

**NOMINATIONS OF JOHN E. SHEEHAN,
C. JACKSON GRAYSON, JR., AND GEORGE H. BOLDT**

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HEARING
BEFORE THE
✓ **COMMITTEE ON**
BANKING, HOUSING AND URBAN AFFAIRS.
Congress.
UNITED STATES SENATE. X
NINETY-SECOND CONGRESS

SECOND SESSION
ON THE NOMINATIONS OF
JOHN E. SHEEHAN TO BE A MEMBER OF THE BOARD OF
GOVERNORS OF THE FEDERAL RESERVE SYSTEM
C. JACKSON GRAYSON, JR., TO BE CHAIRMAN OF THE
PRICE COMMISSION
AND
GEORGE H. BOLDT TO BE CHAIRMAN OF THE PAY BOARD

JANUARY 27, 1972

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NOMINATIONS OF JOHN E. SHEEHAN, C. JACKSON GRAYSON, JR., AND GEORGE H. BOLDT

THURSDAY, JANUARY 27, 1972

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
Washington, D.C.

The committee met at 10 a.m. in room 5302, New Senate Office Building, Senator John Sparkman (chairman) presiding.

Present: Senators Sparkman, Proxmire, McIntyre, Cranston, Gambrell, Tower, Brock, and Brooke.

The CHAIRMAN. Let the committee come to order, please.

These hearings are for the purpose of considering the names of three people who have been named by the President to serve in various posts in the Federal Government.

The first one that we shall hear from today is Mr. John E. Sheehan of Kentucky, who has been nominated to be a member of the Federal Reserve Board. The nomination of Mr. Sheehan has been cleared by both Senators Cooper and Cook of the State of Kentucky.

The second nominee to appear today will be Dr. C. Jackson Grayson of Texas. Dr. Grayson has been nominated by the President to be Chairman of the Price Commission. Dr. Grayson's nomination has been cleared by both Senator Tower and Senator Bentsen of Texas.

Our third witness will be Judge George H. Boldt to be Chairman of the Pay Board. Judge Boldt has been cleared by both Senators Magnuson and Jackson of the State of Washington.

With regard to Judge Boldt's nomination, I have received four letters endorsing him to the position to which he has been nominated. Senator Magnuson has written to me stating that he regrets that he cannot be here to introduce Judge Boldt to the committee. And Senator Jackson of the State of Washington has also written me expressing regret that he is not able to be here and strongly endorsing Judge Boldt. Senators Metcalf and Mansfield have also written regretting that they cannot be here, and they, too, endorse Judge Boldt.

Without objection, I shall submit the letters from Senators Mansfield, Magnuson, Jackson, and Metcalf for the record.

(The letters follow:)

U.S. SENATE,
OFFICE OF MAJORITY LEADER,
Washington, D.C., January 26, 1972.

HON. JOHN SPARKMAN,

*Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: Your Committee has before it the nomination of Judge George H. Boldt as Chairman of the Pay Board. While my leadership responsibilities make it impossible for me to testify in Judge Boldt's behalf, I do wish to take this means of expressing my endorsement of his nomination as Chairman of the Pay Board.

As you know, Judge Boldt was raised in Montana and enjoys respect and admiration of its citizens. Judge Boldt has a fine record as a member of the Judiciary. While I have not known Judge Boldt personally, I do not hesitate to endorse his confirmation based on personal recommendations from others and my knowledge of his expertise and devoted public service. The Chairman of the Pay Board is a most challenging position and I am confident that Judge Boldt can fulfill this position with objectivity and awareness of the economic problems we face in the Nation today.

I am delighted to join my colleague, Senator Lee Metcalf who has known the Judge for many years, in asking that the Committee act promptly in confirming Judge Boldt as Chairman of the Pay Board.

With best personal wishes, I am

Sincerely yours,

MIKE MANSFIELD.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., January 25, 1972.

HON. JOHN SPARKMAN,
*Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: I regret very much that I must be out of the city and therefore will not be able to introduce Judge George H. Boldt when he appears before the Committee on January 27th for his confirmation hearing.

However, I do want to take this opportunity to express my support for Judge Boldt's nomination to serve as Chairman of the Pay Board.

I have known Judge Boldt very well for many years and have the highest respect for him as an individual and for the record he has established during his distinguished career as an attorney and judge. That record certainly demonstrates that he is fully qualified to serve in the difficult position for which he has been nominated.

Best personal regards.

Sincerely,

WARREN G. MAGNUSON,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., January 24, 1972.

HON. JOHN D. SPARKMAN,
*Chairman, Committee on Banking, Housing and Urban Affairs,
U.S. Senate,
Washington, D.C.*

DEAR JOHN: I understand that the Committee will be considering Judge George Boldt's nomination later this week.

I regret very much that I cannot be on hand to introduce Judge Boldt to the Committee. However, I want to take the opportunity to express my high regard and respect for Judge Boldt. I have known him for many years and feel that he is a wise choice to handle the tough responsibilities as Chairman of the Pay Board.

Best regards.

Sincerely yours,

HENRY M. JACKSON,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., January 25, 1972.

HON. JOHN SPARKMAN,
*Chairman, Committee on Banking, Housing and Urban Affairs,
New Senate Office Building,
Washington, D.C.*

DEAR CHAIRMAN SPARKMAN: I regret that I cannot be here to sit with Judge George H. Boldt in his appearance before this Committee for confirmation as Chairman of the Pay Board. However, long-standing commitments in Montana

connected with my own confirmation for another term in the Senate prevent my attendance.

As you all know, George Boldt grew up in Stevensville, Montana, my home town. We lived across the street from each other in that small western town of about 650 people. He was a few years older than I but we went to the same schools, had the same teachers, our parents belonged to the same organizations.

I have already told the Senate how, as a small boy, I admired him as one of a handful of athletes who won the State Track Meet for Stevensville against schools with attendance 100 times greater. I can recall a blizzard, below zero winter night when my mother and I took the family car (a model T pickup) and drove 30 miles to Missoula to hear George debate against a touring Oxford University team. As a freshman Democrat member of the House of Representatives, I appeared with him—a Republican, nominated by a Republican President, Eisenhower—before a Republican Judiciary Committee (Senator Langer, Chairman) to urge his confirmation as U.S. District Judge.

I recite these instances, and there are many more, to convince you that I have known Judge Boldt and followed his career as have few others.

Over the years boyhood heroes fade and hometown colleagues expose faults and aberrations. But this has not happened with Judge Boldt.

Mr. Chairman, I urge prompt confirmation of Judge Boldt for two reasons. First, here is a man who has been in public life for more than two decades and has been acclaimed for his integrity and fairness. His record as a judge in his home district and in cases all over America speaks for itself.

Second is his complete objectivity. In this very sensitive position, he will be able to understand and consider the problems presented by every group.

As a result of a long acquaintance with Judge Boldt, I am convinced that President Nixon has nominated an outstandingly qualified man for a very difficult job. I again urge prompt and early confirmation so that he can get along with that job.

Respectfully,

LEE METCALF.

The CHAIRMAN. In addition to the nominees Mr. Andrew J. Bie-miller, director of the Department of Legislation, AFL-CIO, will also appear as a witness today.

Unless some other member of the committee has a statement he wishes to make we shall call our first witness, Mr. Sheehan, who is already at the table. And we are very pleased to have two distinguished Senators from Kentucky, Senator Cooper and Senator Cook, with us who will make a presentation.

Let me add just this thought before we start. I hope we can finish this work today. We have one or two executive matters that I want to consider also, particularly our money resolutions, and therefore I hope we can move along with these hearings just as rapidly as we can. We have permission of the Senate to sit during the session of the Senate, but undoubtedly when the Senate convenes we shall be interrupted from time to time with rollcalls.

Senator Cooper, we will be very glad to hear from you, sir.

STATEMENT OF JOHN SHERMAN COOPER, U.S. SENATOR FROM THE STATE OF KENTUCKY

Senator COOPER. Mr. Chairman, members of the committee, it is an honor for me to come before this committee to support the nomination of Mr. John E. Sheehan of Louisville, Ky., to be a Governor of the Federal Reserve Board.

I have not had the opportunity to know Mr. Sheehan personally. Many citizens of Louisville, Ky., who know him well, among them

Senator Cook, former Senator Morton, have told me about his fine qualities and abilities, and I support strongly his confirmation.

His résumé is before you, and I think it testifies to his abilities, his interests, his scholarship as a Naval Academy graduate, and graduate of Harvard Business School, and his capacity as an executive. Also I note that he served as a director of the Louisville branch of the Federal Reserve Bank of St. Louis.

Aside from his résumé, I have learned that he is one of 10 children, all living. And all of these children have worked hard and accomplished a great deal for their country and for their families, and I think that, too, is a good recommendation.

I have only the highest tributes to his ability and his capacity and qualifications for this position, which is, of course, a very important position in our country. I shall strongly support his confirmation.

The CHAIRMAN. Thank you, Senator Cooper.

Senator Cook.

STATEMENT OF MARLOW W. COOK, U.S. SENATOR FROM THE STATE OF KENTUCKY

Senator Cook. Thank you Senator Sparkman and gentlemen of the committee.

There is not a great deal I would add except to say that Mr. Sheehan is rather a remarkable man, having graduated from the Naval Academy and served in the Naval Air Force in both the Atlantic and the Pacific. He resigned his commission in 1958 to go to the Harvard Business School, and graduated from there in 1960. He was associated for a while with McKinsey & Co., the internationally known management consulting firm in New York City, and then moved directly into the management field, and at the time that he was nominated by the President was president of Corhart Refractories in Louisville.

As a result of this Mr. Sheehan has traveled extensively throughout the world, and he brings to the Board a great deal of knowledge in regard to the international monetary problems that confront us and confront the Board.

I might say it is very interesting to note relative to this gentleman, who was born in Johnstown, Pa., and has seven brothers and three sisters, that there are about 20 college and university degrees among his brothers and sisters, including himself, which I think is rather remarkable. Many of his brothers and sisters have made rather substantial contributions to our country, and you might be interested to know, Senator Tower, to its military capabilities.

He has one brother who has worked extensively over the past 10 years in the development of the military's night vision equipment, and is the author of the program known as It Took the Night Away From Charlie, as a matter of fact. So I think it is a family that has contributed much to this country, and I think that is the way Mr. Sheehan feels about the acceptance of this position, and I wholeheartedly support him.

The CHAIRMAN. Thank you very much.

Anyone have any questions of either one of our Senators?

If not, we will take up Mr. Sheehan.

Mr. Sheehan, we have your biographical sketch. That will be printed in the record at this point.

(Biographical sketch follows:)

BIOGRAPHICAL SKETCH OF JOHN E. SHEEHAN

John E. (Jack) Sheehan was President of Corhart Refractories Company, a subsidiary of Corning Glass Works, from January 15, 1966 to January 3, 1972. He was the company's chief executive officer.

Corhart is a company engaged in the manufacture and marketing of high temperature materials and processes, primarily refractory materials used in the manufacture of steel and glass. Corhart in turn operates three subsidiary companies:

Corchem which makes magnesite from sea water. Magnesite is a magnesium oxide mineral used in the production of refractories, paper processing, pharmaceuticals, rubber and neoprene manufacturing, the fertilizer industry, the electrical industry, etc.

Schlienger, Inc. which engineers and builds controlled atmosphere melting systems such as vacuum furnaces for the manufacture of titanium and other high value metals.

ZIRCOA which makes unique zirconium oxide products. Zirconium oxide is the highest temperature material extant which will not be wet by metals. A very versatile material, zirconia finds uses in some twenty industries.

In the early 1960's Mr. Sheehan was on the professional staff of McKinsey and Company, the internationally known management consulting firm, in its New York City office. He later joined the Martin Marietta Corp. and subsequently became a Vice President of its Cement and Lime Division.

Mr. Sheehan was graduated from the U.S. Naval Academy in 1952 and then served as a naval aviator with the Atlantic and Pacific fleets. He resigned his Lieutenant's commission in 1958 to attend Harvard Business School where he was elected a George E. Baker Scholar for academic excellence and subsequently received an M.B.A. degree in 1960.

Mr. Sheehan is married to the former Jean McEvers of Kansas City, Missouri. They have three children—Kathleen, age 13; Kevin, age 10; and Kelly, age 8. The Sheehan family resides at 12 River Hill Road, Louisville, Kentucky.

Until recently, Mr. Sheehan was a director of The Louisville Fund, a director and executive committee member of the Kentucky Center for the Performing Arts, a director of the Orion Broadcasting Company (TV and Radio), and a director of the Louisville Branch of the Federal Reserve Bank of St. Louis.

Mr. Sheehan is a member of the Pendennis Club in Louisville, the Harvard Club—New York City, the Army and Navy Country Club—Washington, D.C., and the Duquesne Club—Pittsburgh.

STATEMENT OF JOHN E. SHEEHAN, NOMINEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL RESERVE SYSTEM

The CHAIRMAN. By the way, I was impressed with Senator Cooper's statement that you were a member of a family of 10 children. There were 11 children in my family, and I was No. 7.

Mr. SHEEHAN. I was also No. 7, Mr. Chairman.

The CHAIRMAN. We have your financial statement. I should like to ask you the formal question that we always do ask, whether or not you have any holding or interests that would in any way conflict with your holding this office.

Mr. SHEEHAN. No, sir I do not.

The CHAIRMAN. We have the statement which you have filed, and as I have told you previously, it will be available to the members of the committee here in the committee room only, and then it will be sealed and put in our files and kept there for the length of time you

hold this office plus 1 year. According to what President Nixon said the other day, that will be about 18 years.

When Mr. Sheehan was sworn in President Nixon said that he had 17 years ahead of him. He said to me, "this fellow is going to have to work with you." He said he has got 17 years, and I said "you mean working with me 17 years?"

But anyhow, his appointment, as I understand, is to fill out an unexpired term of 3 years—

Mr. SHEEHAN. Ten years.

The CHAIRMAN. Ten years. Twenty-four.

Senator PROXMIRE. He has 10 years on this one. If he gets reappointed, he will have 14 more.

The CHAIRMAN. Well, the President used the term 17 years, I am sure.

That is the situation with reference to your financial statement. I believe you told me that you had taken this matter up with General Counsel of the Federal Reserve System. We have a statement from Mr. Thomas J. O'Connell, initialed by him. General Counsel of the Federal Reserve Board, and he says, "I am satisfied no interest or activity evidenced therein," talking about your financial statement, "presents any conflict with or impediment to Mr. Sheehan's service as a member of the Board of Governors." This is available for any member that wants to see it.

I have had the opportunity of checking your record. Certainly we appreciate the discussion of the two Senators. I think you are fully qualified to render a good service to this country, and I shall be glad to support you.

Senator Tower.

Senator TOWER. I have no questions, Mr. Chairman. I am very pleased by Mr. Sheehan's credentials, and I shall be happy to vote for his nomination.

The CHAIRMAN. Senator Proxmire.

Senator PROXMIRE. Mr. Sheehan, I have plenty of questions, and I want to tell the chairman that I expect that we are going to be here certainly long after 11:30 today, not only with respect to you, but with respect to the other nominees.

This is one of the most serious nominations the President can make, as you know, and as the chairman has said, rightly, you are going to be on for a long, long time, 10 years in this appointment, and you might very well be reappointed for 14 more unless we change the law.

The Federal Reserve Board has an enormous economic power. I don't know of any agency in the Government that has more power. It is independent of the Executive, not independent of the Congress but independent of the Executive. The Federal Reserve Board does function with enormous independence of its own because Congress can't very well direct it.

What concerns me frankly about your nomination, Mr. Sheehan, although you are a fine man and I think what the Senators have said is very true. I can think of a dozen important Federal posts for which you would be eminently qualified—I am not sure you are qualified for this one.

I have become convinced in recent years that we shouldn't appoint members to the Federal Reserve Board unless they have good, solid training in professional economics. You wouldn't hire in your business, or if you were president of a big bank, an economist with your background to advise you on economic policy. And for that reason I want to get into some of those questions in some detail.

I just don't think that we should hire a man who is going to be one of the principal, very few handful of people determining our monetary policy with the expectation that they are intelligent and will receive on-the-job training.

What are your views as to the primary goals of monetary policy?

Mr. SHEEHAN. To maintain stability of the dollar without inflation, and to promote the expansion of the American economy in the briskest, healthiest way we can achieve it.

Senator PROXMIRE. To promote the expansion and growth of the economy; at the same time maintain——

Mr. SHEEHAN. Maintain a stable dollar.

Senator PROXMIRE. Maintain a stable dollar. Do you feel that the Federal Reserve should be primarily concerned with fighting inflation, or should other economic goals take precedence?

Mr. SHEEHAN. I think at the current moment, Senator, inflation is the primary problem that we face.

Senator PROXMIRE. Inflation is the primary problem?

Mr. SHEEHAN. I think it is; yes.

Senator PROXMIRE. You say that, although we have more than 6 percent of our people out of work, although the economy's growth has been disappointing in the past year?

Mr. SHEEHAN. Well, I think unemployment is a very serious problem relating to a lack of vigor in the economy currently. But I think—well, it is close to inflation as a primary problem, but I think inflation is the No. 1 problem today.

Senator PROXMIRE. Why do you say that? Would you expand on that?

Mr. SHEEHAN. Can I go back, first, to the thrust of your opening statement?

Senator PROXMIRE. Fine. I wish you would.

Mr. SHEEHAN. Let me quote from the Federal Reserve Act, section 10, which was passed by the Congress, signed by President Wilson in 1913. Under paragraph 1, appointment and qualifications of members of the Board, it provides: "In selecting the members of the Board, not more than one of whom shall be selected from any one Federal Reserve district, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country."

It would seem to me the greatest wisdom on the part of the Congress to provide for diversity on the Board of Governors. I would point out that the Federal Reserve System is a large financial system. It operates 12 banks and 24 branches of those banks throughout the country, in addition to a large staff here in Washington. It includes some 23,000 people, with an operating budget of some \$300 million a year. And it seems to me, as it seemed to Dr. Burns when he suggested to the President my appointment, that an experienced businessman

accustomed to managing a relatively large organization could probably play a useful role.

Further, it seems that a seasoned businessman should be able to help the other Governors on the Board, all but one of whom are trained economists, in interpreting the thinking of the business and financial community to the Board of Governors in matters under consideration.

Beyond that I will agree wholeheartedly, Senator, that every Governor must be familiar with the Government's policy in the matter of monetary and fiscal affairs, and I have had some interest in this over the years.

But I come to this position with the greatest possible humility, and I intend to study and work hard to fill the gaps that exist in my knowledge.

Senator PROXMIRE. I don't see any inconsistency with having a man who is a trained economist and having him sensitive to and aware of and capable of evaluating business problems and great experience in business.

There has been some kind of a facetious debate about the possibilities of naming a nonlawyer to the Supreme Court, for example, with the notion that, after all, the lawyers represent a tiny minority of our people and that we ought to get some less legalistic approach. But people are just being facetious about that. Nobody has proposed it—I don't think any President has considered doing this, although I understand Franklin Roosevelt thought about naming young Bob O'Follett to the Supreme Court. He probably would have been confirmed. But in general we feel we ought to have people with training in the particular field where this is required.

You are absolutely right about the 1913 act, and if you go back over the history of the Federal Reserve Board you find we have had many occasions in which people with no economic background, people who have been farmers, people who have been unrelated to financial problems, have been on the Federal Reserve Board. We have an entirely different economy now, extraordinarily complicated, and a far more important role for the Federal Reserve. This is why it seems to me that this notion of not having people who are trained economists appointed to the Federal Reserve ought to be challenged.

You are going to be confirmed, there is no question about that. This committee will give you overwhelming approval. I may not vote for you. You will get overwhelming approval on the floor. But I think we ought to begin somewhere to lay down the standard that I think is one which on reflection most of us would recognize we ought to have on the Federal Reserve Board.

Mr. SHEEHAN. I wouldn't neglect, Senator, the notion that I presented to you just now, that we operate a very large banking system, that there are 23,000 people, and I would submit that when you have a Board of seven Governors you ought to have one man experienced in management.

Further, this is a day of automation and computers. We have billions—23, I think—of checks to process in our system. We are moving dramatically toward automation and computerization of the checking system in this country. I think that 23 billion, if that is an accurate number, is going to double over the next 10 years.

Now the creation and the supervision of that system, it seems to me, takes some business management competence on the Board of Governors which is charged with making the——

Senator PROXMIRE. Well, I would challenge that very expressly. I think no question that you need capable technicians to handle computers, you need good business managers, but they should be on the staff. The Board that makes the policy, the monetary policy for this country, which is so enormously important, coping with both inflation and economic growth, and so forth, ought to be professionally trained economists who are working expressly on this, not on the details of computerization or some of these other matters which a capable staff could handle. But obviously we differ on that.

Let me ask you this. Could you give us your view on the role of monetary policy in economic stabilization during the 1970's? Let me be a little more specific. Do you think we will be making greater use of monetary policy, less use, or about the same?

Mr. SHEEHAN. Senator, I don't come to this Board with fixed views on how monetary policy should be formed or executed. It seems to me that there is a great deal of controversy among leading academic scholars in the field as to the importance of monetary policy as an economic stabilizer and how monetary policy should be executed. Because this is the case it would seem to me to be foolish for me, a newcomer to the Board and to the field, to take any firm position before weighing the evidence very carefully, and I intend to do that.

Senator PROXMIRE. Well, what are your views about relative effectiveness of fiscal policy and monetary policy in achieving full employment?

Mr. SHEEHAN. I didn't hear the latter part of that question.

Senator PROXMIRE. What are your views about the importance of fiscal policy and monetary policy, the monetary role in achieving full employment and economic stabilization?

Mr. SHEEHAN. Well, I doubt that I will ever become associated with an extreme or rigid or fixed position on monetary policy. It seems to me impossible, for example, that the effects of monetary policy on economy are the same under all conditions. The world does change, and I think monetary policy has to adapt to the circumstances as they develop.

There may be times when the growth rate of the money supply is the more important thing we have to look at in effecting the health of the economy. But there are other times, I am sure, when fiscal policy or the state of confidence of consumers or businessmen, or a major war on the coast of Asia, or the application of a national effort to control wages and prices directly looms larger in importance than monetary policy. I pledge to you that I intend to—I will keep as open a mind as I can so that I can apply all the relevant considerations toward achieving the best solution to a problem rather than being committed to any single thought or rigid theory.

Senator PROXMIRE. My time is up. I will be back.

The CHAIRMAN. Senator Tower.

Senator TOWER. I have already passed.

The CHAIRMAN. Oh, that's right.

Senator Brock.

Senator BROCK. I would like to pursue some of the questions we were just discussing for a moment. You seem to have had some disagreement with the Senator from Wisconsin about the No. 1 problem in terms of your view of the Federal Reserve Board, the implementation of the Federal Reserve System of monetary policy in broad terms. Is it your view that the System should be used to promote particular objectives of your own or should the Federal Reserve System and the monetary system be used in a manner so as to encourage the public and private sectors to achieve those objectives that they seek at a given point in time?

In other words, is your vision of the Federal Reserve Board one of creating new initiatives, social objectives or economic objectives, or one of creating the kind of a climate in which the country can set its own pace and determine its own goals and priorities? Do you get the distinction?

Mr. SHEEHAN. Yes; I think so, Senator. I would go back to my response to Senator Proxmire's question and say that it is the function of the Federal Reserve Board and the System to promote the expansion of the economy as briskly as possible, such that we can have full production and full employment at all times being consistent with a stable dollar. And I intend to act in the interests of the American people, not in the interest of some thoughts or prejudice I bring.

Senator BROCK. Then to be more specific, you would not say that you would choose only one objective such as an increase in the level of employment over the other considerations which affect every American, such as stable dollar, such as controlling inflation? In other words, I gather that you are implying an effort to achieve some sort of balanced approach rather than a one-shot approach.

Mr. SHEEHAN. Absolutely, Senator. Let me go back to the answer to the first question. Perhaps I came down too hard on the notion that inflation is the No. 1 problem. It is a fearful problem. Unemployment is at the same time a very difficult problem in this country today, and the fact that we can have evidences of both inflation and deflation at the same time is relatively remarkable in the history of our economy. That is that we can have rising prices while we have the industrial activity at about 70 percent and unemployment at about 6 percent—this is obviously a very difficult situation in which to operate.

Senator BROCK. Would you not agree that the very fact of inflation can create unemployment?

Mr. SHEEHAN. It certainly can. And let me expand on that. We have profits in the American system today that are as low as they have been as a percentage of the gross national product in 30 years. In order for business to expand and to create jobs profits are fundamental. When profits are low, people are nervous. Workmen are concerned about their continued employment. Consumers will not then spend with confidence, and businessmen tend to lack confidence; and so I think it compounds the inflationary problem.

Senator BROCK. Well, I think Senator Cook mentioned your experience and your interest in the international field. Is it not also true that inflation prices us out of competition on the world market, thereby exporting jobs?

Mr. SHEEHAN. Well, yes. The major industry that our company served was the American steel industry. That industry earned a return on capital invested last year of $21\frac{1}{2}$ percent, which is about half of what one can earn on a tax exempt municipal bond. The steel industry suffered in this country last year. The Nation imported \$1,900 million worth of steel. We have a trade deficit this year of about \$2 billion that would almost have been eliminated if we had been in an export position in steel as we were some 10 years ago. The cost increases incurred by the American steel industry in recent years have been dramatic, the most significant of which is cost of labor.

The primary problem in the American society in the sense of its inflation in my judgment is productivity or lack of it. This morning's newspaper reports that we have a productivity increase in recent months, I believe in the past year, of about 3.6 percent or so. It surprises me a little bit that it was that high for the year. However, on reflection, it is not surprising in view of the industrial situation. When factories are operating at 70 percent you get productivity at a rapid rate as you proceed from 70 to 90 percent or so.

But I think we have a fundamental productivity problem which involves the cooperation of management and organized labor in increasing the output of our factories.

Senator BROCK. Well, let's assume that our productivity were, which it has not, to keep up with the rest of the world. Could any country, no matter how rich, how wealthy, how big, keep up over the long term if its prices escalate at a rate double those of the rest of the world?

Mr. SHEEHAN. Absolutely not. One of the three or four most important problems we have is our international posture in competition, and we have arrayed against us now in the world competitive environment, a different situation than we had as early as 5 years ago or 10 years ago. We have what some refer to as Japan Incorporated—a vigorous competitor in Asia. And we have very vigorous, determined, French, English, and Italian competition in world markets. It is a different game than it was, and unless we develop a method throughout the American industrial system to dramatically increase our productivity we will continue in difficulty.

Senator BROCK. I agree.

Let me go now very briefly to the matter of qualifications and just to start at the back, in 1958 you attended the Harvard Business School. I assume you took some business courses there. What were your primary areas of study?

