company." If that strikes the U.S. union member as a bit starry-eyed, we suggest another look at the 14.2 per cent productivity increase rate, and at the real gains in prosperity of the Japanese workers, measured alongside the meager gains of U.S. workers as inflation eats away at their dollars.

The warm response of Illinois labor to Percy's proposal was not the first manifestation of an awakening awareness among U.S. labor to its stake in raising productivity.

We noted here last Aug. 4 that the Steelworkers' president, I. W. Abel, urged his people to increase their man-hour output both to boost failing profits and to compete with farm producers. The three-year 31-per cent wage increase won by the steelworkers substantially widened the gap that must be closed, but at least Abel noted the need, and that is more than labor leadership has done in the past.

We hope that labor leaders generally will have the courage and good sense to take up the theme voiced by Abel, Percy, and others and preach the gospel to their constituents. For what is needed first of all is a change in worker attitude adjusted to the change in the nation's economic situation. Somehow, in the otherwise commendable growth in labor's dignity and economic muscle, there has developed a widespread attitude that doing a job as well and efficiently as possible no longer counts for anything. What it means, the nation is now learning, is the margin of profit not only to maintain its strength and its leadership but to improve the environment and the quality of life itself.

Senator PERCY. I along with Senator Javits and others in the Senate are sponsors of a national productivity act, and I really cannot imagine anything that would do more good for all of this country, the consumers, the producers, the laboring people, then to get back to the concept that we really have to earn what we get.

The day of demanding more and giving less should be over unless we really want to become a second-rate industrial power, because we are not competing effectively in world markets today.

I appreciate your comments. I think it will be a great incentive to both labor and management, Judge Boldt.

Chairman PROXMIRE. May I just follow up what Senator Percy has said, we certainly have a long, long way to go here. The Productivity Commission consists of exactly two members in the whole country—the Secretary and one staff member. That is all. That is it. Obviously at this point a productivity policy on the part of the administration is strictly rhetoric. There is no policy.

You responded, Judge, in reply to an earlier question, indicating that the 2-year increase in coal prices was estimated to be 15 percent, roughly 14 to 15 percent. However, this was a response to a 1-year wage increase. So that if there is another wage increase next year, then the second year you might have a further price increase; is that correct?

Judge BOLDT. I would not agree with that.

Chairman PROXMIRE. Why not?

Judge BOLDT. Because when we come to that decision to begin with, we will have to deal with it if we are in business by that time. We will have to deal with it.

Chairman PROXMIRE. Oh, yes. I am not saying there would be any wage increase permitted next year, but I say if there is one. Presumably there would be a further price response to that additional wage cost.

There is certainly every indication that there would be some wage increase in the second and third year.

Judge BOLDT. The increase that the contract provided for was over the 3 years of the contract. In the first year the increases were computed at 55 cents per ton.

Chairman PROXMIRE. All right. I think you have clarified it. What you are saying is the answer you gave on the 2-year increase was

related to the original proposal for a 3-year contract, not to your settlement.

Judge BOLDT. That is correct.

Chairman PROXMIRE. I see. All right.

Let me ask you, will a record of the hearings of the coal mine operators and union people before the Pay Board be made public?

Judge BOLDT. I believe so, to the extent we recorded the proceedings.

Chairman PROXMIRE. The record of the hearings before the Pay Board?

Judge BOLDT. There was no verbatim record.

Chairman PROXMIRE. Didn't you have union people appear? Didn't you have management people appear before the Board?

Judge BOLDT. Certainly, in oral presentation, but there was no transcript.

Chairman PROXMIRE. It was in executive session?

Judge BOLDT. No, sir.

Chairman PROXMIRE. Public session?

Judge BOLDT. Nobody appeared except the business and labor representatives.

Chairman PROXMIRE. The press did not cover that important hearing?

Judge BOLDT. I beg your pardon?

Chairman PROXMIRE. They did not have enough interest to cover that important hearing?

Judge BOLDT. They were not invited.

Chairman PROXMIRE. Suppose they had just barged in. Could they have covered it, then?

Judge BOLDT. No; they could not. In the first place, we meet in a room about the size of this table.

Chairman PROXMIRE. Would it not be good public policy, in view of the tremendous interest the public has, in view of what they have at stake, that these meetings be held publicly and open to the press?

Judge BOLDT. Personally, I think it would be very undesirable.

Chairman PROXMIRE. Why?

Judge BOLDT. How can you have a give and take, a free exchange of communication, a dialog, in a goldfish bowl? I cannot imagine it could be so.

Chairman PROXMIRE. Judge, I am not going to belabor this point because there are so many other things to cover, but I would hope you would consider that possibility. I take it you are very much averse to considering it, but I do think when you have this much at stake, when you have such controversial decisions that affect every American, not just those whose wages are directly affected, but affect every American because of the immediate price effects, that you should have an open public hearing, unless there are trade secrets involved, or unless there are some other matters, in which case you go into executive session, wherever there is confidential information that must not be disclosed.

Judge BOLDT. This hearing, Senator Proxmire, was the first such hearing, and we had no time because of the urgency of hearing the matter and making a determination.

Chairman PROXMIRE. Would you consider the possibility of having a transcript of such a hearing and then consider making that available?

Judge **BOLDT**. Certainly, I will give such a request consideration.

Chairman **PROXMIRE**. In this case you said you had no transcript.

Judge **BOLDT**. Certainly, I would give consideration to it. And in the last analysis, as I stated in my opening statement, I am only one member of the Board.

Chairman **PROXMIRE**. I understand. You are the chairman.

Judge **BOLDT**. I cannot determine that or any other thing arbitrarily.

Chairman **PROXMIRE**. I want to come to that in a few minutes. We heard from Mr. Grayson the other day. He is a marvelous man, very able, often disarming, but he makes the decision, as I want to indicate, in contrast to your position. You were both set up at the same time.

Judge **BOLDT**. My job would be infinitely easier if it were such, of course.

Chairman **PROXMIRE**. Let me come to that shortly.

Let me just make a point with respect to retroactive pay. I think the chairman of our committee, our Banking Committee—I am ranking member—and I disagreed. It was my amendment that provided for the retroactive pay. It was agreed by the committee, it was passed 14 to 0 after being modified by Senator Taft.

It was agreed by the Banking Committee of the Senate. This would take care of the bulk of retroactive pay, which was your impression. Your impression was correct, not incorrect.

And I would like to know why, in view of the decision you made with respect to coal, which can have profound inflationary effect, that you took such a different decision with respect to retroactive pay, when it seems to us the inflationary effect would be insignificant, virtually.

The amount at stake was perhaps a billion, perhaps a billion and a half. We have \$500 billion a year income in this country. It is a one-shot affair, it was only for a 90-day period. Obviously, by its very nature, it is not recurring. It was a contract that has been agreed to.

