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# AIRLINE DISPUTE

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## HEARINGS BEFORE THE COMMITTEE ON LABOR AND PUBLIC WELFARE UNITED STATES SENATE

EIGHTY-NINTH CONGRESS

SECOND SESSION

ON

WHETHER AN EMERGENCY EXISTS AS SET FORTH IN  
SENATE JOINT RESOLUTION 181

PART 2—AUGUST 1, 1966

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II



## AIRLINE DISPUTE

MONDAY, AUGUST 1, 1966

U.S. SENATE,  
COMMITTEE ON LABOR AND PUBLIC WELFARE,  
Washington, D.C.

The committee met at 12:10 p.m., pursuant to call, in room 4232, New Senate Office Building, Senator Lister Hill (chairman of the committee) presiding.

Present: Senators Hill (presiding), Morse, Yarborough, Clark, Randolph, Pell, Kennedy of Massachusetts, Nelson, Kennedy of New York, Javits, Prouty, Dominick, Murphy, Fannin and Griffin.

Committee staff members present: Stewart E. McClure, chief clerk; John S. Forsythe, general counsel; Arnold Memore, professional staff economist; and Frank Cummings, minority labor counsel.

The CHAIRMAN. The committee will kindly come to order.

Secretary Wirtz, we are glad to have you here with us.

Senator Morse, do you have any questions?

Senator MORSE. Mr. Secretary, is it your preference to make any statement before the committee questions start?

### STATEMENT OF HON. W. WILLARD WIRTZ, SECRETARY OF LABOR

Secretary WIRTZ. No, Mr. Chairman and members of the committee, I just received your call. I will be glad to answer any questions you have.

Senator MORSE. I am sure there will be many questions by my colleagues, but I think what they would like to hear from you at the outset, if you can tell us, give them a comparative analysis of what the union sought, what the carriers sought, and what the negotiation settlement of the other night granted.

I think they want to know what the comparative positions of the parties are. I know they also would like to have some discussion about what the Emergency Board recommended, but I think the important thing is to give them a comparison, if you will, of what the union sought, what the carriers offered, and what the negotiated settlement was.

Secretary WIRTZ. I will be glad to do that, Senator Morse.

There is one note that should be made at the outset which makes comparison a little difficult and complicated, and that is there are two different periods of time that have entered into the consideration of this matter.

One would be a 3-year period and the other would be a 42-month period, so I will have to make adjustment for comparison as I go along.

I am also testifying from recollection. As to the testimony, I have sufficient confidence in it that it will not mislead anyone in general terms, but there will be the opportunity to correct details which might arise.

The history should probably go back to the union's original demand which was for a 1-year contract for a 15-percent increase in wages during that year, plus certain fringe adjustments.

That demand went way back. It should be carried forward then to the period probably of the recommendation of the Presidential Emergency Board, of which you were Chairman.

You would be in a position to correct this general description of the recommendation of that Board. In round figures, as nearly as they can be used, that recommendation probably costed out at around \$76 or \$77 million over a 42-month period. That recommendation was with a \$76 or \$77 million cost recommendation over a 42-month period with various provisions to take effect at different points along the line.

With respect to wage rates, there were recommendations for specific increases in cents per hour for various classifications. It was an essential feature of that recommendation that it provided that if in the latter part of the contract period it developed that there had been an undue increase in the cost of living, the contract could be reopened on wages and submitted to arbitration to determine on specified bases where an additional increase was necessary.

With those details, then, and for purposes of comparison, what we were talking about at that point was a \$76 million package, 42-month period, with this provisional cost-of-living feature in it.

The bargaining then proceeded under the provisions of the Railway Labor Act during the 30-day period after receipt of that recommendation. In the course of that period and quite early, and specifically, I think, on July 7, the union presented a set of demands which were as follows:

First, it was for a 3-year period that their demands covered, the cost of that package would have been approximately \$115 million. It is a little hard to know what estimates to make with respect to cost-of-living developments and so forth, that contract proposal of the union included a proposal for a cost-of-living escalated clause throughout the contract. I think it is fairly valid at around \$115 million.

The carriers' position at that point was one of complete support of the Emergency Board recommendation which was, as I say again, at about \$76 or \$77 million for a 42-month period.

Let me skip then to the final settlement which can be priced out roughly in these terms:

First, the final settlement arrived at by the representatives of the parties last Friday night was for a 3-year period. There has not yet been an opportunity to cost it out in specific terms, but I think a fair pricing of that contract is that it would be at a figure of about \$73 million. That is for the 3-year period.

If you translated the Emergency Board report which was for a 42-month period into a 36-month period—and it is not an easy and exact translation, because various things take effect in different years—you would probably arrive at a 36-month evaluation of the Emergency Board report at \$66 to \$67 million, with the provisional cost-of-living feature in it.

In the course of the bargaining, the carriers had offered certain increases in various provisions and, again, although they had been made on the assumption of a 42-month contract, they can be translated into roughly \$70 million, \$70 to \$71 million on a 36-month basis.

Gentlemen, then, in summary, the situation is this:

A settlement agreed upon by the parties' representatives last Friday night, 36-month settlement, no cost-of-living provision in the settlement which would count as a matter of very real significance from the stabilization standpoint, about a \$73 million package for a 36-month period, comparing with the companies' offer of between \$70 and \$71 million, and compared with the union's 36-month demand of about \$115 million to include the cost-of-living feature.

I hope the figures have not been confusing. That is about where it came out, or making the other comparison, its relationship to the recommendation of the Presidential Emergency Board if that could be priced on a 36-month basis, it would be in the \$66 to \$67 million category, plus the cost-of-living feature; the settlement was in the \$73 million area without a cost-of-living feature.

Senator MORSE. I have one other question at this time and I will desist for others to ask questions.

I am sure you realize, Mr. Secretary, that the major concern of this committee is the question as to whether it should recommend to the Senate legislation to seek to end this strike for a period of time so there can be further consideration of the position with respect to the parties, whether that should be done by way of the Congress passing legislation based upon the Railway Labor Act, the feeling of the question as to whether or not there is substantial interruption of transportation, essential transportation that affects at least some sections of the country or whether the legislation should take the form of giving the President discretionary power to seek to handle the matter, leaving him the residual power of deciding to send the men back to work by mandatory action on his part.

I do not raise that for any discussion on my part at this time, but you will recall when you were before the committee the other day, you said two things that you did not feel that a national emergency existed at that time but there was dislocation and, in fact, in answer to a question put to you by the Senator from New York, Mr. Javits, the record shows that you did recognize that there is an interruption of essential transportation services in some sections of the country.

I think it would be very helpful to this committee if you could give us the benefit of your point of view on whether legislation should be passed and what your recommendation would be as to the form of that legislation.

Secretary WIRTZ. I would be hard put to it to answer it in that broad form, but with respect to various parts of the issue which I understand to be before the committee and responsive to what you said, there are these factors to be taken into account.

First, in terms of the revised form of Senate Joint Resolution 181, as I presently understand it, the jurisdictional language is in terms of the language of the Railway Labor Act.

Senator MORSE. That is correct.

Secretary WIRTZ. And I did testify in answer to Senator Javits' question that with respect to that, there could be no question in this

particular case about the present situation coming within that language.

Indeed, the establishment of the Emergency Board itself was upon the finding of that judgment having been arrived at by the National Mediation Board itself, so there could be no question with respect to that point.

With respect to another aspect of the question to which you refer, or the points which you make, with respect to the question as to whether, given that situation and given a decision by the Congress that there should be action taken in this particular case, the appropriate form of it would be the declaration by Congress of that situation and its acting upon it or its leaving that determination to subsequent action by the President—if that is the question, as between those two, it would seem to me quite clearly that with the finding made in Senate Joint Resolution 181 there remains no action beyond that that would require any further discretionary decision on the part of the Executive. If that finding is made by the Congress, it seems to me that is all there is to it.

Senator JAVITS. Would the Senator yield for a question at that point on that subject?

Senator MORSE. Yes; I yield.

Senator JAVITS. Would you wish to forecast, Mr. Secretary, the period of time that that finding ought to be valid for before the President may be asked to make a new finding?

It will be recalled that the original Morse resolution had that finding cover a 180-day mandatory maximum as an additional cooling-off period. Now, would you wish to help us in any way as to a proper time within which one might cast that finding forward?

Secretary WIRTZ. May I answer that question, Senator Javits, in terms of my general understanding that there has been discussion—indeed, it is reflected in the various resolutions—of the single 180-day period or three 60-day periods, I will answer in terms of that understanding.

While I would not count that difference a basic or vital difference, I would have a very, very strong preference or judgment to express in terms of the single 180-day period for the following reasons, again making it clear that I am only expressing a judgment as between these two which I understood your question to imply.

Senator JAVITS. Correct.

Secretary WIRTZ. As between those two there would seem to me to be these factors weighing in favor of the 180-day period and against the three 60-day periods.

In terms of my own official obligation, there will remain the necessity of doing whatever can be done to get this matter straightened out at some point. The recurrence of 60-day crises in this thing during the next 180 days, if that is what it is to be, seems to me to present a very real difficulty of one kind or another. To work on a basis of three 60-day crisis periods seems to me to complicate this situation unduly.

The prospect of another finding by the President of the United States with respect to this matter at recurrent periods during this time seems to me again to present very real questions about the use of that office. I am not sure what the legalities of this situation are.

There has been so little time to get to the bottom of all this, but this matter of recurrent findings, and I do not know on what basis they will be made, whether there ought to be a hearing at each time, if there is to be that kind of determination; whether there will be a question of legality if the determination was made without all of that, I do not know.

To keep everybody as unsettled as the 60-day periods would mean seems to me, on net, most undesirable. There would be others better able than I to express the effect of such periods upon those who are operating the airlines and those who are expecting to use the airlines—to wonder three times, or two additional times, during this period whether there were or were not to be airlines in operation. It would, I think, present a very serious operating problem as far as the airlines are concerned.

In short, then, because of what would seem to me to be the effect on whatever kind of efforts we make to get this thing worked out, because of certain questions as to what kind of findings are appropriate under the law before that kind of decision can be made, in terms of the difficulties of operating and relying on the operation of the airlines system during that period, I would express a strong preference for the single 180-day period as against three 60-day periods, if that is the choice.

Senator JAVITS. I did not want to interrupt.

Senator MORSE. I have no more questions at this time. I want to thank you very much for the clear statement you have made in answer to the two questions. I think they are basic and fundamental questions and I am very glad to have your position.

Secretary WIRTZ. One other thing. I answered your question about the comparison of the emergency board report and the final outcome in terms of overall dollar figures. It should also be made a matter of clear record that with respect to all the other issues in the case there was a quite faithful following, with some departures in detail, a quite faithful following of the attention of the emergency board to matters of one kind or another; complete adoption of the rate progression proposal, some change in the vacation schedule, adoption of the recommendation for a new paid holiday, and with respect to other matters a net which would, in my judgment, bring it clearly within the framework of that recommendation.

Senator JAVITS. Mr. Secretary, last week you urged the committee to wait and see if the negotiations would produce a settlement. Now, have you changed your mind and does the administration now seek legislation from the Congress?

Secretary WIRTZ. I am not here seeking legislation at the moment. Again, if a short answer is all that meets that point, that would be it. But I think it would be unfair for me not to go on and point out that I said a number of other things at that point, among them that I thought this country deserved an end to this kind of matter at some point, but that if the question was one of whether there is an issue here of national health, safety, and defense, I did not think there is that.

If the question is one of whether there is an interruption of an essential part of transportation, I did think there is that. I said I thought collective bargaining should be given a last clear chance. It had a chance over the weekend; it almost worked the way it is supposed to

work, and regretfully, despite the agreement of the representatives of the parties, there was the nonratification which has resulted in the continuation of this situation.

There is another reason for my not being able to answer your question as specifically as I like, trying to pick up from the effects of a vote that was announced last night. Assistant Secretary Reynolds and I are arranging right now to meet with the parties to see what can be done and what should be done about picking up this situation.

I cannot answer beyond that.

Senator JAVITS. Are we to understand, therefore, that the administration does not seek legislation from the Congress?

Secretary WIRTZ. No, I would not put it that way at all. The administration certainly shares the view of what I think is almost everybody in the country—a feeling of a great deal more than regret, a feeling of resentment about what happened yesterday, a feeling that there cannot be an indefinite continuation of this kind of thing.

If the question, Senator Javits, is whether I am here at this moment to recommend legislation, the time circumstances, if nothing more, would not put me in that position. If the question is whether I am here or whether my feeling and the feeling of the administration is that something further should be done about this situation, I am sure that there is almost a unanimous view in this country today about that.

Now with respect to the details of what ought to be done about it, it is fairly short notice to ask that at this moment.

Senator JAVITS. Well, Mr. Secretary, I must say that leaves us very much in the air. When the President had a railroad strike threatened, he sent us a message and he asked for legislation. Now, he is either asking for it now or he is not, or he is neutral or something, and I think we as Senators should know what he is.

May the record show, Mr. Chairman, that the witness stands mute.

Secretary WIRTZ. No, sir; I would be glad to meet any questions. I understood that to be a statement, Senator Javits.

Senator JAVITS. I will ask you the question: Does the President recommend legislation in this circumstance; and, if so, what does he recommend?

Secretary WIRTZ. I am not prepared at this moment to make a recommendation on the part of the administration. I am prepared to respond in terms of the legislation which presently is before the Congress and in terms of whatever questions I might be helpful about on that point.

Senator JAVITS. Might I say, Mr. Secretary, too, that I notice you used the word "resentment"? I do not know that the country feels any resentment. That is your opinion; it may not be others' opinions. I have no feeling that anybody is out to punish the union or anything like that. But I think that we have a clear duty and that is the duty to get this transportation moving, and I really was not trying to embarrass you or the President, but I did think we were entitled to know whether the administration does or does not make a recommendation.

I understand you clearly that you are in no position really to answer that question. Am I correct in that?

Secretary WIRTZ. I should like the record as it has been spelled out to be any answer I have given to that.

Senator MORSE. If I might interrupt, is it a fair interpretation on the

part of the Senator from Oregon that the administration through you is not taking the position that the Congress should not pass legislation?

Secretary WIRTZ. That is entirely true.

Senator JAVITS. Is it taking the position that we should pass legislation?

Secretary WIRTZ. I am in a position at this point to answer with respect to any of the several propositions before the committee to express a judgment with respect to a comparison between those.

If your question again, Senator Javits, is whether there is an independent recommendation for legislation at this point, there is not at this point such an independent position.

Senator JAVITS. Is it fair to say you are not telling us not to do it and you are not telling us to do it, but you are here to give us whatever information you can that will help us do it if we wish to do so?

Secretary WIRTZ. I think that is fair. We would like to share between the administration and the Congress the responsibility for trying to meet a situation which has been precipitated quite rapidly, literally overnight, and we assure this committee the fullest cooperation in an attempt to meet that joint responsibility.

Senator JAVITS. Could you tell us, Mr. Secretary—please do not prejudice the negotiation, you may not wish to answer it—if we do not do anything in the way of legislation, what are the prospects of settlement of this dispute, in your judgment, within a very short period of time, which would be the only reason as far as I can see why we would conceivably stay our hands?