Mr. SHEEHAN. Well, the Harvard Business School, as some of you well know—Senator Proxmire is a graduate—has been—and I don't think it will do Dr. Grayson, who is in the room, any disservice to suggest that it has been and continues to be the pioneer business school in the country. Dr. Grayson has a Ph.D. from that school. It has a wide range of courses, and I approached it in this manner. When I graduated from the U.S. Naval Academy I felt I would continue for a complete career in the Navy, and I felt I was very well prepared for it.

In leaving the Navy I spent about a year researching the capabilities of the business schools in the country. I wanted a position in management, in American industry, and I wanted a preparation equivalent

to what I had received at the Naval Academy, and I was fully satisfied.

I did not specialize to a great degree. If I had a specialty it was finance, and I took the best professors at Harvard Business School in the area of finance. I also took a course in what economists call macroeconomics, which at that time was called business responsibilities in the American society.

Senator BROCK. Thus I gather then that you have had economic training at the most sophisticated university that I know of in this country in that particular field?

Mr. SHEEHAN. Yes, Senator; that is correct.

Senator BROCK. To meet the Senator's criteria you would either have to be a teacher or a professional economist, but not a graduate of the school that they teach.

I think your qualifications are an asset to the Board. And I make one additional point. If we are going to say that you only can be a professional economist then we don't need a seven-man Board. We need a one-man Board, the best professional economist we can find in the United States. The reason we have a Board of more than one person is to have a diversity on that Board of input, a diversity of philosophy, of experience, of background. And I think to say that you would be disqualified because you happen to be a businessman would be a very, very serious mistake to make in terms of our selection process here in the Senate.

I am delighted that you have been recommended. I intend to support you, and I appreciate your willingness to serve.

Mr. SHEEHAN. Thank you, Senator.

The CHAIRMAN. Senator McIntyre.

Senator MCINTYRE. Thank you, Mr. Chairman. I have no questions for Mr. Sheehan.

I would like to recount a little story, something that occurred to me, not meant to demean Senator Proxmire at all. I think I understand what he is driving at. But in 1963 when I joined this committee one of the first witnesses we had before us was a distinguished economist who testified at length on the balance of payments. When it was all through I went to then our great Senator Paul Douglas and I said "Senator Douglas, I don't believe that I should be on this committee." And he said "Why?" "Well," I said, "I have never had a course in economics in my life."

Senator Douglas said "You mean you have no preconceived notions and fixed ideas on economics?" I said "absolutely not." He said "you are going to be a most valuable member of this committee."

So I hope, and I believe Mr. Sheehan will be a most valuable member of the Federal Reserve Board.

Thank you.

The CHAIRMAN. By the way, Senator Douglas was a noted economist.

Senator MCINTYRE. I felt better after I talked with him.

The CHAIRMAN. Senator Brooke.

Senator BROOKE. Thank you, Mr. Chairman. I have no questions. I know of the qualifications of Mr. Sheehan. I know of the high

esteem of my colleagues from Kentucky, and the fact that he resides in Kentucky, but I am glad he has been educated in Massachusetts. And I am glad to hear my colleague, Senator Brock, acknowledge that we have the finest institutions in the Nation in Massachusetts.

I just want to say that I am also very pleased at this time in the state of our economy that you have agreed to come in and serve in the Government. I think we need the highest quality that we can obtain. I think you represent that quality. I look forward to working with you in your position on the Reserve Board.

Mr. SHEEHAN. Thank you, Senator Brooke, and I look forward to working with you if confirmed.

The CHAIRMAN. Before I call on Senator Cranston let me make a suggestion. Senator Cooper and Senator Cook are here to present their constituent, Mr. Sheehan. They may have other obligations, I don't know. I just want to make it clear that if you do need to go at any time feel perfectly free to do so. I am sure the audience will understand and this committee will understand.

Senator Cranston.

Senator CRANSTON. Thank you very much. I have no questions. I would like to say in effect what Senator McIntyre said. I understand and am very interested in Senator Proxmire's line of questioning. I am interested in the responses to it. At the same time I question whether we want a Federal Reserve Board made up entirely of trained economists, and I think there is room there for a man of hard business experience to balance with the trained economist background.

The CHAIRMAN. Senator Gambrell.

Senator GAMBRELL. Mr. Chairman and Mr. Sheehan, I would like to say I am very much impressed with Mr. Sheehan's qualifications. I would like to associate myself with the remarks of Senator Douglas as related to us by Senator McIntyre.

I would like to ask Mr. Sheehan one or two questions.

Mr. Sheehan, as I understood, you said that your appointment had been recommended to the President by Dr. Burns; is that correct?

Mr. SHEEHAN. That is correct, sir.

Senator GAMBRELL. I wonder if you would feel any obligation to Dr. Burns as a result of that recommendation, or would you feel free to act independently of whatever his judgment might be on issues that came before the Board?

Mr. SHEEHAN. Well, I am a fundamentalist, Senator. And by that I mean not in a religious sense, but in a practical sense. I think in terms of fundamentalist. And when I make a decision I do so. The decision to come to Washington was an extremely difficult decision for me to make. It was even more difficult for my family.

In considering it, the most important thought that entered my mind was the definition of happiness that the ancient Greeks used, that John Kennedy frequently quoted, which went along these lines—happiness is the exercise of vital powers along lines of excellence in a life affording one scope. And when I dissected that relative to this position certainly there are few positions in the country or in the world, and none in business, that have the scope of the Federal Reserve System of the United States.

Furthermore, it has been a privilege over my lifetime for me to work with some truly outstanding people. I was aide to the then Rear Admiral C. D. Griffin, eventually a full admiral, when he was commander of the strike force, Atlantic Fleet. And I worked intimately with him on an hourly basis throughout that experience.

It has been my privilege to have associations like that over time. And I would suggest to you that the fact that Arthur Burns is the Chairman of the Federal Reserve System had much to do with the conclusion I reached. I recognize him as one of the preeminent economists of this generation or any generation in this Republic. When you think of that definition of happiness—along lines of excellence—Arthur Burns epitomizes excellence, and he is surrounded by one of the most excellent staffs in Washington or in any place. So, I come to the task with that in mind.

However, anyone who knows me—and the President I understand, checked with people, or his staff did in Kentucky, who know me well—who know that I am my own man. And anyone in the corporation which I have just concluded my service will tell you the same thing.

I expect to act in the best interests of the people of the country as I see those interests. And in serving since the 3d of January on the Board of Governors, I have already differed with the judgment of Dr. Burns in decisions that the Board has taken.

Senator GAMBRELL. Well, I would hope that you would feel free to do that, and also to differ with the administration, with Members of Congress and others.

I think some of the finest qualifications you have are youth, your business background, and the energy and intensity which you obviously bring to bear on the problems which you are faced with, and the fact that your thinking will not be dominated by any preconceptions or by any influences on what conclusions you might come to.

I am particularly concerned—and I share your admiration for Dr. Burns—that Dr. Burns, I think, has been wrong. If I recall correctly, he expressed a concern before this committee about the implementation of wage and price controls under the Economic Stabilization Act and then came back later and said that he was wrong on it, that he was mistaken.

Dr. Burns has also promised to give us a report on the Board's feelings about the monetary supply in this country. I came here about a year ago and asked if we could have such a report. I was told that it would be forthcoming in August, and it is not here yet. Maybe things have happened that have made it impossible to produce the report. But the Congress has got to have something to act on. If we don't have the report we just have to act on our own best judgment.

I would like to ask at this time if you would think it possible and helpful for the Board to produce, from its experience over the past year with the economic stabilization a report to Congress on what legislation can be brought about to deal with the No. 1 problem that you mentioned, and that is inflation. When do you think such a report might be made, and do you think it is appropriate for the Board to make such a report to Congress?

Mr. SHEEHAN. It is absolutely appropriate. I think that Dr. Burns has appeared before this committee—I am not certain of that—I have read a number of statements that he has made to this committee relative to inflation. He was the driving force in the Government, I believe, relative to the price-wage control boards that were created. There are several—or at least one I know on housing—reports that the Federal Reserve Board staff has submitted to this committee, I believe; and the Board of Governors is currently concerning itself with a followup recommendation by the Board of Governors itself.

I might add, Senator, that I have been in the Federal Reserve now since January 3, and I have yet to see a group of harder working people. Dr. Burns is the hardest working man I have ever met in terms of time on the job.

The Federal Reserve Board has been flooded, as you probably well know, by applications relative to the One Bank Holding Company Act of 1970. While the Board of Governors is quite concerned about handling these applications as quickly as possible—which, by the way, is a management function—that is, how do you organize to handle these things—Dr. Burns is not in my judgment, unresponsive to the needs of the Congress. In fact he is quite concerned about his relationship with the Congress and will do his best to assist the Congress and this committee.

Senator TOWER. Would the Senator yield for a comment at this point?

Senator GAMBRELL. Yes.

Senator TOWER. I discussed this matter with Dr. Burns when the vacancy occurred, and I know that there were several people under consideration that Dr. Burns found acceptable. And being a very intellectually honest man, Dr. Burns' principal criterion was that he hoped that the new Governor would be somebody who was free and would act independently of external pressures. And Dr. Burns I think is the type of man who invites honest dissent. I think there will be no problems from the standpoint of either administrative pressure or pressure from Dr. Burns on any—

Senator GAMBRELL. Well, I have no real concern about that, but I did want Mr. Sheehan to express his own feelings about it on the record.

I would like to say, Mr. Sheehan, that I think one of the big jobs of the Congress this year will be, prior to the expiration of the Economic Stabilization Act next April, to determine what legislation needs to be put on the books in a permanent way to prevent what we have seen happen, tight money, monetary expansion, high interest rates, inflation—housing starts and stops—and to stabilize the economic situation. I don't think that we ought to leave it open to happen. I don't think that we ought to leave it open to happen again.

I think the Federal Reserve ought to get their recommendations over here, I think the wage and price boards ought to get their recommendations over here, and that we ought to act on it. All I am saying today is we have to act on our own notion if we don't have administrative expert advice.

That's all, Mr. Chairman.

The CHAIRMAN. Thank you.

Let me say in speaking of the need of trained economists for the Board, Governor Sherrill, whose place Mr. Sheehan is nominated to fill, was not an economist, I understand, but a businessman. One of the Governors who has been there for a long time and whom I consider as one of the very best is the vice chairman, Governor Robertson, who is not a trained economist. I believe it is safe to say that the other five members are trained economists. That's a pretty good sized group of economists that have to come to some kind of understanding with each other.

Senator Tower, further questions?

Senator TOWER. I have no further questions, Mr. Chairman.

The CHAIRMAN. Senator Proxmire.

Senator PROXMIER. Well, let me just persist a little bit in the line that some of the other members of the committee have brought up.

It is true, as the chairman has said, that there are two very fine members of the Board who are not trained economists, Sherrill and Robertson. Sherrill is leaving and you are taking his place.

There has been a change in the makeup of the Federal Reserve Board over the years. It didn't used to be economist dominated. I think it is a good thing that it is. I think it ought to be a requirement. Obviously I am in a minority of one of the committee right now, and perhaps a minority of one in the Senate. But I think the quality of the Federal Reserve Board is enormously improved. It used to be a joke. The Federal Reserve Board was always wrong. They would always take a position in restricting the money supply as they did in the thirties, when it was the worst possible thing to do in retrospect, or they would take a position to expand the money supply when it was inflationary. Friedman, of course, made a very able study of that, how they would be much better if they followed some automatic device.

The Federal Reserve Board's track record hasn't been proven in very recent years, but I get a feeling it is much better, a far better record. And I think that Arthur Burns, appointed by President Nixon, was a superb appointment. I praised it warmly. So there is nothing partisan about my criticism. I think President Eisenhower made some fine appointments, and he was responsible, too, in shifting the nature of the Board to people with professionally trained economist backgrounds.

Now I have exactly the same background as you have in a way up to a point. I went to Harvard Business School. I, too, got my degree in business administration with distinction, as you did. I, too, majored in financial management. Then I went across the river and studied economic policy at Harvard Graduate School, which was quite different, which deals with an entirely different kind of problem. It is not a training in business problems, which is a training which is very important, but is quite different than the training in broad economic policy which trained economists achieve.

I don't want to persist much longer in that because obviously, as I say, I am not getting anywhere with the committee.

Let me ask you a couple of other questions, three or four other questions that relate to policy, because I think your initial response does trouble me very much, and you caught it yourself when you said maybe you spoke a little too quickly when you said inflation was our No. 1

problem. I think maybe this is one of the problems with the Federal Reserve. They have been thinking in these terms too much. When you think what has happened to inflation, at least that is moderating somewhat seems to be—we have a program to bring it under control. We have a goal, and in the third quarter the GNP deflator was already down—last year—was already down to 3 percent, and it seems to have been better in the fourth quarter. So that is a problem we seem to be winning on.

But we have no goal, no program, at least nothing comparable to overcome this very, very serious problem of unemployment. And yet you say you think inflation is still more important. See, this is the kind of thing that concerns me very much. If we are going to have a principal economic policy agency of our Government independent of the executive, unable to be influenced by them, shouldn't be, with this in mind seems to me that we are going to have some very tough times economically if we appoint people with no training, or experience in economic policy to it.

Mr. SHEEHAN. Can I react to that, Senator?

Senator PROXMIRE. Yes.

Mr. SHEEHAN. Yes; I did want to make it clear that unemployment is certainly a critical problem today, but I will not back down from the statement that inflation is more significant. I will agree with you that inflation is moderating from where it was, and I would submit that unemployment is not unimportant to me personally. I grew up in a neighborhood with a family next door that was black. The boys that I grew up with now are bricklayers in the Bethlehem Steel plant in Johnstown, Pa., or truckdrivers, and when I go there and see the unemployment, I am concerned. I know very directly the problems of the steel industry where unemployment is now high since the company which I managed served that industry. And I feel that problem very personally. So I am not unconcerned about unemployment.

But I do think that if we do not get control of this inflation and stop it, there will be more unemployment before there will be less.

Senator PROXMIRE. Well, of course, we can argue the other way too. But if we want to persist in that, that if we don't get unemployment under control that inflation is an element of unemployment, too, although that is a complicated thesis—

Senator TOWER. Will you yield? Will the Senator be willing to submit this question to the vote of the committee?

Senator PROXMIRE. Let me persist and ask you this. Where would you rate in priority the responsibilities of the Federal Reserve Board to correct our serious and persistent adverse balance of payments?

Mr. SHEEHAN. Would you restate the first part of that question?

Senator PROXMIRE. Where would you rate as a Federal Reserve Board priority the Federal Reserve Board's responsibility in operating monetary policy in such a way as to improve our seriously adverse balance of payments?

Let me say what I am getting at. What I am getting at is obviously monetary policy is enormously important in improving our balance of payments. To the extent that interest rates are high, capital tends to come into this country, to the extent they are low, capital tends to go out. Now high interest rates to bring capital in, directly conflicts

with a policy of trying to stimulate the economy with low interest rates. Stimulate the economy with low interest rates and your capital goes out and your balance of payments deteriorates.

Mr. SHEEHAN. I think stimulating the economy is more important.

Senator PROXMIRE. Is more important. You rate that higher?

Mr. SHEEHAN. Yes; because I think the balance of payments problem will come to a more even keel if we can have a more vigorous economy and therefore lower costs, it will make us more competitive. And therefore our trade balance—1971 is the first time it has been negative, I think, since 1888—will come into balance or become positive much sooner if we have a more vigorous economy.

Senator PROXMIRE. We hope so, but that may be one of the very serious problems you are going to be confronted with.

Mr. SHEEHAN. I accept that.

Senator PROXMIRE. It may not improve, and if it does not improve the question is would you vote to keep the economy slow, if necessary, unemployment high if that seemed to be necessary in order to correct our adverse balance of payments?

Mr. SHEEHAN. I can't envision taking that action.

Senator PROXMIRE. Do you regard the Phillips' curve as a useful way of describing a trade-off between full employment and inflation?

Mr. SHEEHAN. I am not familiar with the Phillips' curve, Senator, familiar enough to comment.

Senator PROXMIRE. Well, the Phillips' curve is the most commonly used term to describe the fact that as unemployment increases inflation should moderate and vice versa. So that one way—and many people charge that the administration tried to cope with inflation first by slowing down the economy, letting unemployment increase so the slack in the economy would result in lower prices.

Mr. SHEEHAN. Well, as I said earlier, and as you well understand, I am not an economist, and I am not thoroughly familiar with economic theory. I understand the practicality, the effect of what you are saying. In recent decades the way inflation has been cured in this economy is to drop the economy into a sharp recession.

Senator PROXMIRE. Right. That's what I am getting at.

Mr. SHEEHAN. The system does not now function that way apparently. I am a pragmatist, and I look at what has happened. Dr. Burns has said before this committee the system isn't functioning the way it did. And I would submit to you that theory as we learned it relative to a system that we have lived with over the years may not be so relevant. We are dealing with something completely different today. No one, when the Federal Reserve Act was passed by the Congress in 1913 or amended in subsequent years, envisioned a trillion dollar economy, a \$24 billion General Motors, the size of the banking system we have today, the size of exports from this country, the nature of world commerce as it exists today, and we are dealing in completely new areas. And it seems to me we are on the frontier.

Senator PROXMIRE. What level of unemployment would you tolerate in order to bring inflation under control?

Mr. SHEEHAN. The objective is 4 percent in the country.

Senator PROXMIRE. What level would you tolerate to bring it under control, though? You say inflation is still not a paramount problem, coequal problem perhaps with unemployment. Would you feel it would be right to let unemployment get even higher if necessary to stem inflation?

Mr. SHEEHAN. Well, 6 percent is pretty high. Unemployment is a relative matter. If you are the man unemployed it is a crisis. I have no level that I consider tolerable. I think that 4 percent for the 4 percent isn't tolerable. If you dissect unemployment today you find that males over 20 are unemployed at the rate currently of about 4.2 percent—unemployed males over 20. Much of the 6.1 percent is the teenage group under 20. That is a change, a structural change in the American economy.

Senator PROXMIRE. It was always heavier for teenagers. There are more teenagers on the market now. Unemployment was always heavier for women and teenagers. But statistics indicated there were more men—

Mr. SHEEHAN. The makeup of the 6 percent has a larger proportion of teenagers and women than it ever had before. Unemployment of males over 20 is 4.2 percent, I believe, at the current time.

Senator PROXMIRE. Almost twice as high as it was 2 years ago. It was 2.8.

Mr. SHEEHAN. Yes, and the teenage unemployment is something that I think relates to the social problems we have had, the fires in the cities and the riots that we had.

Senator PROXMIRE. You bet your life. When you have 17-percent unemployment among teenagers you are going to have—the devil finds use for idle hands, and it certainly does. And women, after all—we don't need Women's Lib to remind us they have every reason to have expectation to get a job in our society as men do.

Mr. SHEEHAN. The classical problem is how to get to full employment without inflation, and I don't propose or I don't submit to you that I have any solution to that problem. But I am willing to think hard about it with the rest of the Board of Governors and determine what action should be taken to try to gain full production and full employment without inflation.

Senator PROXMIRE. I have one more question I would like to ask. This is a question that has concerned me greatly, and I think has concerned other members of the committee. The Federal Reserve Board policies have had a peculiarly adverse effect on housing. Governor Maisel made a study—as you know, he is one of the outstanding housing experts in the country—which showed in the 1966 credit crunch that housing which occupied three and a half percent of our gross national product received 70 percent of the cutback, as a result of the restriction in money. State and local spending is also especially sensitive to tight money and yet we need more hospitals, more schools, and so forth. The business community is much less sensitive.

We proposed on this committee, a number of us, close to the majority, that the Federal Reserve Board be obligated to buy socially useful debt instruments, mortgages, and so forth, to assure that housing is protected. Do you have any feeling about this?

Mr. SHEEHAN. I would react to your question in this way, Senator. First I would dispute at least what I consider could be taken from one of the phrases you used in posing that question, and that is you said the business community is not so much affected.

Senator PROXMIRE. Far less affected. Far less.

Mr. SHEEHAN. I was connected with a cement company, and believe me, when housing starts go down that company is severely affected adversely, or any other construction materials company.

Senator PROXMIRE. I say housing and everything related to housing is affected. What I am saying is the rest of the business community is far less, and you can see that by the fact that housing suffers the big brunt.

Mr. SHEEHAN. I would suggest to you, Senator, that construction in this country is 10 percent of the gross national product. It is as important, or more so, than the automobile industry and the steel industry combined. So mortgage credit available to the construction industry is a critical problem.

I would submit further that some agency of the Federal Government should concern itself with the fluctuations in available mortgage credit to the construction industry over time. But it seems to me, as Dr. Burns has said: "Our free credit markets have served our Nation well over the years by channeling financial resources to productive and socially beneficial uses. Market mechanisms are imperfect and the effects of monetary ease or restraint do not affect all sectors of the economy uniformly." And as you suggest, only part of business is severely affected. "There is ample justification, therefore, for serious efforts to improve the functioning of our financial markets—particularly, to cushion the effects of monetary restraint on sectors such as housing. Such efforts have been made on an extensive scale in our country, and they have typically taken the form of supplementing the market mechanism rather than subjecting the decisionmaking process of private financial institutions to detailed and shifting governmental rules. Federally sponsored credit agencies that borrow funds in the money and capital markets and channel them to sectors of high social priority have played a particularly constructive role in this regard. So also have Government loan guarantees to encourage private investment in risk enterprises or in low- and middle-income housing." And—

Senator PROXMIRE. How did you know I was going to ask that question? You are reading the answer.

Mr. SHEEHAN. That is correct.

Senator PROXMIRE. You are amazing. I have had several other questions that you have read the answer to, and I didn't give it to anybody. I didn't know I was going to ask the question myself.

Mr. SHEEHAN. Senator, you are making this—

Senator TOWER. You are becoming predictable. [Laughter.]

Mr. SHEEHAN. Let me say this, Senator. You may be familiar with the Emperor Marcus Aurelius' book "Meditations." In that book he suggests, "I never made a public statement that I did not carefully write down beforehand." The Emperor further said, "I have found this such a successful procedure that I even use it with my wife." [Laughter.]

Senator PROXMIER. Very good. Well, thank you very much, Mr. Sheehan. You are obviously an extraordinarily able man. I just think there are so many other jobs you could do much better. [Laughter.]

The CHAIRMAN. Any other questions by anyone? If not, thank you very much, Mr. Sheehan.

Mr. SHEEHAN. Thank you, Mr. Chairman.

The CHAIRMAN. We wish you well.

Next we have Dr. C. Jackson Grayson, Jr. Dr. Grayson, would you come around? We are very glad to hear from you.

I will call on Senator Tower to say a word about Dr. Grayson.

Senator TOWER. Mr. Chairman, I don't wish to detain the committee, and the committee has already read the biographical sketch of Dr. Grayson. I would simply like to say that I have known for some time of this man's great personal qualifications, that he has been dean of the School of Business at Southern Methodist University for some 3 years, and I happen to have the privilege of serving on the board of trustees of that institution, and I know how highly regarded Dr. Grayson is in the academic community and the business community in my State. And I am very pleased to present him to the committee and recommend his confirmation.

The CHAIRMAN. Thank you, Senator Tower.

Dr. Grayson, we have your biographical sketch. That will be placed in the record.

(Biographical sketch follows:)

BIOGRAPHICAL SKETCH OF 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 "Decisions 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 SMU.

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

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Senator PROXMIRE. I say housing and everything related to housing is affected. What I am saying is the rest of the business community is far less, and you can see that by the fact that housing suffers the big brunt.

Mr. SHEEHAN. I would suggest to you, Senator, that construction in this country is 10 percent of the gross national product. It is as important, or more so, than the automobile industry and the steel industry combined. So mortgage credit available to the construction industry is a critical problem.

I would submit further that some agency of the Federal Government should concern itself with the fluctuations in available mortgage credit to the construction industry over time. But it seems to me, as Dr. Burns has said: "Our free credit markets have served our Nation well over the years by channeling financial resources to productive and socially beneficial uses. Market mechanisms are imperfect and the effects of monetary ease or restraint do not affect all sectors of the economy uniformly." And as you suggest, only part of business is severely affected. "There is ample justification, therefore, for serious efforts to improve the functioning of our financial markets—particularly, to cushion the effects of monetary restraint on sectors such as housing. Such efforts have been made on an extensive scale in our country, and they have typically taken the form of supplementing the market mechanism rather than subjecting the decisionmaking process of private financial institutions to detailed and shifting governmental rules. Federally sponsored credit agencies that borrow funds in the money and capital markets and channel them to sectors of high social priority have played a particularly constructive role in this regard. So also have Government loan guarantees to encourage private investment in risk enterprises or in low- and middle-income housing." And—

Senator PROXMIRE. How did you know I was going to ask that question? You are reading the answer.

Mr. SHEEHAN. That is correct.

Senator PROXMIRE. You are amazing. I have had several other questions that you have read the answer to, and I didn't give it to anybody, I didn't know I was going to ask the question myself.

Mr. SHEEHAN. Senator, you are making this—

Senator TOWER. You are becoming predictable. [Laughter.]

Mr. SHEEHAN. Let me say this, Senator. You may be familiar with the Emperor Marcus Aurelius' book "Meditations." In that book he suggests, "I never made a public statement that I did not carefully write down beforehand." The Emperor further said, "I have found this such a successful procedure that I even use it with my wife." [Laughter.]

Senator PROXMIRE. Very good. Well, thank you very much, Mr. Sheehan. You are obviously an extraordinarily able man. I just think there are so many other jobs you could do much better. [Laughter.]

The CHAIRMAN. Any other questions by anyone? If not, thank you very much, Mr. Sheehan.

Mr. SHEEHAN. Thank you, Mr. Chairman.

The CHAIRMAN. We wish you well.

Next we have Dr. C. Jackson Grayson, Jr. Dr. Grayson, would you come around? We are very glad to hear from you.

I will call on Senator Tower to say a word about Dr. Grayson.

Senator TOWER. Mr. Chairman, I don't wish to detain the committee, and the committee has already read the biographical sketch of Dr. Grayson. I would simply like to say that I have known for some time of this man's great personal qualifications, that he has been dean of the School of Business at Southern Methodist University for some 3 years, and I happen to have the privilege of serving on the board of trustees of that institution, and I know how highly regarded Dr. Grayson is in the academic community and the business community in my State. And I am very pleased to present him to the committee and recommend his confirmation.

The CHAIRMAN. Thank you, Senator Tower.

Dr. Grayson, we have your biographical sketch. That will be placed in the record.

(Biographical sketch follows:)

BIOGRAPHICAL SKETCH OF 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 "Decisions 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 SMU.

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.

PUBLICATIONS

BOOKS

Decisions Under Uncertainty: Drilling Decisions by Oil and Gas Operators, Divisions of Research, Harvard Business School, Boston, 1960.
 "The Use of Statistical Techniques in Capital Budgeting," Chapter 5, *Financial Research and Management Decisions*, John Wiley & Sons, New York, 1967.