Judge **BOLDT**. On this I can only speak for myself, Senator Proxmire. But I think my view would be joined in by all of the public members. A while ago I spoke about the clock stopping and the damage done to very large numbers of Americans, notably the 60-odd million nonunion workers, the vast majority of whom do not have a written contract, and who must undoubtedly have suffered wage losses, increases they might have gotten, but for the freeze. Nothing has been done or even suggested for them.

Chairman **PROXMIRE**. Either you have a contract or you do not. If they have a contract, it seems to me you could apply it. If they do not have a contract, it is something else.

Judge **BOLDT**. I am trying to answer and tell you my position, however wrong you think it may be. I would not wish to quarrel with you about it and I readily acknowledge error when I understand it.

But in my judgment it would be inequitable and unfair. It would be a matter of principle with me, something I would not do; I would not allow a limited number of people to recover in full when millions of people will not recover anything.

And keep in mind, Senator, that a very large number of the nonunion people are governed by contract, oral contract or the like, that might not be enforceable at law and who suffered loss during that period. To my mind the principle is so clear that I could not in good conscience vote for it.

Now if that is wrong, so be it.

Chairman PROXMIRE. Judge, I think the Banking Committee of the House has a similar provision in their bill. The Banking Committee of the Senate has unanimously provided that the retroactive pay in the great bulk of the cases should be honored. If the Congress passes that law, would you then provide for retroactive pay?

Judge BOLDT. If they say it is the law, of course.

Chairman PROXMIRE. I take it you would.

Judge BOLDT. Of course, I would apply whatever the Congress says. Whatever it is, on any subject, I would not question it for one moment, any more than many other laws that I do not agree with, that I have had to enforce as a judge.

Chairman PROXMIRE. Judge, there has been a great deal of discussion about the consideration that you might have on the Pay Board with respect to what a wage increase might do to a price increase. Frankly, I take a very different position and I suggest that you discuss with your economists the wisdom of the course that has been urged on you by members of this committee, that if the wage increase is not passed through to higher prices, it might be granted.

I think that would be very, very foolish criteria, and here is why: If you have a high-productivity industry, low-labor content and high productivity and high technology, then under that theory you could honor a very big wage increase, maybe a 15- of 20-percent wage increase, with no pass through in a price increase.

But then you set a pattern, or inequity with respect to workers in low-productivity areas. Those workers, of course, could not get a similar wage increase. Perhaps they could not get any wage increase to speak of, above 5.5 percent, at least.

So I would suggest that you follow the wise course that Mr. Heller and others have followed from 1962 to 1966, with the voluntary wage price guidelines, when we had a 3.2-percent wage guideline that reflected national productivity and it was applied universally. That was the wage increase guideline for the whole country, regardless of whether it was high productivity or low productivity. Then it is up to the Price Commission to see that the high-productivity industries hold down their prices.

Do you follow me?

Judge BOLDT. Yes.

Chairman PROXMIRE. And it seems to me that kind of a course is more logical than judging whether or not a wage increase should be granted, based on whether or not it will be passed through, the particular wage increase would be passed through on a particular price increase.

Judge BOLDT. The only comment I think I can make on that, off-hand, is that a large wage increase such as the one that we just experienced, the specific instance of yesterday, may set a pattern for other industries even if there is no price rise.

Chairman PROXMIRE. Exactly. That is what I had in mind.

Judge BOLDT. That is what posed the problem; right?

Chairman PROXMIRE. Right. Very good.

Judge, I have to go over for rollcall. I do have some more questions. I will be back.

Congressman Widnall.

Representative WIDNALL. Judge Boldt, do you believe that the guidelines issued by the Pay Board protect the nonunionized worker?

Judge BOLDT. Yes; of course, I do, to the extent that they are covered. I would never vote for anything I did not think looked after all Americans, whether union or not union.

Representative WIDNALL. The 5.5-percent figure has been clarified by your own operation to mean within a given unit, that is, a company or corporation, which means some employees may get more than 5.5 percent and some may get less; is that true?

Judge BOLDT. That is correct; yes, sir.

Representative WIDNALL. Wouldn't the nonunion employees tend to be the ones who would get the short end of the stick?

Judge BOLDT. I would not think so.

Representative WIDNALL. Why not? It seems to me that is inevitable.

Judge BOLDT. I will ask Mr. Gavett to respond. I have not made myself clear.

Mr. GAVETT. Just to clarify, the standard adopted by the Board applies to the appropriate employee unit. Frequently, but not always, that would be a company. And so it is not a 5.5 standard for the whole economy. So the gains of the unionized worker in some companies should not be used to offset what would be given to workers in non-union companies elsewhere.

Representative WIDNALL. You have a number of companies that are both union and nonunion and this depends on their plant in various locations throughout the country. I would think there would be a vast inequity created as a result of this.

Mr. GAVETT. Again, it is the appropriate employee unit which is basically the decisionmaking unit. There might be more than one unit in the company and the 5.5 would apply to each employee unit.

If there is a split decision made for the nonunion workers, if there is one decision made to apply to the union workers and another decision made to apply to the nonunion workers, the 5.5 standard would apply to each group.

Representative WIDNALL. Judge Boldt, how do you think the public will react to the coal industry pacesetter?

Judge BOLDT. I think we spoke of that earlier today. I have no doubt that the first impact of the news will be unfavorable. But I think the general public will look to what the public members did, and the public members made it plain they did not join in this decision. They are accepting it, of course. We are not going to complain about it, we will do our utmost and we hope and believe we will be able to meet the situation.

It certainly will not seriously impair our effort toward the goal of the whole stabilization program.

Now, your guess, as a man of public life in the sense of knowing the public pulse, is much better than mine; because while I have not led a cloistered life as most people know, I have not been in the same position as you have to judge public reaction. I just have enough old-fashioned faith, as a country boy, to believe that the American people are so concerned about controlling inflation, they are not going to toss in the sponge with one step that seem to be negative to that cause.

I believe they are going to give us a fair chance to do our utmost

to meet the objectives of this program. In other words, I think they are going to support us in what we are trying to do, even though we have had a temporary setback in what they think is necessary.

Now, it may well turn out, that this situation will not be what we thought it would be. It may well turn out that it will not have an adverse effect on our program. And all I can ask the American people to do is give us a fair chance to deal with this problem, as well as others that may follow.

Representative WIDNALL. Judge Boldt, can the credibility of the phase II be maintained if similar increases are approved for aerospace workers, railroad signalmen, and dockworkers?

Judge BOLDT. Of course, we are going to have to deal with each of these matters as we go along. So we are dealing first of all on a subject which I would not want to concur in, in responding to your question. I do not concur in that assumption. And with that understanding I would say that if we do have a progression of increases of this magnitude, it will no doubt have a very substantial adverse effect upon the goal we are seeking to reach. No question about it at all.