Secretary WIRTZ. I will answer that as best I can, and recognizing as you do that we cannot prejudice the negotiations. There will be an active effort as soon as we can reconvene the parties, separately or jointly, to see what can be done about that. I would not hold out at this point, as I did to this committee the latter part of last week, the prospect of their being much chance of any major development within a short period.

I said to this committee last week that it seemed to me there was a fair chance, based on more than hope, that we could advance this matter; it proved to be true.

I would not make the same statement today.

Senator MORSE. If the Senator will yield.

In some unions, Mr. Secretary, their constitutions and bylaws authorize their international officers to order men back to work, and if those international officers feel that the interests of the union call for that course of action.

Does this union, IAM, have any such provision in its constitutional bylaws that would authorize the international officers to order these men back to work and if they failed, then let the rules and regulations from the standpoint of penalties be imposed upon the members involved?

Secretary WIRTZ. Senator Morse, the answer to that would have to come from the union. I found, at about 1:30 this morning, in the Department of Labor a copy of the constitution of the IAM. I find it is this provision, although I cannot tell you whether it constitutes a full answer to your question or not:

Whenever the Executive Council decides it is unwise to continue an existing strike, it may order all members who have ceased work in connection therewith to resume work and thereupon and thereafter all strike benefits shall cease.

I report this as my best answer to your question, but I do not know whether it is the whole story or there is a gloss on this one provision, that which may give it an entirely different result. This is the kind of thing, we will be wanting to pursue and talk about as the hours wear on.

Senator JAVITS. Mr. Chairman, Senator Dominick wishes me to yield for a question at this point.

The CHAIRMAN. Senator Dominick?

Senator DOMINICK. One question.

Mr. Secretary, I am a little confused here. You say, as I understand it, that you do not now think there is any major chance for a break in this strike, at least in the near future, absent legislation. Do I understand that you are coupling that with a statement that the administration is not recommending legislation and, therefore, you just want to allow the strike to continue?

Secretary WIRTZ. No. It seems to me that you overstated what I had suggested with respect to the prospects and incompletely stated the position of the administration with respect to the prospects of legislation, so I would not state it as you have.

Senator MURPHY. May I have a question?

The Chairman. Senator Murphy?

Senator JAVITS. Mr. Chairman, just a minute, I still have some questions, but I would like to yield to my colleague, Senator Murphy. I yield to you.

Senator MURPHY. I think that what the committee is interested in, obviously the administration and the Secretary thought that they had a settlement, the leadership apparently had agreed to a settlement.

Secretary WIRTZ. That is correct.

Senator MURPHY. Now the membership has turned down the settlement. We are now in a position where the Executive, the Secretary, and this committee of the Senate must decide whether in the general welfare something should be done about the strike or whether further time should be given to the leadership.

I have before me the figures of the vote in my State, and it would appear the leadership of the union has completely lost control of their membership.

Would the Secretary please advise if he has any advice for this committee on this statement?

Secretary WIRTZ. I do not have any complete advice. It is my impression that in connection with the voting in some of the California locals and particularly in the San Francisco local, there was a recommendation by the general chairman in support of the settlement, which was rejected by the membership of that lodge. I would have to check on that, but I think that is what you referred to.

Senator JAVITS. Mr. Chairman, I just hope my colleagues will indulge me. I would like to yield no further and just finish and then let others question.

Mr. Secretary, there are a number of jurisdictional points I would like to establish with you.

There is no question in your mind, is there, that this stoppage represents a substantial interruption to interstate commerce, such as to deprive sections of the country of essential transportation service?

Secretary WIRTZ. There is no question.

Senator JAVITS. Your answer to that is unequivocally "Yes"?

Secretary WIRTZ. It is.

Senator JAVITS. Does this stoppage threaten to jeopardize the national health or safety?

Secretary WIRTZ. As of the present moment?

Senator JAVITS. Yes.

Secretary WIRTZ. My answer on that would be the same as it was last Wednesday, that it does not in terms of the present situation, but I also testified at that time that that situation would change from day to day and would get worse. I think that there is another very relevant question which I believe is responsive to your question; and that is, whether I think that situation may conceivably develop before the time at which there is a reasonable prospect of a settlement of this case by bargaining. I count that a very close question.

It involves the future, which I cannot foresee at all, but it would prompt me to say that there is a very real possibility of its developing a threat in those terms.

Senator JAVITS. If the Congress made that finding of such a threat, would you controvert it?

Secretary WIRTZ. No, sir.

Senator JAVITS. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Yarborough?

Senator YARBOROUGH. Mr. Secretary, how many members of these unions are now on strike?

Secretary WIRTZ. 35,400 approximately.

Senator YARBOROUGH. How many of those voted yesterday, approximately?

Secretary WIRTZ. I do not know the complete return. The estimate I heard in the middle of the evening was that the vote was running between 50 and 60 percent of the total membership, but I am not sure—it is someplace between 40 and 60 percent and I do not know.

Senator YARBOROUGH. At least 40 percent, then, did not vote?

Secretary WIRTZ. I cannot answer that reliably, but that is my impression.

Senator DOMINICK. Would the Senator yield there?

Senator YARBOROUGH. If the Senator would withhold his request for a minute, I would like to pursue this line of questioning first.

At least 40 percent did not vote?

Secretary WIRTZ. I can find out about that.

Senator YARBOROUGH. Is there any reasonable expectation that if another vote were called, they might vote? It seems these so-called labor bosses have as much trouble getting people to vote as politicians do.

Secretary WIRTZ. I am really not entitled to speak on that point. It was not a close vote; it was a sharply divided vote, which would reduce whatever optimism there might be in that area, but it is again the kind of thing that I am sure would be explored. But I believe I am a little out of my jurisdiction in answering that question.

Senator YARBOROUGH. Well, Mr. Secretary, as regrettable as this failure to settle this strike is to the country and to the Congress and to this committee, and to other important legislation, it dispells the myth that I have been reading for years: The members of the union do not have any voice; the labor bosses order the members around like

they were little white mice. They have certainly dispelled that myth in the Machinists Union.

Whether we think they are exercising it wisely or not, they have shown they can and do govern themselves. I think that might be a great surprise to many people in this country.

Now, to the specific settlement proposed, did I correctly understand you to say that in the Board's recommendation, the Board headed by Senator Morse, there was an automatic escalation of wages with an increase in the cost of living?

Secretary WIRTZ. It was, Senator, that if in the second year of this contract the cost of living increased by 1 percent more than it had increased, on the average, in the previous 5 years, then the contract was reopenable on wages and in the event of disagreement was subject to arbitration.

Senator YARBOROUGH. Now, in the settlement reached in the White House, there was no automatic escalation?

Secretary WIRTZ. There was no cost-of-living provision at all.

Senator YARBOROUGH. No cost-of-living provision?

Secretary WIRTZ. That is correct.

Senator YARBOROUGH. Is this statement that was given me correct, Mr. Secretary? I am apprised that an airline mechanic has to sign for all work he does on a plane. If anything goes wrong with it the FAA revokes his license and that ends his career as an airplane mechanic. His training and preparation are down the drain; he is through if after he signs for that work, they take it out on the line and the pilot discovers the engine doesn't work or something. His license is revoked and he is through.

Secretary WIRTZ. I do not know the details of it, Senator YARBOROUGH. There are several licenses that are involved. There is very strict enforcement, as there must necessarily be, of the standards. I would not be sure about the automatic discharge provision to which you refer.

Senator YARBOROUGH. One tells me that is the rule and he says that the mechanics on buses do not have to sign for anything. If they make a mistake, they just tow the bus back into the shop. He says, "Imagine somebody trying to tow one of our planes if we make a mistake."

In view of the pressure they are under, and the fact that they have to sign, and the high responsibility on the mechanic, he signs and certifies that plane is safe and operable, it seems to me that that supports your recommendation that the cooling-off period should not be three separate 60-day periods.

This is pretty much of an emotional stress for these people—no wages coming in for themselves and their families—and it seems to me from the safety of flying planes if we are going to pass legislation of this kind, there is something to be said in favor of a longer period of time before these upheavals.

Secretary WIRTZ. I think a very great deal; on this point I am completely clear.

Senator YARBOROUGH. It seems to me this fact of the great responsibility on the airline mechanics is in favor of not having frequent reopening or quarrels.

Secretary WIRTZ. That would be my firm judgment.

Senator YARBOROUGH. Thank you.

The CHAIRMAN. Senator Prouty?

Senator PROUTY. Mr. Secretary, I would say that if I were President of the United States, I would much prefer the 180-day period. The 60-day period would end around October. That is only about a month prior to the elections.

I am not going to ask you to comment on it, unless you wish to, but it seems very obvious to me that this is probably a major consideration.

Secretary WIRTZ. Yes, I do, and my comment would be that so far as I am concerned, and you will understand this, this country has had an airline strike for 21 days.

I see one set of considerations and assume there is only one before the committee and before the administration, and that is how properly and best to get this airline strike ended, at the same time doing all we can to preserve the institutions of collective bargaining in general. I see no controlling political consideration whatsoever. There is none so far as the administration is concerned.

Senator PROUTY. Mr. Secretary, in response to a question from Senator Clark you responded as follows, and I quote you:

Never in the past and will never in the future give this committee anything except what I think honestly is the most constructive advice and my own constructive reaction to it is the best thing to do at this point is to give what I have called collective bargaining a last free chance.

Do you think free collective bargaining has had a last chance?

Secretary WIRTZ. It had the one I was talking about, Senator.

Senator PROUTY. It has been suggested—

Secretary WIRTZ. I mean that as an affirmative answer to your question. I was talking about trying to work out an agreement between representatives of the parties.

Senator PROUTY. I knew it at the time. Do you still feel that it should be given another chance, or have we now reached the point of no return?

Secretary WIRTZ. I do not know how to answer that. I know that so far we have done every single thing that the law permitted and required and that we, I mean the National Mediation Board, the Department of Labor, the President of the United States, every single thing that could be done. I know the minute I am out of this hearing I am going to get in touch with the parties to keep on trying to find the answer to that.

Now, I have indicated that I think that the prospects of any immediate answer would be deceptive. I am not sure that I have your question clearly in mind, but if the question is whether we ought to keep on trying on this thing, of course I think we should.

If the question is whether I think we ought to do something about the legislation, it is my impression that in the view of this committee that judgment has pretty much been reached and that the important points are the points of difference between these various resolutions before us.

Senator PROUTY. I would not like to believe that this is true, but it has been suggested that the leaders of some other labor unions who will be faced with problems later on this year in bargaining with other

employers have influenced the members of this union to vote against the settlement.

Have you heard anything like that?

Secretary WIRTZ. No, sir; I had not heard that until this moment and I am trying to think who that could be.

Senator PROUTY. The reason being, of course, that if this settlement exceeds the Presidential guidelines, the other unions would be in a position to ask for more in their new contracts.

Secretary WIRTZ. I see now what you mean. There was a resolution adopted by the Railway Labor Executives Association supporting the union position in this case. There are railroad cases coming up later this year.

It would be a natural position of labor. By "natural" I do not mean to pass judgment on it; but labor has been opposing the guidelines and the principles which were reflected in their statement; and there have been expressions of support, formal expressions in that connection.

Senator PROUTY. Mr. Secretary, speaking of the guidelines, I do not think you have given us any information, at least not while I was present, indicating percentagewise what the increase amounted to which was negotiated and approved by the IAM leadership.

Secretary WIRTZ. I cannot tell you precisely. The difference in the effective dates of the various provisions for various groups of people makes that an exceedingly complicated computation. It is going to come out, Senator, someplace between 4 and 4.5 percent, and I think very close to the middle of that range; so that my present best estimate of it would be that it is 4.2 or 4.3.

Senator PROUTY. Well, if that could be justified in this instance, why can it not be justified in other collective bargaining negotiations for other unions?

Secretary WIRTZ. I know the circumstances do not warrant a long discursive comment on the guidelines and the guidepost principles, and I do not mean that, except to say this; The guideposts have been identified in terms of the relationship between productivity and wage rate increases, on an overall industrywide basis. They have never been prescribed by the Council of Economic Advisers as a test for a particular case. In this particular instance productivity has been going up at a rate in this particular industry of about 8 to 10 percent a year.

Now the guideposts do not provide that you take the productivity in that particular industry. It is a relevant factor in this case.

If the implication of the question is whether this represents some departure from the strike application of the guidelines or the guideposts in terms of a particular case, the answer is clearly, yes.

If the question is whether it is an understandable part of an overall industrywide development which is supposed to net out in the course of the year on the basis of the 3.2 percent and to keep productivity and wage increases in line, I think it becomes a closer question.

Senator PROUTY. I think the Emergency Board suggested that its recommendations went beyond the Presidential guidelines and I suppose they took into consideration all of the facts you just stated.

Secretary WIRTZ. I do not remember any such indication. The country's thinking has reduced this to the decimal point 3.2. My own

is in terms of a broader attempt to try to keep wage rate increases in line with productivity in this country. We are the only country in the world that has done it in the last 5 years. No other country has come within 10 percent of it. We are the only country in which unit labor costs have not gone up.

By and large it has been a successful policy. I think it will continue to be. But it prompts me to say this: When we are talking about emergency elements in this particular situation, this is one also to be taken into account. There is an emergency factor here in terms of the importance of preserving the stabilization program.

Senator PROUTY. I think rate reductions were being considered because of the increased productivity of the airlines. Would the settlement reached last Friday night preclude such benefits to the public?

Secretary WIRTZ. It will not. There was discussion of that, and some expression in the President's statement to the Nation, which made it quite clear that in view of the productivity developments here, this wage increase will not result in an increase in prices. To what extent it will affect the final pricing results, I would not be competent to state.

Senator PROUTY. You do not think it would make a reduction in fare impossible?

Secretary WIRTZ. It would not be fair to me, to the airlines, to the country, for me to answer that question. I just do not know.

Senator PROUTY. I have one more question, Mr. Chairman.

I would like to read a question I asked of Mr. Siemiller when he was here:

Senator PROUTY. If no legislation is recommended by this committee, would the union consider entering into an agreement with the carriers to return to work while negotiations continue, such an agreement, of course, to provide for retroactivity of contract terms and reserve to the union the right to strike at any time it saw fit?

Mr. Siemiller's reply:

I don't believe in all sincerity we could get our membership to agree to that.

I don't know where we can go from here unless we have legislation. Thank you, Mr. Chairman.

Senator CLARK. Mr. Chairman?

The CHAIRMAN. Senator Clark?

Senator CLARK. Mr. Secretary, section 3 of article II of the Constitution of the United States provides that the President shall from time to time give to the Congress information of the state of the Union and recommend for their consideration such measures as he shall judge necessary and expedient.

What, if anything, does the President of the United States recommend that this committee do in connection with the airline strike?

Secretary WIRTZ. Again, my answer would be if the question is as to whether there is from the administration at the moment an independent proposal as to what to do with respect to the airline strike, there is not that proposal.

Senator CLARK. One question: The question was, what, if anything, does the President of the United States recommend to this committee? That does not mean a specific proposal.

Secretary WIRTZ. Perhaps we are talking along the same lines instead of different lines. With respect to the questions which I have understood, and I suppose unofficially more than officially, to be be-

fore this committee, I am in a position to make quite clear suggestions with respect to them and express reactions with respect to them. This covers some of the matters that we have talked about.

Senator CLARK. Could I interrupt because I think it is important our minds should try to run together?

Secretary WIRTZ. Yes.