ARTICLES AND MONOGRAPHS

"Bayesian Analysis—A New Approach to Statistical Decision-Making," *Journal of Petroleum Technology*, June 1962, pp. 603-607.
 "Introduction of Uncertainty Into Capital Budgeting Decisions," *N.A.A. Bulletin*, January 1962, Section 1, pp. 79-80.
 "Computer Applications in Oil Exploration Decisions," *Proceedings of Symposium on Computers in the Mineral Industries*, Stanford University, June 24-28, 1963.
 Coauthor, "Business Schools and Education for International Business, Report of the Task Force on Business Administration and Public Administration, *The Professional School and World Affairs*, Education and World Affairs, New York, 1967.
Education and Technology, pp. No. 11, The Diebold Research Program. The Diebold Group, Inc., New York, 1967.
 "The B-School World of Pvt. Douglas Dallas, circa 1980," *Innovation* 24, 1971.

STATEMENT OF C. JACKSON GRAYSON, JR., NOMINEE, TO BE CHAIRMAN OF THE PRICE COMMISSION

The CHAIRMAN. I also have the financial statement that you filed and you heard the statement I made with reference to Dr. Sheehan, and I will say for the benefit of the committee that the general counsel of the Cost of Living Council has certified that there is no conflict of interest involved.

Senator Tower, do you have questions?

Senator TOWER. I have no questions at the moment, Mr. Chairman.

The CHAIRMAN. Senator Proxmire.

Senator PROXMIRE. Mr. Grayson, it was my amendment that provided that we approve—I wanted to have all the members of the Price Commission and the Pay Board come before this committee for approval, but the chairman decided he would accept an amendment which provided just you and Judge Boldt would appear before us, so I am very interested in this hearing and very interested in your testimony this morning.

You are a most extraordinary man. I don't know anybody who has come to Washington and taken hold as fast as you have and as overwhelmingly as you have. That is partly good and partly maybe not so good.

I understand that you make every price decision yourself, that policy is determined by your Commission which meets only once a week, but all the price decisions, decisions on individual price increase, no matter how big, no matter how controversial, no matter how significant, you make finally and definitely, Is that correct?

Dr. GRAYSON. That is correct. It was the decision of the Commission members in the discussion of this that they did not want to make individual price decisions on individual cases. They wanted to discuss policy. They asked that cases of a significant nature which affect substantial portions of the economy, or which result in very large increases, be brought to them as a matter of policy or as an illustration of the need to look at a particular policy matter.

Senator PROXMIRE. You don't bring it to them for their approval or disapproval?

Dr. GRAYSON. No.

Senator PROXMIRE. You bring it to them to illustrate what you have been doing; if they disagree, that is too bad. You have made the decision, and that's it, is that right?

Dr. GRAYSON. Well, I have made the decision. The Commission members have every right to look at those decisions and question me as to whether or not I am consistent with the policy. They can reverse a decision I have made.

Senator PROXMIRE. But you have never reversed a decision you have made?

Dr. GRAYSON. No.

Senator PROXMIRE. Once you make it, that's it?

Dr. GRAYSON. No, it could be reversed.

Senator PROXMIRE. How many decisions have you made on prices?

Dr. GRAYSON. There are a total now of 1,200 individual cases that have been decided, and, in the beginning, I, myself, looked at every one of the cases. Then the volume increased and the training of the staff became more sophisticated and I decided that I could delegate certain kinds of decisions, certain levels of decisions to the staff. So I have delegated, with explicit decisionmaking criteria, certain decision-making powers to a committee composed of senior staff members in the organization. At least three members of the committee must always be present to make a recommendation.

Senator PROXMIRE. So the staff, not the appointed members, appointed by the President of the United States, they don't make the price decision—the staff under your jurisdiction, under your final approval, makes the decision?

Dr. GRAYSON. Under carefully delegated decision criteria. The Commission delegated to me individual price decisions, which in turn under an explicit delegation order I have given the staff at certain levels.

You might be interested in the criteria which are used. In any significant case involving a large firm of a significant sector of the economy, and these are spelled out—

Senator PROXMIRE. Give me an example of how big a decision the staff might make.

Dr. GRAYSON. Well, in terms of numbers—now this is not in terms of a significant sector of the economy like auto, aluminum, steel—I personally see to every one of those. But, in cases involving less than a 5-percent increase the staff members as a committee must decide on the request, the committee is composed of the executive director, the general counsel, and another member of the staff.

The CHAIRMAN. Senator Proxmire, there is a rollcall, and we have short rollcalls now, so let the committee stand in recess for 10 minutes.

(Recess.)

Senator PROXMIRE. The committee will come to order.

Mr. Grayson, when I was questioning you last we were discussing the fact, which you agreed to, that you make the decisions on all the prices, that you determine for each individual company without recourse and without modification and overruling by the Commission or majority of the Commission whether prices should be up or not. This is a terrific power.

When we were considering passing this legislation, Dr. Burns appeared before us and he said he wouldn't give this power to any President of the United States for even 6 months. First, he said 2 weeks, then he said 3 months. Well, he changed his view after that, but he would agree that this is a dictatorial kind of authority to give a President in the free economic system. The President, in turn, delegated it to the Commission. The Commission has delegated it to you, and you are a price czar. You really have the life and death power, in some cases, over business.

You are an extraordinarily ingratiating, smooth, attractive man, and you have won all kinds of friends here in Washington. But what do you think about an economic system that has come to a point where we have one man determine what our prices are? Don't you think that this is something you would like to get out of as fast as you can?

Dr. GRAYSON. Well, my intention is to go back when the job is done. If I can follow back the trail of decision-making—

Senator PROXMIRE. I wish you would, because I am concerned about this great power given you.

Dr. GRAYSON. One, the Congress has delegated to the President under the Economic Stabilization Act the powers to make decisions regarding price stability, and—

Senator PROXMIRE. Nobody has elected you. You are appointed, but you are not elected. You are being confirmed now, but that is a pretty thin reed for this kind of responsibility.

Dr. GRAYSON. Then the President delegated to the Commission the power that he had under the act, and the Commission members are the ones where the power does reside. They make the policies, and the policies are where the real focus of power is because those policies determine the individual decisions.

Senator PROXMIRE. Yes; but you can make all kinds of determinations within those policies, and, of course, you have a great voice in determining what the policies are. I notice the price increases have been—in one case, I recall for a steel company 7 percent, in other cases they have been denied. This is a great range in which you can act.

Dr. GRAYSON. Yes; but only within the policies of the Commission. And if the Commission were to feel that my individual decisions were not in line with the policy, they do have the power to act. Also there is the delegation of authority within the organization under certain specified conditions. It is a very carefully devised delegation system which I think has adequate checks and balances. The title of czar is a little bit overstated, I think.

Senator PROXMIRE. Well, you have it. You have it. One of the safeguards in a democratic system for checking and controlling this kind of power is public knowledge, public understanding. We have a dearth of that. We can't get it.

I have documentation I am going to ask you about, a letter from Ralph Nader about the trouble he is having getting information.

The act itself, section 207(c) of the Stabilization Act, requires—as an amendment of mine—public hearings to the maximum extent possible on significant requests for price increases. How many public hearings has the Commission held pursuant to this requirement?

Dr. GRAYSON. We have had no public hearings per se. There have been no formal requests made yet. Now if public hearings are requested we will certainly make every attempt in matters of national significance to the economy, as the act states—we will make every effort to do so. But we must be careful that we do not, in terms of the time involved, hold such open hearings as will inhibit our ability to move forward in providing responses to companies that do meet—

Senator PROXMIRE. In view of this great power wouldn't it be wise for you to have hearings at least occasionally? You have been in operation now two and a half months in phase II. No hearings at all, none, apparently none anticipated unless people request them. Shouldn't you have, as a matter of course, hearings at some regular intervals? If you have to have more staff it seems to me the kind of thing Congress would be happy to provide.

Dr. GRAYSON. Yes; and I anticipate we will have some open hearings. I have none scheduled at the moment, but we are certainly receptive to the request for open hearings.

Senator PROXMIRE. Who can make a request for an open hearing?

Dr. GRAYSON. Any individual or any group can write in and request a hearing.

Senator PROXMIRE. Does it have to be a directly interested party, that is a company that feels aggrieved—

Dr. GRAYSON. It wouldn't have to be a directly aggrieved party.

Senator PROXMIRE. Could a consumer come in and ask for it?

Dr. GRAYSON. Yes.

Senator PROXMIRE. A Member of Congress?

Dr. GRAYSON. Yes.

Senator PROXMIRE. Well, then we are going to start moving on that.

Let me ask you to comment along this line—and I would ask unanimous consent, Mr. Chairman, to put in the record a letter from Mr. Nader dated January 25. He says:

Here is the Commission's record. The Price Commission has not held any public hearings on any price increases. The Commission has not described the information available for public inspection, nor the procedures for obtaining such information as required by the Freedom of Information Act. In his letter of

December 29 Mr. Grayson promised these regulations in about one week. They have not been forthcoming.

Why not?

Dr. GRAYSON. The response to Mr. Nader's letter has been given. The regulations are now being drafted to state our position on interested parties making statements, and the procedures under which they can present their views to the Commission. And I want to state that we do welcome views in writing, in particular. We don't have the time necessarily to meet face to face with every single individual or group that would want to come in. But we are sympathetic.

Senator PROXMIRE. Would you supply the information that is available when you respond to—

Dr. GRAYSON. I'm sorry?

Senator PROXMIRE. He asked for a description of the information available for public inspection.

Dr. GRAYSON. Yes; that is also specified in the recent response, exactly what information can be requested.

Senator PROXMIRE. He says that the Commission offers no detailed reasons for its actions on individual increases, but rather recites that the price increases were justified by increased labor—increased labor cost and adjustment for productivity, unquote. It could be that further disclosures might prove discomforting for the Commission, as they have already admitted they don't know how much of each approved increase is due to profit markup.

Dr. GRAYSON. We would know in each case the price markup. That would be known.

Senator PROXMIRE. Why aren't these detailed reasons given?

Dr. GRAYSON. We do not want to reveal company confidential data which under the act is protected. So we do not reveal the company confidential data, and that is a protection.

Senator PROXMIRE. All information isn't confidential.

Dr. GRAYSON. All the information that they have submitted to us in the way of cost data is company confidential information. Now other data that the company has, that is up to them to decide whether they want to release it. But the only thing they file with us on the form is company confidential data.

Senator PROXMIRE. Then there is no protection to the consumer. You will simply say it is company confidential, that's it. The consumer will have to suffer ignorantly. If they think the prices are high that's too bad. You, as one man can determine what they are, and no recourse, and no way of finding out whether it is justified or not.

Dr. GRAYSON. Well, again the confidentiality was specified, and we must protect the companies right to confidentiality. We will and we are required to do so under the act.

(The letters referred to follow:)

JANUARY 25, 1972.

Senator WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: In light of the forthcoming Senate confirmation hearings for C. Jackson Grayson, Chairman of the Price Commission, I wish to bring the following points to your attention:

The Price Commission has shown abundant disdain for any public participation in deliberations dealing with price policy toward consumers. Under the

banner of expeditiousness, the Commission has chosen to hear only the corporate voices concerned. The Commission's viewpoint can be seen in Chairman Grayson's answer to my recommendation for immediate establishment of procedures allowing for meaningful public participation. Mr. Grayson's letter of December 29 (first page) bluntly shows the Commission's lack of concern.

In carrying out its activities in a void of public participation and disclosure, the Price Commission has ignored almost every Congressional mandate regarding administrative procedure. Under the Economic Stabilization Act of 1971, the Price Commission is subject to title 5 USC sections 552, 553, and 555(e); it must establish procedures for persons seeking exemptions and rulings; and must hold public hearings on increase requests that will have a significant impact on the economy.

Here is the Commission's record:

The Price Commission has not held any public hearings on any price increase. The Commission has not described the information available for public inspection, nor the procedures for obtaining such information, as required by the Freedom of Information Act. (In his letter of December 29, Mr. Grayson promised these regulations "in about one week.")

The Commission offers no detailed reasons for its actions on individual increases, but rather recites that the price increases were justified by "increased labor and material costs and adjustments for productivity". It could be that further disclosures might prove discomfiting for the Commission, as they have already admitted they do not know how much of each approved increase is due to *profit mark-up*. (See attached undated letter from Price Commission.)

The Commission continues to use the guise of impracticability to side-step proper rule making procedures. The Commission used this for the utility regulations. Though the Commission approved the basic regulations on November 29, and stated that they would be released in a few days, the regulations were not released until January 14. The intervening period could have offered more than enough time for the Commission to gather public comment.

The Commission hasn't adopted policies to judge whether specific data submitted should justly be considered confidential (merely because companies request such confidentiality), under the definition offered in Section 1905 of Title 18.

The Commission does not release the final votes of members of the Commission (as required under the Freedom of Information Act).

In the public interest, the Senate Banking Committee should elicit guarantees of proper implementation of the Congressional guidelines regarding administrative procedures before the confirmation of C. Jackson Grayson.

Sincerely yours,

RALPH NADER.

DECEMBER 10, 1971.

Hon. C. JACKSON GRAYSON, JR.,
Chairman, Price Commission,
Washington, D.C.

DEAR MR. GRAYSON: To date the Price Commission has received over 600 requests for price increases and has approved at least 100 of them, some for the giants of American industry. The average citizen, however, who must bear the cost of these increases, has been denied all opportunity to participate in the decision-making process. He has been denied all access to the information supplied to the Commission in support of proposed price increases and has been supplied with no reasoning in support of the decisions of the Commission.

Public Participation in Commission Deliberations

At this time I strongly urge you to refrain from all further action on ending price increases until you promptly establish thorough procedures for allowing meaningful public participation in the decisions of the Commission. Under present procedures the Commission receives only one side of the picture of any proposed price increase; the data submitted are prepared solely by the company requesting the increase and are not subject to any citizen scrutiny. In addition, the Commission has an extremely small staff considering the volume of material which it must review and the chairman is the only fulltime member of the Commission. Unless the Commission allows an opportunity for anyone who challenges a request to meaningfully comment on it and then carefully considers opposing points

of view, it cannot realistically believe that its decisions will serve the best interests of the public at large.

In establishing the rules governing public participation the Commission should use as its model the Administrative Procedure Act provisions concerning rule making (see 5 U.S.C. 553 et seq.). The Commission should announce a schedule for consideration of each request, if possible, so that the public is aware of its deadline for submissions. Deviations from this model should be made only to the extent that the Commission feels they are necessary for expeditious and fair implementation of the controls program. The longer the Commission delays in adopting such rules and regulations the more it undermines public confidence and cooperation in Phase II which is so important for the success of the program. Hasty action on those requests now pending is likely only to produce pressure for similar hasty decisions by the Commission as the increased prices are passed along the manufacturing chain.

Now is the time for the Commission to promulgate rules allowing for public participation. Such rules will also increase the likelihood that the decisions of the Commission will be equitable.

Public Access to Industry Submissions and Other Communications

Members of the public will not be able to participate meaningfully in the decision-making process of the Commission unless they are given very broad access to the information supplied to the Commission by a company in support of its request for a price increase. Thus far the Commission has denied the public access to all such data. The Commission should establish immediately rules regarding public access to the information supplied in support of an increase; it should protect from public scrutiny only that material which, if released, would be truly detrimental to the competitive position of the company involved.

The Commission should carefully weigh each request for confidentiality, narrowly construing its own regulations, and, where it finds the claim justified, should restrict access only to that portion of the material which deserves secrecy, not to the entire document in which it is contained. All submissions in support of an increase should be placed in a public docket after the confidential material has been deleted, along with all internal memoranda summarizing or containing data to be considered, and that docket should be made available to the public from a central facility at the Commission. A clerk should be available to retrieve all information not in the docket within a reasonable time and a copying facility should be made available to the public at a reasonable price.

All members of the Commission and its staff should prepare minutes of all ex parte meetings and conversations including telephone calls and should place these records in the public docket of the request to which they relate. This procedure will not only inform the public as to the nature of the inputs resulting in a particular decision, but will also help insulate the Commission from undue influence from all sources.

In no case should the Commission clothe an industry-wide submission or a submission by a trade association in the garb of confidentiality. The doctrine ascribing a proprietary nature to trade secrets and similar data was designed to foster and protect competition; surely an industry-wide or trade association submission does not fall within the protections of this rationale. If the Commission does not fully release all such submissions, it may encourage wholesale violations of the antitrust laws.

Improper Use of the Stabilization Program by Industry

The Commission should establish better guidelines regarding the nature of material required in support of a request for an increase and should then enforce strict compliance with the new guidelines. It should carefully guard against the use of the request process as a propaganda technique for influencing public opinion in unrelated areas; for example, by allowing General Motors to separate its requests for increases related to pollution and safety improvements from the rest of its requests for price increases, the Commission allowed the corporation to misuse its procedures for propaganda purposes. If the industry is willing to provide such detailed data when it operates to the industry's benefit, then it should be required to do so on all its requests (such as those related to styling costs for an auto company).

Publication of Reasons in Support of Commission Determinations

At the very least the Commission should immediately initiate a program of presenting reasons in its announcements of approvals or denials of requests for price increases. Current announcements merely recite that price increases are justified by "increased labor and material costs and adjustments for productivity"; obviously, such a meager declaration cannot provide a basis for a meaningful public response. Decisions with reasons would allow for a minimum of public review during the interim while the Commission members further consider the precise nature of the regulations which should be adopted concerning public access and participation. Further, the Commission might establish a procedure of delaying the effectiveness of its decisions for seven days, allowing for public response to these "decisions with reasons" before they take effect. Under such a procedure the Commission could modify a decision with little hardship to interest parties should it become convinced that the original decision is not in the best interest of the public.

The Commission's Obligation to Better Inform the Public

If the Commission is seriously committed to public participation in the decisions that are made and in the enforcement of its regulations, it must clearly explain to consumers their rights. The public must understand their right to inspect the ceiling price information posted in the stores, the conditions under which landlords can raise rents, and precisely which items are exempt from controls. The Commission should use public service television advertisements to explain these and other complicated matters to the public and should include in the announcements the local address and telephone number where one can report violations. In addition, the Commission should use public service advertisements in the printed media to explain the finer details of its program. Currently much of the information concerning Phase II is buried in the financial pages of the newspapers where it is extremely unlikely to be seen by the majority of people who are affected.

Improving the Enforcement Process

If consumers are to bear the brunt of monitoring prices during Phase II, they must be provided adequate tools to do the job. Current regulations require retailers only to display their ceiling price lists; they provide no way for the average consumer to evaluate easily the legality of any price increases over the base prices. The Commission should require stores to post the following breakdown for all goods sold: the previous price, the new price, the percentage increase or decrease in price over the base price, and the reason any increases are justified under Phase II regulations. These lists should be posted prominently in areas where most customers pass, such as near entrance or cash registers.

In addition, the Commission should pay special attention to those segments of the marketplace which pose especially difficult problems for monitoring. For example, the pricing practices in the selling of new cars provides a haven for abuse of the stabilization guidelines. Though the "sticker price" might remain constant, there is no guarantee that the dealer is giving the same discount which he gave during the previous year. The Commission should establish rules requiring the maintenance of proper records available for public inspection to ensure that the standard discount is being granted. Another area where monitoring by the consumer is difficult is in the pricing of seasonal apparel; as the individual consumer makes only infrequent purchases, he is poorly equipped to ensure compliance. In these and other areas where the efficiency of citizen Service to make periodic spot checks to ensure the fullest possible compliance with Commission rulings and regulations.

The Problem of Quality Degradation

With reasonably long term price controls now established, the Price Commission must carefully consider the problems of quality degradation which are to arise. The Commission should establish procedures to review all available quality data previously collected and compare this information to the quality of products in current production. Prior data can be gathered from results of private testing organizations (e.g. Consumers Union and the Insurance Institute for Highway Safety), results of government tests, and data already submitted to the government by industry for other purposes (e.g. performance data for new cars).

Careful assessment of quality changes should play an integral part in the Commission's approval or denial of a request to increase a particular price; moreover, it would provide ample justification for a Commission decision to require a price roll-back. Already the Commission has approved price increases for American Motors and the other auto manufacturers; however, recently announced independent test results demonstrated, for example, that the 1972 Gremlin incurs 175% more damage in a five-mile-per-hour frontal crash than last year's model. The Commission should detail some of its staff to develop adequate procedures for consideration of this and similar quality information.

Improving the Information Available to the Commission

The decisions which the Price Commission makes can be no better than the data on which they are based. The present notification forms (PC-1 and PC-1R) are deficient in several serious respects. For instance, nowhere on the forms is the company required to report any profit data. In addition, the company is asked neither to report any changes in the quality of its products, nor to affirm that there has been no quality degradation. These omissions are only the most obvious and show the need for the drafting of new forms. Such forms should be adopted only after careful consideration and review by a wide variety of interested parties, including some of those who might be interested in challenging requests for increases when the Commission establishes procedures for public participation.

Conclusions

The Price Commission is entering a very critical period with regard to the future of the Phase II program. If the Commission is interested in increasing public confidence in its decisions and in increasing the likelihood that its decisions will be fair and equitable to all concerned parties, it must immediately adopt a series of rules and regulations allowing for public access to information presented in support of requests for price increases and for public participation in its decision-making processes.

This letter presents only a brief description of a variety of actions which the Commission should undertake. Ideally, the Commission should hold public hearings before issuing rules and regulations governing the various matters discussed above; however, should such hearings appear impracticable at the present time, the Commission should not delay from issuing interim regulations providing for public access and participation until more thorough procedures can be developed.

It is hoped that the recommendations discussed above are helpful and that the Commission will carefully consider them before acting on any more of the pending requests. Thank you for your consideration.

Sincerely,

RALPH NADER.

DECEMBER 29, 1971.

Mr. RALPH NADER,
National Press Building,
Washington, D.C.

DEAR Mr. NADER: Thank you for your letter of December 10 which raised many difficult questions. I will do my best to answer them in the order in which they were stated.

Public Participation in Commission Deliberations

It is unrealistic to expect the Commission to refrain from all further price increase requests until it has established procedures for meaningful public participation in its decisions. Most companies presently asking for price increases have not been able to increase their prices legally since August 15. A cost justified price increase may be long overdue. To allow "meaningful public participation" in each such decision would delay the decision so long as to work substantial economic injustice.

Granted, that in many cases the arguments the Commission hears are representative only of the company's concerned. The staff of the Commission and the Commission itself, however, are quite capable of asking pertinent questions and obtaining additional information when it appears to be needed. Hardly

a case has passed through the Commission procedures without questions being asked and considerable new information being supplied. Of course, we might have done a better job in some cases had we had the benefit of input from an informed third party, but the delay which obtaining the input would have involved would not have been tolerable. In addition, as I am sure you are aware, meaningful public participation is rarely possible without prior disclosure to the public of the information upon which an application for a price increase is based. Yet, the bulk of such information, in most cases, is claimed by the company to be confidential, and the Commission believes that such claims are normally justified. Disclosure of such information over the objections of the companies concerned would be a breach of faith and would substantially impair the cooperative attitude toward the Price Commission program which has been adopted by most of America's industries.

Public Access to Industry Submissions and Other Communications

Most of your questions here have been dealt with by what I said in the previous section. Insofar as the Price Commission can feasibly provide information to the public, regulations outlining how such information can be obtained will be published in about a week.

We are considering your request that all members of the Commission and its staff should prepare minutes of all incoming phone communications and file them in public dockets to which they relate. In fact, I believe that in substance this is already being done. The operations staff makes a record of every telephone call or other communication which they take or receive in connection with resolution of a case and this record is kept in the docket of the case. The Commission itself has directly decided very few cases so far, and no such detailed record of telephone conversations was kept in those instances. There was nothing unusual about the telephone contacts in the cases decided by the Commission. They concerned requests for explanations and for additional information. We are also considering your request that industrywide submissions not be accorded such broad benefits of confidentiality.

Improper Use of the Stabilization Program by Industry

The Commission has its own guidelines for public disclosure which it follows in every case consistently. What a company says about its own requests for price increases, however, is beyond our control. Nor should we seek to control it. What one person regards as only "propaganda," others may rightly regard as free speech.

Publication of Reasons in Support of Commission Determinations

The Commission already publishes its reasons for individual decisions to the extent permitted by confidentiality. Many of our statements of reasons are also published more fully as "Price Commission Rulings" applicable to broad classes of cases.

The Commission's Obligation to Better Inform the Public

I agree that widespread public knowledge of how the Commission works is desirable. I also admit that some of our rules are not easy to follow nor easy to understand and that an average member of the public may not be able to spot a violation immediately. All I can say in our defense is that we are doing our best to keep our rules simple and to inform the public. The inherent difficulties of controlling prices in an economy as various and as complex as the economy of the United States makes complex rules necessary.

Improving the Enforcement Process

What I said under the previous heading also applies here. In addition, the Commission has recently been briefed by the Internal Revenue Service on the problems of monitoring within the retail area. We recognize these problems and are currently working on solutions.

The Problem of Quality Degradation

The Commission has established channels for obtaining quality-deterioration information. Here again, however, I must say that there are limits on how much the Commission can hope to take into account with the limited resources at its

command. Under the guise of price control, we cannot properly expect to become the quality policemen for all industry.

Improving the Information Available to the Commission

All our Price Commission forms are being revised, and the new forms should be out by the time you read this. Price Commission forms are continually under review, as we gain experience under them.

Conclusion

I appreciate your interest and your specific recommendations, even though I cannot say that in all cases I agree with them.

Thank you very much for your efforts.

Sincerely,

C. JACKSON, Jr., *Chairman.*

Washington, D.C., January 7, 1972.

Mr. C. JACKSON GRAYSON,
Chairman of the Price Commission,
Washington, D.C.

DEAR MR. GRAYSON: I would like further information regarding the Price Commission's approval of certain price increases. Specifically, I would like to know if the Commission allowed the following companies to add any profit margins to allowable cost increases for the price increases approved, or if the increased costs were passed on dollar for dollar. I would like this information for the following increases approved by the Commission:

I.B.M.: 1.5% increase on all domestic products and services, as reported on decision list No. 15, December 14, 1971.

Xerox: 2.2% increase on copiers and duplicators, as reported on decision list No. 71-28, January 4, 1972.

ITT, Continental Baking Co.: 3.61% increase on bakery products as reported on decision list No. 18, December 17, 1971; 7.5% average increase on bakery products, reported on decision list No. 71-27, January 3, 1972.

Royal Crown Bottling Co.: 10.98% increase on bottled soda, and a 6.92% increase on canned soda, both reported on decision list No. 23 December 27, 1971.

Pepsico: 1.39% increase on "selected products," as reported on decision list No. 23, December 27, 1971.

I would also like to know in each of the cases above what percentage of the price increase results from the application of profit margins to the allowable cost increases.

Your prompt attention to this request would be appreciated.

Sincerely,

MARK FREDERIKSEN.

ECONOMIC STABILIZATION PROGRAM,
THE PRICE COMMISSION,
Washington, D.C.

Mr. MARK FREDERIKSEN,
Washington, D.C.