Representative WIDNALL. Don't those industries have the same type of problem with respect to welfare benefits that was inherent to the one that was just decided?

Judge BOLDT. I think not, Mr. Widnall. From the presentation to us, the welfare situation in the mineworker area is unique and non-recurring. The problem of the welfare situation primarily was due to lack of proper funding sometime ago, when worker benefits were increased without adequate provision for funding.

I do not know of any instance in any other industry comparable to it, at least as it was presented to us, and I have no information to the contrary.

The business members who surely would be well advised in this area, all agreed that it is a unique and nonrecurring factor.

Representative WIDNALL. How much of the 15 percent would be applied for welfare purposes?

Judge BOLDT. Approximately 5 percent, I think.

Representative WIDNALL. Approximately 5 percent?

Judge BOLDT. Yes.

Representative WIDNALL. Could you comment, again, on the fact all of the Pay Board public members who voted against approval of the coal pay increase. Would you repeat that again? I think you have touched on it briefly.

Judge BOLDT. I thought I made it plain before. The vote, of course, was 10 to 3. One of the public members abstained because of possible conflict of interest questions, and I did not vote because we did not have a tie.

But both the member who abstained and myself have gone on record noting our position. I asked to be recorded in the minutes as approving completely the position taken by the public members, which, incidentally, is spelled out in considerable detail in the statement that will be a part of the minutes.

Representative WIDNALL. My time is up.

Chairman PROXMIRE. Senator Bentsen.

Senator BENTSEN. Thank you, Mr. Chairman.

Judge Boldt, in your statement you stated that the 5.5-percent guideline would also include fringe benefits. I have considerable concern over this, particularly in so far as the installation of pension programs in small companies. You have also stated that the fringe benefits in the coal settlement amounted to approximately 5 percent.

As I understand it, if the guideline is 5.5 percent, and you have an employee who is given the option of choosing either an increase in pay or a pension benefit, or a part thereof, with today's high cost of living, he is obviously going to opt for the cash in hand. And yet it is in the long-term national interest that we develop pension programs and retirement programs for employees. And I think that to the extent possible we do it through the private sector.

It seems to me that the end result of this type of policy is one where the employee will choose to take the cash payment increase. You will not have new pension programs going into effect in small corporations because they will not be able to afford the attorneys to come up here and try to convince you that they should have an exception.

And over a period of time, when you develop that type of situation, then those employees want to know where their pension is, and finally they turn to the public sector to try to satisfy that.

I think that is a policy that really needs some further examination. I think there should be a separation of the consideration of pension benefits and new pension plans from the wage benefits.

Judge BOLDT. All I can respond to on this subject is this: That it is obvious, or seems obvious to me, that fringe benefits raise costs in precisely the same way wages do. There appears to be little difference between them. They cost money.

Senator BENTSEN. Judge, I would basically disagree with you. I would agree it goes into cost. But so far as putting immediate money in people's hands, which might be inflationary, it is not because it is a prolonged benefit, and applies to important benefits received at a later period of time.

Judge BOLDT. Yes; all I was trying to say was that we could not reasonably ignore the possible inflationary effect of these benefits.

Now, beyond that, we are open to considering anything that you or any other person would care to suggest about it.

Senator BENTSEN. Judge, in World War II, what did they do on that? Wasn't there some separation of pension benefits?

Judge BOLDT. I was overseas in a uniform during World War II, and I have no recollection of what was done.

Senator BENTSEN. Judge, so was I, but I did some studying of the problem and surely you have, with your responsibilities.

Judge BOLDT. I have not done so on that precise subject. I do not know.

Mr. Gavett informs me that in World War II, fringe benefits were not considered as important as they are today.

Senator BENTSEN. I think they were just as important to the individuals involved at that time as they are today.

Judge BOLDT. That may be true.

Senator BENTSEN. And that is what we have to relate to.

No further questions, Mr. Chairman.

Chairman PROXMIRE. Congressman Conable.

Representative CONABLE. I understand your position on that, sir, and I think it is correct, fringe benefits raise costs without stimulating the economy, in effect. I think it is inevitable you will have to consider fringe benefits.

I wonder, however, if one of the probable patterns of negotiation between labor and management in the future, because of the existence of your Board, isn't going to be to make agreements on future benefits which do not require accounting additions to cost, but which may result when your Board phases out in substantial bumps in the cost of labor.

Do you have any expectation of that sort? You cannot consider things that are not elements of cost, probably.

Judge BOLDT. I cannot predict it.

Representative CONABLE. Yes.

Judge BOLDT. But I would assume that that subject would receive attention, among many, many others, that we are going to study.

Representative CONABLE. In the function of your Board, of course, we do not want to have any catchup after you go out of existence, any more than we wanted a catchup in phase II after the freeze ended.

Judge BOLDT. I know one thing. I hope they do not catch up with me after the Board ends.

Representative CONABLE. Let me ask you this, sir. We have probably 16 to 18 million people in organized labor, and we have a labor force well in excess of 70 million, I guess probably in excess of 80 million people. Does anybody on your Board represent unorganized labor?

Judge BOLDT. Well, Mr. Robert Bassett, one of the business members, often speaks in their behalf in the Board deliberations. To what extent he represents them, I do not know.

Representative CONABLE. That is a pretty big gap in the tripartite representation of the Board.

Judge BOLDT. We must not forget that all of the public members represent all Americans as well as unorganized labor.

Representative CONABLE. They are all organized, too, you mean?

Judge BOLDT. Yes; perhaps I spoke to that before you came in.

Representative CONABLE. No, sir; I have been here all along.

Judge BOLDT. Excuse me.

Representative CONABLE. The public members are supposedly representing much broader interests than the interests of labor or business or anything else.

Judge BOLDT. You mean a specific member that specifically represents nonunion workers?

Representative CONABLE. Yes.

Judge BOLDT. No.

Representative CONABLE. In other words, all of the labor members represent organized labor?

Judge BOLDT. That is right.

Representative CONABLE. Granted that unorganized labor benefits a great deal from the work of organized labor, because there are always efforts to keep the pay scales in line, and so forth, even though labor is not organized.

Judge BOLDT. I would not want to create the impression for 1 minute that all or any of the labor members are not concerned for the interests of the nonunion workers. I do not think that would be fair.

Representative CONABLE. I am sure that is so, and I did not mean to imply they were not concerned about it. I wondered if anybody represented them.

Judge BOLDT. No.

Representative CONABLE. In a tripartite board you have people representing special interests.

Judge BOLDT. That is correct.

Representative CONABLE. And that is the big objection to the tripartite board.

Judge BOLDT. I am not withdrawing from my previous answer. There is no one there, but I was afraid the implication from my answer would be that the labor members were not concerned. They have often expressed views that applied to workers other than members of the unions.