Senator CLARK. It is my understanding that the President of the United States is not prepared to make any recommendations to this committee.

Secretary WIRTZ. I do not know the basis of that understanding, Senator Clark. This is the situation: there was an agreement obtained between these parties on Friday night. There was a vote taken as fast as possible terms. That vote was taken among the union membership as they were entitled to under law.

The turn it down—that was last night—with the results coming in about 6 o'clock. As of 11 o'clock this morning, or shortly before 12, I was asked to be before the committee, and said I would be here within 20 minutes.

I come equipped to answer some questions, those questions which I understand to be before the committee at this point. If the question is whether on this basis of being called before this committee I am in a position to bring a recommendation from the President of the United States, the answer to that is "No."

Senator KENNEDY of New York. Would the Senator yield?

Senator CLARK. Would you just hold it a minute until I complete it?

In your opinion should this committee hold its hands with respect to reporting legislation to the floor until such time as the President has an opportunity to make recommendations?

Secretary WIRTZ. No, sir.

Senator CLARK. No?

Secretary WIRTZ. No, it would not be my position.

Senator CLARK. Yes, Senator Kennedy.

Senator KENNEDY of New York. I understood our conversation before this hearing was called, we were to call the Secretary up to find out what his recommendations were.

Senator CLARK. We have done that.

Senator KENNEDY of New York. It seems to me other Senators have asked the Secretary of Labor what his recommendations are as far as this committee is concerned and what action we should take. I gather from the Secretary of Labor he does not have the answer to that and he has not had time to think about it.

It seems to me the committee should consider whether we would want to go on until he has had an opportunity to make some recommendations to the committee. Whether the President of the United States wants any legislation or not.

Senator CLARK. I would quite agree. I want to make the observation I deliberately, Mr. Secretary, phrased my question so as to find out what the President wanted. We are always very much interested in your recommendations because we always have the highest regard for them. I understand your answer to be that as of this moment the President still has the matter under consideration?

Secretary WIRTZ. That is not my answer.

Senator CLARK. Perhaps you would like to restate it.

Secretary WIRTZ. All right, I will be glad to meet any question that you have, but the suggestions, the implications that you place upon whatever answers I may make in response to a 20-minute call from this committee, those implications will have to rest and be the responsibility of the committee and not mine.

I am quite prepared to say to you with no qualifications that I think this situation is one in which action of one kind or another is necessary.

Senator CLARK. By this committee?

Secretary WIRTZ. This committee has been considering this matter, so far as I know, since last, oh, Wednesday or Thursday, I am not sure which. My understanding has been that there has been some division within the committee as to the propriety of certain courses of action involving particularly a choice between a 180-day provision or three 60-day provisions, or compulsory arbitration.

Now, with respect to those matters I am perfectly willing to express a very clear view, but what you are asking me is upon this personal notice on this time to bring you more than that; the implications and the limitation of my answer will have to be yours, not mine.

Senator CLARK. I think you have been very candid and I will not press it any further. But by a vote of 11 to 5 last Friday, the committee agreed on legislation, but held its hand with respect to reporting that legislation in order to give a last opportunity over the weekend for collective bargaining.

To my sorrow, I was designated as the floor manager for legislation which would be reported.

A committee report in draft form has been prepared under my supervision which reads, in part, as follows:

The committee believed that it is the President, rather than the Congress, who should judge whether requiring the employees to return to work is in the best interests of achieving a fair and just settlement of this dispute.

Would you comment on that statement?

Secretary WIRTZ. Yes, I think I know the context of it. That involves a difference between congressional action which would have the effect of ordering a return to work if there is to be a return to work, or congressional action which would provide for that being done by Executive order of the President.

Senator CLARK. And would authorize the President to do it.

Secretary WIRTZ. That is right. It is with respect to that point that I do not see a great difference between the two. I see these arguments in favor of Congress doing it itself.

Senator CLARK. May I say I do not either?

Secretary WIRTZ. That is right. The reasons I would find in support of doing it, of going ahead and doing it yourself, is that is what you do in the Railway Labor Act.

In the Railway Labor Act there is a determination by the Congress, and it is that determination which has the effect of the return to work. It has never been challenged; there has never been a case on it. It has worked very well.

My second reason would be that if you have reached the determination that is included in the findings in these bills, that seems to me to leave only a ministerial act beyond that and nothing of larger significance.

Senator CLARK. That was not the intention of the legislation. The intention of the legislation was to have the Congress authorize the President, if he saw fit, to order the men back to work for such time or times with an outer limit of 180 days, as he should determine, knowing that he is in much closer day-to-day contact with the situation than we could possibly be.

Secretary WIRTZ. Well, if it is to be a single 180-day period, it seems to me preferable that it should be, then there would be a single finding of that kind and I assume it would be almost an immediate finding, if Congress makes the kind of finding that is talked about in Senate Joint Resolution 181.

Without speaking as to what the President's action would be, I would assume that the executive action called for there would be taken just as a ministerial act. I would so recommend.

Senator CLARK. I want to make very clear that it was not my intention—I do not think it was the intention of the 11 members of the committee who voted this way that it should be a ministerial act. We wanted merely to extend the period of time under the Railway Labor Act under which the President should have the authority to make this judgment decision.

Secretary WIRTZ. Well, he does not have that authority under the Railway Labor Act; Congress does it, the term is prescribed. But I agree with you that this point in itself does not seem to me a point of great significance.

Senator CLARK. Finally, Mr. Secretary, I have some statistics from the vote in Philadelphia, which I think are interesting, which I would like you to comment on.

Five hundred and eighty machinists were eligible to vote; 510 did vote after a 5-hour debate as to what they should do; 430 of them voted to reject the settlement; about 80 voted to accept. So, 86 per cent rejected the settlement.

Could you enlighten us in any way as to, first, why the union members were unwilling to follow the recommendation of their leaders, and, second, in your opinion were the members sufficiently informed as to the settlement in order to make an intelligent decision?

Secretary WIRTZ. I do not know, Senator Clark, the details of what went on in the various meetings that were held around the country. Some of them I have heard in more detail than others. I do not know the details of the Philadelphia meeting.

Senator CLARK. In conclusion, is it not true that the proposition was put up to the union members with a minimum of notice, a minimum of explanation and an immediate vote was called for as a result of what had been determined at the White House?

Secretary WIRTZ. The time was very short and the information could not have been complete by any means.

Senator CLARK. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Dominick?

Senator DOMINICK. Mr. Secretary, just for the purposes of the record I want to begin by making the comment that in my State 80 percent of the union members voted and about 64 percent of those voting voted in favor of the settlement. They want to go back to work, which was the information which I have received prior to this time.

Secretary WIRTZ. I believe that is right.

Senator DOMINICK. I want to get back, if I may, to the sequence of events here on what the administration has or has not declared or you as Secretary have or have not declared.

It is my understanding that when the President appointed the Emergency Board in April he made the finding that the strike threatened substantially to interrupt interstate commerce to such a degree as to deprive a section of the country of essential transportation services according to the Railway Labor Act.

Secretary WIRTZ. I said that the other day, Senator Dominick. When I checked the statute I find that is a judgment which is reached by the National Mediation Board in its certification of the case to the President for the setting up of an emergency board.

I think it is fair to assume as a practical matter that the President's action on that recommendation would reflect that judgment and I would have no hesitation in expressing that judgment in terms of present facts.

Senator DOMINICK. So that has been already found by the National Mediation Board and affirmed by the President?

Secretary WIRTZ. That is correct.

Senator DOMINICK. My understanding from your testimony last week and again today, is that that situation is still true?

Secretary WIRTZ. It is.

Senator DOMINICK. It is also my understanding that you have said that you would not contradict a finding by this committee that there is a developing threat to the national health and safety?

Secretary WIRTZ. That is correct.

The answer to which you are referring is mine to Senator Javits in which I pointed out that over a period of time that may become prolonged, those factors could well materialize.

Senator DOMINICK. Do I also understand from your testimony that absent legislation you do not see any immediate break in this strike?

Secretary WIRTZ. Would you define "immediate"? It would make my answer more meaningful if you were to.

Senator DOMINICK. Would you give your meaning?

Secretary WIRTZ. No sparring around. I do not think there is an immediate break in prospect in the ordinary sense of the term. I do not see today the makings of an immediate—by which I would mean 2 or 3 days, as I was talking the other day—prospect.

Senator DOMINICK. You would agree or do you not agree that the situation gets worse the longer the strike continues?

Secretary WIRTZ. I do agree. I did so testify the other day, would so testify now.

Senator DOMINICK. This is true as to the interruption of transportation services, is it?

Secretary WIRTZ. It is true with respect to a great many different matters; they vary from area to area. It is probably not true with respect to the military. It is different even during different parts of the month, because the pilots run out of time on the remaining operating lines. I have mentioned, although this committee has never pressed very strongly, one of the emergency factors I see in this situation, that is, the whole stabilization policy that is involved.

I think it has been in the back of all of our thinking, and is very real. There is another emergency in my mind this morning in terms of collective bargaining itself. I think it took a punch in the solar plexus over the weekend.

Senator DOMINICK. Let me get on, if I may, to the problem of the other airlines.

Secretary WIRTZ. Yes.

Senator DOMINICK. At the moment would you agree that they are finding difficulties mechanically in scheduling pilots and maintenance and things of this kind?

Secretary WIRTZ. Some of them are. One of the major airlines has done quite a careful job of rationing pilot time so that it will not exhaust itself. Two or three of the smaller lines have not and have experienced real difficulties this week on that score, so that varies from line to line.

Senator DOMINICK. This situation could increase the pressures and the problems: is that correct?

Secretary WIRTZ. Yes, sir.

Senator DOMINICK. Do you think that there is any problem of safety, and I am talking about airplane safety, public safety by virtue of this?

Secretary WIRTZ. It would be both unfair and dangerous for me to answer that question, with an affirmative answer. Any answer on that would have an influence on people flying on planes. If that is a material point, you will understand my hoping it could be put to the FAA or to a department better able to answer it.

Senator DOMINICK. Do I understand that with all of these factors that we have just gone over, that you are saying to me that so far as you know, the administration does not recommend legislation?

Secretary WIRTZ. No, I am not.

Perhaps the question has been answered so often, Mr. Chairman, that it would be legitimate for me to make a statement covering this kind of thing.

Senator DOMINICK. I am trying to get the position, so I wish you would make a statement.

Secretary WIRTZ. It would be so much better if my answers were not put in terms different from those I have used.

Your question just now was in terms of your understanding my position. That is not it.

Senator DOMINICK. I gathered from what you said to the Senator from Pennsylvania, Senator Clark, that you are not here recommending legislation.

Secretary WIRTZ. That I am not here recommending legislation? I am here on the committee's 20-minute call to answer what questions it might have.

I would like to say this, Mr. Chairman. On Wednesday last with respect to a similar set of questions, a statement was made then that everything possible was going to be done to meet this problem by collective bargaining, to meet the interests of the country in terms of the restoration of its air transportation system, in terms of the preservation of the stabilization program, in terms of the preservation of the institution of collective bargaining.

That was on Wednesday.

There were representations made to the committee that I made as fairly as I could, expressing them as being the product of something more than hope.

There was reference to 48 hours. Within 48 hours and with the help of the President of the United States, in fact with the concentration of the President of the United States upon this problem and the using of his full influence, the persuasiveness of that Office, an agreement was reached on Friday night, contrary to the expectations of almost anybody who had had anything to do with this case.

It was an agreement which would have led to the restoration of air transportation in this country; it was an agreement which would have preserved the stabilization policies of this country; it was an agreement which would have preserved collective bargaining in this country.

That matter was then put to a vote, as it is required that it should be. The members of the union turned it down as of yesterday afternoon, up to 6 o'clock yesterday. Now at 1 o'clock or 1:15 on Monday, the following day, the implications of any member of this committee that there could be read into my response to questions on the call of this committee of the kind that you put to me that there is no recommendation from the administration with respect to this matter, could have no basis in my understanding of the equity or fairness or responsibility.

I add to that this: There would be none in this committee and there would be none in this country with a larger interest in the preservation of the transportation facilities of this country, the institution of free collective bargaining and the stabilization principles, and there would be none in this committee or in this country who has done more to meet those three purposes than the President of the United States.

Thank you, Mr. Chairman.

Senator RANDOLPH. Mr. Chairman?

Senator DOMINICK. I have before me the Economic Report of the President which was transmitted to Congress in January of 1965, together with the Annual Report of the Council of Economic Advisers. Under the price-wage guideposts, it states here—

Secretary WIRTZ. Which year was this, Senator?

Senator DOMINICK. 1965.

Secretary WIRTZ. 1965?

Senator DOMINICK. Yes.

It says here on page 108 that the basic guideposts are simple and straightforward, contain an inescapable economic logic.

The second portion of it says that the general guide for pricing calls for declining prices in industries with greater than average productivity again.

Now, how do you fit that in with the fact that we are justifying higher wages because of increased productivity rather than declining prices?

Secretary WIRTZ. It is a fair question. The answer is that although as a practical matter it has always been a tempering factor in wage settlements, the increased productivity in a particular industry, and, I think, especially of the automobile settlement of some 2 years ago, should not be taken into account in its pure application. It is equally right that as a practical matter it has been.

Senator GRIFFIN. Would the Senator from Colorado yield to me briefly?

Senator DOMINICK. Yes.

Senator GRIFFIN. Before you get too far away from the statement, Mr. Secretary, you said a few minutes ago that the settlement was submitted to the membership for ratification because they were legally required to do so.

When you said that you are referring to legal requirements under their contract, I assume, because there is no Federal law that requires the settlement terms to be submitted for ratification of the membership; is that correct?

Secretary WIRTZ. That is correct.

Senator GRIFFIN. Although I am a great believer in union democracy, I wanted to clear up that point. Apparently you have brought information this morning that indicates that their contract is somewhat ambiguous on that point.

Secretary WIRTZ. Excuse me, did you finish the question?

Senator GRIFFIN. Apparently the union officials can order the union members back to work—

Secretary WIRTZ. That is a different question. Senator Morse's question to me was whether I knew from the union constitution whether there was authority to call off the strike.

In answer to your question, not only is there provision in the constitution, but there was a contract or an agreement entered into between the union and these airline companies at the start of these negotiations which required very definitely that there be ratification before there is final agreement. That is what I mean by "legality."

There is no question whatsoever about the requirement of that ratification before there was a binding agreement.

Senator GRIFFIN. Thank you. I thank the Senator for yielding.

The CHAIRMAN. Senator Randolph?

Senator RANDOLPH. Mr. Secretary, I understood you to say that economic guidelines had not been applied rigidly in a specific case such as the present dispute.

Did I understand correctly?

Secretary WIRTZ. I believe that is about what I said. They were originally formulated as a description of what must happen in the economy as a whole if we are to avoid inflation. They were not enunciated in the first place and have never officially been enunciated as a test in a particular case.

They have, especially in the discussion and in the statements over the last year or two, come to have more of that atmosphere as far as the country is concerned.

The President has, with respect to several matters involving pay issues of Government employees, applied them quite strictly in those terms, so that they have had increasingly, the 3.2 has had increasingly, a specific significance. But in terms of the original enunciation it was in terms of what should happen in the economy as a whole.