DEAR MR. FREDERIKSEN: Regarding your letter requesting information about Price Commission decisions, cost information submitted in price increase requests does not detail the portion attributable to profit margin maintenance.

The Commission permits the inclusion of profit margins in allowable cost increases used as a basis for price increases. However, such price increases will not be allowed if they increase the manufacturer's profit margin, as a percentage of sales, beyond that in the base period.

The allowable costs justified by IBM, Xerox and Royal Crown Cola (10.98% request) exceeded the price increase they requested, thus reducing or eliminating the portion of the price increase granted which could be attributable to profit margin maintenance.

The increases for Pepsico, ITT's Continental Baking Co. and Royal Crown Cola (6.92% request) were equal to the cost justification and would have included a cost factor for maintenance of the profit margin.

When a requested price increase equals the allowable cost justified by the applicant, it can generally be assumed that maintenance of profit margin constituted a part of the price increase requested. Where the applicant has justified allowable costs in excess of his request, the portion of the price increase granted attributable to profit margin maintenance would be reduced or eliminated.

As a general rule, Term Limit Price agreements, such as that reflected in the order granted to IBM, involve justified allowable costs in excess of the increases granted.

Cost information concerning specific companies is not permitted to be publicly disclosed under the Economic Stabilization Act. For your information, enclosed are copies of Price Commission orders on these companies.

I hope this information will be of value to you.

Sincerely,

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

Senator PROXMIRE. Let me ask you another question. The Commission continues to use the guise of impracticability to sidestep proper rulemaking procedure. The Commission used this for the utility regulations. Though the Commission approved the basic regulations on November 29 and stated they would release regulations in a few days, they were not released until January 14. The intervening period would have been more than enough time for the Commission to gather public comment.

Dr. GRAYSON. One, the complexity of trying to write those regulations was larger than we had thought it would be. We wanted to make certain that the regulations would not be incorrect, or hazy. We also wanted to be sure that they permitted utilities to be able to respond and work in the bond markets. As a result, there was a longer delay than we had hoped for. In addition, we did have conversations with all the regulatory authorities, with individual companies and utilities. There were a lot of interactions and much information was gathered, but not in open hearings. We just didn't have time to have the open hearings. We needed to get the regulations published so that the companies could move.

Senator PROXMIRE. Well, secrecy is often more efficient—in this case it probably is. But I just wonder if it really serves the public interest.

Dr. GRAYSON. The meetings which we held with all the regulatory agencies were announced, and they were known to all the commissioners, all the people—

Senator PROXMIRE. The material, the information was secret. There is no way that the newspapers or a Member of Congress or anyone else, a consumer, labor organization, could determine whether these were justified or not, is that right?

Dr. GRAYSON. Well, as far as getting the data, no. As far as getting the company confidential data, that is what we are protecting.

Senator PROXMIRE. Let me ask you one more question. The Commission hasn't adopted policies to judge whether specific data submitted should justly be considered confidential; merely because companies request its confidentiality under the definition offered in section 1905 of title 18. Wouldn't it be wise for you to make some kind of finding that some of this information should be confidential and some should not? As it is now we don't get anything.

Dr. GRAYSON. Yes, Senator, I think that is correct, and we are studying that in line with the direction of the act. Right now, in the beginning, what we said was what the company submitted we would regard as confidential. But I think you are correct, we will make a careful determination and decide whether the data they submit are confidential.

Senator PROXMIRE. Not only that, but you accept the company's information as gospel, you don't challenge it; is that right?

Dr. GRAYSON. Right now we do not have the staff to go back to the company itself, but we challenge a lot of figures and send the companies back for more explicit data, and also audited data. So we do have some checks and balances in the accuracy of the data.

Senator PROXMIRE. You don't check the statement of confidentiality?

Dr. GRAYSON. Don't check the statement?

Senator PROXMIRE. The statement that information has to be confidential. The company says this is confidential, that's it. That's good enough for you.

Dr. GRAYSON. Yes, as of now, but we are studying the question and we will come out with a statement that says which data you submit to us we will not hold confidential.

The CHAIRMAN. Dr. Grayson, I am sorry to be late. But any time we have to break I hope the first member back will resume the hearings. I am glad you did.

It seems to me that it will be good when you get to the point that you can set up some kind of arrangement for hearings where hearings are required or requested. I take it that most of the cases you have had so far have been an accumulation of cases that came in all at once, did they not? You had to make the decisions.

We wrote into the law a requirement that hearings might be available when requested or required.

Dr. GRAYSON. Yes, that will be the case, Mr. Chairman. We will recognize that and will hold hearings in cases that are of importance to the national economy.

The CHAIRMAN. And information on that will be available as soon as you can put it out?

Dr. GRAYSON. That is correct.

The CHAIRMAN. I have to leave. It won't take me but a few minutes. I would like to suggest that if you complete with Dr. Grayson you call up Judge Boldt immediately. We have his financial statement and also the biographical sketch. And if you will excuse me, I will leave for a few minutes.

Senator Tower, do you have a question?

Senator TOWER. I have passed.

The CHAIRMAN. Senator Brock.

Senator BROCK. Just a couple of very brief questions, Dr. Grayson. I wonder if you have any idea what percent of those companies whose decisions would have a sizable effect upon the national economy are publicly held. Aren't the overwhelming majority of companies who have any impact of major consequence on the economy publicly held corporations?

Dr. GRAYSON. To my knowledge, by far the majority. I know of only one or two instances from instant recall where there is a large private

holding in some major companies. Those publicly held are up in the 99 percentile.

Senator BROCK. And in those 99 percent their financial reports are available to the general public?

Dr. GRAYSON. That is correct, and audited.

Senator BROCK. And audited under the SEC regulations among others. So that secrecy really relates to cost data on specific products which may be brought before you of that corporation which are of necessity confidential because they contain data which could be highly useful to the competitor.

Dr. GRAYSON. That is true.

Senator BROCK. And release could be highly detrimental to that particular corporation. I think we need to debunk this thing about secrecy as being something we are trying to protect the secret profits of all these corporations. Something in excess of 99 percent are a matter of public record and public knowledge right now.

Dr. GRAYSON. That is correct.

Senator BROCK. That is a fair statement; is it not?

Dr. GRAYSON. That is correct. And I emphasize that these are all audited by reputable professional CPA firms in every case, and we require that as does the SEC.

Senator BROCK. I am tempted to ask you as a graduate of a certain notable institution and as the dean of another what impact the Price Commission has on the Phillips curve, but I guess I will pass that one for now.

Senator PROXMIRE. Senator McIntyre.

Senator MCINTYRE. Thank you, Mr. Chairman.

Mr. Grayson, I hope you realize that 11 million citizens of my section of the country, New England, are presently forced to pay millions of dollars a year in higher prices for oil products because of numerous subsidies granted to the oil industry. It has been estimated that the oil depletion allowance, intangible drilling cost benefits, the foreign investment tax credit, and the oil import quota system result in an \$8 to \$10 billion a year benefit to the domestic oil industry. We, in New England, feel the oil industry has been sufficiently protected and price increases on top of the present Government subsidies will be a hard pill for New England consumers to swallow.

The Washington Post last week carried headlines stating "1971 Was a Banner Year for the Giants of the Oil Industry." So let's try to make 1972 a banner year for the consumer by holding those prices down.

Mr. Grayson, on January 25, I sent you a letter regarding preliminary negotiations prior to formal filings of requests for price increases by Shell Oil and Trans-American Oil Cos. I would assume that if these two companies formally filed for pay increases that other members of the oil industry will follow. Now I recognize that in view of the fact that no formal filing has been made at this time it would be impossible for you to comment on a proposed price increase, and even if the requested increases were filed it would be inappropriate for you to discuss the merits of these requests.

However, I would like to raise two questions with you in regard to the manner in which your agency would handle such price increases if and when they are formally submitted.

First is that our domestic petroleum industry is covered by the mandatory oil import quota system program. This, as I am sure you are aware, limits the amount of foreign oil that can be imported into the United States, and was purposely designed to provide protection for our domestic oil industry. The import program was instituted in 1959, by Presidential proclamation 3279. Section 6(A) of that proclamation requires that when crude oil or its derivatives are increased in price the director of the Office of Emergency Preparedness shall make a determination as to whether such increases are necessary to accomplish the national security objectives upon which the quota system was purportedly based.

I would strongly urge that the Price Commission if and when members of the petroleum industry request price increases, have OEP conduct such a survey prior to any decision made by your Commission. If there is not, it could well be that litigation may result charging that any price increase granted by your agency would be illegal.

The second point is it is my understanding that both Shell and Trans-American are presently negotiating with your staff to file for what is called term limit pricing. This procedure, as I understand it, would allow a company to increase its total prices by 2 percent for the entire year. In view of the large number of products refined by petroleum companies and their sensitivity to our economy in general, it is hoped that any price increase granted will be based along individual product lines rather than on a broad percentage averaging procedure.

I also realize that you probably cannot comment on this issue today. But I hope you will keep the committee informed as to the policy adopted by the Price Commission with regard to crude oil and petroleum increases.

Now here is the question. The Economic Stabilization Act as passed with amendments contains in section 203(b) as part of the standards for issuing orders and regulations that general exceptions and variations should be made where necessary to foster orderly economic growth and also to protect from domestic shortages of raw materials. The phrase "domestic shortages of raw materials" was included in section 203(b) because of difficulties encountered by domestic tanners and some other industries in obtaining materials needed in manufacture.

It is my understanding that the economic stabilization plan has had the effect in some instances of encouraging exportation of raw materials resulting in shortages in some industries.

Would you comment on what action has been taken, if any, by the Price Commission to assure that domestic tanners can acquire necessary cattle hides at competitive prices?

Dr. GRAYSON. To my knowledge, Senator, no export control action has been taken on the issue you raised as to the tanners. We are aware that, in some cases, our policies could have, as side effects, the conditions you cite here, and when that is the case the Price Commission does not have the powers to go into other elements such as export controls and any other kind of activities. That is not within our jurisdiction. But we do want to be aware of impact of our policies, and I will certainly look at the situation you describe in this particular case.

But I do not know that any specific decision was made on the tanning industry per se.

Senator McINTYRE. But you are aware of that problem?

Dr. GRAYSON. Yes.

Senator McINTYRE. And will be sensitive to it?

Dr. GRAYSON. Yes; we will. The other problem you raised, without going into the specifics—your comments and your letter—will all be considered in our decisionmaking.

Senator McINTYRE. Mr. Grayson, section 214 of the Economic Stabilization Act as amended calls for providing exemption for small business as may be feasible. The Price Commission has at this time exempted small retail establishments with gross sale of under \$100,000 from several Price Commission rules and regulations. Do you foresee any further small business exemptions, and if so, when?

Dr. GRAYSON. Well, immediately, no. I think we want to look at what impact this has, and we know that it has a small impact—that is 15 percent of the sales in the retail sector are now exempt. But the matter of studying the push on the inflationary forces, together with our ability to respond to the administrative burdens that are required under the act will affect our decisions on other exemptions in the Small Business Administration area. But, at this moment, we don't have any immediate plans for further exemptions.

Senator McINTYRE. I would like to make my letter to Chairman Grayson of January 25 part of the record.

Senator PROXMIRE. Without objection, that will be printed right after your questioning.

(The letter follows:)

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
Washington, D.C., January 25, 1972.

Hon. C. JACKSON GRAYSON,
Chairman, Price Commission,
Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that preliminary negotiations are presently being conducted by your agency's staff regarding the filing of a formal request for term limit pricing permission on behalf of the Shell Oil Company and Trans American Oil Company. In view of the indicated desire of these two companies to obtain permission for price increases, I believe it can reasonably be inferred that competitors of these companies will make similar requests.

Serious questions are raised as to the appropriateness of granting these price increases without first obtaining from the Office of Emergency Preparedness a report as required by Section 6(a) of Presidential Proclamation 3279, which established the Mandatory Oil Import Program, to determine whether such increases are necessary to accomplish the national security objectives of the controlling legislation and of the proclamation. The pertinent part of Section 6(a) states: "In the event prices of crude oil or its derivatives should be increased after the effective date of this proclamation, such surveillance shall include a determination as to whether such increase or increases are necessary to accomplish the national security objectives of the Act of July 1, 1954 as amended, and of this proclamation." The responsibility referred to in the last sentence is delegated by the President directly to the Director of the Office of Emergency Preparedness.

Public interest considerations also must question whether the use of your agency's term limit pricing mechanism would be appropriate with regard to crude oil and petroleum product price increase requests. As I understand this procedure, a company granted such an increase would be permitted to increase prices within the year by two percent based on the average of all domestic product prices.

While in some industries this procedure may well be appropriate, the structure of the petroleum industry would require a product by product examination to determine whether individual prices increases are justified. This is particularly true with regard to crude oil prices. The impact of the oil depletion allowance, the effect of intangible drilling costs and the operation of the Mandatory Oil Import Quota System combine to give major integrated producer-refiner-marketers enormous economic and competitive advantages over their smaller and less integrated rivals. To a great extent this advantage is based upon the ability of a small number of major oil companies to control the supply and price of crude oil. This control is also present in varying degrees with regard to a number of petroleum products.

Public policy requires that petroleum price increases, if indeed they are proven to be justified, must be limited to particular products and not be granted under a broad averaging procedure. Unless the major oil companies are required to substantiate individual requested price increases, their market dominance will allow them to price products at varying percentage levels causing serious economic hardships on particular classes of users. Of particular importance to my constituents is the ability of a small number of major oil companies to unreasonably increase the price on residential and industrial heating oils in New England and by adjusting the price of other products still remain within the general two percent price increase limitation.

An issue of such importance requires that the Office of Emergency Preparedness conduct a study on any proposed petroleum price increase as is required by Section 6(a) of Presidential Proclamation 3279 and that any price increase granted be based on the individual petroleum product.

Sincerely,

THOMAS J. MCINTYRE.

Chairman, Subcommittee on Small Business.

Senator PROXMIRE. Senator Tower.

Senator TOWER. I have no questions at the moment.

Senator PROXMIRE. Mr. Grayson, pursuing the line of questioning that I was pursuing in regard to making more information published, we would be in a better position to appraise this and how you are administering it, does the Price Commission make public the votes of its members?

Dr. GRAYSON. Yes, these are being made available to the public. They are to be published in the next few days for all our meetings going back to December 22.

Senator PROXMIRE. You say they will be published. They have not been published so far?

Dr. GRAYSON. No. I think the minutes——

Senator PROXMIRE. Under the Freedom of Information Act wasn't this required to be published?

Dr. GRAYSON. Records were kept on these, but it was felt that it was not required.

Senator PROXMIRE. They were required under the Freedom of Information Act.

Dr. GRAYSON. We asked the counsel. He said the way the act was written, at the moment they were not required, but they are now. The Commission members were polled to see if they had any questions about going back, and there was no question whatsoever by any Commissioner.

Senator PROXMIRE. Last December the wholesale price index rose by 0.8 of a percent. There were 2 or 3 months in which the wholesale price index did not rise. For that month it was a very high rate. It

was the biggest increase in 10 months. How effective has the phase 2 price control been in view of this large increase in wholesale prices, and recognizing quite a bit of this was a result of the food prices that are not under control?

Dr. GRAYSON. I think the industrial increase was 0.3, which is the area primarily where we have our control. Of the total 0.8 increase, exempt food was two-thirds of that increase. And if you look at the rate from August to December it was approximately 1.7 annualized, during the period of the operation of the act itself. What we are looking at, therefore, is fairly encouraging.

Senator PROXMIRE. During the period of the act itself—are you including the freeze period?

Dr. GRAYSON. Yes.

Senator PROXMIRE. During the freeze period there shouldn't have been any significant increases.

Dr. GRAYSON. Yes, in fact there were some decreases in food prices.

Senator PROXMIRE. Should have been, because no price could go up.

Dr. GRAYSON. What I think we are seeing now is an increase due to the fact that the freeze limited the ability of some firms to raise prices; they were trapped by increased costs just prior to the freeze. I am anticipating that we will have control in the industrial sector based on certain factors that we see operating in the firms we are controlling directly. And I have talked to the Agriculture Department and their statisticians expect that the rate of increase in farm prices over the next year is likely to be in the neighborhood of 3 percent. I have also talked to some food chains just in the past week or so, and they are anticipating and hoping that increases can be held at 2.5. That is annually across the year; it does not mean necessarily in any month we won't get the seasonal factors. But if that is so, the rate of increase in the WPI is going to come down.

Senator PROXMIRE. So far we have no hard evidence that this has worked at all. It is obvious that during a freeze period, a 90-day-freeze period, that had an effect on inflation, of course. But many prominent economists, including people like Friedman and others, argue that this is deceptive because right after the freeze you are going to get prices resuming their increase.

Would you agree that to date we do not know, we do not at least have the hard evidence that the anti-inflation program has worked?

Dr. GRAYSON. I would agree as to hard evidence. I see encouraging signs that we are making progress, and I can cite some of those if you wish.

Senator PROXMIRE. Well, can you give us a target for your price increases for each quarter of 1972?

Dr. GRAYSON. The CPI—want me to guess the CPI?

Senator PROXMIRE. Yes.

Dr. GRAYSON. I would say I hope this can be held over the next few months at hopefully around 0.4, and then gradually—

Senator PROXMIRE. Around 0.4 for 3 months?

Dr. GRAYSON. Approximately.

Senator PROXMIRE. Annual rate then would be 1.6.

Dr. GRAYSON. I mean 0.4 for the increase per month over the next few months.

Senator PROXMIRE. Per month—wait a minute—0.4, that would be quite a bit. That would be a big increase. That is 4.8 percent increase annually.

Dr. GRAYSON. That's right. That is what it was this past month, in December.

Senator PROXMIRE. That wouldn't be any improvement over what it was the period before the act went into effect. So you are expecting this quarter to be about the same as before the act went into effect?

Dr. GRAYSON. Approximately. Now I do expect that there will be a downward trend and that by the end of the year, I predict, the annual rate will be approximately 2.4 percent which is our goal.

Senator PROXMIRE. That wouldn't represent much of an improvement in 1972 over 1971.

Dr. GRAYSON. I think the annual rate we are heading for by the end of 1972 is 2 or 3 percent.

Senator PROXMIRE. By the end of the year it would be around two and a half percent?

Dr. GRAYSON. Two to three percent by the end of the year, but not all through 1972.

Senator PROXMIRE. So the average during the year might be around 4 to 5 percent.

Dr. GRAYSON. I think it will be lower than that—say 3.5 percent.

Senator PROXMIRE. Three and a half to 4 percent would be a pretty modest improvement. We would still have serious inflation.

Have any consumer groups brought civil actions against price violators?

Dr. GRAYSON. To my knowledge there has been no formal action filed, no.

Senator PROXMIRE. You would know about that?

Dr. GRAYSON. In all likelihood, yes, because we get data sampled from the IRS system around the Nation.

Senator PROXMIRE. How many requests for price increases have you approved?

Dr. GRAYSON. About 1,200 cases.

Senator PROXMIRE. What has been the average percentage increase requested?

Dr. GRAYSON. About 3 percent. We have approved about 95 percent of the requested increase.

Senator PROXMIRE. You approved 95 percent?

Dr. GRAYSON. Yes.

Senator PROXMIRE. Only denied 5 percent.

Dr. GRAYSON. That is correct. In addition many firms have not filed because they didn't feel, after conversations with the staff, that they were entitled to an increase. Therefore, the firms that have filed are the firms who could justify an increase. Many of these firms could justify more of an increase than they requested.

Senator PROXMIRE. What was the average increase?

Dr. GRAYSON. In terms of all the applicable sales the average increase is 2.91.

Senator PROXMIRE. 2.91, and you have done this during a two and a half month period, is that right?

Dr. GRAYSON. Since November 14.

Senator PROXMIRE. And when you report this you report two things, as I recall. One is the increase for a particular product for which a price increase is requested; two, the impact that has on the firm's total sales.

Dr. GRAYSON. That is correct.

Senator PROXMIRE. However, you don't print a cumulative total. So that the same firm can come back, might come back eight or 10 times during the year and get the increases that might all be below 1 percent, but it might turn out to be a very substantial increase.

Dr. GRAYSON. Not in excess of our policies, because the cumulative record is kept in all the files and we note that every time. There have not been many repeat filings.

Senator PROXMIRE. Not repeat so far, but we are only beginning the operation.

Dr. GRAYSON. And I have requested that the cumulative information be published.

Senator PROXMIRE. It has not been published?

Dr. GRAYSON. Not yet. But that is being put into the computer run so that we can get that published as part of our reported data.

Senator PROXMIRE. When do you expect to be able to do that?

Dr. GRAYSON. I would say the end of next month, maybe the middle of next month. But I may be a little optimistic.

Senator PROXMIRE. How can consumers really take part in monitoring this data if they are denied information that they have to have to judge it? The AFL-CIO I think has done a great public service in indicating they do their best to have their members monitor this. Great thing—after all, no cost to the taxpayer—effective monitoring system. But it seems to me they have a very tough job. Maybe it is impossible. I don't know how they can do it without this kind of information. And isn't there something you can do to make more information available so monitoring can be more effective?

Dr. GRAYSON. Yes; one of the things I did was appear before the AFL-CIO price monitoring group and try to explain the system and enlist their cooperation in several ways. One way is discriminative shopping: Asking the store owners about the price bases, and comparing the distance between the base price and the current price, particularly over time. What the customer can not do is to go to the individual item on the shelf and determine whether or not there has been a violation.

We made the decision to go to the aggregate system or the mark-up system as opposed to an item-by-item control for various reasons. One reason is that in item-by-item control you end up with supply shifting from low mark-up items to high mark-up items. This deprives many people, particularly in the low income segments, of the ability to get low mark-up items. We didn't want to create shortages.

We also looked at the administrative burdens that would be caused by going to item-by-item control and saw that it would also inhibit market flexibility. Looking back at the history of item-by-item control in OPA, we noted that eventually they had to go to an aggregate system because item-by-item caused so many problems in the market.

Tomorrow, I am appearing before the Consumer Federation of America. I have talked to the President's Consumer Advisory Coun-

cil, and I do agree that we need to get more information out to the consumers. I have now been visiting several cities in the Nation so consumer groups and businessmen can come and hear Commission policies and learn how consumers can adequately help us monitor the program.

Senator PROXMIRE. One more question on this round. A housewife who is cooperating in this effort to determine whether the mark up was legitimate goes into a store—I went into a store and they showed me a price list the other day. There is a code number for a particular item and a base amount. Then she has to go and find that, coordinate the two, which takes some trouble and some time and effort. Once she gets it what has she really got? She won't know—the price increase could be 5 percent illegal, could be 10 percent proper, 20 percent justified. It is very, very difficult for her to have any basis for judging whether the price increase was right or not. Just looking at the individual consumer, even if she is very shrewd and very persistent, seems to me it is hopeless.

Dr. GRAYSON. I went shopping Saturday myself. Senator, and I went to grocery stores and other kinds of stores Saturday, and I found out that it is difficult in some cases.

Senator PROXMIRE. All cases; isn't it?

Dr. GRAYSON. No, I found in some stores that the base price was categorized very neatly. You could look up a brand of tomato sauce and find it easily. In some other stores it wasn't easy. I instructed the IRS to tell their agents that they must get stores to put the basic price in a form that is comprehensible to the consumer. You are right about the fact that the consumer on the spot cannot tell if there has been a violation. I don't claim otherwise. But we are going to get those base prices in better form. I do not think many stores have made it easily visible and understandable to the consumer. And I am determined to do that in order to make the posting have more meaning and value to the customer.

Senator PROXMIRE. Senator Tower.

Senator TOWER. No questions.

Senator PROXMIRE. I will be as rapid as I can. How many companies have been able to submit productivity figures in connection with their request for price increases?

Dr. GRAYSON. The majority of them, after preliminary discussions, have submitted productivity figures. Admittedly these are rough figures. Admittedly many firms do not presently keep these figures. What we do is try to get them to estimate, and if they can't estimate, we suggest that they look at the industry data.

Senator PROXMIRE. Do you accept their judgment as to what the industry data is? You don't try to find it yourself?

Dr. GRAYSON. We have the industry data from BLS. We say that you should have a productivity target. It should be there. What does your data show? We attempt to let them use their data, but we recognize that this is very difficult for certain individual firms.

Senator PROXMIRE. So if their productivity is better than the industry average they have no incentive for developing any other data. In fact they have an incentive for going along, they get a better price increase than if they reported what the productivity—

Dr. GRAYSON. What we are using is the coming year's productivity as compared to last year's productivity. I think a company's productivity gains as a return on investment for capital should reside with the company. The productivity data we request is labor productivity, not capital productivity. I don't want to destroy that incentive either.

Senator PROXMIRE. I think you are right. You have got to preserve that incentive. But when you do permit the incentive you also create a price increase that wouldn't ordinarily be justified by your policies.

You have now exempted retail stores that sell less than \$100,000. That is 15 percent of all retail sales—15 percent of the amount, but a very large proportion, far more than half, overwhelming majority of stores, I think.

Dr. GRAYSON. Seventy-five percent.

Senator PROXMIRE. You also exempted used cars, you exempt many, many other things. In your initial order you exempted about 17, 18 percent.

Dr. GRAYSON. About 18 percent.

Senator PROXMIRE. How many are exempted now?

Dr. GRAYSON. I don't have the cumulative figures up to date. I would say it isn't significantly larger under the CPI. I would say 20 percent.

Senator PROXMIRE. Do you have any organized method of determining how you are going to decontrol, that is to the extent to which you can continue to exempt small firms and other firms, how do you operate that?

Dr. GRAYSON. I directed a small group within the Commission to begin an explicit study of decontrol techniques.

Senator PROXMIRE. That has not begun yet?

Dr. GRAYSON. They started maybe a week or two ago to work on strategies, and they are coming back and discussing it with me now. But our major emphasis, as I have said many times, is going to be on making the control mechanism work first. We are not unmindful of the fact that we ought to have a decontrol strategy, but right now we are primarily interested in control of price increases.

Senator PROXMIRE. You don't have the power to decontrol yourself?

Dr. GRAYSON. No, that is a recommendation to the Cost of Living Council.

Senator PROXMIRE. They are the ones that make a decision?

Dr. GRAYSON. That's right.

Senator PROXMIRE. How long did it take you to persuade them to decontrol the small firms, those sales of less than \$100,000?

Dr. GRAYSON. Well, they acted on it within a week after we made the recent recommendation to them.

Senator PROXMIRE. Recent recommendation?

Dr. GRAYSON. Yes.

Senator PROXMIRE. There was one before that?

Dr. GRAYSON. In the early part of the program we recommended the exemption of these firms and they decided to defer the request until later. And on our recent recommendation, they accepted it.

Senator PROXMIRE. One other question. I am just about through. The Commission has averaged 2.9 percent, I understand, in increases given. Since exempt prices will probably be more than the 2.5-percent

goal, does this mean that the control prices must be held well below 2.5 percent?