Representative CONABLE. Let us consider the situation where you have some sort of a profit-sharing plan. And that occurs in many industries, particularly those that are not organized. And we assume, of course, that if we can keep costs under control and productivity can rise, and the general level of economic activity can rise, that profits will rise also. That will result in substantially larger bonuses at Christmas time or the year end, as a result of the division of profits between management and the labor force in that particular industry.

We have an industry in my area, Eastman Kodak Co., which has a very substantial profit-sharing plan of this sort.

Are you going to be dealing with any problems in this area? Do you see any problems as long as there is not any renegotiation of the percentage of profits that are distributed, even though the total amount paid out may be going up as a result of increasing profits, assuming this whole scheme works?

Judge BOLDT. We most certainly do. And the reason that I know and remember is that someone mentioned we must not forget the Christmas turkey in connection with this business, that type of thing. We do have that in mind.

It is on the agenda, among many other things. And where it will fit in the order of urgency, of course, I cannot say at this moment.

Representative CONABLE. Do you see any problem if there is not any renegotiation of the percentage of sharing, even though profits may increase?

Judge BOLDT. Do I see any reason why that cannot be considered?

Representative CONABLE. Yes, well—

Judge BOLDT. I cannot predict what action will be taken about it.

Representative CONABLE. In other words, you cannot say at this point that you are going to look only at the agreement and not at the total amount of money involved?

Judge BOLDT. I cannot make any statement of any kind, Mr. Conable, as to what the Board is going to do or not do, because that will depend on eight members of the Board and not upon me as an individual.

Representative CONABLE. Can you describe to me at this point what your relationship with the Cost of Living Council is? There has been a good deal of talk in the press about what the relationship would be, and that was an issue with organized labor, and whether they agreed to go along with the President in setting up phase II structures.

Do you have meetings with the Cost of Living Council? Do you exchange views with Donald Rumsfeld, the head of the Cost of Living Council?

Is it part of your procedure to report to them at this point? Can you describe to me how the relationship has crystallized in practice, regardless of what the intent was at the time you set it up?

Judge **BOLDT**. To answer in a general way first, and later to specifics, the Council's responsibility is to decide coverage and reporting categories. They have done that. And we decide everything else about wages and salaries.

Representative **CONABLE**. They do not have any veto power; we understand that. But are you not required to report?

Judge **BOLDT**. I beg your pardon?

Representative **CONABLE**. Are you not required to report?

Judge **BOLDT**. We report our actions.

Representative **CONABLE**. Yes.

Judge **BOLDT**. And they, in a number of instances, within the coverage of reporting categories, have sent us a memorandum of suggested proposals and I think they have done the same with the Price Commission, to give us an opportunity to consider their suggestions and respond before they take action. I think in most instances they have gone along with us. In several they have not.

Representative **CONABLE**. They have not gone along with you, you mean?

Judge **BOLDT**. We had given an opinion contrary to their proposed action and they have taken it anyway.

Representative **CONABLE**. Do they have any choice?

Judge **BOLDT**. I beg your pardon?

Representative **CONABLE**. Do they have any choice? They do not have the veto power.

Judge **BOLDT**. We do not have veto power on coverage and reporting factors. We do not have any veto power in that area. But the only instance, by the way, in which the majority of the Board returned a negative answer, was in the case of exempting Federal employees. The majority of the Board stated that they should not be exempted. But they were exempted.

Now, there are pros and cons about that, of course, because the Federal employees had an existing apparatus. But still this is an instance where they did not agree with us.

Representative **CONABLE**. Your relationship with the Cost of Living Council also raises a question I would like to get straight in my own mind.

We talked about whether you were a public meeting or kept a record or transcript. There is no transcript but yet you wanted your views entered in the record with respect to the coal decision. What kind of record do you have?

Judge **BOLDT**. Minutes.

Representative **CONABLE**. Minutes. Just the conclusion of your deliberations?

Judge **BOLDT**. Not entirely, sir. If a member of the Board desires to put something in the record, it is put in the minutes. We try to summarize and have a separate matter that we are dealing with, without trying in *hic verba*, as we say, exactly what we said and what

we meant; because often during the course of the discussions—it may surprise you, it may surprise some people, at least—that often during the discussion a member's view is completely changed as a result of the discussion. Somebody brings up some facet of a matter the member did not know about and, incidentally, that includes me.

Representative CONABLE. That sometimes happens, even in our area.

Judge BOLDT. Especially, I may say, includes me, when new facts and new information are presented.

Chairman PROXMIRE. Are these minutes kept confidential?

Judge BOLDT. I do not believe so.

Chairman PROXMIRE. You know, are they or are they not available to the press?

Judge BOLDT. We have not had a ruling about it, but I assume they are official minutes of the Board that would be available to you.

Chairman PROXMIRE. Would they be available to the press? Supposing a reporter comes up to see the minutes. Would you let him see them?

Judge BOLDT. We have not adopted any policy about it, and I would want to confer with the members of the Board.

Chairman PROXMIRE. Would it be a good idea to at least provide the public understanding of what you have done?

Judge BOLDT. I think it would, but it is not within my prerogative to say we will or will not, without conferring with the other members.

Senator PERCY. Mr. Chairman, would you yield?

Representative CONABLE. I yield back to the floor.

Chairman PROXMIRE. Senator Percy has the floor.

Senator PERCY. May I follow up on that and ask if it would be possible for us to have a copy of those for our own executive use, subject to the fact they would not be publicly released unless you, yourself, publicly released them?

Judge BOLDT. I do not see any reason why not.

Senator PERCY. I think it would be very helpful to the members of the committee.

Judge BOLDT. There is nothing confidential in the minutes, as drafted. I do not see any reason why that could not be possible.

Chairman PROXMIRE. I want to thank the Senator from Illinois. The committee will be happy to receive the minutes if provided to them.

Of course, I will urge you to make them public.

Judge BOLDT. I will find out about making the minutes available to you.

Senator PERCY. I think it will be helpful to our consideration when we will take positions on the floor next week on the President's program, as reported out by the Banking Committee.

Judge BOLDT. At the beginning, at our first meeting, the question of the extent to which matters would be attributed to the members was discussed, and the matter of having a transcript was also discussed. Unanimously (I like to emphasize "unanimous" because not all decisions have been, but there have been some that were) the Board agreed we should not have a transcript, that there should be a free give-and-take exchange of ideas, without fear of being quoted. So we have not done that.

We agreed that the minutes should, first of all, report any action; and second, a summary of the subject matter under discussion, except

that any member who desired to have his point of view put in the minutes, would be permitted to put these views in the minutes.

Senator PERCY. Fine.

Judge Boldt, Congressman Conable has talked about the relationship between the Cost of Living Council and the Pay Board. I would like to get a better understanding of the relationship between the Pay Board and the Price Commission. If whatever I ask is repetitive, I can find it in the record. Unfortunately, we have had to go back and forth for votes.

