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MANUSCRIPT OF PROCEEDINGS

UNITED STATES SENATE
COMMITTEE ON FINANCE

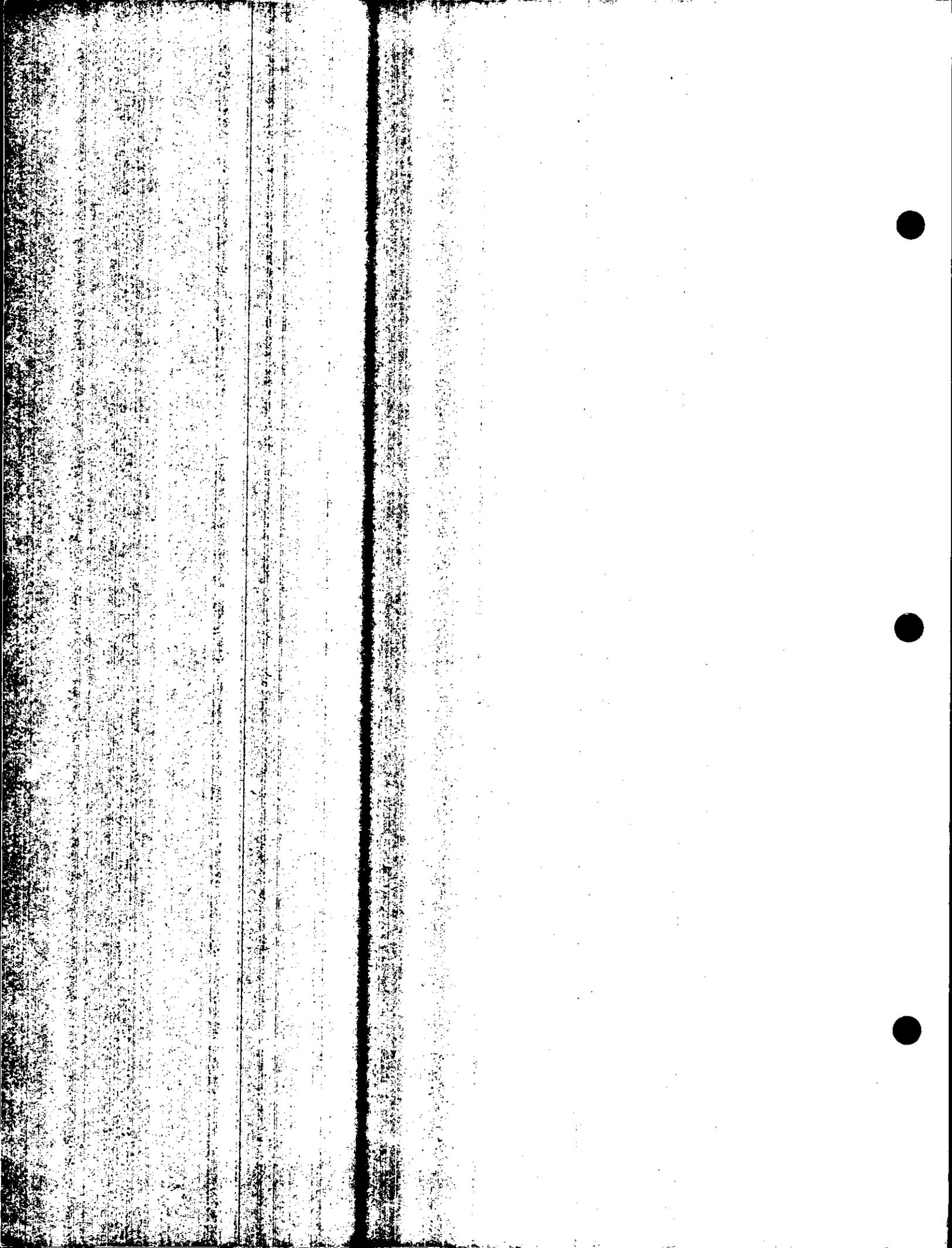
MARK-UP SESSION:

INCREASE IN THE PUBLIC DEBT LIMIT
EXEMPTION ON MFN STATUS FOR ROMANIA
TUITION TAX CREDITS

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August 11, 1952

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MARK-UP SESSION:

INCREASE IN THE PUBLIC DEBT LIMIT
RESOLUTION ON MFN STATUS FOR ROMANIA
TUITION TAX CREDITS

- - -

Wednesday, August 11, 1982

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United States Senate,
Committee on Finance,
Washington, D. C

The Committee met, pursuant to notice, at 9:30 a.m., in Room 2221, Dirksen Senate Office Building, Hon. Robert J. Dole, Chairman of the Committee, presiding.