Dr. GRAYSON. One important consideration Senator. The 2.9 percent figure is the average increase for the firms that have come in. Half of tier 1 has not been according to the responses I got in December. 50 percent of the firms in tier 1 indicated they would not come in for price increases any time in the near future or that they would hold the line to very small increases. To add another statistic, if you take the price increases that have been granted and apply them across tier 1—and we are trying to hold price increases across the economy—the increases granted represent only about 0.5 percent of the sales of all of the tier 1 firms.

Senator PROXMIRE. Mr. Grayson, as I said before, I am very impressed by your personality, your intelligence, your willingness to tackle one of the toughest jobs in Government. Because you do have this enormous power, there is just no denying it—greater economic power than normally any group has in a democratic society—I would hope that you would do your best to have public hearings, to make more information available than has been made available so there is this kind of check on the justice and the wisdom and the justification for the price increases that are permitted.

Dr. GRAYSON. Well, Senator—

Senator PROXMIRE. Oh, yes; I do want to ask you about your co-ordination with the Pay Board. We are having Judge Boldt up. Obviously you can't have an anti-inflation program unless the two work somewhat together. There was great concern on the part of some members of the Senate that they shouldn't divide this. It has to be co-ordinated and done right together. Others disagree with that.

The Pay Board has permitted some enormous increases. We are going to pursue that with Judge Boldt. But how has this affected or is likely to affect your operations?

Dr. GRAYSON. One, we do have liaison functions with the Pay Board and an individual who keeps informed of their deliberations.

Senator PROXMIRE. You have a particular person?

Dr. GRAYSON. Yes.

Senator PROXMIRE. Do you work with Judge Boldt?

Dr. GRAYSON. I see the judge on occasion, we talk to each other at least once a week about matters that are going on in the Pay Board and the Price Commission respectively. We do ask for general data if an industry is coming before us, but we do not exchange individual company data.

Now our policy is still related, but these bodies are independent and they make their decisions on their own criteria. Naturally, when a request coming to the Price Commission has a labor component in it we look at that, and we are doing our best to say that we hope the guidelines will be respected so that price increases won't exceed the 2.5 percent across the economy.

Senator PROXMIRE Thank you.

The CHAIRMAN. Any other questions?

I want to say just this, Dr. Grayson. I am most grateful to you, I am sure we all are, for your action with reference to the small retail stores of this country. I was impressed by the large number involved

but the relatively small volume involved. But I think it has meant a great deal to the little store, the family store, the neighborhood store, and so forth. And I am very glad that you took that step.

Dr. GRAYSON. Thank you.

The CHAIRMAN. And I commend you for the work you have been doing, and I join in the expression of the others with reference to the importance of this job and how we must commend you for being willing to undertake it.

Dr. GRAYSON. Thank you, sir, and I hope I can live up to the responsibility.

The CHAIRMAN. I hope you will have a very successful tenure of the job and get to go back to Texas a contented man with a job well done.

Thank you very much.

Dr. GRAYSON. Thank you.

The CHAIRMAN. Next we have Judge Boldt. Judge Boldt, will you come around, please?

Judge, we have your biographical sketch. That will be placed in the record.

(Biographical sketch follows:)

Biographical Sketch of George H. Boldt

George H. Boldt was born in Chicago, Illinois December 28, 1903, son of George F. and Christine (Carstensen) Boldt; went to Montana as young child; graduated Stevensville High School 1921; MSU BA 1925; LLB 1926; LLD (honorary) Coll. Puget Sound 1954; LLD (honorary) MSU 1961; admitted to Bar Montana 1926, Washington 1928, and all federal courts, including Supreme Court. At MSU various undergraduate activities, including yell king, Straughn Scheuch scholar, Aber oratorical prize, Oxford-Montana debate 1924 and president student body 1925. Married Eloise Baird, MSU 1925, Nov. 17, 1928. Children: Joan (Mrs. Hugh Sobottka), Virginia (Mrs. Thomas R. Riedinger), George B; eight grandchildren. Law practice Helena, Mont. 1926-27 associated with W. D. Rankin, Helena, Mont.; Seattle, Wash. 1927-1945, partner Ballinger, Hutson & Boldt; Tacoma, Wash. 1945-53, partner Metzger, Blair, Gardner & Boldt. July 27, 1953 appointed by President Eisenhower as U.S. Dist. Judge for Western District of Washington. During law practice served as special assistant attorney general representing State of Washington in litigation re Tacoma Narrows Bridge collapse and again in acquisition of Puget Sound Ferry System. Varied and extensive trial practice, including many important public and private cases. Served as Chief Judge, U.S. District Court, Western District of Wash. from March to October 1971; became a Senior U.S. District Judge Oct. 30, 1971. Active service U.S. Army 1942-45, discharged Lt. Col.; Service with OSS in Burma campaign and China theater. Distinguished unit citation and three battle stars, graduate Command and General Staff School Fort Leavenworth.

Judicial service includes many special assignments on Court of Appeals and sitting as trial judge in almost every section of U.S., including New York, Philadelphia, Washington, D.C., Detroit, Alaska, Mississippi, California, Arizona, Oregon, Montana, Guam, Honolulu, Chicago and Puerto Rico. 1955 official delegate representing U.S. at First UN Congress on Prevention of Crime and Treatment of Offenders at Geneva, Switzerland. Member Amreican, Washington State, federal and Pierce and King County bar associations; Phi Delta Phi (legal) and Sigma Chi (grant trustee), American Legion, Presbyterian, Mason (32nd degree Shriner); Seminar of federal judges on protracted cases at NYU Law School 1967; discussion leader first Criminal Sentencing Institute, Boulder, Colo. 1959; member U.S. Judicial Conference Committees on Administration of Criminal Law, Standing Committee on Rules of Practice and Procedure for federal courts, Coordinating Committee re discovery problems multiple litigation; Committee on Operations and Appraisal, Federal Judicial Center; ABA-AIA Committee on Judicial Facilities; Trustee, University of Montana Foundation; Member Institute Judicial Administration, International Inst. Judicial Studies, American

Judicature Society; and Member American Law Institute. Home, 9144 Edgewater Drive S.W., Tacoma, Washington. Office, Federal Buildings, Tacoma and Seattle. Judicial Conference Representative on the Secretary of State's Advisory Committee on Private International Law, Appointed Chairman of the Pay Board, Economic Stabilization Program, October 22, 1971.

Has presided at criminal and civil trials extensively throughout United States including Southern District New York, District of Columbia, Eastern District Pennsylvania, Eastern District of Michigan, Alaska, Hawaii, Guam, Puerto Rico, Oregon, Southern District of Mississippi, Arizona and California.

NOTEWORTHY TRIALS

Criminal

U.S. v. Dave Beck (Tax Evasion) Tacoma.
 U.S. v. Mickey Cohen (Tax Evasion) Los Angeles.
 U.S. v. Lev et al (Smuggling and bribery conspiracy) New York.
 U.S. v. Benchwick (Bank Fraud) Honolulu.
 U.S. v. Althouse (Mail Fraud) Detroit.
 Posttrial matters, including sentencing.
 U.S. v. Carbo, et al (Extortion) Los Angeles.
 U.S. v. Marshall et al ("Seattle 7") trial, Tacoma.

Civil

Rayoner v. U.S. (Olympic Peninsula-Forks fire) Seattle
 U.S. v. Northern Pacific Ry. (Traffic clauses invalid under Sherman Act) Seattle
 Pacific Queen Fisheries v. Atlas Assurance Co. (Marine insurance re ship explosion) Tacoma
 U.S. v. Washington Toll Bridge Authority (Federal tax re state ferries)
 International Canadian and Pennsalt Chemicals v. Frank (Validity of Western Hemisphere Trade Corporation) Tacoma
 Arvidson and Whiteaker v. Reynolds Metals (Claims re fluorine damage to cattle)
 Gorusch v. United Security Life (Stock Fraud) Phoenix
 McDonough v. GEICO (Civil Fraud), Anchorage

One of the judges handling the nationwide civil antitrust litigation in the electrical equipment industry—about 2,000 cases in 40 districts involving 25,000 separate claims for damages running into billions of dollars. The most extensive litigation involving numerous difficult and complex questions of law and fact ever to be adjudicated. All claims terminated within 5 years.

STATEMENT OF GEORGE H. BOLDT, NOMINEE, TO BE CHAIRMAN OF THE PAY BOARD

The CHAIRMAN. We also have your financial statement. I have looked at it and made it available to the other members. And I have read the statement, the certificate by the counsel that says in his opinion there is no conflict of interest. You heard what I said about the treatment that will be given to it, and it is for the tenure of the office plus 1 year. I told Mr. Sheehan this morning that might be a long, long time. I hope yours won't have to be so long. And I believe it is that kind of an end to which you are working, isn't it?

Mr. BOLDT. It is, indeed.

The CHAIRMAN. Get things settled. We are very glad you are here, and I have observed your work. I say to you what I just said to Dr. Grayson, I commend you for undertaking this most difficult job, and I surely wish you well in it.

Mr. BOLDT. Thank you very much, Senator. I should say that I have submitted a written statement which briefly summarizes—

The CHAIRMAN. All right, and before we call for questions give us that.

Mr. BOLDT. I don't care to read it. It is a condensation of the progress of the Board to date, and I think the gentlemen of the committee will find it interesting and informative. It is deliberately intended to be a condensed statement.

The CHAIRMAN. Well, we appreciate that very much. We are very glad to have it. I am sure each of us will read it with interest, and if there is no objection we will print it in the record. I think it will be of general interest.

Mr. BOLDT. Thank you, sir.

(Statement of Judge Boldt follows:)

STATEMENT OF GEORGE H. BOLDT, NOMINEE, TO BE CHAIRMAN OF THE PAY BOARD

I greatly appreciate the opportunity to appear before this committee regarding my nomination to serve as Chairman of the Pay Board. This is a welcome occasion to present to the committee an accounting of my stewardship since my appointment. It provides an opportunity to explain the steps we are taking to effectively implement the Economic Stabilization Act amendments enacted on December 22, 1971.

The Pay Board did not, like Minerva, "spring full-blown from the head of Jupiter". Rather, it was put together from the remnants of the phase I program, plus such other assistance as was available from various agencies of the Government, and has developed from there.

The Pay Board was created for the purpose of restraining inflation and protecting the national economy. As a part of an overall stabilization program it is vital to the achievement of this national objective. Restraining inflation is not a goal that will be reached overnight nor one that will be easily achieved. It also is not something that can be done by fiat. Instead, it is a goal that will be reached because in the best democratic tradition a tripartite board of public-spirited citizens will carry out the mandate of the Congress and the President. This is not an easy task and is sometimes a thankless one. But it serves the best interests of the American people and will help maintain the strength of our economy.

The job will be done through the Pay Board and a very small, but skilled, staff. The Board is composed of distinguished members whose diverse backgrounds provide a valuable resource of skill and experience. Because they represent the major segments of our economy, they also assure the Board of both pragmatism in its decisions and widespread support for its actions.

Regarding the staff that supports the Board, we are indeed fortunate that it is of high quality and devoted to the public welfare. I might add, we are grateful to those Government agencies which have allowed us to borrow or take on a permanent basis some of their ablest and most devoted employees. We are also grateful to both the labor movement and the business community for helping us to recruit some extremely capable persons from both of these areas. We have made particularly strong efforts to obtain the services of persons from both labor and management because we feel they will help bring to our work the practical experience and pragmatism that are needed.

Since its inception the Board has met 34 times, has accomplished a great deal, and has laid the foundation for its future work. It has developed standards, issued regulations, made policy decisions, and decided some very difficult cases. It has also taken prompt action to implement the statutory amendments enacted at the end of last month. In addition, the Board has developed an extremely cordial and effective relationship with its sister agencies, the Cost of Living Council, Price Commission, Internal Revenue Service, Construction Industry Stabilization Committee, and the Committee on State and Local Government Cooperation.

Just a week ago—on January 20—the Board unanimously delegated to the Chairman broad authority to rule on pay adjustments, while retaining the right of any party of interest to appeal to the entire Board if unsatisfied by the decision of the chairman. This delegation has already resulted in a significant reduction in the backlog of cases which was beginning to build up.

In the past two months the Pay Board has passed upon such momentous matters as the National Bituminous Coal Agreement of 1971, the contract between the Brotherhood of Railroad Signalmen and the Railroad Carriers, the six aerospace cases, and the contract between the United Transportation Union and the National Railroad Conference.

In addition, the Board has delegated to the Treasury Department, subject to the general policy guidance of and coordination of the Board, authority to interpret, implement, monitor and enforce the stabilization of wages and salaries pursuant to criteria, standards and procedures established by the Board. The Board has also authorized the Construction Industry Stabilization Committee (CISC) to administer Pay Board policies with respect to wages and salaries and other economic adjustments in the building and construction industry. An amendment of this latter order was just agreed upon two days ago by the Pay Board and the CISC. A joint public release is planned for tomorrow afternoon setting forth the details of the agreement that has been reached with respect to the substantive policies to be followed by CISC.

The CISC and the Pay Board will each have a tripartite liaison committee to consult regularly and coordinate procedures, policies, and general activities of CISC and the Pay Board insofar as they relate to matters delegated to CISC.

The Pay Board has issued policy decisions regarding the calculating of maximum permissible increases; merit pay (but a revision of this policy is under consideration); executive compensation; reporting forms and procedures; challenge procedures; retroactive pay; and a delegation of authority to the chairman.

To date, the Pay Board has:

Reviewed 23 Category I pay adjustments. Eighteen have been approved and five have been disapproved. Those cases approved, weighted by the number of employees in each instance, averaged 5.49%. (This does not include the United Transportation Union case, which was decided after these figures were prepared.) Approximately 584,000 employees were affected.

Reviewed 62 Category II pay adjustments and determined them to be in an amount less than 5.5%. The weighted average increase for those cases for which complete data were submitted is 4.2%. 74,000 workers were affected.

Ruled upon 57 exception requests for Category III pay adjustments. Thirty-seven were denied and 20 were approved. Of those approved, no increase was in excess of the 7% Pay Board exception standard, and, for those companies which complete data were submitted, the weighted average was 6.55% and approximately 850 employees were affected.

Forwarded 1,915 inquiries and actions delegated to other agencies to the Internal Revenue Service, the Construction Industry Stabilization Committee, the Price Commission and other agencies for appropriate action.

In the week since the delegation of authority to the chairman, 122 cases have been completed, of which 60 were acted on as a direct result of the delegation of authority.

These constitute a significant record of achievement for a board that has been in existence such a short period of time.

While this is a very creditable record, we can, and shall, do better in the weeks ahead. The reason is simple.

We have:

Thoroughly discussed the points of view and attitudes of the Board members. Become more tolerant of each others' viewpoints.

Established major substantive and procedural policies.

Developed smooth operating procedures with other agencies involved in the Economic Stabilization Program.

Delegated to the chairman authority to take action in many areas.

Constituted subcommittees in a number of areas.

Made great progress in assembling a professional and permanent staff.

The large degree of unanimity in a number of important Board actions in the last two weeks reflects the Board's progress and augurs well for the future.

The Board *will* succeed in discharging effectively the responsibilities vested in it.

In 19 years as a Federal judge, I have learned to listen patiently while each side presented its case, to weigh the evidence and the law carefully, and to reach a decision on the merits. While the Pay Board is not a court and I am only one of 15 members, nevertheless, as chairman, I have felt an obligation to be patient and understanding, to give all persons of interest an opportunity to be

heard, to consider the matter carefully and fairly, and to reach decisions as promptly as is feasible. I have also felt very keenly my responsibility to put the public interest first.

I shall be pleased to answer any questions which the committee may wish to address to me.

**MAJOR POLICY DECISIONS BY THE PAY BOARD, OCTOBER 27, 1971, TO
JANUARY 27, 1972**

October 27, 1971—First Pay Board meeting.

November 8, 1971—Board adopted comprehensive procedural and substantive policies.

November 13, 1971—Board authorized IRS to enforce its regulations; and authorized CISC to carry out Board policies in the construction industry.

November 19, 1971—Board provided a definition of "tandem" relationships re: retroactive payments authorizing exceptions to the ban on retroactive payments.

November 23, 1971—Board delegated to IRS the authority to process challenges.

December 2, 1971—Board explained how to calculate the 5.5% standard.

December 17, 1971—Board announced criteria to general wage and salary standard (tandem, attract employees, catch up).

December 27, 1971—Board adopted Executive Compensation Committee Report to conform with recently enacted legislation.

December 30, 1971—Board drafted reporting and prenotification forms to conform with the new legislation and distributed them to the IRS offices.

January 11, 1972—Board established procedures for handling deferred increases.

January 13, 1972—Board unanimously approved payment retroactive pay with certain limitations, to conform with provisions of amendments to the Economic Stabilization Act.

January 20, 1972—Board approved by a unanimous 14-0 vote a broad delegation of authority by Pay Board Chairman.

January 26, 1972—Adoption of revised delegation order to CISC agreeable in all particulars to the Pay Board and CISC.

January 26, 1972—Board unanimously adopted resolution excepting Fair Labor Standard Act minimum wage payments from wage and salary standards.

From its inception to present, the Board has considered and adopted numerous procedures related to Board organization meetings, hearings, etc.

The Board daily has considered and acted on a variety of minor substantive policy issues, as for example defining an "appropriate employee unit", deciding to cost pay adjustments on "time worked" basis and recommending to exempt Puerto Rico and U.S. territorial possessions from the wage stabilization program.

The Board has adopted, and in some instances revised, regulations implementing Board policy decisions.

The CHAIRMAN. Senator Tower.

Senator TOWER. Mr. Chairman, I have no questions of Judge Boldt at the moment.

The CHAIRMAN. Senator Proxmire.

Senator PROXMIRE. Judge, I think that as you may know, I believe in really coming to the point and stating the facts no matter how embarrassing they may be or how difficult they may be.

I have gotten to like you very much. You appeared before our Joint Economic Committee, and I was most impressed by your demeanor and your attitude. But I must say I am very disturbed by the way the Pay Board has operated.

I think the best way to get into this so that you have an understanding of just what is in my mind, be able to respond to it, is to read four short paragraphs from an article that appeared in the New York Times—you are probably familiar with it—by Philip Shercoff. This

was a terrific indictment, and I would like to have your response. It is dated December 28, about a month ago.

The Pay Board by the testimony of a representative cross section of its members has been ineptly led, acrimoniously divided, and largely ineffectual in the first months of the second phase of President Nixon's economic stabilization program. Recent talks with public, business, and labor members of the Board, who spoke freely, but asked not to be identified by name, indicate that its early operations have been severely disrupted by poor organization and partisan conflict between labor on the one side and business, public members on the other. The Board has ruled on only two contracts, has allowed a huge backlog of cases to accumulate, spent endless hours in debate without coming to conclusions. Policy decisions have sown in confusion, raised questions about the legality of the procedures, these members say. One member who was optimistic when the Board was first formed now gives it no more than a fighting chance of holding wages to noninflationary levels next year.

Would you like to respond? I think Members of the Congress and public have known about this view, and I would like to hear your explanation.

Mr. BOLDT. I agree that it is unflattering. I note, however, that there is a total anonymity in the article as to who made these statements, which is a striking thing about it to me. In my profession we are not given to anonymity in accusations of that kind. But I have grown to become accustomed to it since I am in this new situation.

I would say in general, which is what you asked me, the earlier weeks of the existence of the Pay Board were indeed turbulent, extremely difficult, highly contentious, vituperative. Nevertheless, during that same period within a very short time the Board came up with a policy and standard that thus far have not been criticized.

Senator PROXMIRE. Have not been what?

Mr. BOLDT. Criticized. We provided for the various categories of situations that we were going to be confronted with, and this was adopted on November 8, at a time when we couldn't have had any more than about a dozen staff members, hastily gathered from other agencies. We labored morning, noon, and night literally, Saturdays and weekends, in the bringing out of that policy statement.

Whatever others may think, in my opinion, it was a minor miracle. And we had it published, the regulations implementing it published, so as to be effective on November 13 to avoid any hiatus between the freeze and phase II.

Now all I can say is that, in my opinion, patience, restraint, and moderation and fair dealing with all concerned has its rewards. During the past 3 weeks we have had the most remarkable rapport, cooperation, genuine dialog, with practically no vituperation or the like.

There is a harmony developing in the Board that I would like to think is partly due to the fact that I did not respond as sometimes I felt was appropriate, but I responded in a dignified, restrained, and moderate manner. And I hope and believe that every single member of the Board, even those who are or may be critical of me, will acknowledge that I have dealt fairly and I have given everyone a full opportunity to be heard, that I have been extremely concerned to see to it that every point of view was expressed. Sometimes they were expressed at some considerable length and with considerable vehemence, and I

might have been inclined to shut off the debate. I did not, because I felt that in a democratic organization, such as the Pay Board is, where we have a remarkable group of able, outstanding men, for me to arbitrarily attempt to foreclose debate and the expression of opinion on important matters would be a very ill-advised thing. Had I followed that course or attempted to take this firm hand, I am confident we would not have the relationship among the members of the Board that we have today. And I daresay that not any single one of the Board members, nor their representatives, who participated in our deliberations the last several weeks, would deny that this has occurred.

Senator PROXMIRE. Judge, I want to get into that a little later because I think there are contrary views on that, too. But I want to see if I can set the groundwork by seeing the truth or lack of it in some of the allegations in this article. I think they are still serious, although the article was written 1 month ago when you had been operating about 6 weeks.

The CHAIRMAN. May I suggest that he only received his charter December 22 when the act was signed.

Mr. BOLDT. That is correct.

Senator PROXMIRE. This article says, "One nonlabor member of the Board says, 'We have really been working in a fog because of our failure to get a staff organized; because our staff hasn't been lining up problems and assembling data, we just haven't been able to make good decisions.' He added the Board had not even fully discussed ways it could make use of the field reports of the Internal Revenue Service to review wage decisions and keep a deluge of casework from descending on its own desk."

How about that? Why did it take so long to organize a staff, and why didn't you use the Internal Revenue Service more vigorously?

Mr. BOLDT. There is no question but what recruiting a staff for the Pay Board was a very, very difficult and time-consuming task. I recognized this from the very first day I got there, when, incidentally, I was the only one there at the beginning of the day, and during the course of the day several other people came in to join us from various agencies. Now, I think the problem was primarily twofold—

Senator PROXMIRE. Let me just say the Price Commission, the Chairman of which just testified, apparently was able to get a staff and go to work in an efficient way—a staff to which I think maybe he delegated too much power, but it was a staff, it was efficient, effective, and they had the same problem you had. They had a very short period before they had to get going.

Mr. BOLDT. They had quite a different problem than we had, and that is what I wanted to point out to answer your question.

In the first place, I thought it desirable, and I still think it desirable, in a tripartite board that each segment of the Board have something to say about the staffing of the organization. I had the prerogative under the act as it was before it was amended to have made those appointments, and I was somewhat tempted at times to make them prematurely. As it turned out, perhaps it is better to be lucky than smart—as it turned out, that judgment was a very sound one because about a month ago at long last we acquired an Executive Director of

a top rank who was not only approved, but enthusiastically accepted by every member of the Board.

And likewise regarding the Administrative Director or a second man who also is probably as knowledgeable in the field of Government operations and in the tasks he has to perform as any man in Washington. And the two of them combined together have meshed perfectly. They are in complete unanimity, and in that month's time, Senator, we have just made enormous progress toward obtaining able people for all of our top jobs, and we are rapidly filling in the lesser grades. I think that waiting to get that kind of people for the job was worth while.

Now, the reason that we couldn't get people quicker, in my opinion, came from three factors: First, the desirability of having people who would be acceptable to all members of the Board; second, the uncertainty that existed concerning the life of this agency. You may recall there was a considerable question about whether or not the act of 1970 would be continued, and if so, how long. And a final thing was that there was no security provision for people in Government to come and join our staff. That has been rectified approximately a month ago, so that there now is a provision for reemployment rights for Government employees transferring to the Board's staff. The Civil Service had been asked to take that action from the beginning, but going through the machinery of Government in those matters took considerable time.

Now, those factors very plainly have a very important part in explaining why we were delayed in getting our people.

Senator PROXMIRE. Maybe you would like to include in your response the fact that there were two specific examples. I won't read the article because of the time, but one member said that the merit pay confusion, confusion over merit pay which they said was an utter fiasco, that they wouldn't have made such a stupid error as they made in making a decision that had to be reversed if they had had adequate staff work. Staff work was so bad that this mistake was made, and it was completely avoidable.

The second was the inability of the Board to provide forms for companies and unions who must notify of wage increases in advance. There was another one, and apparently it took 2 months—for more than a month after it was formed, the Board was unable to agree on a suitable form. Then when they did agree on a form, they had a form that apparently was so complicated that at least several, including W. L. Gullandier, president of the National Association of Manufacturers, complained it was too complicated and too burdensome and expensive to execute.

Apparently both of these, according to this article, were the result of inadequate, incompetent staff work.

Mr. BOLDT. Well, Senator, the appraisal of the writer of the article and what basis he had to judge, of course, I don't know.

Senator PROXMIRE. Well, he quoted members of the Board.

Mr. BOLDT. But not identified members. Never.

Senator PROXMIRE. Well, you can understand that.

Mr. BOLDT. Well, I can understand it, but it is a little difficult for me to evaluate the statement if I don't know who made it. Some of

the statements could well have been made by some of the people that were causing the alleged confusion and chaos.

Senator PROXMIRE. He said nonlabor member.

Mr. BOLDT. I beg your pardon?

Senator PROXMIRE. He did identify them as nonlabor members.

Mr. BOLDT. That still is not very specific. You are narrowing it down a little.

Senator PROXMIRE. Well, it takes five out of the act. My time is up.

Senator BROCK. I share the discontent of a number of people in labor and management and public life as well as to some of the very early decisions, the coal agreement, the railroad agreement.

Mr. BOLDT. I am on your side on that one.

Senator BROCK. I know you are and I thought you were unfortunate to be chairing them. But I must admit a good deal more confidence in recent weeks. I am particularly pleased with the action of the Board in delegating a great deal of authority to the Chairman. I think in the instance of the Price Commission this has proven to be a highly efficient affair and an expeditious method of proceeding with the work of the Board.

I have one particular question, though, about a delegation of authority that is not so satisfactory to me. That is the delegation of authority to the Construction Industry Stabilization Committee. It is my own personal feeling that construction costs, prices, wages, and others, have been a fundamental and highly significant factor in the inflationary spiral we have experienced. Construction prices have gone up at a rate far in excess of virtually any other industry.

Now, the Construction Industry Stabilization Committee was created before your Board in an effect to address that problem in that one industry. I frankly did not feel they did an adequate job during the performance of that function and I had hoped that your Board would move into the area with a great deal more restraint than had been practiced previously. Now you have delegated it back to them again.