When you come to a decision, as you now have in the coal industry, does the Price Commission then automatically accept this as a part of required increased cost to the industry, and then, providing profit margins are not excessive, will the Price Commission automatically take that increased cost into account and approve a price increase?

Judge BOLDT. No; the answer is "No." It would not be automatic. I would not think in most instances they would, but they will not be automatic.

As far as the relationship between the two, I think we did cover that while you were away, and I stated to the committee that the Board and the Commission are independent, separate agencies, and in their fields autonomous within the authorized area they are to operate.

Mr. Grayson and I, fortunately liked each other immediately, and we have been constantly in consultation. His office is the floor below me and when matters that I think would be of interest to his people arise, I tell them about them, and he does likewise.

We have very excellent accord and communication.

Incidentally, I want to say that I think Mr. Grayson and the Commission generally are doing a splendid job and have developed the greatest competence.

Senator PERCY. I have been a great believer in profit sharing ever since I lived for a quarter of a century in the shadow of Eastman Kodak in that yellow box in Rochester, N.Y. They have developed a marvelous plan of wage dividends. We adopted our own plan, and I think it was responsible for keeping our company productive, keeping management and labor on the same side of the table, striving to increase our efficiency, because 20 percent of the profits were shared with the employees.

I have in the letters I have sent to businesses and speeches to organized labor organizations in Illinois stressed the need for profit-sharing planning.

I think it would help to have clarification on one point. If a company adopts a profit-sharing plan, is it necessary for that company to have it approved by the Pay Board?

Judge BOLDT. At the present time there is no specific provision applicable to profit-sharing plans. But we very much are aware of that subject matter and that we must at a very early time indicate what, if any responsibility there is on the employer to report adoption of such a plan.

Senator PERCY. You have quite a lot of unresolved problems in this quite delicate area. The structure of the Pay Board seems quite different than the Price Commission. Mr. Grayson seemed to be able to speak with authority. He consults with his Commission members, but he makes the decision. It looks like he has 100 percent of the votes

on some decisions. He makes them when the Board is not in session. And they are moving along rather rapidly, I presume.

Your setup is entirely different. Could you explain why this difference and why this contrast between your role as chairman, and Mr. Grayson's? You do not even cast a vote unless there is a tie—more like the power of the President of the U.S. Senate, who very seldom ever comes to the Senate, outside of initially learning the procedures.

But why this vast difference? Was it politically necessary to do this, simply because of the factionalism that exists in American society, and is it going to work?

Judge BOLDT. I have no idea, Senator, why the Board had to be a tripartite board. I cannot answer any questions about that. As a matter of fact, I cannot even answer any questions about why I was appointed, truthfully.

Senator PERCY. You might, after a while, wonder why you accepted.

Judge BOLDT. I have already wondered that. You might have heard a little quip we had that first day, when we were first in, "If I ever found out who it was" and so on.

Mr. Grayson has a Commission of seven, all of them economists or people of that discipline. Consequently, they are dealing with a subject matter very different than the subject matter the Pay Board is dealing with.

I am not an economist. I have heard a lot of them testify, and I have sometimes had to choose between them, as I told you before, but as far as being knowledgeable to deal with our subject matter in that same way, it is wholly impossible.

Now, the idea, at least, of a tripartite board to me seems to be a very reasonable approach and I hope it will work. And it will work, in my judgment, if all 15 of us, after we get over a few things that we are especially touchy about, will be men of good will, genuinely seeking to reach this goal. We will then be able to have a more adequate dialog in our deliberations. Whether or not it will work, of course, time will tell. I hope and believe it will.

Senator PERCY. A last question, Judge Boldt. I would like to quote from a statement by the business members on the coal decision. They said:

The battle of the increase of approximately 11 percent is permissible for the coal industry in 1971 in light of the inequitable position of the employees involved, complexities of their work, the imperative needs of the industry to expand and attract new employees into the work force, and the ongoing collective bargaining relationship which have been traditionally applied in the coal industry.

How do the problems in the coal industry differ from those in the auto industry, among machinists' unions, among, say, the printers of America?

Judge BOLDT. You are going to have to ask the authors of that statement to explain what they meant by it. Frankly, I do not know what they meant by some of this language. I know, for example, that coal mining is a different kind of work, it is the most hazardous, generally speaking, as an industry, and that it has special interest problems. But the same may be said for a good many other industries. And what those others are, I do not know.

The only thing that I know about the coal situation that appeared to be unique and not recurring is the fact that through some lack of

foresight a year or two ago, or longer, they did not adequately fund their program for welfare benefits as they increased them.

Senator PERCY. Judge Boldt, I have to leave for that vote now. That is the final warning bell. But I would like to say this, and I assume you agree, none of these procedures, organizations or boards will work unless there is recognition by the American people that we face a crisis, that we must really now seek the national interest.

There must be restraint by everyone, by management and business in its pricing policies and its profits, by the banking industry, certainly by labor itself. Workers are consumers and they have directly seen, year after year, their wages eaten up by price increases. If we are just going to keep chasing our tails, we are going to chase ourselves out of world markets.

I think the responsibility you have is tremendous. But I do hope there will be some restraint exercised and the national interest will be the foremost thing in the minds of everyone as they present their demands or their requests to you.

And that goes for the labor-management problems presented to the Price Commission as well.

I certainly wish you well in your endeavors. We are grateful to you for contributing your time for this discussion.

Judge BOLDT. Thank you. I certainly agree with your statement, without qualification. And you may be assured that I will give my utmost effort to it. I do not mind giving my life for my country, but I do not want to throw it away. I am going to try to figure out some way or other to get a little bit more rest and a little more time to deal with these vexing problems that I have had for the last few weeks.

Chairman PROXMIRE. Judge, I think maybe both you and Mr. Grayson might consider your modus operandi. Mr. Grayson admitted here, as I think Senator Percy indicated, in an interview with Lee Cohen of the Star the other day, Mr. Grayson said he is the Price Commissioner, and he will consult when he feels like it, with other members of the Price Commission. He made his first big decision and somewhat equivalent to coal, with respect to American Motors, consulting one other member. He feels that the authority for making final decisions on prices is his. And in the great majority of cases, he will make them alone.

Members of the Price Commission will be in town once or twice a week and he will consult with them.

There is a lot to be said in criticism of that kind of an approach, but it gets things done and it means that you have a quick, prompt, maybe very effective method of proceeding. I intend to criticize it a little on the floor today.

Judge BOLDT. I did not understand that to be the case.

Chairman PROXMIRE. Perhaps I exaggerated, but I suggest you read that interview. As far as I know, it has not been denied.

Now, let me say that if you wanted to change your position, I understand you are the only full-time paid member of the Board; is that correct?

Judge BOLDT. Well, I am full time, but I am not paid.

Chairman PROXMIRE. Well, under our legislation you would be. You would be paid \$40,000 a year.