Present: Senators Dole, Packwood, Chafee, Grassley, Danforth, Armstrong, Durenberger, Moynihan, H. Byrd, Long, Bentsen, Bradley, Boren and Baucus.

Staff Present: Claud Gingrich, Ted Kassinger, Jeff Gates, Michael Stern, Phil Morrison, Dave Glickman, Dave Brockway, Floyd Williams, Daniel Oliver, and Charles O'Malley.

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The Chairman. I think we have one non-controversial matter which we can discuss, and that is the sense of the Senate resolution on Romania.

Claud, even though the reporter is not here, I understand the recording device is working and your words will be saved.

Mr. Gingrich. For posterity?

1 The Chairman. For posterity.

2 Mr. Gingrich. That is reassuring, Mr. Chairman.

3 The Chairman. If you could explain the resolution and
4 whether or not it has been cleared with the State Department
5 or the Administration and the CSCE and whether it has general
6 support from other Senators, it would be very helpful.

7 Mr. Gingrich. Mr. Chairman, it is my understand that
8 the Administration has no objection to this resolution. We
9 have worked with them to clean up the language to meet some
10 technical objections they might have had with it, and also
11 with the CSCE staff.

12 We checked with the offices of the other Senators on the
13 Committee as well as Senator Helms and Senator Symms, who were
14 sponsors of S. Res. 428, the disapproval resolution. All of
15 those Senators have agreed--or nine Senators on the Committee
16 have agreed to co-sponsor this. There have been no objections
17 that we know of, so as far as we know of, there are no objec-
18 tions at all to this resolution.

19 The Chairman. Could you explain briefly what the sense
20 of the Senate resolution does?

21 Mr. Gingrich. Very briefly, the sense of the Senate
22 resolution would direct the United States government in its
23 upcoming consultations with the government of Romania to seek
24 certain assurances in the context of the Helsinki Accords with
25 respect to freedom of immigration and freedom from religious

1 and cultural persecution.

2 The Chairman. I know of no objection to the resolution,
3 but I think we will wait until we have more members here to
4 take final action. But as you have indicated, it does have
5 the support of the Administration; it does satisfy some of the
6 concerns expressed earlier by Senator Helms and Senator Symms.
7 It does have nine members of this Committee as co-sponsors. Is
8 that correct?

9 Mr. Gingrich. Yes, sir.

10 The Chairman. And I would hope that it might be reported
11 as a Committee resolution and that we might move it
12 expeditiously on the Senate floor. I know of no reason we
13 could not get it up and passed next week.

14 Mike, do you know of any objection to the resolution?

15 Mr. Stern. I am simply not aware one way or the other,
16 Mr. Chairman.

17 The Chairman. Senator Baucus is a co-sponsor, is that
18 correct?

19 Mr. Gingrich. Senator Baucus and Senator Moynihan are
20 co-sponsors.

21 The Chairman. Senator Moynihan. Okay, I think that will
22 make a record on what it is and what we hope to do. We will
23 not take action on--what was the number of Senator Helms',
24 S. J. Res.--.

25 Mr. Gingrich. S., Res. 428.

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The Chairman. S. Res. 428; that will remain without any action.

Let us move then next to tuition tax credits. Claud, since Senator Moynihan is here, maybe we can go ahead. He just explained this sense of the Senate resolution. You are a co-sponsor and there is no objection.

Senator Moynihan. No objection. To the contrary, I congratulate you on drafting it.

The Chairman. It will be reported as a Committee resolution. All in favor, signify by saying aye.

(A chorus of "ayes.")

The Chairman. There is not a quorum here, but we can poll the other members. I do not know of any problem with it.

Now, we will move on to tuition tax credits.

Miller
flws.

1 Mr. Stern. Perhaps I could mention one thing while we
2 are waiting for tuition tax credit.

3 I have learned that the House has passed a CETA job
4 training bill in which, although the Senate version is com-
5 pletely within the jurisdiction of the Labor Committee over
6 here, the House-passed version has two areas which are in
7 the Finance Committee's jurisdiction.

8 One is they make a number of fairly significant changes
9 in the work incentive program under the Social Security Act.
10 It is within their jurisdiction in the House, but ours in the
11 Senate.

12 The second provision provides an earned income disregard
13 for any earnings under that program, under any Federal program,
14 which means also the welfare programs under the Social
15 Security Act.

16 I would like to suggest, consistent with the kind of
17 things you have done in the past, that the Committee direct
18 the Chairman to write a letter to Senator Hatch asking that
19 they Senate conferees insist that those provisions be taken
20 out of the Conference Bill; and then if the House Education
21 Committee wants to send a bill over dealing with those sub-
22 jects, it could be referred to the Finance Committee.