There are some very serious questions coming up this year. For example, what about the wage increases that were signed in a contract prior to the creation of this program that are going to come due this year, some ranging as high as 20 percent? Do you have any assurance that that particular committee will act to control the inflationary spiral in the construction industry? I guess it is the most fundamental industry in this country in terms of its impact on all segments of society. What kind of assurances did you get when you made this delegation of authority?

Mr. BOLDT. Well, to answer the question simply first, as witnesses should, we do. Now let me go back and explain that answer.

I met with Mr. Dunlop and some of the members of his group very early. I think within the first week or two of my tenure, and from that time until now the matter of our relationship to each other has been a problem.

I can only tell you that as a result of my appointing the liaison group—three members of the Board—to act and work with three members of the Construction Industry Stabilization Committee, just this

week—in fact, to be announced tomorrow in a statement of their function and a statement of our function and a statement of their obligation to confine themselves within the policies and standards of the Board.

Now, the ways and means of doing that are largely left to the Construction Committee, but Dr. Dunlop has personally assured me—and I believe him—that they are on their way. It is a very unusual industry, sort of different than any other, and it has enormous complexity—but I am confident that if the document which we both have agreed to completely and unanimously is complied with, as I am sure it will be—at least there is the presumption of innocence applicable here as elsewhere—we will have action in the Construction Committee that will be in conformity to the standards and guidelines that our Board has established.

Not only that, but there are ways and means of keeping close rapport and contact so as to be sure that things are going as they should be. So that now, I would say we are in complete agreement with the gentlemen that are doing that work, what their responsibility is, and I think it will put at rest all problems of conflict between us and hopefully bring about proper results. If it does not, it will not take long for us to find out, and in that case we will take some other action.

Senator Brock. Judge, I am perfectly willing to ignore the past and presume innocence prospectively if I have adequate assurances, and I assume that you are saying that you feel that we have those assurances. Maybe it is not fair for me to ask you a question of this type at this time—I know it is difficult—but let us take an instance.

Let us take the instance of a contract which was a 3-year contract of 20-percent increase per year, and there are such contracts, one year of which was in effect before the contract and that 20 percent was granted. The second 20 percent comes due in May of 1972. Would you consider that contract of 20 percent to be within the standards as established by your Board?

Mr. BOLDT. Of course not.

Senator Brock. It would not?

Mr. BOLDT. I would not so consider it. However, I should comment on one phase of the construction industry situation. Such progress as the construction committee has made since last March—and it appears to be substantial—not as much as one might hope for, but nevertheless substantial—of bringing that industry within some reasonable range of compliance with what we now have as a standard, they need, so they say, the flexibility to deal on a basis of averages. In other words, in some situations, in some localities, a given wage, because of peculiar situations there, may be necessary; whereas, in others, less. Their objective is to deal with these in such a way as to bring them out with an average weighted total that will be within the guidelines. I do not know whether I have made that plain to you. That is the nub of the situation.

In other words, you might pick out some particular contract that was high, and ignoring all others, feel that nothing much had been done or there was no restraint at all. On the contrary, often, that particular situation has been made in the light of the peculiar circumstances applicable to that situation and a give-and-take has occurred

in resolving the matter that will result in a satisfactory overall performance for the year.

Senator BROCK. Well, I will tell you this: I do not know of a situation wherein the 99 percent of the community who are limited to 3- and 4- and 5-percent pay increases, if any—manufacturing plants, service companies, drugstores, grocery stores—where you are going to have an easy time selling a 20-percent wage increase to the rest of the people of that community.

Mr. BOLDT. No. I would agree.

Senator BROCK. I know of no monopoly in America in any specific situation that has more strength than the monopoly of the hiring hall and I think the rest of this country deserves the consideration of equity here as well and I am not sure they have received it.

I remember last year—I think I remember correctly—a settlement in Kansas City whereby an unskilled laborer, as a result of a contract, ended up drawing \$10 an hour. That is more than adequate in the State of Tennessee.

I am simply asking that in the delegation of this authority, that you exercise close and continuing scrutiny of this particular committee to insure equity for those who are not covered by this decision but are covered by yours.

Mr. BOLDT. You may be assured that the understanding which we have now reached in writing will be given, and provides for, close and continuous scrutiny. By the way, I certainly agree with the thrust of your remarks about the 100 percent and so on. I daresay if Dr. Dunlop were seated here and you were to ask him, he would say the same thing. I think he would.

Senator BROCK. I appreciate that. My time has expired. I simply conclude with a statement that, in my opinion, the only people who have consistently acted in the public interest are the public members of the Board.

Mr. BOLDT. Thank you.

Senator BROCK. And I appreciate that.

Mr. BOLDT. Thank you. We have tried to do that and be ever mindful, Senator, of our tremendous responsibility to those who do not have any other representation on the Board except us five people, and it is a responsibility we are keenly conscious of, and in many instances has accounted for the action we have taken which in some instances has not prevailed.

Senator BROCK. Thank you very much.

The CHAIRMAN. Judge Boldt, I shall be very brief in my questioning. I want to ask you this: In the act as we finally passed it, we provided a degree of retroactivity and payment of back contracts that have been negotiated or agreed to. We did provide in there that they must not be—what was that expression—

Senator BROCK. Unreasonably inconsistent.

The CHAIRMAN. Unreasonably inconsistent with your guidelines. That did not cause you any trouble; did it?

Mr. BOLDT. Senator, complying with the law of the United States never causes me any trouble. I have been applying the laws of the United States for 19 years without the slightest limitation. It is the

function of the first branch of the Government—it came first in the Constitution—to legislate, and I respect it completely and I follow it implicitly.

Now, I even went to the point of underscoring in the new amendment those words that said “promptly,” “The President shall promptly,” and we promptly acted on those first before we went to others.

The CHAIRMAN. Yes; you did.

Mr. BOLDT. Now, there are several more that still remain to be acted on and we are debating them and deliberating on them this very week. Hopefully by the end of next week we will have all of those matters completely determined in a way that will meet with the approval of at least eight or more members of the Board and, hopefully, the way the trend is going, unanimously. The last several major matters have all been adopted unanimously, including this very great delegation of authority to me. And I find it a little bit difficult to understand, when 14 members of the Board—all of them—gave me that authority, where that unknown member was who had so little confidence in my ability to run this Board. He apparently voted this authority to me and, incidentally, there was no criticism of any kind expressed during the debate on that measure, and it seems to be some evidence—however weighted it may be is your business to evaluate—that at least now we have a united board ready to go ahead and do business.

Incidentally, since a week ago when that resolution was adopted, we already have disposed of 122 pending matters in that period, and when we get our full staff on board—which, as I said, I hope that would be in a week or two—we will do even better than that. So I look forward to the future with great optimism and confidence that we are going to achieve the objective that we have been given.

The CHAIRMAN. Well, that is a very fine report and I appreciate it. I want to say this: You do not know just how hard we worked on this back-pay proposition. That was not an easy matter for us. Yet I believe every member of this committee and I think the Senate felt that we were doing only the fair thing, and it was unanimous. Furthermore, we had considerable help from the administration in working this out. While I have seen in the paper many times the statement made that the administration opposed this, I understood that in the final form in which the Senate passed it and I believe in which the conference committee worked it out, the administration supported it, at least had no objection.

Mr. BOLDT. Well, in the final form, Mr. Chairman, there is very little real difference between the policy we enacted and the one that you enacted.

The CHAIRMAN. We tried to safeguard—

Mr. BOLDT. And it switches the emphasis. That is the major thing.

The CHAIRMAN. We tried to safeguard your guidelines that you had already announced and I was pleased with the comment that representatives of labor made regarding it. I think Mr. Meany put out a very fine statement on it. I had a very fine letter from the legislative representatives of labor. I had statements from many other sources, and I really would like to pat ourselves on the back a little bit for working it out so well. As someone said to me, he said, “I never

dreamed that you could take these two versions and get the best out of each one of them and put them together."

Well, that is about all I have. I want to commend and compliment you for the work you have been doing and I am pleased to hear you say that you have got an unanimous Board. I was very much concerned when there was dissatisfaction in the beginning and when it looked like the Board might be ruptured. I am very glad that the labor members decided to stay. I hope they do stay. I hope they participate actively in these various matters that are taken up with the Board as a whole, and I think you have achieved a high degree of cooperation and unanimity, and I commend you for it.

Mr. BOLDT. Thank you, Senator.

The CHAIRMAN. Senator Tower.

Senator TOWER. Mr. Chairman, I do not have so much a question as a comment. It occurs to me that the very nature of the tripartite makeup of the Board tends to mitigate against continuing harmony, particularly when you have such sharp philosophic differences represented on the Board.

Mr. BOLDT. That is a very reserved statement of the matter, Senator Tower.

Senator TOWER. Mr. Chairman, with your permission, I would like to read a telegram which was addressed to you, so I should like to ask your permission if I might to put it into the record.

The CHAIRMAN. Go right ahead.

Senator TOWER. It is addressed to the Honorable John J. Sparkman, chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

We have been privileged to serve as members of the Pay Board under the Chairmanship of Judge George H. Boldt. During our tenure on the Board we have come to appreciate and benefit from his judicial qualities and his personal integrity. He came to the job as Chairman of the Pay Board on short notice, interrupting a distinguished career as a U.S. District Judge. In a short period of time, with patience and civility, and under the extreme pressure of events, he has had to guide the establishment of a new and complex administrative machinery and to insure the development of policies and regulations necessary to achieve the goal of economic stabilization.

These tasks are difficult in their own right but the problems have been made more demanding by the fact that the Pay Board is tripartite in nature and brings together spokesmen for different and often conflicting points of view. This aspect of the Pay Board has meant that Judge Boldt, as Chairman, has had to exercise great tact, skill, and, above all, fairness in the performance of his duties. In our judgment he has clearly demonstrated these attributes in the face of intense controversy. Moreover, because he assumed his position with no rigid views on many of the technical issues associated with labor-management relations, he has provided a broad perspective and fresh insight that otherwise would be lacking on the Board.

Under Judge Boldt's leadership, in less than three months the Pay Board has recruited a highly qualified staff, become a going concern, and has successfully weathered several controversies which have caused other wage stabilization agencies to founder in the past. Throughout these difficult early months Judge Boldt has performed his duties with a dedication to the national interest that sets a high standard of public service. We are pleased to convey to the Committee our confidence in the leadership of Judge Boldt and to strongly urge his confirmation by the Senate as Chairman of the Pay Board.

Judge Boldt is not aware that we are sending this message.

Sincerely, Public and Business Members of the Pay Board, and all nine have signed: Robert Bassett, Ben Biaggini, William Caples, Virgil Day, Kermit Gordon, Neil Jacoby, L. F. McCollum, Rocco Siciliano and Arnold Weber.

Mr. BOLDT. I first heard about that when we came in the room this morning and I am delighted with it.

Senator TOWER. I have no further questions.

The CHAIRMAN. Senator Brock.

Senator BROCK. I have no further questions.

The CHAIRMAN. Senator Proxmire.

Senator PROXMIRE. Judge Boldt, I want to pursue this and I want to see if I can develop whether or not there has been the kind of harmony and improvement that has developed that you indicate. I think you are being very optimistic.

First, let me get into an area that I think is very disturbing. I understand that a number of lawyers have asserted that there have already been conflicts of interest involving members of the Board that might make your decisions determined eventually as unconstitutional.

Let me be specific on that one. One member of the Board, Neil Jacoby, did disqualify himself in one case to vote on the coal settlement because he was a director of the Occidental Petroleum.

Mr. BOLDT. That is right. He is the only one who has.

Senator PROXMIRE. It has been pointed out that Leonard McCollum, who is chairman of Continental Oil who has extensive coal holdings, voted on the coal decision; and Mr. Ben Biaggini, chairman of the Southern Pacific Railroad, not only voted on but, in fact, proposed the resolution governing the railway signalmen's contract. There is also the presence of the two labor unions involved in the present aerospace conflict, Mr. Woodcock and Mr. Smith, are both members of the Board, and on the aerospace matter the conflict of interest is conspicuous.

They raised a question—and you are a legal expert, Judge, with a fine reputation—how about this? Is it not possible that your decisions are likely to be determined as unconstitutional in the future because of this conspicuous, clear, patent conflict of interest?

Mr. BOLDT. Well, I would rather be more amply briefed on the subject before I deliver any legal opinion on it.

Senator PROXMIRE. Do you have your counsel working on this?

Mr. BOLDT. All I can say about it is this: That as far as I am concerned, if any matter comes before the Board in which I have any interest, however insignificant, I would not choose to——

Senator PROXMIRE. There is no question about that. You are covered by the law. You are the only one that is. We covered you.

Mr. BOLDT. Would you just let me finish?

Senator PROXMIRE. Yes, sir. I am sorry.

Mr. BOLDT. That would be the way I would react to it. However, I think that the matter of whether or not a member of the Board should disengage himself from the particular situation in which he has an interest is a matter for his conscience and not for me to dictate.

Senator PROXMIRE. Well, as one Senator and one only, let me urge you to reconsider that. It seems to me that rules ought to be developed and they ought to be followed by all members of the Board. Otherwise, the conflict of interest does not mean anything. If these men who are president of a company—president of the Southern Pacific Railway or whatever it is—make a decision with respect to the wages for his people who work for him, the conflict of interest is pretty obvious.

I am sure you abide by this. You are a judge who understands these things. But these other members are not abiding by it and they are not going to, obviously, unless you have regulations and enforce them.

Senator BROCK. Would the Senator yield?

Senator PROXMIRE. First, let Judge Boldt reply if he would, and then I would be happy to yield.

My question is, Do you intend to issue regulations to prevent voting by a member when there is a financial conflict of interest? Your initial response indicated you had no intention of doing that.

Mr. BOLDT. My first response to this, Senator Proxmire, would be that inasmuch as Congress has just recently made a very thorough review of the 1970 act and promulgated a very considerable number of amendments, it would seem to me that the Congress itself, if it had some concern about that, would have done something about it. That is answer No. 1.

Answer No. 2 is that if we are going to have a tripartite board of the kind that we have——

Senator PROXMIRE. Let me just interrupt at that point to say that we were told that time was of the essence and that we had to act on this law and that these men had been appointed and we were in a position where it would have been difficult for us to take any other course.

Mr. BOLDT. I am not being critical. I already explained my reverence for our American institutions and particularly for the legislative branch, and I have been meticulous not to try to intrude on its functions as a judge, and I think it can never be pointed out where I have ever deviated from that.

Now, getting back to the matter at hand, these people are selected for the very reason that they are what they are, representatives of labor and industry, and they have been chosen from among the most eminent people in those respective fields.

Senator PROXMIRE. Let me just respond to that because I think that is a very good point and easily misunderstood. There is no question but that we decided on a tripartite board. There is no question that there is a generalized notion that there is some conflict when you have labor and business members deciding issues, but I am talking about specific cases where you have a man who has a specific interest, whether it is a labor union head or a corporation head, and that particular labor union or that particular corporation is directly involved. I do not know how you can have a more conspicuous conflict of interest than you have there. Of course you ought to have labor people. That was decided.

Mr. BOLDT. There is not any question about that at all. That is true. One ameliorating factor perhaps I should mention here is that in each instance the members have acted through what we formerly called alternates and will now be called representatives, but under the recent legislation, of course, a representative is only empowered to vote with the express approval of the person he represents, so it does not get away from the problem.

Senator PROXMIRE. Well, I hope you will reconsider this and discuss it with your Board and see if you can work out something that you can abide by.

I am raising a different notion than the notion that labor members should not get involved in anything involving labor. Obviously, they should. But where you have a particular union involved or a particular corporation involved, that is something else.

Mr. BOLDT. Any suggestion that you or any other Senator or Congressman of the United States makes to me will receive prompt and thorough thought and attention and such action as appears to be appropriate in view of our situation.

Senator PROXMIRE. I yield to Senator Brock.

Senator BROCK. I just wanted to raise the point—I frankly agree with the concern that the Senator has expressed, but also to point out that if we are going to disqualify people for conflict of interest, then George Meany could not sit on the Board because every contract comes under his jurisdiction.

Senator PROXMIRE. I am talking about quite a different kind of situation where you are the president of a big corporation whose profits will be determined by the level of the wage increase in that particular field.

Senator BROCK. But the Senator is making exactly—

Senator PROXMIRE. That is why Mr. Jacoby was absolutely right in disqualifying himself.

Senator BROCK. The Senator is making exactly the point I was trying to make earlier. I did not like the tripartite board and I still do not. I do not like anybody but public members representing the public because by the very nature of the tripartite board you require representatives of special interests which are not necessarily consistent with the public interest. You are bound to have conflict of interest in this condition. If you want to reopen this thing up I would just relish the opportunity to have this committee go back into the complexion of this Board and make a determination as to whether or not we should have a specific statute covering conflict of interest or whether or not we should go, I think, the pure route, that as a public board, as the Price Commission is, and resolve the question in the public interest.

I very much question the Senator's statement that we did not have time. We considered a huge number of different amendments during the hearings on this particular bill. We had more time than we needed to consider this fundamental question.

Senator PROXMIRE. I am talking about the fact that we already had a board created at the time we acted on the bill and at that point—

Senator BROCK. And the Senator and every other member of the committee were aware of these problems.

Senator PROXMIRE. Judge Boldt, you have indicated your high respect for the law and your intention of always abiding by it. Section 207(c) of the Economic Stabilization Act requires public hearings on significant requests for wage increases. That is a requirement of the law. It is required that you do it.

How many public hearings have you held in response to that requirement?

Mr. BOLDT. To this date, one.

Senator PROXMIRE. Only one?

Mr. BOLDT. Yes.

Senator PROXMIRE. Do you consider that compliance?

Mr. BOLDT. Well, that is the only one we have had since the amendments went into effect.

Senator PROXMIRE. It is the only what?

Mr. BOLDT. The only major matter that has come before us since the amendments went into effect.

Senator PROXMIRE. You have indicated all the decisions you have made in the last week.

Mr. BOLDT. These are not hearings. They are not that type of thing. The people make submissions of the data concerning their situation and we act upon their submission. This relates to hearing, as I understand—or at least I thought your question related to that—and, incidentally, we never ever have precluded public hearings and we have never denied anyone the right to have a public hearing. No one has asked for it; not even the people who had one asked for it. We did it hoping to show you that we read—

Senator PROXMIRE. I hope this is not the only one that you are going to have. I hope you make an effort to have these frequently, because you are never going to get a party at interest necessarily to call for these things. It is the public that has the interest.

Mr. BOLDT. Senator, you plainly indicated in the amendment that this is the desire of Congress that these should be held as frequently as the circumstance reasonably permit, or whatever the language is, and I am going to give effect to that and every hearing, whether it is even as significant as the statute calls for, then anyone who wants to have a public hearing will have one.

Senator PROXMIRE. Judge, let me get back to the purpose of this hearing, your qualifications to be appointed; and once again, I apologize for laboring the point. It is difficult for all of us but I think it is something that has to be brought out.

One business member described the judge as "a hard-working, straightforward man who has earned the respect of every member of the Board. He is a saint who has taken a tremendous amount of abuse without complaint." But another and perhaps more representative view of the Board was expressed by a nonlabor member who declared, "To throw an elderly and inexperienced judge into the bearpit was just not sensible. He has guts all right but he just doesn't understand what's hitting him." Another nonlabor member asserted, "One of our chief difficulties is the lack of substantive leadership. The judge is a fine gentleman and I have deep personal regard for him, but he doesn't understand the issue and he is unable to enforce the issues among the conflict of interests. This is a rough league and the judge is no one to create harmony."

I have said many times these are anonymous statements and, of course, you can understand why they are.

Senator TOWER. If the Senator would yield, we have a signed statement on the other side.

Senator PROXMIRE. Frankly, if I relied on statements that people made about me in letters to me or for me, I would not get at the truth.

Mr. BOLDT. I have had a lot of that in my life.

Senator PROXMIRE. These anonymous statements are likely to be far more frank, for obvious reasons.

Mr. BOLDT. I am not sure I agree with you, but if that is your view—

Senator BROCK. I would say they are more likely to be far more fraudulent.

Senator PROXMIRE. Let me ask you: What are your qualifications to head a Pay Board that has to deal with economic issues, that has to deal with labor-management issues? What experience have you had in the labor-management area? What training or experience have you had on these economic issues that are involved here?

Mr. BOLDT. Well, as I told you once before at the prior hearing, I am not an economist. I am not a statistician. I never ever personally negotiated a collective bargaining agreement either for management or for labor. But in my long lifetime of experiences as a lawyer and a judge, I have dealt numerous times with collective bargaining agreements in one way or another. I have heard a great deal about collective bargaining in a variety of ways. So that I have that much experience.

Now, that is not expertise. I do not claim to be an expert. Neither do I claim to be an expert in a lot of other things about which I have had to listen to experts and judge between them as to which one I thought was correct.

Senator PROXMIRE. What puzzles me is why a person with John Dunlop's background, a man who has won the support—not the support, I should not say that—but won the respect as a technician, as an expert of both business and labor, why John Dunlop, a man like that or John Dunlop himself, was not given this what I think is one of the biggest jobs in our Government. You are a fine man, as nice and gentle and decent a man as I have met, but generally, in my view, I just do not—

Mr. BOLDT. I have a fine opinion of John Dunlop and I would not want to wish it on him.

Senator PROXMIRE. Well, that is true. That is another point in your favor, that you have taken this difficult job.

Let me ask you: Is it true—this is something that was raised by Senator Brock in a different way. Is it true that the Pay Board has requested the construction committee not to publicize over 123 decisions since last December 3?

Mr. BOLDT. Nothing of the kind.

Senator PROXMIRE. Have they, in fact, publicized them?

Mr. BOLDT. I do not know.

Senator PROXMIRE. It is strictly within their jurisdiction?

Mr. BOLDT. That is right.

Senator PROXMIRE. As far as you are concerned as Chairman of the Pay Board, you would be willing to have them publicize them?

Mr. BOLDT. Certainly.

Senator PROXMIRE. And you have made no such request and to the best of your knowledge no member of your staff has?

Mr. BOLDT. Never. Directly or indirectly.

Senator PROXMIRE. And you state that for the Board as a whole?

Mr. BOLDT. If any staff member did make such a request—and I have never heard of it—I would certainly veto it immediately in that it was without authority, but I do not think it happened.

Senator PROXMIRE. All right. Now, let me get into another situation now. We have been over ancient history here.

The CHAIRMAN. Before you get into that, may I inquire about how much longer you think it will take?

Senator PROXMIRE. Well, I apologize, Mr. Chairman. I had hoped these nominations would be up on separate days, but I think I am going to take probably another 15 minutes.

The CHAIRMAN. I had a luncheon engagement at 12:30 and I would like to get to it. If you gentlemen are willing to go ahead, it is perfectly agreeable to me and I will get back just as soon as I can.

Senator BROCK. We are beginning to cross a number of conflicting engagements in all our schedules.

The CHAIRMAN. How would it do to break now and come back at 2 or 2:30?

Senator BROCK. I can stay for another 30 minutes.

Senator PROXMIRE. I can wind up easily in that time with Judge Boldt. Of course, we have another witness and we certainly want to hear from him.

The CHAIRMAN. Mr. Biemiller, would it inconvenience you if we went on and finished with Judge Boldt and then have you come back at 2:30?

Mr. BIEMILLER. That is all right.

The CHAIRMAN. Well, suppose we do that. If you will carry on and let me go ahead, I think it will work out very well.

Senator PROXMIRE. Judge, you have made a big point, and I understand it, of the fact that authority has now been delegated to you similar to the authority—although not nearly as complete—that Mr. Grayson exercises. You have the authority to act in some pay cases?

Mr. BOLDT. I have authority to act in all cases but only of course, within the guidelines and standards.

Senator PROXMIRE. And subject to challenge by another member of the Board?

Mr. BOLDT. Of subject to review by the Board and any party feeling that—

Senator PROXMIRE. You see, Mr. Grayson does not have that review. He makes the decision and it is final.

Mr. BOLDT. So I heard this morning.

Senator PROXMIRE. All right. So that your authority is still limited. Well, it seems to me that the Board must become desperate, because you had been meeting for a couple of months and you had an enormous backlog and were making very little progress, and they had to have some delegation of this kind or you would not be able to act. This had to be done and I am glad they did it. I think perhaps they should have done it before, but the fact that they did do it, I think that was the only option available to them whether they agreed with your judgment or not.

Mr. BOLDT. I would not have thought so from the discussion of the matter. At the time it was discussed no member, not even any labor member, expressed that point of view during the discussion in adoption of the measure.

Senator PROXMIRE. How many requests for pay increases are now pending in the Pay Board in category I, that is 5,000 employees and more?

Mr. BOLDT. If you want the precise number I have it here somewhere. It would be somewhere in the neighborhood—

Senator PROXMIRE. I have 128. Is that about right?

Mr. BOLDT. Right. That is the figure I had in mind.

Senator PROXMIRE. Now, we have been talking about the progress we have been making. Since Thursday—and this was a report in the newspaper this morning and you may have acted since then—but since Thursday, a week ago, the Board has ruled on three: A 5.1-percent increase for one firm, Springmills; 5.5 percent for Weyerhaeuser; and 6.4 percent for Eastman Kodak; and a full request was granted in each case and you made that decision. Is that correct?

Mr. BOLDT. All within the guidelines.

Senator PROXMIRE. There were only three decided of the 128, so you still have 125 pending. Is that right?

Mr. BOLDT. We are trying to deal with them as they come along. In other words, to reach them in the priority in which they were received as far as possible. Oftentimes, Senator, these matters come in with incomplete data and we have to send them back and get additional information that is necessary.

Senator PROXMIRE. In the whole experience of the Pay Board, how many category I cases have you decided? How many have you approved and how many have you denied?

Mr. BOLDT. Twenty-three.

Senator PROXMIRE. So you have 128 pending and you have acted on 23?

Mr. BOLDT. Yes, in the last week.

Senator PROXMIRE. Do you consider that expeditious action?

Mr. BOLDT. I think so, considering the fact that we have had three meeting days in that period already and are still engaged in meeting days now. Those are long meeting days, too.

Senator PROXMIRE. Now, I understand that of 666 requests for exceptions in category III units, 57 have been processed since Thursday. Is that right? Twenty approved and 37 were not?

Mr. BOLDT. I believe that is correct.

Senator PROXMIRE. How many were disapproved because of inadequate information?

Mr. BOLDT. I do not think any of them were disapproved for that. When there is inadequate information they are sent back for further information.

Senator PROXMIRE. Thirty-seven were just disapproved, period, because they did not comply with what the anti-inflation policy is; is that right?

Mr. BOLDT. Right.

Senator PROXMIRE. Why were not the names of the companies and the details of their cases disclosed so we could judge your performance in granting exceptions?

Mr. BOLDT. They are not in any way secret. They are open. Anybody who wants the information can have it.

Senator PROXMIRE. Well, the reporter on the New York Times complained that he was not able to get it. You say he could have gotten it if he asked for it?