Judge **BOLDT**. Well, whatever you write I would decline, because I am entitled, as a senior Federal judge, to my salary for as long as there is frost on the mirror.

Chairman **PROXMIRE**. It is interesting that this pay is also retroactive from the date you came on the Board, and it is retroactive, incidentally, for Mr. Grayson.

Judge **BOLDT**. It is a pleasure to know you were thinking of us, but in my case it is a formality, either way. One way or the other, but I could not accept both.

Chairman **PROXMIRE**. At any rate, you are paid by the Federal Government as a Federal judge?

Judge **BOLDT**. Certainly, I am. But that is for past service.

Chairman **PROXMIRE**. That has nothing to do with your powers. As I understand it, your powers are somewhat the same, potentially, at least, as the powers of Mr. Grayson. It is true, you are dealing with Mr. George Meany, and I can imagine how Mr. Meany would feel if you consulted one other member of that Board and decided what would happen to coal.

Judge **BOLDT**. You could hear it from Miami.

Chairman **PROXMIRE**. I am sure you could.

Representative **CONABLE**. You can hear from Miami, regardless!

Chairman **PROXMIRE**. At any rate, you have considered the possibility of taking a different approach here as we had on the Price Commission, and could you do so under the authority given to you by the President, by his Executive order? Could you, for example, under any circumstances, decide whether or not all members of the Pay Board would be consulted, if you felt in a particular situation it was unnecessary?

Judge **BOLDT**. Well, I am not sure that I can answer that broadly.

Chairman **PROXMIRE**. The reason I say that, outrageous as it may seem, we are getting to a situation with the decision of the Wage Board, where if we have a few more decisions like that coal decision, some kind of action, either by the executive branch providing that the chairman will exercise his authority he has not exercised so far, or the Congress, so decides we may pass different kinds of legislation that will provide for a different and more effective control of wages and prices.

Judge **BOLDT**. I just started to say that I cannot answer your question broadly. It is a broad question. But I can tell you that there is not the slightest reason in the world why we cannot or should not consult with Mr. Grayson and/or his board, if and when we choose to do so.

Chairman **PROXMIRE**. I was not asking about that. I am sure you do and can and you should, and I am sure you will. As you say, you have a fine relationship now with Mr. Grayson, which is very good.

Judge **BOLDT**. Yes.

Chairman **PROXMIRE**. Judge, in view of the questions that have been raised here this morning, in view of the question that has been raised throughout the country by your initial decision, do you think it might be wise for the Congress to decide in extending this legislation, to postpone that until next year? Your basic power does not expire until April 30. If we decide on the kind of legislation we should pass in February, or in March, or even in April, we would have a far better

understanding of how both your board and Mr. Grayson's board are operating.

We would have a far better understanding under these circumstances of what was required, where perhaps we ought to attempt to change policy.

Judge BOLDT. I most emphatically do not think it would be wise to defer this legislation. We need this legislation to clarify precisely what our responsibilities are, what we are to do, and to defer it for any substantial length of time would not be fair.

Chairman PROXMIRE. Judge, the legislation we have on the books, under which you are operating, will end April 30, which seems to me gives you complete and total authority, and the President has spelled out what you could do. You have met, made decisions. What do you need from us that you do not have in the way of legislation?

Judge BOLDT. I would say we need almost everything that is proposed. I cannot go into the precise details.

Chairman PROXMIRE. Give us a catalog of what you need. Presumably you need subpoena power, which you do not have?

Judge BOLDT. I would think so. We are a factfinding group and we should have the power to bring people before us if they do not voluntarily come.

Chairman PROXMIRE. And I think overall we need legislation providing for substantial control of interest and dividends?

Judge BOLDT. Yes.

Chairman PROXMIRE. And there is judicial review and there is some question about the relationship of both Boards to the Administrative Procedure Act.

All of these things are important, but it seems to me that these can be provided in legislation now without extending the life of the act. Then we would have an opportunity, once we see how you operate, once we have some more of these decisions such as you have made with respect to coal, and the Price Commission is making in the next few days with respect to automobiles and other areas, then we would be in a good position, much better position, would we not, to determine the fundamental legislation we want to extend for a year?

Judge BOLDT. Well, Senator, of course, I am not going to quarrel with your view of it. But to answer your question, I just feel that we need this legislation as promptly as we can get it, in order to clarify our position.

Chairman PROXMIRE. All right. We will give you the clarifying legislation. We will give you everything you say you need that we think should be provided. We can do that very easily and quickly.

The thing that is going to take some time, it seems to me, is whether or not we ought to extend the act. We should do that on the basis of experience. Do you quarrel with that?

Judge BOLDT. Excuse me?

Chairman PROXMIRE. Do you quarrel with that notion that we should act on extension, on the basis of experience?

Judge BOLDT. My judgment of it is that just from 4 weeks of experience, that it would be very unrealistic to assume that this program can be broadened, advanced to any considerable degree of satisfaction to the American people unless you do extend it. It is clear to me, with the myriad of problems and questions that are confronting us, that we

cannot hope to deal with even the most critical ones without the legislation.

Second, without some knowledge that we are dealing with a program that is going to continue for longer than April 30, I just cannot imagine how we can deal with it with that uncertainty as to whether we are dealing only for 5 months.

Chairman PROXMIRE. You are dealing every day now. You are making your decisions—

Judge BOLDT. Of course, we are.

Chairman PROXMIRE (continuing). And we are going to give you everything you need to clarify the situation or to provide subpoena power and other powers you do not have.

But it is just beyond me, and I have not heard a witness yet before the Banking Committee or anywhere else, who can give me any answer except the vague notion of uncertainty, as an objection to our waiting to extend the act until we see how it works.

Furthermore, Congress usually does not extend programs until after they expire, let alone 6 months in advance. This does not expire until April 30. We still have not passed the foreign aid bill, and that expired months ago.

Judge BOLDT. I doubt if I will be able to convince you any more than anyone else who has spoken to you on it, Senator. Not that I criticize you for your point of view, but all I can give you is my point of view, and it is my point of view that it is essential that the legislation be extended in order to give us a reasonable opportunity to carry out our job.

Chairman PROXMIRE. I would not necessarily quarrel with the notion of extension. I would quarrel with whether we extend it now without further experience.

Representative CONABLE. Mr. Chairman, thank you for yielding to me at that point. I think the judge should stay out of politics, but I would like to point out on April 30, the presidential primaries will be in full bloom and great opportunity for second guessing on the part of the Members of Congress, if we have postponed extension of this act until that time.

Now, except for our self-denying chairman, almost everybody in what we House Members jocularly call the "other body" is running for President.

Chairman PROXMIRE. I could change my mind again.

Representative CONABLE. We would welcome this, sir.

Chairman PROXMIRE. That is insulting, coming from a Republican.