Senator RANDOLPH. Mr. Secretary, I was going to go to the Federal Salary and Fringe Benefits Act because it was difficult for me to understand if rigidity had not been used in a specific case, why there was so much specific pressure applied then, in relation to that bill.

Secretary WIRTZ. It would go beyond that, Senator. You remem-

ber the steel case last year was worked out, again with the participation of the President, in term of a 3.2 settlement. The agreement last year was entirely private between the shipping companies on the east coast and the maritime unions, was again by their own decision, in terms of 3.2.

Senator RANDOLPH. Mr. Chairman, I want to move quickly, and one question perhaps is sufficient for me to finish my questioning.

I believe, Mr. Secretary, that you inadvertently said that the strike was now in its 21st day. It is actually in its 24th day and I believe that the record should show that.

Secretary WIRTZ. I am grateful for that correction. That is exactly right.

Senator RANDOLPH. We recall, as members of this committee, that you appeared last Wednesday, 5 days ago, and testified; and on page 9 of the printed hearing which is available today, you summarized in seven important points, the problems and the effects of this strike.

I am particularly concerned, as I know you are concerned and all of us on the committee are concerned, with point 7. You said: "There are definite signs of increasing loss, cost, inconvenience, and possible danger."

Now, 5 days later, Mr. Secretary, with reference to the "possible danger," would you further define what you were speaking about 5 days ago?

Secretary WIRTZ. I don't know how much change there has been. I think one of the obvious elements in the situation is that as the country relies longer and longer on the increased use of the capacity of the remaining airlines which are not on strike, the possibility of people's getting tired, of making mistakes, of missing something or other obviously increases.

Senator RANDOLPH. I must be very certain now. The words "possible danger" there have only then in your connotation to do with passengers who are flying?

Secretary WIRTZ. I was thinking in terms of the human fatigue which besets that group of people who are doing a larger part of the service in the industry. But as you rely more and more heavily on fewer and fewer people for a longer and longer time, this factor increases. I was not talking about military danger.

Senator RANDOLPH. Or the economic situation in the country generally; is that correct?

Secretary WIRTZ. I guess I was not thinking of the economic situation in terms of danger. If we are talking about the economy—in terms of individuals who get put out of business, that number increases.

I was thinking of that rather in terms of the increasing "loss and cost," which is in the same sentence, rather than the danger. There is that increasing loss; there is that increasing cost; there will be more people who simply go out of business as a result of this.

Senator RANDOLPH. Mr. Chairman, I do have one telephone call from a responsible businessman who tells me that the loss to his company is running \$10,000 a day because of the strike, and he has not attempted to tell me what his thinking is and the way we should handle this problem. He felt that a member of the committee whom he knew

should have the knowledge of what just one business unit was experiencing in this continuing strike.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Murphy?

Senator MURPHY. Mr. Secretary, in our considerations we know that there are other negotiations with other unions and other airlines that are almost upon us—

Secretary WIRTZ. That almost what, Senator?

Senator MURPHY. Almost upon us. They are just down the road a little piece.

Secretary WIRTZ. That is right.

Senator MURPHY. Is there concern—I am trying to phrase this in the best way I can—I am trying to find myself in the position you find yourself today, giving us as much information as you could possibly.

Is there or is there not concern on your part as an expert in these matters that the settlement that is made here or the action that is taken by this committee now may very well be of importance with regard to future negotiations which will come.

Is there a possibility that by too much patience we may lead the general public into a complete contest between three separate labor representatives for the jurisdiction of the entire airplane filed? Is this consideration a proper consideration?

Secretary WIRTZ. Yes; I think it is.

Senator MURPHY. I have one other question which I think you have answered. This is from the Economic Report of the President.

It says: "Federal budgetary and monetary policies must not permit a generalized excess of demand over supply to pull up prices. Equally, private prices and wage decisions must not push up costs and prices. I count on the sense of public responsibility of our labor leaders."

Now, we found this morning that the bylaws of the union, as I understand it, gives the power of the leaders of the union, the elected representatives, the power to send the men back to work during a continuation of the negotiations.

Secretary WIRTZ. I do not know whether that is true, Senator. In response to Senator Morse, I read the section in the Constitution which appears to come closest to that. It would be a great mistake to rely on that midnight discovery of that provision.

That one provision would seem to point in that direction, and that is all I can say on that. I just don't know; it is a voluminous constitution.

Senator MURPHY. As far as I am concerned, I am completely satisfied. I have no more questions.

The CHAIRMAN. Senator Pell?

Senator PELL. Thank you, Mr. Chairman.

Mr. Secretary, the problem which we are wrestling with is, as I see it, whether in a democracy we want to accept the task of forcing people back to work with the sanction of fines or jail, a fact which has not been brought out in these hearings. For all of us, this use of sanctions is a very, very disagreeable thought.

Secretary WIRTZ. That is right.

Senator PELL. I would like to put my question to you in a more positive vein. I should like to put forth my own view and ask you to state where I am wrong.

To me, if there is a national emergency or national crisis, we in Congress have an obligation to study the facts, wrestle with this disagreeable task, and then act.

On the other hand, if there is not a national emergency or crisis, if it is let us say, a national nuisance, the most that would be expected of us, would be to give the executive branch the authority and tools with which to work. So that as soon as the situation became an emergency the executive branch could act.

To my mind this would be the national approach. Where am I wrong?

Secretary WIRTZ. I see nothing wrong with the general proposition. The only question I see is, again, in a situation in which it appears to be the disposition of the committee, contrary to no disposition of the administration, it appears to be the disposition of the committee to take action immediately, whether there is the necessity or the desirability of the two steps on that.

I repeat again, I do not count that difference a large difference, and if there were a way of meeting the problem which is unspoken in all of our minds as to the distribution of responsibility on this whole thing, of an approach in that way, I should count it no disadvantage whatsoever.

I do not count that a basic point. I would say again, in the Railway Labor Act the Congress itself followed that pattern of making that determination. If it is one that goes as far as the findings of these various joint resolution drafts before the committee, I should think that would be enough and the end of it. But I do not see, and I repeat again, a basic difficulty in coupling that kind of determination with administrative or Executive determination if it is felt that there is an advantage in it.

Senator PELL. I think it is partly political, too.

Secretary WIRTZ. I am sure it is; that is why we are here.

Senator PELL. But you would not greatly disagree with my basic approach.

Secretary WIRTZ. I think I understood it and I do not disagree with it.

Senator PELL. Finally, another question of practical observation. If a cost-of-living clause had been included in the package deal, is it your instinct that the agreement might have been accepted, or is that an unfair question?

Secretary WIRTZ. It is not unfair, and I do not think it would have made the difference.

Senator PELL. Thank you, Mr. Secretary. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Fannin?

Senator FANNIN. Mr. Secretary, when you were before us a few days ago, I discussed with you the problems of the defense industry. Is it not your opinion that this strike is materially affecting the defense industry of this Nation?

Secretary WIRTZ. I do not think it is, I do not have any information, Senator, which would add to my statement on that last Wednesday.

Senator FANNIN. At that time I did quote from several telegrams that I had received.

Secretary WIRTZ. Yes.

Senator FANNIN. I wondered whether you have had an opportunity to check into any of the information.

Secretary WIRTZ. I am frank to say I did not.

Senator FANNIN. Thank you.

Now, another question: Do you not think that regulated industries are in a different position than non-Government-regulated industries as far as legislation is concerned?

Secretary WIRTZ. Legislation of this kind?

Senator FANNIN. Yes. We are talking about regulated industries.

Secretary WIRTZ. It is true to this extent, that the Railway Labor Act had always covered the railways and now has added to it air transport. I think that that does reflect to some extent the point that you make, and I think it probably led to Congress including in the Railway Labor Act the provision for recommendations which it did not include in the Taft-Hartley Act, the emergency disputes provision.

Senator FANNIN. Then one other question, perhaps a point. When we discussed increased productivity you mentioned that there are many other factors involved. Is that the reason you say that this is not just a matter of labor alone?

Secretary WIRTZ. Not just a matter of labor—

Senator FANNIN. Alone. In other words, there are many other factors involved in productivity?

Secretary WIRTZ. Yes, but I do not want to dilute the concept of the guidelines or guideposts as the Council has laid them down.

If I understand your question, it is productivity as a whole which is to be taken into account in fixing—to whatever extent you “fix”—the wages in a particular situation.

Now, it is true that in this particular industry productivity is much higher than the norm, but under the orthodox interpretation of the guidelines that does not control.

Senator FANNIN. I understood that that was your answer before, but I just wanted to make it clear that there are many factors involved as far as increased productivity is concerned.

Secretary WIRTZ. Yes, sir.

Senator FANNIN. So, labor does not constitute the only factor that you considered?

Secretary WIRTZ. That is right, certainly.

Senator FANNIN. Thank you, sir.

The CHAIRMAN. Senator Kennedy?

Senator KENNEDY of Massachusetts. Mr. Secretary, the labor unions in a democratic election have voiced what their opinion has been with regards to the terms reached last Friday evening, and they have rejected those terms. I am wondering what your recommendations would be to this committee if it does decide to report out the amended Senate Joint Resolution 181 concerning interim terms. Do you think it would be appropriate for this joint resolution to accept the terms that were suggested by the agreement between the principals last Friday and perhaps establish a panel which would work out what I understand to be the most knotty of the problems; that is, the cost-of-living increase?

Secretary WIRTZ. This is an offhand answer. My reaction would be that that probably should not be done by congressional legislative

action, but that provision could well be made for its being done by the kind of board which is contemplated in the resolution.

I think the resolution does provides for making changes by agreement. I think it would be a mistake, Senator, for Congress to provide that those provisions should go into effect.

Senator KENNEDY of Massachusetts. How about modifying it to the extent that we permit the Secretary of Labor at his discretion to permit the interim terms during this period of time to accept the wage increases which were accepted by the principals last Friday evening?

Secretary WIRTZ. Let me say that I think that the exercise of a function of that kind could better be by that board which would be set up. If it were in the Secretary of Labor, I would think it would be a mistake to do it except as there might be agreement of the parties to do it.

Senator KENNEDY of Massachusetts. To the Secretary of Labor or to the panel.

Secretary WIRTZ. That is correct.

Senator KENNEDY of Massachusetts. Would you feel that permissive legislation along that line would be helpful?

Secretary WIRTZ. I do not think it would be necessary. Really I have not thought this all through. The resolution does provide for the retroactive effect of whatever is eventually agreed to, and the more I think about it the more I think it is probably a good idea to leave it there. My reaction would be that it ought to be left there and that anything beyond that by way of adjustment should be only as agreed to by the parties.

Senator KENNEDY of Massachusetts. Mr. Secretary, the President of the United States in a number of different instances, in 1961 and 1962 under the Atomic Energy Act, and again in 1964 in the aerospace industry, made a personal appeal to those parties that were involved in these disputes to return to work. These personal appeals were successful on those occasions.

Has it been your advice to date to suggest to the President of the United States that he make a personal appeal?

Secretary WIRTZ. I have not made that recommendation to date.

Senator KENNEDY of Massachusetts. And if not, why not?

Secretary WIRTZ. It has not been the subject of discussion. It has been the subject of personal consideration; it is the kind of thing that I would expect to talk with the parties about first and I do not mean by that answer to hold out a prospect of it, but that is the place it ought to be taken up first, and I will expect to do that just as soon as there is an opportunity to meet with them.

Senator KENNEDY of Massachusetts. Do you plan to take that up with the parties?

Secretary WIRTZ. To raise with the parties in question whether there could be some arrangements for return to work under these circumstances? Yes, sir.

Senator KENNEDY of Massachusetts. Under the circumstances that the President of the United States request that they return voluntarily, which he has done on the other occasions?

Secretary WIRTZ. What was the first part of the question?

Senator KENNEDY of Massachusetts. Well, the President has done this in the instances that I have mentioned. He has requested that

there be a voluntary return to work, and special arrangements were made for considering the equities of the matters in dispute. I asked you, if you had advised the President to intervene, as he has done in the past. I asked you if not, why not? Or if you plan to do so.

Let me ask you that, do you plan to do so?

Secretary WIRTZ. I said I would expect to explore that matter with the parties first and just as quickly as possible.

Senator KENNEDY of Massachusetts. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Griffin?

Senator GRIFFIN. Mr. Secretary, for the record under the Taft-Hartley law, when there is a national emergency the cooling-off period that the President can invoke is 80 days; is that not correct?

Secretary WIRTZ. That is correct.

Senator GRIFFIN. And that is the extent of the period of time such cooling-off period can continue under those industries that are covered by the Taft-Hartley Act?

Secretary WIRTZ. Just to make the answer technically correct, it would be the court which would make that determination on the question—

Senator GRIFFIN. After it has been requested by the administration?

Secretary WIRTZ. Yes.

Senator GRIFFIN. Under the Railway Labor Act, when the National Mediation Board finally concludes that an impasse has been reached and they report that there is substantial interruption of interstate commerce and so forth, then the President may in his discretion create an emergency board and there is a 30-day period as I understand it, which then comes into effect; in fact there are then three 30-day periods; is that right?

Secretary WIRTZ. Under the Railway Labor Act?

Senator GRIFFIN. Yes.

Secretary WIRTZ. There are technically two. One during which the Board sits, and then makes its recommendation, and the second 30-day period during which the parties negotiate on the terms of that matter.

Senator GRIFFIN. As I understand it, you come before the committee and speaking for the administration, you are recommending no legislation. However, you have expressed a preference for the approach which provides a 180-day cooling-off period and you prefer that as against another course, which the committee agreed upon last Friday, which would give the President the authority to have three 60-day cooling-off periods.

And I certainly accept your statement that your comments have nothing to do with political considerations; you are concerned about the collective bargaining, and I am concerned about collective bargaining, too. I am concerned about providing the best possible machinery so that an agreement between these parties can be reached.

It is my judgment, and apparently you disagree, but it is my judgment that we would be more likely to reach an agreement if the President had some flexibility in a situation like this. The greater flexibility, the better.

If there is a 60-day period at the end of which the President may invoke another 60-day period, I agree that there is a certain amount of uncertainty, and this uncertainty may involve some inconvenience. But on the other hand, it is in some respects a very desirable thing for

the parties who are trying to get together not to know exactly what the administration is going to do.

If we send them back to work for 180 days, an inflexible period, it seems to me they might just go through the motions of collective bargaining for 180 days and we would be right back to where we are today.

Would you comment on my line of reasoning?

Secretary WIRTZ. Yes; I am not sure I can add very much to what was said before. As far as the 180 days is concerned, I am taking the 180 days as provided in the resolution and facing the question of whether it is a good idea to split them up into three parts. As to whether 180 days is exactly the right period or not, I do not know. But it is rather a question of whether you do split them up into three parts.

Again, the consideration it seemed to me most controlling on that are these. I would hate to run an airline for the next 6 months on the basis of not knowing whether I was going to be in business for 60 days or for 120 days or for 180 days.

Senator GRIFFIN. It might have something to do with how the airline companies negotiated at the bargaining table, however?

Secretary WIRTZ. The idea of the President of the United States or anybody else holding over any industry the threat of permitting a strike to recommence every 60 days just cuts across my grain for some reason or other. I just do not like the idea of that kind of control.

You say it would make for more collective bargaining because there would be an uncertainty factor and that is something we have relied on in certain situations. I suppose what it comes down to is this, if the airline companies don't cooperate in an attempt to get this settled, the possibility would be that the President would say at the end of 60 days, "I am going to release the strike power on you again."