Mr. BOLDT. I heard about that complaint and I checked it out and it was just somebody in the office who made a mistake. He should not have done it. I do not know who it was, but I have immediately issued an order to make it plain that the details, the names and so forth be available.

Senator PROXMIRE. Your Board has claimed that your approval of pay increases, weighted by the number of employees involved in each case, has averaged 5.49 percent; that this is right at the 5.5 percent.

Mr. BOLDT. Category I, 5,000 and over employees.

Senator PROXMIRE. But I understand that conclusion is a very, very distorted statistic because your decisions cover large units with very small, partial fringe benefits granted that may come back with other increases. For example, Kresge, one-twelfth of 1 percent for their pension benefits; J. C. Penney, about one-fifteenth of 1 percent. When you take the number of people covered by Kresge and Penney and figure all they got was one-twelfth of 1 percent, of course, you can bring your arithmetic average down. So you do not have much evidence in that statistic that you have been able to get compliance with the 5.5-percent guideline. You are probably way above it.

Mr. BOLDT. The occasion for decision was not chosen on that basis.

Senator PROXMIRE. I am sure they are not. As Chairman Grayson was indicating, you do not have cumulative records. These firms will be back I would think. They are certainly not going to get away with a one-twelfth of 1 percent wage increase and fringe benefit increase during the year; is that right?

Mr. BOLDT. If they come back, we will deal with the situation as it is presented to us.

Senator PROXMIRE. Of course, you will, but since you granted this 5.5 percent virtually so far, I would have to come to the conclusion that you are going to overall exceed your guideline by a very substantial amount on the basis of many of these firms getting increases later.

Mr. BOLDT. That may occur, but as I say, I am having plenty of work to do to deal with what we have now and what is presently before us, rather than anticipating rulings on matters that may or may not arise.

Senator PROXMIRE. Judge, during the debate on this we did some work to determine what the experience has been with covering local and State workers. In World War II they were covered for only 6 weeks. In World War II we had a far more difficult inflationary situation, far greater shortages, enormous pressure to increase wages, very low unemployment. People were raiding each other to get bodies. And yet, we decontrolled State and local workers after that short time.

It seems to me that you should give very careful consideration or recommend this consideration if you do not have the authority to do it—do you have the authority, incidentally, to decontrol?

Mr. BOLDT. Well, there is a question in my mind whether we have it. I think it is the Cost of Living Council.

Senator PROXMIRE. At any rate, as the Price Commission has made recommendations—

Mr. BOLDT. Whether we have the authority to do it or not, we certainly have the authority to recommend.

Senator PROXMIRE. In view of the fact that there is terrific pressure on State Governors and State legislatures and on mayors and city councils to hold down salaries and wages, in view of the experience that we had in World War II, I would think that you would give very careful consideration to recommending that you exempt those workers.

Mr. BOLDT. We will give careful consideration to it. However, I must call your attention—perhaps you already know—that we have an advisory committee on State and local government and that committee is a very active one and they are a very distinguished group, by the way. I think there are two or three Governors on the committee, and we have been working in close harmony with them.

Senator PROXMIRE. There was a substantial vote in the Senate, you know, to exempt them right at the beginning.

Mr. BOLDT. We have been working in close and very harmonious relationships with that committee and that probably would be a means of exploring this matter further.

Senator PROXMIRE. Now, one other question I want to get into very briefly. It has been said that one of your handicaps is you do not know your way around in Washington, that you did not get a secretary for some time, that instead of going to the people who count—John Connally, for example, to get action, a man who could give you action and give it promptly, you went to somebody—I think the term used was about nine levels down in the bureaucracy, that in view of your position and your great responsibility that you ought to be more aggressive in seeking out the people who can make decisions and getting action from them.

What is your response to that?

Mr. BOLDT. When I came, I had little or no experience in getting around in Washington. I had held court here for several weeks at a time on several occasions. I was familiar with getting around in that sense, but as to getting around in the sense of Government, I had very little knowledge about it. I have acquired very considerable knowledge the hard way, but I now have as my administrative director I think one of the ablest men in that respect there is in this city, a man who won a large award here a couple of years ago.

Senator PROXMIRE. Who is that?

Mr. BOLDT. Mr. Millard Cass. And if there is anything about getting around in Washington that he does not know I have not found out about it.

Senator PROXMIRE. Well, Judge, there just is no substitute for the principal getting around. My administrative assistant, Howard Shuman, I think is about the best on the Hill. He is widely respected. But if I want to see somebody and get some action, I have got to go myself. Howard is respected but you have to go. You have got to be the one to push the button and go in and ask for it.

Mr. BOLDT. And when the occasion arises, Millard will tell me who he is and I will contact him. I probably already know him by now. I am meeting quite a few folks around here. It is a very hospitable city I have found and I suspect when that time comes I will be well advised by Mr. Cass as to the protocol involved and whom I should

see and how to get things done. In the meantime, he is getting an awful lot of things done that I frankly would not have any idea how to get them done; but I did not understand I was hired for that purpose.

Senator PROXMIRE. Judge, finally, I just cannot see that you have made real progress here. You have had these enormous settlements Senator Brock referred to. It is true you stayed within the guidelines of two of the three you personally decided recently, but you gave them everything they asked. I do not see that you have been able to have a tough, effective anti-inflation result in your operation. I wish you well but I must say I also am very concerned about the fact that although you are a wonderful gentleman—Lee Metcalf told the Senator that you were a fine pole vaulter back in Montana, that you won a track meet singlehanded—

Mr. BOLDT. He got me mixed up with someone else.

Senator PROXMIRE. No. He said at that time—this was about 40 years ago—you went over 10 feet.

Mr. BOLDT. I thought you were talking about recent pole vaulting.

Senator PROXMIRE. Maybe you can use that to get out of some of the spots you are in.

Mr. BOLDT. Well, you know, I have been in a lot of bad ones in my life, Senator, and somehow or other the Good Lord seems to come along and provide ways and means of doing whatever the job is.

Senator PROXMIRE. With all due respect, I think you are better qualified to be on our Olympic team this year than you are to be on the Pay Board.

Mr. BOLDT. Well, that is a very charming compliment. Thank you.

Senator PROXMIRE. Thank you very much.

Senator BROCK. I only have one concluding comment and that is regarding the judge's qualifications. I think one of the fundamental problems in this country has been that too often the public is absent at the bargaining table. We have labor with its enormous power; we have management with its enormous power; but there is no voice for the public sector from the average American; and, Judge, I cannot think of anybody who is more qualified than a man that represents the people of this country and no special interests, and I am delighted you are there.

Mr. BOLDT. Thank you very much, Senator.

Senator PROXMIRE. The committee will stand in recess until 2:30.

(Whereupon, at 1:25 p.m., the committee was recessed, to be reconvened at 2:30 p.m., Thursday, January 27, 1972.)

AFTERNOON SESSION

The CHAIRMAN. Let the committee come to order, please. Mr. Andrew J. Biemiller, director of the department of legislation, AFL-CIO, my old friend, Andy. Glad to have you back before the committee again.

Bill, Andy used to be a congressman from your State.

Senator PROXMIRE. You bet. One of the very best. I'll never forget the part he played on the civil rights platform in 1948. They talk about Hubert, you know, but I thought Andy had the best speech.

The CHAIRMAN. I served in the House with him. Andy, we are glad to have you back again, and we have your printed copy of your statement. If you want to read it—you may present it any way you want to. We're glad to have you.

STATEMENT OF ANDREW J. BIEMILLER, DIRECTOR, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

MR. BIEMILLER. Thank you, Mr. Chairman. As you know, I am here on behalf of the AFL-CIO, and I also want the record to show that I am authorized by the United Automobile Workers to say that they concur in this statement.

I am here today to specifically oppose the confirmation of Judge George H. Boldt as Chairman of the Pay Board. At the outset, I want to register labor's strongest objections at the way the administration has stacked the deck against workers and consumers by its selection of so-called public members of both the Pay Board and the Price Commission.

President Nixon has himself said that the public members should be "not beholden to any special interest groups."

But in naming the so-called public members of the Pay Board and Price Commission, he paid no attention to his own admonition.

All five of the so-called public members of the Pay Board have either close and continuing ties to corporate America or to government, or both.

Six of the seven "public" members of the Price Commission have ties to corporate America.

Against that background, we have strong reservations about Dr. C. Jackson Grayson as head of the Price Commission. But since our day-to-day work deals directly with the Pay Board, we intend to concentrate on that matter and simply register those reservations about Dr. Grayson without taking any position either for or against his confirmation.

The committee will recall that in our testimony before this body last November 4 on the economic stabilization bill, we urged in the strongest terms that all of the public members of these two boards be appointed with the advice and consent of the Senate, rather than by the President alone.

We had no objection to requiring Senate confirmation, as well, for the labor and management members of the Pay Board. But we noted that this seemed less essential because the labor members and the management members are chosen precisely because they represent particular economic interests.

The relationship between management and labor is by its nature an adversary one. Thus, if a tripartite structure is to work, the public members must be knowledgeable, thoroughly familiar with the needs and goals of both management and labor, and absolutely neutral.

In our November testimony we pointed out that in the critical area of the selection of public members for the Pay Board, a potential existed for presidential action to stack the deck. And the stacked deck we warned about had already been dealt.

On the Price Commission there is no member speaking for the consumer. So there was no dissenting voice on the Commission when the Cost of Living Council voted to remove price controls for 75 percent of the Nation's retailers and nearly 50 percent of the Nation's rental units.

Does anyone believe that this "golden" silence would have prevailed if even one of those seven members truly reflected the interests and views of consumers or tenants?

Turning now to the Pay Board, let me quote from a November 8 article on the editorial page of the Washington Post by J. W. Anderson, who wrote:

. . . The unions were profoundly offended by the character of the Pay Board. They had demanded—and were granted—the principle of a tripartite board representing labor, management and the public. The model firmly implanted in the union tradition is the customary arbitration panel, in which the public member brings nothing to the bargaining table but his own expertise in both sides' needs, and has no stake but his own professional reputation for fairness.

But on the present Pay Board, one influential public member is Arnold Weber, until this fall a member of the Nixon Administration, and an influential figure in devising its wage policy. . . . To find Mr. Weber waiting for him, in the role of the adjudicator, suggested very forcibly to Mr. Meany that he had been delivered into the hands of his enemies.

I have read you the Washington Post's description of Mr. Weber's background. Let me summarize three others briefly.

Mr. William Caples has spent a lifetime in industry on the management side of the bargaining table. He has been vice president for industrial relations of the Inland Steel Co. and a vice president of the National Association of Manufacturers. We see no reason to believe that 2 years as a college president has changed his basic outlook in any miraculous way.

Dr. Neil Jacoby spent 12 years as a member of the board of directors of the Occidental Petroleum Co. and is now chairman of the executive committee of its board of directors.

Dr. Kermit Gordon, now of the Brookings Institution, has spent much of his adult life as a government official. He has absolutely no experience in labor-management relations.

I would like now to address myself to Judge Boldt's qualifications as chairman of the Pay Board. We have no criticism of Judge Boldt as a citizen or as a judge. We have no doubt that he is qualified to sit on the Federal bench.

But we do say he has no qualifications to sit as the impartial Chairman of the Pay Board. And we see no reason for anyone so unknowledgeable in labor-management relations to receive such expensive on-the-job training.

At this point I should like to put into the record the account Mr. Meany gave on November 17 to the AFL-CIO Convention of the circumstances surrounding Judge Boldt's appointment. Mr. Meany reported on a telephone call he had received on Saturday evening, October 16, from Secretary of Labor James Hodgson. Mr. Meany said:

He (Hodgson) asked me if I knew a judge by the name of Boldt out in the State of Washington. I said, "No." He said, "Well, try to get some information on him. He is being considered for Chairman of the Pay Board."

I said, "Well, I will see what I can do. I will get back to you maybe by Tuesday. I am not going to get any information on Sunday."

If I knew what I know now, I would have sent a glowing letter recommending that fellow in the highest terms, and then he would have surely been turned down.

But on Tuesday morning, Jim called me. He said, "You know that fellow Boldt?" I said, "Yes."

He said, "Forget him." Then he said a rather odd thing, he said, "He would be 'long gone in a short time'—I don't know just where that expression comes from—" "He would be long gone in a short time . . ." Hodgson continued, "He is totally and completely unfit for this job. He has absolutely no experience in this field and he just couldn't handle it at all. He knows nothing about it."

I thought, "Well, that is the end of Boldt."

Thursday night I was informed by Hodgson that Boldt was going to be chairman. I said, "What the hell are you talking about? He is going to be chairman after your description?"

He said, "Well, there are some people around there that don't agree with my estimate of his abilities, and besides, we couldn't get anybody else."

Since the convention, some administration spokesmen, speaking anonymously to the press, have criticized Mr. Meany for this breach of confidentiality.

Mr. Meany is the elected spokesman of 13½ million trade union members. He has an overriding responsibility to his constituents, and to the public as well, to inform them about how the administration treats union members' vital interests. Therefore, we think it important that this account of how Judge Boldt was appointed be put into the record.

To appoint an inexperienced, unknowledgeable man, who is still being paid by the Federal Government as a member of the judiciary, as Chairman to conduct affairs of this magnitude simply because "we couldn't get anybody else" is no way to run a railroad, much less a government.

As for Judge Boldt's neutrality, let me quote again from President Meany's remarks to the AFL-CIO Convention:

The Judge * * * says. "There is a vital principle involved here." And I said, "What the hell is the vital principle?" He says, "We've got to go along with the President."

Now that is not neutrality. That is rubber stamp subservience to the administration.

Mr. Nixon has said—and we fully agree—that this entire program cannot and will not work unless the American people cooperate.

Anybody who expects cooperation from the American people when the deal is stacked against them, just doesn't understand the American people.

Labor agreed to serve on the Pay Board because of public assurances that the Board would be autonomous, that it would not be dominated by management, by the Government, or by any other party.

But this Board is not free; it never was free; and it was never intended to be free. The character of President Nixon's appointees, as so-called public members, proves that conclusively.

Therefore, we urge this committee to recommend that the Senate reject Judge Boldt's nomination.

We reject the concept that the President cannot find a man of stature, competence, knowledge and independence to fill this post. Twice before, the Nation imposed economic controls—both times during war. On both occasions, the then President was able to find men of the qualifica-

tions we believe this position demands. We do not believe that all such Americans have disappeared from the public scene.

And if the President felt that he could not go outside the Government to find a chairman who was knowledgeable and who had a proven record of neutrality in labor-management affairs, why did he not name someone from the Federal Mediation and Conciliation Service, which service is by its very nature dedicated to labor-management neutrality?

The CHAIRMAN. Thank you very much. It seems to me that you are almost certain to have some kind of friction or difference in a board that is made up of three distinct groups. I go along with some of those who commented this morning that have preferred a straight public board, a board made up of public members, subject to confirmation by the Senate.

But we didn't appoint the Board, and I understood—as I recall from the press, this tripartite-board arrangement was really worked out in agreement between the President, or at least his administration, and Mr. Meany.

Mr. BIEMILLER. Yes, that's correct. But——

The CHAIRMAN. And it seems to me you almost—if you have a board like that, you almost are bound to have some kind of a breaking away at one point or the other.

For instance, now, one of the first contracts that the Wage Board handled—I think I am right in this—was the coal contract. And I think the country was pretty well shocked with the first news reports that went out on that contract.

And if I remember correctly, that contract was arrived at by a joining together of the five labor members and the five management members.

Now it may be that somebody on the five public members could have made the same complaint that you are making now on this. In other words, all I am trying to say is, I don't see any escape from this kind of trouble developing.

Mr. BIEMILLER. Mr. Chairman, our point is that we don't regard these public members as public members.

When we were talking with the administration, we were talking on the basis of the experience that we had during World War II, and the Korean war, with comparable boards. There they had real public members, not people who had come from Government or industry.

The CHAIRMAN. Yes; well I said I would have preferred that kind of arrangement straight across.

Mr. BIEMILLER. No. They weren't straight across. They were tripartite boards, in World War II and the Korean war. There is no secret about that. We were insisting we wanted a tripartite board. Both of those boards, in our opinion, function very well. There was no labor trouble worth talking about during World War II, and very little during the Korean war.

But the public members on that board were all men who were absolutely neutral, but who were also knowledgeable and expert in the field of labor-management relations, and that is what we do not believe we have at the present time.

The CHAIRMAN. Were they subject to confirmation by the Senate?

Mr. BIEMILLER. The World War II people were, about the middle of the war. The original board was not. Then the Korean people were subject to confirmation.

The **CHAIRMAN.** Well, now, you heard Judge Boldt testify this morning, and you heard him telling about the degree of solidarity at the present time. He pointed out the many different decisions that were reached with no difference of opinion. Do you feel that it is working together now all right?

Mr. BIEMILLER. The labor members, as I have said, have very little confidence in the neutrality and knowledgeability of the public members. When you have people who in two instances have been very close to corporate America, and really that is where their background is, we don't see how they can be public members, so-called.

We feel Mr. Kermit Gordon has no knowledgeability in the field of labor-management relations. We have known Kermit Gordon for years, but this isn't an area in which he has expertise.

And the judge, we think, knows nothing about labor-management relations. He is the first man to admit it, and we think this is a bad way to put the Board together.

The **CHAIRMAN.** Now you realize though that we don't appoint this Board. All we can do is to say "yea" or "nay."

Mr. BIEMILLER. That's right.

The **CHAIRMAN.** To the man that the President sends up.

Mr. BIEMILLER. That's correct.

The **CHAIRMAN.** And I think that is the thing we have to keep in mind.

Mr. BIEMILLER. We are urging you to say "nay."

The **CHAIRMAN.** We don't have the right to say, you appoint this one, or even a certain type to the Board. That has been done. What about the operations here of late? You heard what the judge said this morning. He seems to be coming along all right.

Mr. BIEMILLER. There seems to be some reason to believe that at long last—it's taken a long time—that a competent staff is being assembled. For a long time there wasn't any staff. For a long time we found a real gang-up that worried us.

You were talking this morning, Mr. Chairman, about the very fine job that this committee did on the question of retroactive pay. It happens that the amendment that this committee sent to the Senate, and which was passed by the Senate, was almost identically the proposal which the labor members had made to the Pay Board at the very beginning of the Pay Board, and which was turned down.

That whole controversy could have been averted if the public members had looked, as they should have, intelligently on what that proposal was. Now this is the kind of thing that has the labor people very upset.

The **CHAIRMAN.** Let me say this. I think in all fairness we have to remember that there was a period of time in there, shortly after the Board was set up, that of course everything was confused. They didn't have a staff.

And I think we ought to keep those things in mind. I am glad the labor members did decide to stay and even if there are rough times

ahead, I hope there won't be, but if there should be, I think they ought to stay on.

And I think that for all of them. And I am hopeful that we will work things out.

Of course, as I said this morning, this committee was unanimous that the fair thing to do was to grant retroactivity, with the safeguard, which I believe you fully approved.

Mr. BIEMILLER. That safeguard was in the proposal which the labor members of the Pay Board had made about the second day the Pay Board met.

The CHAIRMAN. And as I said this morning, I see it's still in the press sometimes, that the administration was opposed to the settlements we made. I think they were very pleased with it. Now I don't have that word on it. But I have good cause to understand that to be true.

Mr. BIEMILLER. Take, for example, Mr. Chairman, just to give you an illustration of what I am talking about, probably the best known decision of the War Labor Board was the little steel formula, as it became known.

The CHAIRMAN. I remember.

Mr. BIEMILLER. Now that little steel formula was decided by a combination of the public members and the management members. The labor members dissented from that original deal.

But because of the great respect that the labor members of the War Labor Board had for the public members, there was never any problem about getting that decision enforced.

Now it's that kind of a spirit we'd like to get into the present Pay Board, and it's pretty difficult when you have the type of so-called public members that now exist on the Pay Board.

The CHAIRMAN. Well, I have taken all of my time. We appreciate your presentation, and I will call on Senator Tower.

Senator TOWER. Mr. Chairman, I don't have any particular questions, except I am a little amazed to hear this accusation that the Pay Board is stacked, when you consider the fact that most of the complaints I have gotten about the Pay Board have been that they have been too soft on wage increases.

So I don't regard it as a stacked deck at all. That's all I have to say.

The CHAIRMAN. Do you have any comment on that?

Mr. BIEMILLER. No. The Senator is certainly entitled to his opinion. It's a difference of opinion. I am not quarreling with that.

Senator TOWER. You know the coal decision raised all kinds of ruckus. There was considerable reaction against the Pay Board.

Mr. BIEMILLER. It was a catch-up decision over a period of several years.

The CHAIRMAN. That's the way I tried to explain it, but nobody accepted my explanation. It's pretty difficult to get across. Senator Proxmire?

Senator PROXMIRE. Mr. Biemiller, it was on October 16 that the Secretary of Labor talked with Mr. Meany? And at that time you say he said that Judge Boldt is "totally and completely unfit for this job,

he has absolutely no experience in the field, he just couldn't handle it at all."

Mr. BIEMILLER. That was on October 19. It was on October 16 that the Secretary of Labor made his first contact with Mr. Meany and said he would talk with him on Tuesday, and it was Tuesday, the 19th, when he told him the Judge couldn't handle the job.

Senator PROXMIRE. At any rate, it was 2 or 3 months ago? Has he ever repudiated this, ever said he didn't say it?

Mr. BIEMILLER. To the best of my knowledge, no.

Senator PROXMIRE. In fact, he said he resented the fact that the confidentiality was breached, which seems to me is a confession that he said it.

Now we have the Secretary of Labor, presumably President Nixon's expert on—

Senator TOWER. That's hearsay, and would never be admitted in a court of law.

Senator PROXMIRE. This is not a court of law, to the best of my knowledge, in spite of the legal expertise of Mr. Tower.

At any rate, the Secretary of Labor has never denied this, although it was publicly expressed by Mr. Meany.

I indicated, in reading from the New York Times this morning, that nonlabor members of the Board share the same view.

To the best of your knowledge, how widely held is this notion that Secretary Hodgson expressed, that Judge Boldt is not qualified?

Mr. BIEMILLER. Well, I have never heard anything but great confusion coming out of the early days of the Board, particularly because of this fact, that people did not think that, however competent and decent a citizen Judge Boldt is—and we all agree on that—that he simply wasn't qualified for this job, and certainly we got that reaction from many, many people on the Board at the time.

Senator PROXMIRE. Now this morning we had the view expressed not only with respect to Mr. Boldt, but with respect to Mr. Sheehan, that it's a good thing to appoint somebody who doesn't know anything about the job. The less he knows, the better job he is going to do. He comes with no preconceptions, no experience, no training, but with an open mind on which can be written nothing but objective judgments.

This seems to me to be the only argument I can think of for appointing a man who is kindly, gentle, perhaps a good judge, as you say.

What is your reaction to this kind of an argument, that here is a man who at least comes here with no preconceptions? He does come from Government, but he hasn't been identified with either side—either labor or management.

Mr. BIEMILLER. Well, it's our opinion that this is the last place in the world that you should, as we put it in our statement, give on-the-job training to somebody who knows absolutely nothing about labor-management relations.

There isn't a more delicate problem in American society than the relationship between management and organized labor. There are many people in our Nation who have expertise and are strictly neutral.

and these are the kind of people that we expected to see appointed to a tripartite board. And those are the only kind of people, in our opinion, who ought to be appointed. We think that to appoint someone who has no background, knowledge, or expertise in the field is a mistake.

Senator PROXMIRE. You made a telling point when you said you are looking for an arbitrator. They take a great deal of training and experience and judgment. There is an enormous difference in excellence.

One of the great arbitrators is Wayne Morse, who has performed great service throughout the years. Sumner Sibley, John Dunlop. These are the men who have the confidence—not pro-labor or pro-management; not anti either group. But they come in with enormous experience and background. Then when they make their judgments, they have to be respected, because they are made on the basis of knowledge and experience. Is that what you have in mind?

Mr. BIEMILLER. Nate Feinsinger in Wisconsin is another example, an impartial arbitrator in the automobile industry for many years.

Senator PROXMIRE. As far as arbitration experience is concerned, as far as background that would give him the capacity to bring to bear that kind of judgment, I don't see anything in Judge Boldt's background, though, that would give him competency.

There is another ingredient in this job—capacity as an administrator, to hire staff, delegate authority, organize and direct staff, organize operation of the office.

Once again, does Judge Boldt have any experience as an administrator, that you know of?

Mr. BIEMILLER. Not that we know of.

Senator PROXMIRE. Has it ever been known that he is an effective administrator?

Mr. BIEMILLER. Not to the best of my knowledge.

Senator PROXMIRE. On the basis of the records of the Board in the first months of operation, isn't it clear that this Board did lack effective administrative leadership?

Mr. BIEMILLER. It was hopeless confusion.

Senator PROXMIRE. Now the judge indicated that the Board is now beginning to harmonize and move well. Do you think we can make a judgment based on the 1 week in which the judge has had this new power that the Board from now on has its troubles behind it?

Mr. BIEMILLER. I have heard no such expression yet from our people on the Board.

Senator PROXMIRE. When the Board made this judgment that Judge Boldt should decide certain cases himself was this an indication of their faith in him and did the business and public members give him this support as an earnest of their faith in his judgment? What did they have in mind, to the best of your knowledge?

Mr. BIEMILLER. Simply that they want to see the Board function as smoothly as possible, and for that reason they decided they had to set up this kind of a situation to handle the more routine cases, because obviously you can't have the entire Board handling every possible case that comes along. It's got to go down the line, just as the War Labor Board and the Wage Stabilization Board during the

Korean war had to set up certain guidelines and then let the top officials and the staff fit the cases as they came up into the slots where they did fit—and then only bring the major cases before the Board itself. That's obviously what they are trying to do.

Senator PROXMIRE. I realize labor has a great deal of concern about the whole approach to labor-management problems in the construction industry. After all, the use of the law to effect a change in wage structure has not been exactly in the interest of organized labor. Nevertheless, there seems to be cooperation, efficient operation in that. In that case, what can you say about the people who administer that Board in terms of competence?

Mr. BIEMILLER. Well, I think they are beginning to put some people into the slots who have competence in Government administration.

I was here, as you know, when Judge Boldt testified. I would agree that Mr. Cass, for example, is an extremely competent civil servant, and I am delighted that he has been added to the staff of the Board. I think it will be a definite step.

Senator PROXMIRE. It's a very important agency; far less important than the overall Pay Board. The Pay Board has responsibility with respect to the whole—I am talking about the construction.

Mr. BIEMILLER. I am sorry. I misunderstood you. I thought you were talking about the Pay Board itself.

The Construction Board, I do not know very much about. As you know, it's been in existence for some time. John Dunlop, who is the head of that Board, is one of the most respected people in the arbitrator's field—to use that term in a general way. And as far as I know, the Board has been functioning pretty smoothly. I haven't heard any howls about it, let's put it that way.

Senator PROXMIRE. In this country, wouldn't you say there are not scores but literally hundreds of experienced arbitrators who are qualified from the standpoint of having decided numerous labor-management cases, who would bring expertise and would automatically and immediately command far greater respect than someone who comes in—maybe a fine person—but never had any experience in labor-management relations?