Representative CONABLE. I speak only with affection and not with partisanship.

Well, it just seems to me that we could do considerable damage to our economy after we have built up a modus operandi, what we have been asking for here today, if major uncertainties were injected into the operation of this Pay Board by the pressures of partisan politics next year.

Now, in effect, Mr. Nixon, on August 15 said:

"It is a new ball game, I am not going to talk about the mess I inherited any longer, I will take the responsibility for it."

It seems to me that good politics on the part of the Congress, on the part of the Democratic Party, is to say "All right, we will give you the responsibility."

But having given it, we should not try to get into a lot of second guessing later.

Judge **BOLDT**, I am saying this, I am now expressing an opinion and not asking a question, because I realize that you should not get into the politics of this. But uncertainty is the great enemy we are dealing with in our economy today and to inject the uncertainty at a point 3 or 4 months down the pike because we have dragged our heels on extending the authority, in the terribly political environment we will have then, I think would be a disservice to the country and I want to express that position forcefully here at this point.

Judge **BOLDT**. All I can say about it is that I am nonpolitical and I have been so for almost 19 years, not only in the letter but in the spirit as well. I have not engaged in any matters of that kind whatever.

And I am totally unfamiliar with it, and so I am glad that you recognize I should not participate in that.

Representative **CONABLE**. I assumed that and that is why I wanted to make the statement I did at that point. I have a brother who is a judge, also, and I am aware of the extent to which you fellows divorce yourself from the process that brought you into office, after you get on the bench.

Judge **BOLDT**. It is surprising to a good many people when they find out that judges do that, judges worthy of the name.

Representative **CONABLE**. Let me ask you this: Do you have any applications pending before your Board—do you know now of any applications pending for increases below 5.5 percent in wages?

Judge **BOLDT**. No; not that I am aware of.

Representative **CONABLE**. One of the great concerns we have about this business of setting guidelines is they become a floor as well as a ceiling. It would be very reassuring if you did have some applications for increases for less than 5.5 percent.

Judge **BOLDT**. I am not aware of any.

Tom, do you know of any?

Mr. **GAVETT**. We do not have formal applications pending. The mechanism of making application has not been worked out. The only real case that has come before the Board has been the coal case.

Representative **CONABLE**. But you have others you are aware of that are fluttering about in the wings, waiting for an application form to come in?

Mr. **GAVETT**. Except for newspaper accounts, we do not have formal applications.

Chairman **PROXMIRE**. Would the Congressman yield?

Representative **CONABLE**. Yes.

Chairman **PROXMIRE**. Isn't it unnecessary if the increase is less than 5.5 percent, to apply? Can't they go ahead and put it into effect, or apply to put it in?

Mr. **GAVETT**. It is necessary to apply if it is a new contract covering 5,000 or more workers.

Chairman **PROXMIRE**. Even if they say 4 percent or 5 percent?

Mr. **GAVETT**. Yes.

Representative CONABLE. Don't you have some concern about this becoming a floor as well as a ceiling? I realize you are not in a strait-jacket that says you have to give 5.5 percent because it is applied for, but isn't it reasonable to expect, once you have a fixed guideline, announced and established, that all of the requests will be above that figure?

Judge BOLDT. Well, we would have concern about it but, of course, the standard is not in effect. If it is made so, that is not our doing.

Representative CONABLE. This is one of the problems with the tripartite board. The people there are not there necessarily to exercise their judgment in each case, but as a representative of a position, and the result is that they tend to state their bargaining position as representatives. In the coal case apparently the labor and management representatives agreed. I think in an unfortunate number of cases they are likely to agree, because of the hope that somehow the public will pay for the cost and not somebody else.

Assuming their positions are not identical, it would appear to me the public representatives on the Board would become the link between the two extreme positions, perhaps, and the reconciling element in the Board.

It is for that reason I think we are particularly upset about the coal settlement where it appears that the public—

Judge BOLDT. That just happened to be a case where we did not turn out to be—

Representative CONABLE. It turned out to be you—

Judge BOLDT. But I can tell you there have been some other instances, already, in which that did occur.

Representative CONABLE. That is all I have, Mr. Chairman.

Chairman PROXMIRE. Judge, I am very concerned with what is going to happen to your operation in view of the statement that was made by the AFL-CIO just yesterday at the convention at Miami. The newspaper accounts say that the vote, they supported this resolution passed. "The vote means starting today—that is Saturday—the three AFL-CIO representatives of the tripartite Pay Board will refuse to cast their votes on most matters before the Board and the federation will not instruct its member organization to abide by the Board's decision, a move that could lead to strikes and labor unrest in general."

What is your reaction to this position by organized labor?

Judge BOLDT. In the first place, I am sorry to hear it. That is my immediate reaction.

But that is about all I can say. We are the Board, and if certain Board members do not choose to participate in some portion, I suspect they have a right to abstain if they choose, for whatever reason, good or bad. And so I can only say I am sorry that there are some matters in which they are not going to participate. But that is all I can say.

Chairman PROXMIRE. How can you function? How can you operate if organized labor is going to take a position that their members will strike in defiance of the Board's decisions?

Judge BOLDT. The labor members as well as all of the other members agreed at the very beginning, in one of the first actions we took, that 10 members of the Board would constitute a quorum and that eight or more was sufficient to carry any matter presented to the Board.

Chairman PROXMIRE. That is very helpful.

Judge **BOLDT**. In fact, that proposal was made by Mr. Meany, himself.

Chairman **PROXMIRE**. As I understand it, it would not affect your functioning if they should walk off or not participate, but it would affect the effectiveness of your decisions?

Judge **BOLDT**. The only reason it could suspend operations of the Board at any given meeting, would be if it prevented us from having a quorum. If a quorum is present, we are authorized to do business. If a quorum is present, we are authorized to do business. And if eight of those present agree on the passage of any matter before us, it becomes effective.

Now, of course, the absence of the labor members or their abstaining would deprive us of the benefit of their views on any given issue. It would seem to me to be very desirable for the labor board members as well as the people they represent to have someone there presenting their point of view.

Chairman **PROXMIRE**. As I understand it, they did not say anything about walking off the Board, but they did indicate they would not vote in matters they felt would not advance their interests. They would not vote, No. 1.

Judge **BOLDT**. That would be their privilege, Senator.

Chairman **PROXMIRE**. And No. 2—and this is the part that concerns me very deeply, I would like to get your reaction as to whether or not it would be practically effective to make this work—is that they, the federation, will not instruct its member organizations to abide by the Board's decisions.

Now, if that happens, you have a situation where if you make a tough decision that labor feels is adverse, a decision different than the kind you made yesterday. And you are going to have to make those decisions, or we have no wage stabilization program at all. But when you make them, you will have a fight on your hands.

Under these circumstances, is it your judgment that you can have an effective wage stabilization policy?