Gosh, that does not seem to me a good way to do this business.

Senator GRIFFIN. I do not want to be unduly argumentative, but under the Taft-Hartley law the period is 80 days; under the Railway Labor Act, as we have just pointed out, there are two periods of 30 days; 180 days is rather unprecedented as an inflexible formula to force people back to work, if you really expect that you are going to achieve collective bargaining and a settlement. I really question whether this is the way to preserve collective bargaining.

Secretary WIRTZ. I have thought, Senator, your resolution also assumed 180 days.

Senator GRIFFIN. A maximum with the President having the discretion at 60-day periods.

Secretary WIRTZ. The sanctity—excuse me, I did not mean to interrupt you.

Senator GRIFFIN. I would like to point out some other things that are at least possibilities in the picture.

Senator DOMINICK. Would the Senator yield for one question before that, just one question?

Senator GRIFFIN. Yes, I yield.

Senator DOMINICK. The part of this colloquy I would like to know whether the Secretary's answer to your question indicates that he had doubts as to the possibility of settling this within a 60-day period?

Secretary WIRTZ. If by "doubts" you mean the opposite of being sure, the answer is, I am not sure about it.

Senator DOMINICK. Thank you.

Senator GRIFFIN. Mr. Secretary, is it not possible, even though it may be unlikely, that one or two of these airline companies might make a separate settlement with the union, or is it possible even though it might be unlikely for the union to call off its strike against several of these air carriers, and the situation might change 20 days after the 180-day provision was put into effect?

Secretary WIRTZ. I frankly do not know whether there are agreements between the carriers with respect to that point or not. And neither am I clear about the practical aspects of the situation on the union side.

If you ask if it is possible that there be private settlements, I just do not know.

Senator GRIFFIN. I am pointing out you are, in effect, making the preference and asking the Congress to put into effect automatically a 180-day period without regard to the fact that the situation might well change. I am arguing for giving the President flexibility in this situation, considering what the effect is on collective bargaining and also taking into account that the circumstances might well change.

Secretary WIRTZ. The inflexibility would be that every 60 days he could let the strike start again.

Senator GRIFFIN. At least it is more flexible than 180 days at one single crack.

Secretary WIRTZ. Perhaps you are right, I do not mean to be argumentative. I will say again I understood both resolutions to be in terms of the 180 days. The decision to take that period, I have not gone into.

The question, then, is whether it is a good idea to split that up into different periods, requiring an Executive—a presidential—decision every 60 days if the strike has not been settled as to whether to let the strike start again or not. I can only repeat that I do not see an advantage in that situation from a mediation standpoint. I do see a great disadvantage from an operating standpoint as far as the airlines are concerned, which would seem to me unfair.

I repeat again, simply from lack of certainty, reference to the point as to what degree of findings would be required, hearings and so forth, before that 60-day determination were made. Is it something that the President could do as a mediatory device? If so, I should wonder whether that is the kind of authority you would want to put in any man in the country. Would it be the proposal that it be done without any hearing at all, on a purely discretionary basis?

I just say it cuts across my grain to see that kind of decision made on that basis, and I do not see the gain in it, frankly.

Senator GRIFFIN. I might say that the situation is quite similar to the present authority that the President has within his discretion, in my opinion, under the Railway Labor Act—he does have to make a finding that continuation of the dispute would threaten substantially to interrupt interstate commerce.

Secretary WIRTZ. No, Senator, only when the proceeding is started. Section 10 of the Railway Labor Act—

Senator GRIFFIN. I am referring to the resolution.

Secretary WIRTZ. Oh, the resolution?

Senator GRIFFIN. Yes, the President would at that point make the finding and that is what you are saying.

Secretary WIRTZ. Not in the resolution as I understand it. I am not sure what the present form is. That is one of the questions that is in the minds of everyone.

Senator GRIFFIN. Mr. Secretary, the other day I brought this point up and I am going to bring it up again, that is, that in his state of the Union message and again in his economic message the President indicated he would have recommendations to make to Congress for legislation to revise or change our laws that deal with nationwide strike.

You were here last week and here again today representing the administration. You have no recommendations to suggest either to deal with this particular strike, which is very serious, or to deal with the problem generally, so it is obvious that Congress apparently is without any guidance or recommendation from the administration. We are going to have to plow ahead and try to do something not only with this situation, but in my humble opinion, with the whole problem as to whether or not our laws are adequate in this field. I want to call your attention to a resolution I have been introducing since 1963, Senate Joint Resolution 194, which would set up a joint committee of the Congress on industrywide bargaining composed of eight Members of the Senate and eight Members of the House, which would be divided equally between the political parties.

I have done that deliberately. We have the Joint Committee on the Organization of Congress, which is made up of an even number of Republicans and an even number of Democrats, and I have done it in this situation because I am very conscious of the fact that we are involved here in a very politically sensitive area and sometimes the inaction I am afraid of, whether it is the administration or the Congress, might have something to do with politics. If the country needs to have something done, it needs action at a high level and it needs to be on a bipartisan basis.

My suggestion is that we have a joint committee of Congress, a "blue ribbon" committee, if you will, brought from the various committees of Congress that now have jurisdiction to concentrate on this problem of industrywide bargaining, nationwide strikes, to see if we can come up with some improvements in our legal machinery.

I am not going to ask you to try to comment on this resolution, because I suppose you do not have the details in mind, but I call it to your attention and at some later date you might indicate whether you think this would be a desirable course to proceed. I would welcome your comments.

Secretary WIRTZ. I should refresh myself on the resolution. I cannot be helpful, but if the question, Senator, is whether there ought to be a better way of doing things as far as emergency disputes are concerned, I think there is a clear consensus in the country, in the Congress, in the administration about that.

You are very right in suggesting that it is a problem which has always been beset by the political difficulties—when it ought to come up and so on and so forth. I have had the thought that those are exaggerated, and that when we can get down to it, we are going to find that the answers are not quite that hard.

As I suggested the other day, I would have hoped this year it would have been possible to get along faster with these other labor problems which we had before the Congress, so we could have gotten to this one. Maybe we still will.

I am really expressing what I think is your own view, which is that this is a problem which eventually can be met. Not in terms of certainty, because part of the right answer in this field is to stop short of the finality at determination unless it is absolutely necessary.

I think we are going to surprise our selves in how close we can come to agreement in this area. We did in 1961; I think we will at some point.

Senator PROUTY. Mr. Chairman, will the Senator yield?

Senator GRIFFIN. Yes, I yield.

Senator PROUTY. Mr. Secretary, will not the bargaining power of the unions be reduced somewhat if they are forced to return to work?

Secretary WIRTZ. Oh, yes, sir.

Senator PROUTY. In other words, this is a strikebreaking proposal. It seems to me that members of the union would much prefer to have the three 60-day periods rather than face the possibility of going 180 days without any change in their present status. I understand that, if they can reach agreement at any time, the terms retroactive, but it seems to me that the union is—or will be—definitely handicapped under this proposal.

Secretary WIRTZ. I had not thought of their feeling about it and my answer is again based on those three considerations which are quite separate from that, which I do feel quite strongly. The more we have talked about it, the more this prospect of leaving it to the President or to anybody else to say, "Stop the airlines; let them strike again; I do not need to hold any hearing; I do not need to give any reason; I just announce that tomorrow there can be a resumption of striking in this industry"—makes me shudder.

I just think it is wrong.

Senator PROUTY. It seems to me the President is too responsible a person to let it come to that. I believe the President is trying to keep in close touch with the situation. Thank you.

The CHAIRMAN. Senator Nelson?

Senator NELSON. Mr. Secretary, as I understand it, the 3-year agreement negotiated would amount to \$73 million in round costs.

Secretary WIRTZ. In round numbers.

Senator NELSON. With no cost of living.

Secretary WIRTZ. There is no cost-of-living clause.

Senator NELSON. And the emergency board suggestion was in the neighborhood of \$66 to \$67 million.

Secretary WIRTZ. You have to translate it from a 42-month figure, that is correct, \$66 to \$67 million I think is about right.

Senator NELSON. Plus a 1 percent—

Secretary WIRTZ. No, the 1 percent is involved only in the trigger.

Senator NELSON. Yes.

Secretary WIRTZ. If the cost of living went up in 1967 by 1 percent more than it had gone up in the preceeding 5 years, then it would be wide open. The wages would be open and there would be no limit placed on it. It would be subject to arbitration if there was disagreement.

Senator NELSON. You mean, at least from my reading of the emergency board report, you mean 1 percent more than the annual average of the past 5 years?

Secretary WIRTZ. Yes.

Senator NELSON. Do you have a computation as to what that would add to the total cost if a year from now the cost of living did go up 1 percent over the annual? What would that be as a cost?

Secretary WIRTZ. It would depend on the bargaining of the parties, then if they disagreed on the judgment of the arbitrator as to what increase should be put into effect as a result of this opening up, and then there were certain standards spelled out in it. It was not—if it was triggered and was opened up—it was not an escalator clause. It was only that it would trigger on that basis and if the trigger went off, then it could be reopened without limitation, but taking certain factors into account.

So, the short of it is, Senator Nelson, that it would be impossible to put a price on it.

Senator NELSON. If it went up 1 percent above the average annual increase in the last 5 years, at least in order to hold their present position in terms of their wages, they would have to have something then in excess of 1 percent, would they not?

Secretary WIRTZ. If it had been triggered and the arbitrator had decided—let's see, to trigger it, it would have in round figures—I think it would have taken about a—perhaps 3 percent increase in the cost of living in 1967 to trigger it just as a rough guess, and at that point the arbitrator, if it went to arbitration, would be free to decide what amount he wanted to add to it.

If he decided, subject to the guides that were in there, and they were carefully drawn guides, he would be free to put in a wage increase equivalent to the whole 3 percent increase in cost of living, that would translate to about 10 cents a year.

I would think just as a matter of responsible guessing under the guides that the Board put in there, that the increase would not have been that large, but you cannot tell.

Senator NELSON. I am trying to get some idea of what the comparative costs of the two would be. One we know is about \$73 million in the negotiated settlement, with no cost-of-living increase. If there were one and they granted a 1 percent adjustment, what is 1 percent?

Secretary WIRTZ. That would be a little over 3 cents an hour on the average.

Senator NELSON. Translating that to—

Secretary WIRTZ. Each penny is worth \$730,000 a year.

Senator NELSON. And \$6 million in the 3 years?

Secretary WIRTZ. This would have come only in the third year, or the last 18 months of the contract.

The union was asking for a straight cost-of-living escalator to go up 1 cent for every 0.4 increase in the cost of living all the way through the contract. You can figure that if you assume an average of 2 percent a year, that would be 6 cents a year increase, but under the formula that the emergency board devised, the cost of living entered into the triggering and permitted the reopening, but it was not provided that the resultant increase would be on a cost-of-living basis. It named other things—provided taking into account the ability to pay, general stabilization in the economy, and that kind of thing.

It is almost impossible to price out the effect of the cost-of-living provision in the emergency board report.

Senator NELSON. If an increase were necessary, 1 percent over the average annual for the last 5 years, you are talking about a 3 percent, as I understood you now.

Secretary WIRTZ. It would be about that. You do not know yet what is going to happen this year, and this would be in the computation. It would probably have triggered at between 2.7 and 3 percent in 1967.

Senator NELSON. You would be talking about several million dollars in the event—

Secretary WIRTZ. You could well be, yes.

Senator NELSON (continuing). Which would—so there was protection in the emergency board report which would probably bring it somewhere near the negotiated settlement in the event the cost of living did increase.

Secretary WIRTZ. It could well be.

The whole cost-of-living thing has really much larger implications as far as the future is concerned. I just simply point to the President's recent vetoing of the star route contract bill, because it had a cost of living in it. We count the cost-of-living provision a serious complication as far as the stabilization program is concerned.

Senator NELSON. I understand from talking in the last 24 hours with two informed persons that it was their educated guess that two of the most important factors involved in the rejection was the failure to include some cost-of-living factor in it and the failure of the negotiated agreement to include retroactivity as to the pensions.

Secretary WIRTZ. My impression is just a little different. The reports I have heard coincide with yours on the first point. But the objection was that a good many of the fringes did not go into effect until the second or third years of the contract. There is nothing in it about pensions. There was a union demand for an increase in pensions and that was not included at all in the final agreement.

Senator NELSON. What I am trying to get at, I am just wondering if the difference between the negotiated settlement and what might be acceptable to the union membership is so great as to necessitate that Congress proceed immediately to pass legislation rather than to permit the parties to negotiate further?

Secretary WIRTZ. It is surely a factor to be taken into consideration.

Senator NELSON. I meant that as a question to you, whether or not in your judgment the difference between what they might be able to negotiate that would be acceptable is close enough to justify Congress delaying some further in order to permit more negotiation on the main points of difference?

Secretary WIRTZ. I have some rather strong views on that, but you will understand that any service I may be improving the next 2 or 3 days would be impaired by replying to that question.

Senator YARBOROUGH. Will the Senator yield to me for a question at this point?

Senator NELSON. Yes.

Senator YARBOROUGH. I am advised that two members of the House Labor Committee, Adam Clayton Powell and Congressman Ayers, have Mr. Siemiller negotiating for the airlines over there negotiating now. What they are negotiating on, I don't know, but they are there.

Senator NELSON. I was advised at least an hour ago they were negotiating over there in the Labor Committee.

Secretary WIRTZ. Yes.

I do not mean to duck that question. I think the likelihood, Senator, of a change in the agreement terms within what somebody else has identified as the immediate future, is very slight.

Senator NELSON. Last Wednesday we thought there was no chance of settlement and on Friday there was. Once the union leadership has explored the reasons for rejection of the agreement isn't it possible that the union and management could negotiate an acceptable agreement?

Secretary WIRTZ. I would like to give you both an honest answer and one that in no way reflects a hopelessness. We expect to go ahead and do whatever we can on this. All I can say again is that where I thought I could in good conscience say to you last Wednesday, doing everything we could there was a probable prospect of some developments, making a 48-hour report to you advisable, I cannot say that now.

Senator NELSON. Maybe you do not wish to comment on this, but do you not think one factor involved in the local problem here is the rather dramatic profits that are being shown by several airlines involved? The union membership for some time, I think it is common knowledge, were not keeping pace. The unions were considerate of the financial situation of the airlines. Now suddenly they see very high profits being made by several of the airlines. Do you not think that is a factor in the membership feelings about the settlement?

Secretary WIRTZ. I think it is the largest factor.

Senator NELSON. This is not related exactly, but in view of succeeding disputes that appear on the horizon, in view of the attitude of the union leadership and workers in general, do you not think we face very serious problems when you look at the tremendous profits that are being made by industry during this war situation and the fact that many employees have gotten wage increases that are being eaten up by the cost of living, so they have really less purchasing power, according to the Labor Department than they had before their wage raise?

When you face this across the country, would you as an expert in this field anticipate that unless some cap is put on profits and some other things done that there will be an uncontrolled situation respecting demands of the working people in order to keep their share in the prosperity that the industries are experiencing during this very serious war situation?