Mr. BIEMILLER. The American Academy of Arbitrators has several hundred members, most of whom are very highly respected. They are chosen jointly by labor and management, in many instances, to handle disputes that arise in interpretations of contracts and the like, and there are many, as you state correctly, there are many, many such people scattered throughout the American scene—very competent people.

Senator PROXMIRE. I'd like to ask you about something that has troubled a lot of people. At its convention in November, the American Federation of Labor and Congress of Industrial Organizations—your organization—was reported to have voted to adopt a policy of non-cooperation with the Board.

What does this mean, and what was it—is this an erroneous report?

Mr. BIEMILLER. There was a resolution adopted which I will be happy to furnish the committee a copy of.

Senator PROXMIRE. I think we ought to have that for the record, without objection.

(The resolution is reprinted as follows:)

EXECUTIVE COUNCIL RECOMMENDATIONS TO AFL-CIO CONVENTION
NOVEMBER 18, 1971

It is our duty to report to the membership of the AFL-CIO and to the working people of America that the wage control mechanism established by the President of the United States is being used as a device to destroy the basic American concept of free collective bargaining.

The trade union movement joined the Pay Board on the basis of a commitment from the President that it would be tripartite and independent and that the public members would be citizens of high repute, knowledgeability and neutrality. That commitment has not been kept.

We must now report that the public members, so-called, are not independent but rather are handmaidens of the Administration. They are not neutral but have long ties either to industry or to government. In fact, one is still on the government payroll and another was a government official until the day before his appointment to the Pay Board.

As one of its first acts, the Pay Board—by a 10-5 vote with the industry and the so-called public members acting in concert—nullified thousands of legal contracts covering millions of workers.

We flatly reject the concept that anyone—be it Pay Board or President—has the power to abrogate any legal collective bargaining agreement or any other contract voluntarily and legally entered into by American citizens or their representatives. If we were to take any other position, then every contract—mortgage, corporate bond issue, sales contract or any other form of agreement voluntarily entered into by American citizens—would be subject to abrogation in similar fashion, a concept we reject without equivocation.

There is little hope that economic justice can be achieved by this Board, the majority of whom are guided by the dictates of the Administration or the interests of big business.

Against this background, the AFL-CIO Executive Council recommends to the Convention:

1. That our representatives remain on the Pay Board only so long as a reasonable hope exists of securing recognition of the validity of contracts and of achieving justice for working people generally—including, most particularly, those with low or substandard incomes and those without the protection of strong bargaining representatives.

Until those objectives are assured, labor cannot associate itself with the actions of the Board or encourage cooperation with their administration or enforcement.

2. That the unions of the AFL-CIO insist at every level on the validity of their contracts in all their terms and in all their particulars, and that they take every lawful action at their command to insure that their contracts are honored.

3. That the AFL-CIO continue the legislative effort in the Congress to protect the validity of contracts.

We will not relax for a moment our fight to increase the standard of life and livelihood for those at the bottom of the economic ladder—those whom the majority of the Pay Board seem to have forgotten.

We repeat what we have said in the past:

The American labor movement will not permit itself to become the scapegoat for Administration policies which have brought this nation to the brink of economic disaster.

Mr. BIEMILLER. In which we said our people will stay on the Board and cooperate to the best of our ability.

Senator PROXMIRE. Was the noncooperation which was discussed—was that simply an inaccurate report? I quote from the New York Times on December 28, which says exactly what I have read you. "At the convention last month of the AFL-CIO . . . it was voted to adopt a policy of noncooperation with the Board." That is not true?

Mr. BIEMILLER. I will send you a copy of the resolution for the committee.

Senator PROXMIRE. I believe my time is up, although I have another question. Senator Brock?

Senator BROCK. I am interested in a number of particular points you raised. I find it somewhat difficult to follow the logic of the criticism of Judge Boldt on the basis that he doesn't have—I think you said something like a knowledge of the delicate nature of labor and management decisions, or something to that effect—an intimate knowledge.

I don't think many judges have an intimate knowledge of the negotiations between any of the conflicting parties that are brought before them. I think the purpose of the judge and his legal responsibility is to try to make a determination on equity in the public interest and consistent with the law.

It seems to me like we are raising an awful lot of questions about whether a man fits our criteria as a special interest criteria, rather than the criteria of equity, fairness, and proven experience in adjudicating matters that are equitable and consistent with the law of the land as it exists.

I think that is the prime function of this particular individual. I know your paper deals frankly with criticism more of the President and the Board in total that it does Judge Boldt, but the only thing we have before us is Judge Boldt.

Mr. BIEMILLER. If you had the other four members up, we'd be opposing them too.

Senator BROCK. Well, just so we are fair with each other, if we had the whole 15 up, I'd oppose the Board as it is today.

Mr. BIEMILLER. You have a perfect right to your opinion.

Senator BROCK. I'd rather have a Board composed primarily or entirely of public members.

Mr. BIEMILLER. We had that out in the Congress at the time of the Korean War Wage Stabilization Board, and a motion was made in the House to change the Board into a completely public board, which was defeated.

Senator BROCK. Well, I think we have proven the value of a public board with the Price Commission. I think they have demonstrated that things can be done more expeditiously and perhaps with a greater service to the public than we can with a board of advocates which had no requirement that they act in the public interest, because they are appointed to represent special interests.

Mr. BIEMILLER. But as I said in my paper, while we are not going to try to raise any trouble for the Price Board, we are very suspicious of the fact that six of the seven members have very close ties to corporate America, and we'd like to see some real public members on there too.

Senator BROCK. Are you suspicious of anything that is associated with the President of the United States at this particular time?

Mr. BIEMILLER. No; that is not correct.

Senator BROCK. May I address one other brief point. Again, I find it highly inconsistent for this testimony, as vigorous as it is, to be presented in light of the fact that labor-management members did vote for Judge Boldt, and it was not a delegation of limited authority in minor cases, as you seem to imply. It's a full delegation of authority.

And the only protection that you maintain for yourselves is a requirement that you can call a decision before the full Pay Board.

Mr. BIEMILLER. That is correct.

Senator BROCK. But every decision can be made from now on by Judge Boldt, and if you don't call the question, there will be no challenge.

Mr. BIEMILLER. He is at the moment the Chairman of the Board. It is perfectly obvious that you have to delegate that authority to the Chairman of the Board if you are going to have the Board functioning at all.

Senator BROCK. Well, you could have appointed, or delegated it to somebody else.

Mr. BIEMILLER. Not to any of the other public members, because we haven't any great faith in them either.

Senator BROCK. So he is the best of the lot?

Mr. BIEMILLER. No; you are faced with the reality that he is the chairman, and the normal delegation in a case like this is to the chairman, just as with the Labor Board. It was given to Chairman Davis, in whom the labor members had tremendous confidence and respect, who had a long background—he had been head of the New York State Mediation Board; cochairman of the Defense Mediation Board, and a man with a proven record of knowledge and expertise in the field of labor-management relations.

Senator BROCK. Well, I have one other question that relates to labor and to the support—covert or overt—that is received by the phase II program.

I have an article that I have read in which it was talking about, I think, Mr. FitzSimmons, and subsequently his statement was agreed to by Mr. Woodcock.

He said the labor would shift now to negotiation on items which are not covered by the Pay Board, and they mentioned specifically fringe benefits and work rules.

He said labor was going to attempt to substitute something of equivalent value for increased wages.

If that is the case, if you are going to substitute equivalent value that simply isn't covered by the law as it is drafted for wages, can you really say you are supporting the program?

Mr. BIEMILLER. I am not familiar with that particular statement. But I think what Mr. FitzSimmons was obviously talking about was the kind of thing that happened during World War II.

The purpose of the Pay Board now, and the purpose of the War Labor Board, was to try to curb inflationary increases in wages.

And it was actually out of the views of the public members on the War Labor Board that the whole idea of fringe benefits first developed because it was not an inflationary impetus to the economy at that time.

And this is the kind of thing that I take it, obviously, that Mr. FitzSimmons must have been talking about, although I have not seen that direct statement to which you refer.

Senator BROCK. Well, I think most economists believe that a large element of our inflationary posture has been due to cost-plus inflation.

Certainly these items do involve additional cost. And therefore I don't see how we can say they are divorced from the inflation process or from the responsibility of labor to participate along with the rest of the body politic in supporting a program to achieve economic stability.

To clarify, I will quote you one paragraph of the article:

If the President * * * [reading] * * * Woodcock warned . . . we will find something of equal value outside of the control of the Board * * *.

That to me represents something less than cooperation or support of a program or willingness to really play the game fairly, as all the rest of these people in the country are being required to do.

Mr. BIEMILLER. I am not authorized to speak for Mr. Woodcock except in regard to this statement, as I said when I introduced it, that the UAW endorsed this statement. But I am not a spokesman for Mr. Woodcock beyond that.

Senator BROCK. Would you speak for your organization, then, in saying that if you find yourself limited in terms of wage increases that you will try to get something of equal value?

Mr. BIEMILLER. If we are going to follow the pattern of World War II situation, we undoubtedly will find ways and means of strengthening the position of the worker in the American economy.

Senator BROCK. Regardless of the cost?

Mr. BIEMILLER. And we will see what happens. No, it isn't regardless of the cost, because wages are the things that cause the problem of inflation.

Senator BROCK. What is the difference to a manufacturer whose cost components include not just wages but insurance benefits, pension programs, medical programs, vacation policy? All of these things affect productivity, cost of operation. You cannot limit the cost of business to wages.

Mr. BIEMILLER. And they are all part of the collective bargaining.

Senator BROCK. But not of the Pay Board's jurisdiction, and if you say you are going to ignore the guidelines in terms of these other items that are cost items—

Mr. BIEMILLER. If my memory serves me—I may be wrong—it was on the floor of the Senate that the exclusion of fringe benefits was added to the Economic Stabilization Act.

Senator BROCK. But it was added on the assurance that the members of the labor organizations of this country were going to participate, going to try to support this program, and not just in adherence to the letter of the law but in total terms.

Mr. BIEMILLER. We are doing exactly that.

Senator BROCK. My time has expired.

Senator PROXMIRE. Do you want that article put in the record?

Senator BROCK. Yes.

Senator PROXMIRE. Without objection, it will be included.

(The following two articles from Business Week were received for the record:)

[From Business Week, Jan. 22, 1972]

HOW THE UNIONS WILL GET AROUND WAGE CONTROLS—BENEFITS AND WORK RULES WILL GET TOP PRIORITY IN NEW CONTRACT DEMANDS

Since wage controls are likely to inhibit demands for hefty wage increases, organized labor intends to concentrate on liberalized fringe benefits and work rules in upcoming contract negotiations. This was the warning issued last week by the presidents of the nation's two largest unions—Frank E. Fitzsimmons of the International Brotherhood of Teamsters and Leonard Woodcock of the United Auto Workers. Their forum was the Federal Mediation & Conciliation Service's 25th anniversary seminar in Washington.

The emphasis on fringe benefits and work rules could mean tougher and more complex bargaining, since the cost implications of such contract gains are often more difficult to gauge than simple wage boosts. Not surprisingly, the labor mediators attending the meeting were told to expect a variety of new problems as the unions attempt to substitute "something of equivalent value" for increased wages.

When the FMCS sent out invitations for the seminar, it announced that the theme would be "Current and Near-Future Developments in Collective Bargaining." The theme turned quickly into something more basic and specific—the Pay Board's controls and how to cope with them.

ACCORD

Both Fitzsimmons and Woodcock are members of the Pay Board, and both made it clear that their two unions—and others—will insist that losses in pay must be made up by employers in areas outside the scope of controls. The Teamsters could be affected by a pending Pay Board decision on deferred wage increases. Its members are due 14% this year, in two installments. The UAW last week had its aerospace settlement reduced from slightly more than 12% to 8.3%, with a suggestion from the board that it add the lost 4% to a second-year increase of 3% next October.

"We can say that free collective bargaining is stifled until controls are removed," Fitzsimmons told the seminar. "But I can assure you that there are still real potentials for representing our membership at the bargaining table." As long as the controls remain in effect, he said, the Teamsters would bargain for such items as antipollution clauses, stronger and more meaningful safety clauses, and work regulations.

"I believe other unions will be using the period during the controls to to tighten up the language in their agreements, and this can only benefit collective bargaining," Fitzsimmons said.

Woodcock basically echoed Fitzsimmons' belief that the controls program would force labor to turn its attention to contract language and fringe benefits that have had a low priority on the rank-and-file's lists of demands during the past years of inflation. With costs rising, unionists have emphasized higher pay above all else.

If the President's Pay Board limits wage gains for auto unionists, Woodcock warned, "We'll find something of equal value outside the control of the board." Woodcock did not mention any specific area for "equal value" gains, but he was clearly referring to the fact that most contract fringe benefits are exempt from controls unless they are deemed "unreasonably inconsistent."

PAY BOARD PROBLEM

Fitzsimmons and the Teamsters represent one of the biggest problems for the Pay Board. Unlike the aerospace problem, which involved a contract negotiated after the basic controls program had been announced, the Teamsters' contract with the nation's trucking industry was negotiated more than a year before the controls.

The question before the board is how much of the large second-year and third-year wage increases should be allowed. Management members of the board have indicated they will challenge the second Teamsters raise in July. The first 25¢ an hour was within the board's guideline and was permitted to take effect Jan. 1.

Fitzsimmons, who warned earlier this month that the trucking industry would be struck if the Jan. 1 increases were not paid, said that the Teamsters would not be caught unawares if the board moves to curb the union's deferred wage increases at midyear. "We in the Teamsters, like the Boy Scouts, try to be prepared," he said.

Looking to future bargaining, he said, "We will not have reopening clauses. We will devise other techniques, not with the view of upsetting the announced goal of containing inflation, but to protect our members."

MANAGEMENT'S VOICE

Virgil Day, a General Electric vice-president and spokesman for management members of the Pay Board, warned the seminar that "collective bargaining is not in a healthy condition."

"We won't kill bargaining if, for a while, we subject the results to review and possible revisions [through the Pay Board]. . . . The way to kill bargaining is to undermine Phase II," Day said.

Day then picked up on a theme sounded earlier in the seminar by Labor Secretary James D. Hodgson—a theme that immediately raised the hackles of organized labor. Mediators should remind negotiators of settlement limits in the Phase II program.

"I am not asking you to plead to the bargainers on behalf of the Pay Board," Day said to assembled mediators. "I do urge you to keep in mind the Pay Board policies and rulings when you help the parties at the bargaining table."

Hodgson insisted he was not advocating that federal mediators be "a protagonist for or an enforcer of controls," but he said, "I visualize the mediator's job today as including up-to-date knowledge of the control board regulations, standards, and actions, as well as a responsibility to advise both parties of what they are. Today controls are very much a part of the total bargaining environment and as such cannot be ignored."

United Steelworkers President I. W. Abel, also a member of the Pay Board, was much more philosophical about future collective bargaining than Woodcock and Fitzsimmons. Abel devoted his time at the seminar to the need for labor and management cooperation to help increase productivity and to search for strike alternatives.

[From Business Week, Dec. 11, 1971]

A NEW TACK ON PRICE HIKES

In price decisions on U.S. Steel Corp. and Dow Chemical Co. this week, the federal Price Commission offered some solid guidance on how it will probably deal with major corporations in the future. In brief, the likely tactic will be increasing reliance, wherever feasible, on granting across-the-board increases instead of painstaking evaluation of product-by-product requests.

Big Steel, for example, wanted 8.6% on its big-volume sheet products. Instead, after discussions with commission members Robert F. Lanzilotti and John W. Queenan, Steel withdrew its request late on Tuesday and filed for an across-the-board 3.6%, which was promptly approved. The company has the option of juggling prices any way it likes, until Aug. 1, as long as the aggregate stays under that figure. It will probably start to take advantage of this flexibility once steel prices start to firm in the spring.

The same approach is being used with Dow, another company with a huge and varied product line. The commission staff considered product-by-product evaluations nearly impossible, and worked out a companywide 2% ceiling; Dow had requested 2.5%.

Where an across-the-board approach is used, the commission may require companies to develop a sophisticated new monitoring tool: a weighted index of its prices that will account for price in relation to volume. Otherwise, the commission would be faced with the mind-boggling task of sorting out compliance among all the varying price movements. The weighted index, suggests Lanzilotti, could also be used to monitor food chain pricing. Several major chains are willing to supply an index to the commission, but as of now would balk at putting it on display in their stores.

EXCEPTIONS

Across-the-board price approvals are neither necessary nor desirable in all cases, of course. As with autos and coal, for example, companies with clearly identifiable dominant products will continue to file product-by-product. And conglomerates present their own set of problems.

Few conglomerates have thus far requested price increases, and the commission has made no final decision on how to deal with them. Roy Ash, chairman of Litton Industries, for example, says that his huge conglomerate has asked for no price hikes because of the mammoth job of compiling all the necessary information. Within many conglomerates, the commission will find itself dealing with some subsidiaries producing a dominant product, and others with product lines more varied than those of Dow. What is more, both situations must be related to the parent corporation's profit-margin ceilings. "We will have to look at it both ways," guesses Lanzilotti. "The filings get to be sticky, messy problems."

The commission's new across-the-board approach seems to have satisfied U.S. Steel. Chairman Edwin H. Gott, in a statement after the announcement, declared that the approval plan "should contribute to the stability of the general price structure and provide a degree of flexibility in pricing our individual steel products." This flexibility should help hold to a minimum the economic dislocations caused by the price controls—a major goal of the commission.

The commission treated the steel increase very differently from the soft coal settlement in another way, too, although the labor costs—15%—were nearly identical. The commission allowed full use of the higher labor cost as justification for a price increase for steel, since that contract agreement had been signed before the wage-price controls announcement last summer.

The coal contracts were negotiated during the freeze and signed several days after the basic 5.5% guideline for wage increases was announced. So the commission allowed the mine operators to use only 60% of the increase in figuring price hikes.

HOW TO DELIVER YOUR PRICE REQUEST

At one point last month, there were, by actual count, 70 company representatives crowded along the maze of narrow halls on the sixth floor of the Price Commission's headquarters at 2000 M St., NW., in Washington. Most had come bearing requests for price increases and, to Donald Wortman, chief price analyst for the commission, it looked as if they were planning to stay until they got a decision.

"They were just gumming up the works," groans Wortman. "My people couldn't even get the requests off to the right analysts because everybody wanted a consultation then and there." Things have eased a little, but Wortman is still up to his ears in company reps.

Hanging around does not do any good, he maintains. Instead, he suggests the following: If you are going to hand-carry a price-increase request to Washington, take two copies of it to Room 5008 at the headquarters. There, a member of the professional staff will stamp both copies with date and time and will return one copy to you.

CHANNELS

The application form has space to list the name, address, and phone number of the official whom the commission should contact to get further information or to advise when action is taken on the request. But if the person who delivers the request remains in Washington and wants the commission to deal with him, he should leave his name and how he can be reached with the commission official who formally accepts the request.

The commission will notify by telephone when action is taken. If it is an approval, a letter and an order signed by the commission chairman will follow. If it is a denial, the letter probably will go out by Teletype, and the order will follow by mail. If a company has facsimile transmission facilities, perhaps some of the correspondence can move that way.

What really drives Wortman up the wall is probably the simplest thing of all, but many companies are overlooking it. "They are not getting the chief executive officer to sign the damned form," he complains, "and we won't process it until they do."

Senator CRANSTON. I am not sure I heard one of your responses to Senator Brock. Would you say that if confirmation had been necessary, as you wish, for all members of this Board, you would oppose all of them?

Mr. BIEMILLER. All of them.

Senator CRANSTON. So in effect, you are particularly vehement in your opposition to the Chairman, since that is your only opportunity to seek to achieve some balance from your point of view?

Mr. BIEMILLER. Precisely.

Senator CRANSTON. In regard to the type of industry—incidentally, one member you spoke of—Neil Jacoby—while he has been on the board of Occidental and quite possibly of other concerns, he primarily has been an educator; he was dean of the Graduate School of Business at UCLA for a long time and is now with the Center for the Study of Democratic Institutions and has mainly been in such activities.

In regard to the ties to Government, particularly in the case of Judge Boldt, at the top of page 4 you remark that he is still being paid by the Federal Government as a member of the judiciary. What is your basic concern there, since the judiciary obviously is different from the executive branch?

Mr. BIEMILLER. We don't believe that any Government official should be a public member of a tripartite board.

Senator CRANSTON. I see.

Mr. BIEMILLER. This isn't per se on Judge Boldt; it's a generical opposition.

Senator CRANSTON. I understand.

Particularly strong are your feelings about Mr. Weber and his role before he went on the Board.

Mr. BIEMILLER. Mr. Weber; one night he was head of the Cost of Living Council, and the next day he is a public member of the Pay Board. It makes no sense to us.

Senator CRANSTON. I think the point you make about the lack of a voice for the consumer, in any way, shape, or manner, is a very important one.

In regard to the quote from Mr. Meany, and his conversation with Judge Boldt, could you amplify the circumstances? What were they talking about that led them to this statement about the vital principle?

Mr. BIEMILLER. It was an argument about the question of the payment of retroactive wages, before the Congress acted and solved the problem, as I said just before you came in, Senator.

Senator CRANSTON. I was here for your whole testimony.

Mr. BIEMILLER. What was passed by the Senate was precisely the proposal that had been made by the labor members of the Pay Board.

Senator CRANSTON. In discussing the matter of retroactivity, Judge Boldt said it was a vital principle, and that is, going along with the President?

Mr. BIEMILLER. Going along with the President. And he was assuming the President was opposed to the payment of retroactive wages.

Senator CRANSTON. In regard to the other quote from Mr. Meany, relating to the conversation with Secretary Hodgson, Senator Proxmire brought that up in his questioning and Senator Tower stated that

it is hearsay and wouldn't stand up in court, and Senator Proxmire made the point that this is not a court.

In view of that statement, in view of Mr. Hodgson's role in the Government, it seems to me that we shouldn't let it go as hearsay. That is a very serious charge.

I would not like—and it's a very serious judgment made by Mr. Hodgson of Judge Boldt's qualifications.

Senator TOWER. Would the Senator yield? I just talked to Secretary Hodgson a few minutes ago, after this came out in the testimony. I talked to him on the telephone. He said these are Meany's words, not his, and his most recent view of Judge Boldt is, "considering the crosscurrents and difficulties under which the Board has had to operate, Judge Boldt's work is to be applauded."

Senator CRANSTON. I would be interested in exploring further the views—I am interested in that current appraisal—but the earlier appraisal is also I think very relevant to our deliberations.

I would not want to embarrass Secretary Hodgson unnecessarily, since he is in a somewhat difficult position, being in the administration and dealing with the administration's appointment by the President.

On the other hand, I think this committee should know a little more about Mr. Hodgson's past and current appraisals of him, and we might well discuss it in executive session. I would prefer to know more about it, before I voted on him, and if I had to vote at this time, I would vote against him until I was afforded an opportunity to know more about Secretary Hodgson's viewpoint. That's all I have at this point.

Secretary TOWER. I have already said what I intended to say during my time. I would like to point out that in criticizing the Price Commission, Mr. Biemiller noted that we removed price controls from 75 percent of the Nation's retailers. I think it should be noted that those 75 percent are small retailers that do only 15 percent of the retail business. The small "Mom and Pop" type operations. I think that should be noted.

The CHAIRMAN. They didn't have the percentages at that time.

Senator BROCK. The law passed by this body required the Board to make that judgment as soon as possible, to relieve small business of this particular burden.

Senator PROXMIRE. I have a couple of very quick questions.

First, how do you think business would react if the public members of the Board had the same kinds of affiliation with organized labor that the public members now have with corporate business?

Mr. BIEMILLER. I would expect them to scream as loud as we are screaming at the present situation.

I think they would object—and would have every right to object.

I can't imagine my old Congressional colleague, President Nixon, appointing me to a pay board as a public member, but if he had, I would expect the chamber to howl about it.

Senator PROXMIRE. The other question I had in mind is with respect to the good service that the AFL-CIO is trying nobly to provide in monitoring the price operations.

I think this is probably the most effective action by any nongovernmental group; maybe more effective than governmental action.

But how can you do it? How can you operate in view of the confusion that we have in our price regulations, in view of the very complex basis on which prices can be increased, in view of the secrecy that was indicated this morning? How are you able to have this operation and what do you need—what should we do as Senators on this committee to urge the Price Commission to reorganize and change its policy so you can do a more effective job?

Mr. BIEMILLER. Well, the person on our staff who is in charge of this operation is Mr. Leo Perlis, head of our community affairs division. He says that our people are utterly frustrated. They go into stores, they can't get lists half the time, or if they get a list it's unintelligible. So what we have been reduced to is comparative shopping, practically, and going back to the newspapers of the period prior to the freezes and so on, and trying to compare.

Now we think it would be very desirable if there was a much larger staff of enforcing people so that when you do have—when our watchdog committees find an acknowledged violation, they have somebody to go to and get something done about it. Actually, the IRS does most of its enforcing by telephone at the present time, and I don't know how they think this is going to operate.

So we are anxious to see a much broader setup in the price-control operation where we can come with our grievances and get some action on them. We don't get any action today when we do discover what we consider to be violations.

Senator PROXMIRE. It's been reported that you intend to bring suit against any price increase.

Mr. BIEMILLER. This is what we are contemplating.

Senator PROXMIRE. How? There are so many hundreds of thousands of prices.

Mr. BIEMILLER. Well our lawyers recognize this, and are trying to devise some way to dramatize the problem. I don't know how they are going to do it either.

Senator PROXMIRE. Anyway, your principal recommendation is that we do what we can to provide more adequate enforcement personnel?

Mr. BIEMILLER. Precisely.

Senator PROXMIRE. Thank you, Mr. Chairman.

The CHAIRMAN. Any further questions?

I was rather interested in this last exchange between you and Senator Proxmire. It seems to me if you brought a suit and you succeeded in breaking down the Price Commission, you would destroy the whole thing. And we'd be without any machinery on wages and prices. I just don't think we want a situation like that to develop. It seems to me the better way to proceed—and I am just thinking out loud—would be to find someplace where they make a mistake, if they make a mistake, and go after them.

For instance, you mentioned a few minutes ago, and in your paper, you mentioned these retail stores. They just don't amount to a drop in the bucket so far as inflation is concerned. And furthermore, the thing they were excused from was having to post a price on every single item in the store. And where you had a "Mama and a Papa" store, it's virtually impossible to carry that out. However, that is dealing with the Price Commission whereas we are dealing with the chairman of the Wage Board.

No other questions? Thank you very much.

MR. BIEMILLER. Thank you very much, Mr. Chairman.

The CHAIRMAN. We appreciate the exchange we had. Now if all of those except the committee members will clear out of the room, we will go into executive session.

(Whereupon, at 3:30 p.m., the hearing was adjourned.)