Judge **BOLDT**. I do not intend, as I indicated at the beginning, to speculate about any hypothetical situation. If and when we are confronted with a specific situation that exists, in fact, whatever it may be, we will deal with it. And I, for one, am not going to anticipate anything of the kind. I am not going to express an opinion about what we can or should do in these situations.

Personally, I would hope the labor members, even if they choose to abstain, will give us the benefit of their views.

Chairman **PROXMIRE**. I think they will do that.

Judge **BOLDT**. Yes; and they are given respectful attention, I can assure you. All of the other Board members give respectful attention to what they have to say, even though at times it may be said in a vehement manner. But other than the discussion we have been having here this morning, that type of thing does not bother me in the slightest.

Nor does the purported commentary upon other Board members that appeared in the paper bother me. Whether it is accurately reported or not, of course, I do not know. I would think myself a very, very inadequate person if I were to be in any way affected by that.

Chairman PROXMIRE. Let me ask you, how final and definitive is the 5.5 percent guideline? If, for example, we make progress and we make progress in reducing the increase in cost of living, is it possible that the 5.5 percent guideline could be reduced?

Judge BOLDT. It is possible. It clearly is so. It is in the policy statement that this initial standard may be reviewed from time to time, according to developments.

Chairman PROXMIRE. Would this be reviewed in one way—is it possible it might be increased?

Judge BOLDT. Certainly. It is possible either way, depending on what happens.

Chairman PROXMIRE. What are the ingredients that will determine this change up or down? Cost of living; is that primarily it?

Judge BOLDT. Yes.

Chairman PROXMIRE. Cost of living and productivity?

Judge BOLDT. Primarily, yes.

Chairman PROXMIRE. Now, one other question. There has been a lot of concern on the part of a growing number of Members of the Senate and House, too, I am sure, about secrecy in corporate activity because the corporation has such a profound effect on the lives of all of us. The fact is that a number of economists have criticized the fact that large corporations have been able to withhold information regarding cost, capacity, productivity, and so forth, from the Internal Revenue Service, Security and Exchange Commission, and the ICC.

I assume most of the information that is going to be withheld would be needed by the Pay Board to set wages on bases equitable not only to the consumer but smaller competing businesses and industries; is that not right?

Judge BOLDT. Yes.

Chairman PROXMIRE. So you will be getting that information. I wonder, in view of the great importance of public confidence and public support, the extent to which this information could be made public? If there is a conviction on the part of the public that the decision you made yesterday with respect to coal, for example, is justified, and, of course, you cannot speak for Mr. Grayson, but the decisions Mr. Grayson may have to make with respect to coal prices is justified, I think this will go a long way toward strengthening the program. But I am sure there will be great resistance on the part of corporations, because they do not like to disclose information.

I am not talking about trade secrets. I am talking about information with respect to cost and productivity and so on.

Judge BOLDT. Well, I think this is something I should and will take under consideration and suggest the Board do likewise.

Chairman PROXMIRE. Well, will you use your subpoena powers to secure this kind of information from the big corporations, the 100 or 200 biggest corporations?

Judge BOLDT. I would assume that we would, probably under what we call "protective orders" in legal procedure. Sometimes we get information from business concerns and others, notably in antitrust legislation, that involves something other than trade secrets, but which they deem confidential to their operation. Ordinarily that material is produced under protective order, precluding its public release.

Chairman PROXMIRE. I know that. There will be divided opinion on your Board and I hope that divided opinion does not inhibit the majority from coming to the conclusion it would be to the great interest of the Nation to get as much of this information as possible publicized.

Judge BOLDT. I would think it doubtful that a majority of the Board would preclude what you have in mind.

Chairman PROXMIRE. Very good.

I have one other question. Do you have any feeling, Judge, you would like to express—you may not want to express one, I hope you will—as to how long this is likely to last? The President has given us the notion this will last as long as necessary. Do you think it can be done in 18 months?

Judge BOLDT. I just would not hazard a guess about it. All I know about it, Senator Proxmire, man to man, and I hope in a friendly spirit, is that it is as difficult a problem as one can imagine. It is complicated by an infinite variety of factors that are more and more impressed upon me every day. And how long it will take to control the inflation that has been going on, building up over a long period of time, and still maintain some degree of flexibility, is anybody's guess.

Now, personally—just speaking personally, now—I hope it is not very long, because the burdens of this job are enormous, far greater than even I supposed they would be.

And the sooner I am relieved of them, the better I will feel. I would like to be relieved while I am still on my feet and not carried out in a basket.

I have no intention to leave the job unless I am carried out that way, because I have given my utmost, and I plan to continue to give my utmost effort, whatever there is left in me, to this effort, and if it should prove even moderately successful, I would feel it was well worth while, whatever might happen to me as a result of it.

Representative CONABLE. I have no further questions, Mr. Chairman, but I would like to make a couple of comments, sir.

First, I hope you will keep always in mind the necessity of a high degree of credibility in what the Pay Board does. Those of us who have been in Government a little while are aware that the great problem of Government nowadays is its credibility. And in a democracy you cannot afford to have anything but the highest degree of credibility among our public institutions.

You are in a terribly central position. What you do is going to have a major impact on our economy. On the Joint Economic Committee, in the few years I have been on it, I have been tremendously impressed by the psychological content of economics. What people think and what they hope and what they believe has a great deal to do with how the economy performs. They have got to believe that what you are doing is objective and fair and that you are going to be consistent.

This explains the concerns that have been expressed here today about the coal settlement, because frankly, unless the Pay Board functions better than the laws of economics have over the past couple of years, its credibility is going to be so bad that we cannot afford to have it continue for long, regardless of what we want, or regardless of what the economy is doing.

We cannot afford to have such a central institution as the Pay Board not functioning well and objectively and fairly. So I hope you will always keep that in mind. That is something I hope most of the Members of Congress are keeping in mind, to a much greater degree than they used to, back in the days when credibility was not the issue that it is now, in the functioning of the Government.

The second thing is, sir, you have performed very well here today. You have been patient and your answers have been thoughtful. I hope you will get plenty of rest. I think you have had a great deal of burden on you in the few days since you left the comparative tranquility of the bench.

Judge **BOLDT**. Thank you.

Representative **CONABLE**. We wish you well in your work and you will find always here in Congress elements that are very anxious to support you and to see you succeed. Call on them and help marshal them in your support, because it is terribly necessary that you do have the support of the public as a whole and all of the public representatives.

Chairman **PROXMIRE**. Thank you, sir. I join the sentiments expressed by Mr. Conable. You have been most responsive and most helpful. We certainly wish you very well.

Judge **BOLDT**. Thank you. Thank you most kindly.

Chairman **PROXMIRE**. The committee will stand adjourned.

(Whereupon, at 12:50 p.m., the committee was adjourned, subject to the call of the Chair.)