Secretary WIRTZ. I think I am not in favor of a cap on profits at all. There are still 2 to 4 million people unemployed in the country. Eventual full employment has got to depend on the further expansion of the economy; I am sure we would agree, Senator Nelson, that it is not the amount of profits alone that is relevant. It must first be taken into account what part of them are put back into investment, which is in itself job producing. But in your point of the relationship of profits to real earnings you have put your finger on what is the toughest problem we have as far as wage settlements are concerned, because it is true that real earnings have increased hardly at all in the last 14 months for workers as a whole, at a time when profits have gone up by a very, very substantial margin.

That is today the worst rub about this whole thing, about the whole stabilization program. We have to do something about that. If prices continue to go up so that ever 3.2- or 4-percent wage increases are eaten up, so that there is no increase in the real earnings, that cannot go on very long, and that is the real rub as far as this situation is concerned.

It is true that right now, take-home earnings of manufacturing employees are almost exactly the same as they were a year ago, no gain, except there has been a gain as far as the social security is concerned. That cannot go on very long.

Senator NELSON. Thank you.

The CHAIRMAN. Senator Kennedy.

Senator KENNEDY of New York. Mr. Secretary, I gathered from your testimony about the situation that it is generally accepted around the country that this is a serious matter.

Secretary WIRTZ. Yes, sir.

Senator KENNEDY of New York. What is it that you suggest that we do about it?

Secretary WIRTZ. We are about back where we started.

I am not here for the purpose of communicating a recommendation to Congress with respect to this matter; I am here to be as helpful as I can in connection with those matters which I understand to be before the committee.

Senator KENNEDY of New York. Now, the question of whether Congress will take action in this situation is really a major problem. We have to deal with it; we have to decide how to properly and best get the airline strike ended. How do you suggest that be done?

I do not want to be unfair about it, but the fact is that we also found out about this at 6 or 7 or 8 o'clock last night, and we have been called into session to decide whether we want to have legislation.

Now, the answer that you have given to various members of the committee indicates that this is a very serious matter. It does not affect just this strike, but may very well establish a precedent for the other difficult labor negotiations that are going to have an effect on this country and we are coming up in October, November, and continuously through next year.

You made it quite clear in your testimony last week in answer to the questions of various members of the committee about the resolution of Senator Morse that you regard it as a very serious matter to send people back to work against their will, and that is particularly so now that they have voted.

There were a good number of stories and a strong feeling among some members of the committee that many of the members did not want to follow their leadership and wanted instead to go back to work.

I think it is clear now they did not want want to go back to work and they feel that the leadership has not been tough enough, rather than the opposite.

That has happened in the period of the last 5 days. We are now considering whether we are going to take a major step and perhaps you have not had long enough to think about it, but if you and the administration, which has been working with this for an extended period of time, do not want to express an opinion about whether

legislation is warranted, I don't see how this committee can make a decision as to whether legislation is warranted.

Would you make a comment on that? Again I am coming back to the same question. What do you suggest?

Secretary WIRTZ. Again, I come back to the same answer.

I hate to make it sound maudlin, and I hate to make it sound political, and I hope you know that it is neither of those. I must say, again, that I think as far as trying to meet this situation to date, almost to the hour, that certainly until last night, until late last night, every single thing has been done, and has been done, in my judgment, with the maximum service to all of the interests involved.

There is no point in my saying it again.

Senator KENNEDY of New York. I don't question that, Mr. Secretary. We are dealing with the future.

Secretary WIRTZ. The basic question is how to move ahead. This committee has before it, has had before it, for now some 5 days or so, several sets of possibilities. I testified last week that I thought that as of that point, the better thing to do than to move along any of those lines was to do what we have done, with the succeeding 5 days, and I rather think you would agree, as things worked out, that was the best bet to play.

Senator KENNEDY of New York. Fine.

Secretary WIRTZ. To give collective bargaining another chance, and to go ahead, was right. Now, you have had before you during that period these various possibilities. If you ask me if in this a matter of hours, since this matter came to the end it did last night, I have made a decision as to whether you should act at this point, and in a particular way, and whether I have a particular recommendation from the administration, I answer you, frankly, no.

Senator KENNEDY of New York. I am just asking the first point, if I may, Mr. Secretary.

Secretary WIRTZ. Surely.

Senator KENNEDY of New York. Did you recommend that this committee take any action as far as legislation dealing with this matter?

Secretary WIRTZ. I am going to answer the question in a different form.

Senator KENNEDY of New York. Mr. Secretary, can I just get an answer? I don't think that is a very difficult question.

Secretary WIRTZ. All right. Can I have it again?

Senator KENNEDY of New York. Do you suggest that this committee take any action to suggest legislation before the U.S. Senate which would deal with the airlines strike?

Secretary WIRTZ. Senator Kennedy, I don't suggest that the committee do that, but if the implication is, then, that I suggest that the committee not do that, then the answer would be misleading.

Senator KENNEDY of New York. Let me ask this: Do you suggest the committee not take action?

Secretary WIRTZ. I do not suggest that the committee not take action.

Senator KENNEDY of New York. I don't want to make it difficult for you, Mr. Secretary. I don't want to make it difficult for anyone. I think we are all struggling with the same thing.

Secretary WIRTZ. I think so, too.

Senator KENNEDY of New York. I think you know more about it than any of us. You have been dealing with it for the last 5 days. We are taking a serious step here, and it seems to me that the committee is entitled to the suggestions, recommendations, and advice of the Secretary of Labor as to whether this is warranted. Now, my colleague here, Senator Nelson, brought up a point about keeping these two parties in discussion with each other. Is there action going to be taken along the lines of bringing the parties close together, and can it be worked out? Do you know from your various intelligence across the country whether the members of the machinists union turned the settlement down because of a major factor or a minor one that can be worked out between the parties? What if you gave, say, another 24 hours? All of these things, I would think, would be the basis of a recommendation by you to the committee. If it is impossible for the parties ever to come together, then I would think you would recommend legislation. If it isn't impossible, then I would think you would recommend no legislation. Until we have that information, I don't see how we can act.

We are going to go back into an executive session, and just struggle with this all over again, until you can tell us, speaking for the President, whether we can recommend legislation or not.

Secretary WIRTZ. You are in a better position than we are. We cannot make the decision.

Senator KENNEDY of New York. Why can't you make that decision?

Secretary WIRTZ. Senator Kennedy, I wish we could some way assume, and I rather think we can, that neither you nor I is any more concerned about the future of this case than the other is, and I think we can assume that we both feel at this point something ought to be done. I think the country got kicked in the teeth. Now, that's just the way I feel about it. And I don't believe there is any question about the fact that if it turns, and very quickly, that there is nothing that can be done, of an alternative nature, we are going to have to do something by way of legislation. I think it is probably a mistake for the administration and the committee, or if I may personalize it for a moment, you and I, as a witness, to be sparring in terms of whether this is the moment at which a particular recommendation should come from the administration. I got through, Senator, at 3 o'clock this morning, being sure what the results were in this situation, and finding out as much as I could, from the constitution of the union and everything else, as to the possibilities.

Senator KENNEDY of New York. Can I ask you on that, you say that we might reach a point, in a period of time, at which legislation would be necessary, and that you would advocate that legislation. Would you suggest, therefore, that this committee adjourn until you have decided that you have reached that?

Secretary WIRTZ. No; I would not.

Senator KENNEDY of New York. Why not? I mean, do you suggest that we go ahead and pass legislation?

Secretary WIRTZ. No. It seems to me that if you are asking for my suggestions, my suggestion would be that the committee could very well proceed on the basis of its own consideration of this matter, on the basis of the advice from the administration, or me, if I am closer to this case, as to all of the facts about it, every single fact. It is a strange

situation, that your suggestion appears to be that lynchpin to the committee's consideration is my answer to a single question as to whether you ought to go ahead or not. I would like to give you all of the information that I have got that bears on this situation.

And I would like to—not only in terms of the nature of the situation, the importance of the situation, all of those factors, but also, anything I have got to offer as to the comparative merits of the various things before you.

Senator KENNEDY of New York. I think there is a—

Secretary WIRTZ. There is a single question before you which is whether I think you ought to go ahead.

Senator KENNEDY of New York. No; whether the administration—the single question is whether the administration feels that legislation could be important at this period of time. I am not just talking about us. We are going to make our decision after you make a recommendation, but I think that we are entitled to the recommendation of the administration as to whether they want legislation or not. I think, Mr. Secretary, quite frankly, that is why you were called down here.

Secretary WIRTZ. Well, I defer to the chairman on the subject of why I was called down here. I was called down, without identification, to be as helpful as I can, Mr. Chairman, and I rather feel that the situation is that with respect to all of the facts in the situation, with respect to the merits or the demerits, the comparative merits, the various bills before the committee, I rather think I can be helpful. I have been as helpful as I can. If this single and sole reason I was called down here was to merely ask whether the administration is at this point, at now 2:30, on Monday—

Senator KENNEDY of New York. Right.

Secretary WIRTZ. If the reason I was called down on 20 minutes' notice is to give you the answer to that question, perhaps there should be—

Senator KENNEDY of New York. Maybe you should have had more time. I just think it is difficult for us to make this decision, Mr. Secretary, if you cannot make it. I mean, you came down here the other day, and you testified on whether you were in favor of Senator Morse's resolution. You came down here and were willing to speak for the administration and said that you were not in favor of Senator Morse's resolution. Now I am just asking whether you are in favor of action now.

Secretary WIRTZ. The headline the next day was "Senate Rebuffs Wirtz."

Senator KENNEDY of New York. I am interested in what the administration feels about this. Whether the committee accepts your advice is not the significant matter. The question is whether we are entitled to hear at least what you think about this. You think something needs to be done. We have to settle this. Do you have something that you are going to do other than have us pass legislation?

Secretary WIRTZ. Do I have something? I am going to pursue my business just as rapidly as I can.

Senator KENNEDY of New York. Do you think you can reach a settlement there?

Secretary WIRTZ. Let me assess those possibilities again. They assume we can get in touch with the parties, who, as I understand, are presently before another congressional committee. We will talk with

them, about what the possibilities are of restoration of transport, and in the present circumstances, I have said that I think it would be a mistake to hold out encouragement about that happening—

Senator KENNEDY of New York. You think that—

Secretary WIRTZ (continuing). Within a short time.

Senator KENNEDY of New York. You think that we should find out what the results of that are before we move on legislation?

Secretary WIRTZ. I would not recommend that you do.

Senator KENNEDY of New York. Isn't that a rather important factor?

Secretary WIRTZ. I simply say I would not make a recommendation.

Senator KENNEDY of New York. Would you recommend that we don't?

Secretary WIRTZ. No; I would not. You are asking me to make the judgment as to whether I think this subcommittee should go ahead. I say, frankly, I am not prepared to make that judgment. I am prepared to be of the fullest possible help to you with respect to any of the elements that would enter into that judgment, but I have become increasingly curious as to what your idea is that that ultimate judgment of mine should be that important, really.

Senator KENNEDY of New York. I don't think it is a question of just your judgment. You have been working on this matter a long period of time, and the administration has been working on it for a long period of time. It is important. You are in a better position to know the effect on the military and whether it is a national emergency as we asked you last week to discuss. What I think we would like to know is whether the administration feels with the facts that they have, and their assessment of the prospects for the future, whether the administration feels that this kind of legislation would be in the national interest, or whether this kind of legislation would not be in the national interest. You were willing to testify to that 5 days ago. I think we are entitled to hear your testimony now about it. There is no sense in my pursuing it.

Secretary WIRTZ. There is no point in pursuing it further. I would just have to repeat my reservations, Mr. Chairman, as to whether this is the kind of question on the notice that was given me—

Senator KENNEDY of New York. If you had a longer notice, would you be willing to come down at 6 o'clock tonight, and tell us—I have nothing, of course, to say about it—the chairman and the members of the committee would decide. When would you know?

Secretary WIRTZ. I will respond to any call of the committee at any time.

Senator KENNEDY of New York. Do you think you would know by then? Do you think you would have any recommendation at that point?

Secretary WIRTZ. I haven't the slightest idea, Senator.

Senator KENNEDY of New York. But, Mr. Secretary, you brought it up about section 10.

Senator NELSON. I would just like to ask one question on this. I think it might be of some value to the committee if the parties were to make an expression. Would it not be worthwhile to ask the parties whether or not they in their judgment think that they can get together?

If they were to say that each side seems to have given all it will

give, and we see no prospect of getting together, I think it would be of some value to the committee—

Secretary WIRTZ. I think that is a very important part of the current executive function in terms of what we are talking about here, and would be part of whatever we would expect to do.

Senator NELSON. You would raise that question with the parties and inform us?

Secretary WIRTZ. I mean, Senator, to confer with the parties just as soon as I can get with them, as to the possibilities of finding some further course of action, what to do with this situation, given the present legislative situation. I think we have done all—and I guess we would all agree here—all that can be done under the present legislation, except that now we will continue to try to find an answer, and on that, we will go right at that.

Again, I am only back to the point of trying to be helpful, short of making that decision.

Senator NELSON. To me, in any event, and very possibly to this committee, and possibly to Congress, it would have some significance to our deliberations if the parties said, "We think we can get together. Give us a little more time," or if the parties said, "We are at a stalemate, and we see nothing that is going to bring us together." If we can be told either one of those two things, I think it would be helpful in making a judgment on this matter.

Secretary WIRTZ. Surely. I don't think those possibilities are such as to warrant your weighing them in the balance of your present consideration. I do not think they are.

Senator KENNEDY of New York. Mr. Secretary, on testifying the other day about Senate Joint Resolution 181, you said something of this sort may have come, but not until, in your judgment, every alternative has been exhausted. Would you say that was the situation we are in at the present time?

Secretary WIRTZ. All of the alternatives I had in mind at that moment have been exhausted. Now, whether we are going to find more or not, I don't know.

Senator KENNEDY of New York. You mentioned section 10 of the Railway Labor Act, and that that left it up, as I understand it, to Congress, rather than to the President.

Secretary WIRTZ. That the return-to-work effect, under the Railway Labor Act, comes entirely from that congressional determination, and that there is no executive action, neither executive nor judicial action involved in it.

Senator CLARK. Would the Senator yield? I wonder if that is entirely—

Senator KENNEDY of New York. Where is that, if we can find it? Where does section 10 say that?

Secretary WIRTZ. I have it. Do you have the same print I have?

Senator KENNEDY of New York. Section 10.

Secretary WIRTZ. On page 21.

Senator KENNEDY of New York. Page 21.

Secretary WIRTZ. Emergency board. It is in the last paragraph, and reads as follows:

After the creation of such board, and for 30 days after such board has made its report to the President, no change except by agreement shall be made by the parties to the controversy and the conditions under which the dispute arose.

And, very interestingly, there have been now 166 emergency boards, that has been observed in every case. There has never been a single litigation of it.

Senator KENNEDY of New York. Isn't that but a question, thereafter, of what the President will do? Where does it say it is up to Congress in here?

Senator CLARK. If the Senator will permit a brief interruption, higher up on page 21, the judgment of the Mediation Board is what determines, not the judgment of the Congress.

Secretary WIRTZ. That is correct, that was the correction I made earlier. That there is a judgment which is here put into Joint Resolution 181, which is in the same language which the National Mediation Board has.

Senator KENNEDY of New York. It says here, the Mediation Board shall notify the President, and he, thereupon, in his discretion, may create a board. It is the President rather than Congress, and under the Taft-Hartley Act, under section 206, it is the same thing. It is the President, rather than the Congress.

Secretary WIRTZ. No problem about that. The President does set up the board. I will accept your formulation of it, it traces back to the action which is taken by the President, in distinction to the provision of the Taft-Hartley Act, where it takes particular Executive action to trigger it.

Senator KENNEDY of New York. But my point is, really, that it is the President who acts under most of these circumstances, under the Railway Labor Act and under the Taft-Hartley Act.

Secretary WIRTZ. In the original setting up of the board, that is correct. As far as the starting of the no-strike period is concerned, you do have two provisions here.

Senator KENNEDY of New York. Let me just say, the original stopping of the strike, under Taft-Hartley, and under the Railway Labor Act, both of them are actions by the President of the United States, up to the discretion of the President.

Secretary WIRTZ. That is correct.

Senator KENNEDY of New York. And that is my point, that that is the resolution that is also being considered by this committee, which would place that responsibility in the hands of the President.

Secretary WIRTZ. I understand what you mean; yes.

Senator GRIFFIN. Would the gentleman from New York yield to me, briefly?

Senator KENNEDY of New York. I yield.

Senator MORSE. Mr. Chairman—

The CHAIRMAN. Senator Morse.

Senator MORSE. The hour is late, but I would like to ask a few questions dealing with matters of procedure involved in two major approaches that are being discussed by this committee. The Senator from New York and you have been engaged in colloquy in regard to Taft-Hartley. You referred to section 206 of Taft-Hartley—

Whenever in the opinion of the President of the United States a threatened or actual strike or lockout affecting the entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce will have permitted to occur or to continue to imperil the national health or safety—

The President may appoint a board of inquiry. Then the act goes on to provide that after the emergency has been decreed by the board to exist, then upon receiving your report from the board of inquiry, the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such a strike. That is Taft-Hartley.

Now, in the resolution that I have before the committee, I followed the language of the Railway Labor Act, by providing that further, where it threatens substantially to interrupt interstate commerce, to a degree such as to deprive any section of the country of essential transportation services, a mediation board shall notify the President, who may thereupon in his discretion create a board to investigate respecting such dispute.

He did that. I went on to provide in my resolution for an extension of the time where no strike can continue to 180 days. Mr. Secretary, does the Congress of the United States, under our system of government of three coordinate and coequal branches of government, have the legislative authority to pass a joint resolution to be signed by the President, subject to his veto, if he wants to veto it, that would provide for the ending of this strike by authorizing and actually taking into court, or ordering the men back to work, subject to such terms and conditions as I set forth in my resolution? Does the Congress have such authority?

Secretary WIRTZ. It is presumptuous of me to answer, but, of course, in my judgment, the answer is "Yes," and I should like to add to the answer my respect for Senator Mansfield's statement that in his judgment, there is a responsibility, under the circumstances before us, to take such action.

Senator MORSE. In my resolution, I provide in section 4, if the agreement has not been reached within 150 days, the board shall make recommendations to the President, and the President shall advise the Congress regarding terms or procedures which will assure final settlement of this dispute in the public interest, and without further interruption of the continuity of transportation services by these carriers. Does this not provide a procedure where the President, at the end of the 150 days, will then, under this statute, this joint resolution, if he signs it into law, have the duty to make recommendation at that time for any further procedure to be followed in the settlement of the case?

Secretary WIRTZ. Yes, sir.

Senator MORSE. When we hear the discussion as to whether or not the President should exercise discretion, is it not true that it becomes a matter of timing as to when that discretion should be exercised? Whereas my resolution says the Congress has the power—and I happen to think the responsibility—to pass the legislation on the basis of a finding of fact which, in my judgment, Congress cannot deny, that there is an interruption of essential transportation services to various sections of this country. Congress makes that finding of fact, and also the decision that the strike should stop, under the procedures of this act. If the President signs it, he is exercising his judgment, and the law under the resolution proceeds to flow. Furthermore, it provides for another act of discretion on the part of the President: not only the first one of deciding whether or not he wants to sign it—which is in keeping with the separation of powers, let me say, and which is also in keeping

with the obligation of the Congress to assume its responsibilities under the same separation-of-powers doctrine—but the second discretion that my resolution gives to the President, after 150 days, to recommend what further course of legislative action, if any, we ought to follow. Is that not a fair statement as to the prerogatives that are given to the President under my resolution?

Secretary WIRTZ. It is my understanding of the law, the Constitution, and commonsense.

Senator MORSE. Now, when we talk about keeping these parties in doubt, during the period of time, under my resolution with 150-day and 180-day terms, the parties have ample opportunity to bargain between themselves for a settlement at any early date that they can reach an agreement. Is that not true?

Secretary WIRTZ. That is correct.

Senator MORSE. Under my resolution, the workers are guaranteed retroactivity as to financial settlements.

Secretary WIRTZ. I so read it.

Senator MORSE. Under my resolution, both parties are given the considerable period of time which, in my personal judgment, is highly desirable, for the necessary relaxation period to run its course, for the parties to continue to discuss between themselves, I mean between the union and the carriers, and also, within the carriers and within the union group, as to modifications that they might propose to each other, leading to a settlement between themselves. That is provided for, is it not?

Secretary WIRTZ. Yes, sir.

Senator MORSE. Do you agree with me, Mr. Secretary, that such a time element and the passage of such time, very often, in the settlement of labor disputes is very helpful to get the parties to come to an agreement with the stoppage of work having come to an end?

Secretary WIRTZ. I surely do.

Senator MORSE. Mr. Secretary, the resolution as I have it drafted will stop the great loss and cost of this strike, and also the interruption of essential transportation in this country, which not only, in my opinion, cannot be justified from the standpoint of the national interest, but also cannot be justified from the long-term interest, of American labor, because the American public knows that we are living in an hour of great crisis in this country. My resolution will provide these parties with an opportunity to prove that they want to bring the losses to an end, the interruption of essential commerce to an end, and at the same time, protect the legitimate rights of the workers for a final settlement that will be retroactive. This can be worked out in a much more reasoned and calm atmosphere than can be worked out now, with the kind of antagonism that a strike of this nature and the carriers response to it is bound to create. Do you agree with me that this strike, and the turndown yesterday of the settlement that the parties entered into certainly has not increased the spirit of friendly relationships between the parties thereto?

Secretary WIRTZ. Has increased?

Senator MORSE. Has not. That the turndown of this settlement that the negotiators from both sides in good faith entered into has not increased the friendly relationship between the parties that augurs well for an early settlement of disputes by collective bargaining.

Secretary WIRTZ. That is correct.

Senator CLARK. Mr. Chairman—

The CHAIRMAN. Senator Clark.

Senator CLARK. Mr. Secretary, I would like to be crystal clear on this. Neither you nor the President of the United States is presently recommending to this committee that we report the Morse resolution favorably to the floor of the Senate, are you?

Secretary WIRTZ. Not in the terms of your question.

Senator JAVITS. Mr. Chairman—

Secretary WIRTZ. Mr. Chairman, I am sure that my answer, left standing that way, is misleading.

Senator CLARK. Well, please complete it, then.

Secretary WIRTZ. Excuse me?

Senator CLARK. I would just like you to complete it. In my understanding, you plead both to me and Senator Kennedy that you were not in a position, and neither was the President, to make any recommendation, and, therefore, I should think it would follow that you are not recommending to us that we report the Morse resolution.

Secretary WIRTZ. No; I am in no position to make any recommendation. In fact, quite the contrary, I made it quite clear, speaking not only for myself but for the administration, there are a good many things on which I would like to try to be helpful. I want to make the answer to the question clear in these two additional respects, that there is certainly no recommendation against the passage of that piece of legislation, against the reporting out of that resolution, and the passage of that resolution, and, furthermore, and most importantly, that of all the proposals before the committee, it does seem to me by far the one which best fits the situation which the country and Congress faces today, by far.

And I am talking about the comparison between other resolutions, which would, one of them, provide for compulsory arbitration, which I think the circumstances in no way justify, and another, which provides for the splitting up of the 180 days into three different pieces, and I am quite clear, in my testimony, that as among those three possibilities, this seems to me infinitely the best.

Senator CLARK. But you are also in accord, are you not, Mr. Secretary, that if the bill which the committee agreed to by a vote of 11 to 5 is amended to eliminate the three 60-day periods, you think it relatively unimportant whether or not the trigger is made by the President or by the Congress?

Secretary WIRTZ. Yes; and again, I can only say that while, as you put it, the answer to that question is "Yes," I can completely answer you only by saying that while, in my own mind, this is relatively unimportant, there seems to me reasons which commend its being done in the single act as long as the findings go as far as the findings in the resolution do in terms of an immediate situation. But you are correct that I do not attach controlling importance to that.

Senator CLARK. I am through.

Senator MORSE. Would you yield?

Senator CLARK. Yes; I am through.

Senator MORSE. By your answer to this last question of the Senator from Pennsylvania, am I to understand you to mean, Mr. Secretary, that if this committee recommends that there should be 150- or 180-day

period, and recommends that after the committee finds that there is a substantial interference with the essential transportation in some section of the country, or more, it makes no difference to you whether the committee passes the responsibility to the President, to determine whether an injunction should be sought, or the Congress itself orders in the language of the resolution, if signed by the President, the stopping of the strike by way of injunction?

Secretary WIRTZ. For a clear answer, I want to be sure, Senator Morse, you referred to the issuance of an injunction, which I did not understand to be contemplated by the resolution.

Senator MORSE. Well, the ordering of the men back to work.

Secretary WIRTZ. That is right.

Senator MORSE. But does it make any difference to you, whether the Congress, carrying out its authority under the resolution, orders the men back to work, if that resolution is signed by the President, or if the Congress passes a resolution that says to the President, "It is up to you. Although we have found that there is this interference, under the Railway Labor Act, with essential transportation, it is up to you to decide."

Secretary WIRTZ. That is correct.

Senator MORSE. Whether or not they should go back to work.

Secretary WIRTZ. That is correct, on the making of those findings by the Congress, it would seem to me a matter of small importance, in fact, it would seem to me, again, hardly more than a ministerial act as to whether the President proceeded on the basis of that finding, I would expect to see him do so.

Senator JAVITS. Well, Mr. Chairman, now the last answer is what I want. You say the President will exercise the authority if we give it to him, under the terms of the Morse resolution?

Secretary WIRTZ. Senator, I said I would expect that if Congress makes that kind of finding with respect to this situation, and sharing what I think is a national regard for the importance of the situation, I would expect to see that done. Now, you will appreciate the fact that I am not in a position to go beyond that, and, in fact, perhaps not that far.

Senator JAVITS. Don't you think we ought to require that of him: that you ask the administration, or the President, whether he will exercise the power, if we give it to him, within the time—

Secretary WIRTZ. No, sir, I don't think you should. You asked me what I think. That would not be my understanding of typical procedure of this kind. But I went quite far, with no hesitation, in stating on my understanding—and by mine, I mean the administration's understanding—of the importance of this situation, suggested by saying that I feel like I have been kicked in the teeth, and I don't mean as Secretary of Labor; I mean as an American citizen. Nobody did anything that was illegal, but on that set of facts, if this Congress makes that kind of finding, about the state of this country today, and the relationship of this situation to it, I would expect to see the President take that action.

Senator MORSE. Will the Senator yield?

Senator JAVITS. May I just complete—I just want to complete that.

Now, do you think it would be more in keeping with Government operations for the President to issue an Executive order, by our legislation, as you say, than it would be for the statute itself, as it does, to say,

according to Senator Morse's draft, lines 22 to 24, "is hereby reinstated and extended for 180 days, effective immediately," which means that theoretically, at least, the men would have to be at work immediately. Do you think it is more efficient to have the President issue an order saying, "On Wednesday at 4 o'clock, I expect you back to work, pursuant to this statute"?

Secretary WIRTZ. More efficient?

Senator JAVITS. Well, more effective. After all, you are the Cabinet officer in charge. I am trying to get at what is the best way to do this.

Secretary WIRTZ. I don't really think there is a bit of difference.

Senator JAVITS. You don't. That is important.

Secretary WIRTZ. Not a single bit. Under the law, if the President were to sign that bill, I would think that immediately upon the signing, that obligation to return became effective.

Senator JAVITS. I yield to Senator Morse.

Senator MORSE. That statement deals with the question I was about to ask. If the Congress passes the resolution, which has been referred to as the Morse resolution, although I am honored to say that when I introduced it, it was the Morse-Javits resolution—

Senator JAVITS. Thank you.

Senator MORSE. I am always glad to be associated with the Senator from New York. If we pass the resolution, which says in effect that the labor organization threatens substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation, that such essential transportation services must be maintained, and provides for the special mediation board, and for ordering the men back to work, and the President signs that, that means it has become the law. Then it automatically goes into effect. If the other resolution is passed, giving discretion to the President to decide whether or not to order them back to work, after the Congress has already pointed out that there has been a violation of the Railway Labor Act, in that they find that a labor organization threatens substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation services, then the Congress isn't measuring up completely to its responsibility to back up its findings by telling the President, "If you sign it, our findings is the men should be sent back to work." And this cost and this loss and this danger that we have been discussing here ought to be brought to an end." Isn't that an important procedural difference between the two resolutions?

Secretary WIRTZ. I have said it does not seem to me to make a great deal of difference, Senator Morse, but I have also said it seems to me that the balance of orderliness, of effectiveness, is clearly on that side.

Senator JAVITS. Now, Mr. Secretary, I would like to be sure, because I think we are going to report a bill out this afternoon, and, therefore, I would like to be sure that we understand completely the thrust of your testimony to all of us.

One, the facts which continue to confer jurisdiction, under the definition of the Railway Labor Act just read by Senator Morse, are that there is and you also acknowledge that there is an increased threat. It may not be fully realized yet, but there is an increasing danger of threat to the national health and safety, and you are not ready to contradict us if we say that there is a threat to the national health and safety.

Now, that's the factual finding. Is that correct?

Secretary WIRTZ. I am not ready to contradict you on it. I don't believe that I have testified here in terms of affirmative terms of health and safety, except with respect to the points which have been raised by Senator Randolph.

In other words, in a very narrow area.

Senator JAVITS. All right. But nonetheless, there is a denial of essential transportation service to sections of the country?

Secretary WIRTZ. Yes.

Senator KENNEDY of New York. Would the Senator yield?

Could he ask that question, then?

Senator JAVITS. I am asking him that.

Senator KENNEDY of New York. Ask whether it is a threat to national health and safety.

Senator JAVITS. I think the Secretary has answered that, but I will ask it again.

Senator CLARK. He has answered in the negative.

Senator JAVITS. Yes, he has answered in the negative.

Is there a threat to the national health and safety?

Secretary WIRTZ. My answer is that there has not been a substantial change in that situation, since my last testimony, so that I would not find today a present threat to the national health and safety.

Senator JAVITS. But there is an increasing danger?

Secretary WIRTZ. That is correct.

Senator JAVITS. All right. Now, the next question. There is no legal authority on the books, other than what we would grant by some statute reported out by us.

Secretary WIRTZ. That is correct. There is no other authority.

Senator JAVITS. To bring the men back to work, or really do anything else, except by a mediator to the negotiations.

Secretary WIRTZ. That is correct.

Senator JAVITS. The third question you have answered as to whether or not you make a recommendation, and I won't badger you about that again. You have answered that.

The fourth point—there is no immediate expectation of settlement; right?

Secretary WIRTZ. That is a fair answer.

Senator JAVITS. And the fifth point, that if we did give the President the power, he would exercise it. You really and honestly believe that he would. That is your testimony. But you prefer the Morse formula of directing it by the legislation.

Secretary WIRTZ. I would expect, upon that finding by Congress, that kind of finding by Congress, to see him exercise it.

Senator JAVITS. Now is that a fair summary of the framework in which we act this afternoon?

Secretary WIRTZ. Yes; it is.

Senator CLARK. Wait a minute, Senator. I don't think you got a fully responsive answer. He said he would prefer to see us act on the basis of the Railway Labor Act. He did not say that he preferred the Morse approach to the committee approach.

Senator JAVITS. Well, what is your answer to that?

Secretary WIRTZ. I am not sure I heard. The Morse approach to the—

Senator CLARK. I think we would have to have his last answer read back, in order to be able to understand.

Secretary WIRTZ. All right.

Senator CLARK. Mr. Chairman, could we have the reporter read back Secretary Wirtz' last answer?

The CHAIRMAN. Will you read back that last, please?

(The answer was read.)

Senator CLARK. I said that was not responsive to your question, which was, Do you prefer to that the committee's formula?

Senator JAVITS. Would you answer that again? Do you prefer the Morse formula of direction by the statute to the present tentative committee formula of asking the President to make an Executive order?

Secretary WIRTZ. I do.

Senator CLARK. Why?

Secretary WIRTZ. Because I think that once Congress has made that determination, there is involved nothing more than a ministerial act as far as the President is concerned, and that it would pose some question as to why it had been done that way, that it would leave no real choice. The real finding would really be by the Congress.

I think everybody would wonder why, upon that kind of finding, it was then provided that the President should make what would be essentially a ministerial determination, in terms of the effectiveness of the operation of it. I don't see much difference, as I have said to you. I just see a useless act, of adding an Executive order on top of a piece of legislation, which really leaves no question about it, really leaves no necessity for it.

Senator CLARK. If the Senator would yield, I think I have made clear my opinion that this is not a mere ministerial act, but an act involving an awful lot of discretion, as to whether, under all circumstances, the President wants to order those people back to work, when there is no national emergency involved, as we have stated, but, merely, an interruption of interstate commerce.

Senator JAVITS. May I just answer, the Senator has made that clear. I will say to the Senator in all frankness that my feeling has been that we do make that finding, and, therefore, I have been for an initial period, a short period, of a mandatory character.

Senator MORSE. Well, I must say that we can start expressing our disagreement, but I happen to believe that the Congress has the responsibility to make the decision, and not abdicate its responsibilities by passing it to the President.

Senator CLARK. And I happen to believe that the President has a responsibility, and is not entitled to pass the buck to Congress.

Senator PROUTY. Mr. Chairman—

Senator MORSE. You are making the law, not the President.

The CHAIRMAN. Senator Prouty.

Senator PROUTY. Mr. Secretary, just so that we all may clearly understand your position, is it correct that you made no recommendation to the committee or the Congress, when you were here last Wednesday, with respect to legislation?

Secretary WIRTZ. No, I thought I was making a recommendation. A kind of dual recommendation. First, that it did not seem to me that the situation at that time warranted enactment of the legislation which was before the committee, as at that time. And, second, a

suggestion that we could perhaps by combining forces bring this matter to a head, through collective bargaining, and I rather think we did more of that second than we all realized.

I think the combination of considerations contributed to it.

Senator PROUTY. Have you made any recommendation today to this committee?

Secretary WIRTZ. Yes, I meant to make quite a number.

Senator PROUTY. With respect to reporting legislation of any nature? You have said that you preferred the Morse resolution.

Secretary WIRTZ. I think I have made every recommendation, except the one as to whether the committee should, at this point, take action. I believe that every other question has been answered to the fullest of my competence.

Senator PROUTY. It seems to me, Mr. Secretary, that you have made the strongest possible argument as to why the committee should report a bill, giving the President discretionary authority. You don't know what the circumstances are now, by your own admission. You don't know when the strike can be settled. It seems to me that this will give the President, and you and others who are involved in the negotiations, an opportunity to determine when and if such action is necessary.

Secretary WIRTZ. Is that a question?

Senator PROUTY. No; it is a comment. I would be glad to—

Secretary WIRTZ. I would want to make my own view clear, that if Congress proceeds to adopt this joint resolution, I would find in that congressional action an answer to those questions to which I have referred, and would respect that answer.

The CHAIRMAN. Senator Yarborough.

Senator YARBOROUGH. Mr. Chairman, Mr. Secretary, do I correctly understand you to say that the productivity in this industry has gone up 8 percent?

Secretary WIRTZ. Between 8 and 10. Productivity in the airline industry has gone up between 8 and 10 percent a year.

Senator YARBOROUGH. And this wage increase, as suddenly proposed over the weekend, was 4.25 percent?

Secretary WIRTZ. That is approximately correct.

Senator YARBOROUGH. Is labor getting the fair share of that increased productivity, if it has gone up 8 to 10 percent and wages increase more than 4 percent? Is that a fair share for labor?

Secretary WIRTZ. I certainly don't mean to spar, Senator Yarborough, but the question of fair share could mean so many different things to so many different people. I don't believe that that comparison in itself is enough, because it all depends on what is done as far as that increased productivity is concerned, if it does not go to increased wages.

I will answer your question in this way. If it does not redound at all to the benefit of the public, and redounds and goes entirely into profits, if it does not redound to the benefit of the public in terms of reduced fares, and is not used by the company in terms of economy expanding, capital expenditures, which would mean more jobs, then I would think it was unfair. If it just goes into somebody else's pocket.

Senator FANNIN. Mr. Chairman—

Senator YARBOROUGH. To save time, I would like to put into the record at this point from the New York Times today, an article, page C-37, "Corporate Profits at Peak for the Half, Survey Finds," where among 37 group classifications, the airlines shaped up best in the first 6 months of this year. Six airline companies turned in profits of \$56 million for a gain of 111 percent over the \$26 million cleared in the equal half of 1965, and the whole statement showing the airlines leading the parade in industrial profits.

The CHAIRMAN. Without objection, that will be placed in the record. (The material referred to follows:)

[From the New York Times, Aug. 1, 1966]

#### CORPORATE PROFITS AT PEAK FOR THE HALF, SURVEY FINDS

500-COMPANY STUDY SHOWS 10.2 PERCENT RISE—ONLY FARM TOOLS, AUTOS, STEEL AND CEMENT FALL FROM 1965 LEVELS

(By Clare M. Reckert)

New profit peaks were reached by the nation's manufacturing and service industries in the first six months of 1966, despite the moderated rate of increase from the feverish pace the year before.

No important reversal of this earning trend is expected during the final half of the year.

According to a study of some 500 companies made by The New York Times, total profits in the first half rose by 10.2 per cent to \$9,323,764,000 from \$8,459,340,000 a year earlier.

Of 37 different categories in the list, only four showed declines from the 1965 period—cement, farm equipment, steel and autos. The Big Three, General Motors, Ford and Chrysler, all lagged behind their record performance of the first half of 1965.

An 8.5 per cent earnings decline for the motors group, to \$1,684,000,000 from \$1,838,000,000 a year ago, was an important factor in slowing down the total rate of advance. Excluding the three auto makers, profits for 497 companies totaled \$7,639,764,000 for the first half, up 15.3 per cent from their \$6,622,840,000 earnings a year earlier.

Profits of the auto companies were trimmed by reduced sales, attributed in part to the widespread discussions of safety measures and the higher costs of operation and expansion. Comparison with first-half figures for 1965 is also distorted because in the opening months of last year automakers were filling orders deferred by a strike in the final months of 1964.

Third-quarter prospects for the auto industry this year points to a continued drop in sales and earnings, with production schedules cut back by about 12 per cent from the period a year ago.

Also impeding the upward movement of earnings were the steel companies. With the exception of the Bethlehem Steel Corporation, which managed to advance \$3-million, all of the major producers were down from last year. Of the 33 companies in this group, only 11 small ones showed improved earnings, leaving the over-all result off 12 per cent from the 1965 first half.

Eliminating the steel and auto groups from the combined results of the industries studied, the percentage gain would have been 17.9 per cent, over the first six months of 1965. In the survey of the first 500 companies to report six months figures for the period ended June 30, 1965, earnings rose 17 per cent over the 1964 first half.

In the steel group, comparison with last year was distorted because customers built large inventories as a hedge against the threatened steel strike. Consequently profits of the steel makers were unusually large, and helped to swell the entire corporate profit picture in the first half of 1965.

This year, however, record profits were registered by 127 companies—one of every four in the survey. A number of these reported their highest profits for any quarter or half year.

The generally comforting profit margins prompted many to declare liberal dividend payments to stockholders.

The upward surge also covered a broad corporate base, with oils, non-ferrous metals, chemicals, electronics, airlines, aircraft, machine tools, automotive suppliers, drugs, paper, office equipment, publishing rubber, textiles and container makers turning in top performances.

With the exception of tobacco, 32 classifications realized above-average earnings increases.

## FOUR SHOW A LOSS

A decline in profits was reported by 68 of the 500 companies, 10 more than last year. Only four operated in the red, compared with seven in 1965, United Electric Coal and Consolidated Electronics were again among the group, joined by Wheeling Steel and DC Trucking this year.

Although the rate of gain in profits has slowed somewhat in the first and second quarter of this year, market analysts point out that the booming prosperity is in its fifth straight year. Nevertheless, the basic trend of corporate profits remains strong. Industrial production has been maintained at a high rate and business has continued its record investment spending for capital improvements and expansion. Personal income, moreover, remains at a high level and consumer buying is still good.

But economists see other situations to worry about, such as the course of the war in Vietnam, gold problems, fiscal developments and monetary policy. The difficulty of obtaining mortgage and other loans continues to be a heavy drag on housing. Strikes continue to hamper business. And then there is the possibility of a tax increase.

## LIST IS TABULATED

Management, meanwhile, is improving operating efficiency through further automation in an effort to maintain profit margins. Diversification and mergers or acquisition are also receiving greater attention.

Among the 37 group classifications, the airlines shaped up best in the first six months of this year. Six companies turned in profits of \$56,967,000, for a gain of 111 per cent over the \$26,993,000 cleared in the initial half of 1965.

The list of earnings in other industries are shown in the following table:

## 6 months to June 30

[In thousands]

Industry	Number of concerns	1966	1965	Percent gain
Shipping.....	4	\$13,493	\$5,699	225
Airlines.....	6	56,967	26,992	111
Aircraft.....	8	124,642	84,694	47
Apparel.....	8	18,256	12,568	45
Building materials.....	20	105,179	75,165	40
Machine tools.....	3	29,214	21,839	34
Electronics.....	24	198,397	149,465	33
Mining.....	11	101,411	77,214	31
Controls and regulators.....	17	54,174	41,297	31
Vending.....	2	4,773	3,656	30
Publishing.....	13	63,536	48,815	30
Heavy equipment.....	35	150,117	116,416	29
Rubber.....	6	51,891	40,453	28
Metal fabricators.....	15	87,471	69,629	26
Containers.....	9	81,741	65,309	25
Non-ferrous metals.....	16	341,054	275,098	24
Textiles.....	9	22,661	18,296	24
Home products.....	21	486,748	397,100	23
Food.....	15	140,829	116,135	21
Auto supplies.....	22	111,725	93,628	19
Distillers and brewers.....	7	61,758	43,699	18
Paper.....	21	244,230	206,087	18
Pharmaceuticals.....	23	302,125	257,717	17
Broadcasting.....	5	18,522	15,828	17
Chain stores.....	8	60,596	52,211	16
Cosmetics.....	17	54,174	41,297	31
Trucking.....	15	14,146	12,338	15
Oil.....	30	2,522,380	2,218,318	14
Office equipment.....	9	321,956	280,620	14
Glass.....	8	94,767	83,353	14
Medical equipment.....	5	27,913	24,908	12
Chemicals.....	39	876,572	775,700	13
Tobacco.....	5	136,720	128,093	7

The following groups showed declines:

6 months to June 30

[In thousands]

Industry	Number of concerns	1966	1965	Percent loss
Farm equipment.....	2	\$93, 107	\$93, 155	1
Auto and truck.....	5	1, 700, 216	1, 846, 638	8
Steel.....	33	519, 876	589, 767	12
Cement.....	8	17, 335	20, 526	15

In reporting results for the six months ended June 30, there were cheery predictions from several company officials. They expect sales and profits to continue at their record pace for the balance of the year, with 1966 turning in the best performance of all time. This, of course, assumes there are no serious developments to upset the economy.

Senator MORSE. Mr. Secretary, is it not true that we are dealing in regulated industry and in the settlement of a labor dispute the workers are entitled to fair consideration and sharing on an equitable basis the productivity of the industry as reflected in increased earnings? The owners of the property in this instance, the carriers, are entitled also to a fair return on the profits that they make, including their obligations for heavy equipment costs, and a fair return for their investors, so that they can get the additional investments to enlarge the industry? And the public, the public is entitled to the fair share of the profits by way of reduced rates. This industry for the last 2 years, and only the last 2 years, in the past 10, has shown great increases in profits, while during the other 8 years, it had a 5.1 percent return on its investment; aren't those the three factors that we have to take into account, when we are trying to work out a wage settlement in a regulated industry?

Secretary WIRTZ. I subscribe completely to that statement.

Senator RANDOLPH. Mr. Chairman——

The CHAIRMAN. Senator Randolph.

Senator RANDOLPH. I wish to make this statement.

Mr. Secretary, there are 35,000 machinists that are not employed because of this strike. Is that correct?

Secretary WIRTZ. Yes, sir.

Senator RANDOLPH. It is not just the movement of persons and products, which is affected by this strike. Senator Smathers is sitting here at our left this morning, and he tells me there are 60,000 persons who are unemployed in the Greater Miami area by this strike.

Is this not indicative of the added serious situations that come from a breakdown in this segment of our transport system?

Secretary WIRTZ. Yes, sir, that is right.

Senator RANDOLPH. People in other industries, I mean.

Secretary WIRTZ. Well, before we get to that, there are about another 35,000 or 40,000 airline employees themselves who are now out of work, other than the machinists, and then you start moving out to the employees of firms which are dependent on air travel.

Senator RANDOLPH. Thank you.

Secretary WIRTZ. The number is large.

The CHAIRMAN. Any further questions? If not, the committee will go into executive session.

(Whereupon, at 3:10 p.m., the committee proceeded to executive session.)

Name	Address	City	State
Mr. J. H. ...	...	...	...
Mr. ...	...	...	...
Mr. ...	...	...	...
Mr. ...	...	...	...

The following results for the six months ending June 30, 1934, were obtained from the monthly company reports. The report states that in the first six months of 1934, the number of the cars which had been in the fleet for less than 12 months was 17,000, as compared with 16,000 in the corresponding period of 1933.

Mr. J. H. Walters, vice president in charge of the fleet, stated that the company's fleet is made up of a large number of cars which are used in the various departments of the company. He stated that the fleet is made up of cars of various makes and models, and that the cars are used in a variety of ways. He stated that the cars are used in the various departments of the company, and that the cars are used in a variety of ways. He stated that the cars are used in the various departments of the company, and that the cars are used in a variety of ways.

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