23 The Chairman. In other words, they include areas over
24 which they have no jurisdiction?

25 Mr. Stern. The Senate Committee has no jurisdiction.

1 The House Committee does. In the Conference situation we
2 would like to suggest that they be stricken.

3 The Chairman. Would you prepare--

4 Mr. Stern. Prepare a letter to that effect?

5 The Chairman. Yes.

6 Mr. Stern. All right.

7 The Chairman. Have the Administration people arrived
8 yet?

9 Mr. Glickman. The representatives of the Education
10 Department are here, but not those of the Treasury Department.

11 The Chairman. We have a vote at 10 o'clock. I am not
12 certain how far we are going to get today. It seems like
13 there are going to be a lot of votes. We want to get into
14 tuition tax credit if we can and complete that. We will set
15 it aside and take up the debt ceiling extension.

16 Senator Baker very much wants this Committee to report
17 out debt ceiling extension in the event some agreement can
18 be reached that he is working on for next week.

19 I wonder if we might review very quickly where we are
20 with reference to tuition tax credit. We have had hearings.
21 We had the initial markup session on Monday. About all we
22 did at that time was discuss some of the open questions:
23 the question of refundability, the question of high income
24 phaseout, and the question of reduction of maximum amount for
25 dependents, and the question of discrimination, the revenue

1 cost, and I know that Senator Danforth, for example, is hope-
2 ful that we might--if in fact we intend to act on this legis-
3 lation this year, that we find some way to pay for the pro-
4 gram which, depending on which version is used--well, I guess
5 the bill introduced would be \$32 million in '83, \$373 million
6 in '84; \$854 million in '85, for a total of \$1.259 billion.
7 As amended, or at least as some discussion that it might be
8 amended, reduce that cost to \$904 billion over a three-year
9 period.

10 It was Senator Danforth's hope that he expressed on Mon-
11 day that if in fact we are going to act on this legislation,
12 because of the current budget fiscal crisis, that there
13 should be some way to offset the cost included in the program
14 or included in the bill. I think he will suggest when he
15 arrives that between now and the time this matter comes to
16 the Floor for consideration that we advise the staff to
17 recommend says we might finance the program.

18 Dave, do you want to give us anything we need to discuss
19 before we start? I know Senator Chafee has an amendment.
20 Senator Grassley has an amendment. I know Senator Moynihan
21 and Senator Packwood have questions with reference to dis-
22 crimination.

23 Mr. Brockway. I think Phil has answers to some of the
24 questions that were raised in the previous markup.

25 Mr. Morrison. There were two brief open questions that

1 were asked on Monday. One of them related to the amount of
2 Federal support for public education in the elementary and
3 secondary schools, and the Department of Education has pro-
4 vided us with some information. They estimate that from all
5 Federal agencies for elementary and secondary purposes that
6 Federal support amounts to--and this is direct, not indirect
7 Federal support--approximately \$356 per pupil. If you add
8 to that certain indirect support, including an amount
9 attributed from owner-occupied property tax reductions, since
10 property taxes often go to support public schools, and an
11 amount from other State and local tax deductions, the indirect
12 support adds up to nearly \$300 per pupil, for a total of
13 \$665 of Federal support, direct and indirect, per public
14 school student.

15 Senator Moynihan. Slow down there. The indirect support
16 calculates taxes not paid to the Federal government in some
17 way? What is the direct support and what is indirect support
18 consist of?

19 These are not small numbers.

20 Senator Chafee. Is this all Federal?

21 Mr. Morrison. Just Federal.

22 Senator Moynihan. Do you have a piece of paper for us
23 that we can see?

24 Mr. Morrison. Yes, I do. This was supplied to us this
25

1 morning by the Department of Education.

2 The Chairman. We might have copies of that, Phil.

3 Senator Chafee. I suppose you also have figures showing
4 what the indirect Federal support currently is for private
5 and parochial schools?

6 Mr. Morrison. On answer to the Chairman's question, the
7 Department of Education said it would be about one-fifth
8 direct support listed in the figures that the letter lists.

9 The Chairman. You mean currently, John?

10 Senator Chafee. Currently, sure. You would take your
11 income tax deductions for contributions to the private
12 schools, for example. You have got those figures.

13 Mr. Morrison. I am not sure they are listed in the
14 Department of Education's response.

15 Senator Chafee. If you want to be consistent, if you go
16 so far as the show indirect expenditures, what somebody is
17 taking on their income tax deduction for their real property
18 taxes, you list that as a Federal indirect contribution to
19 the public schools, and clearly you want to show what deduc-
20 tion a person takes on their income taxes for a contribution
21 to a private school. I expect you have got those statistics.

22 Mr. Morrison. Senator Chafee, if you do not have them,
23 we will supply them.

24 Senator Chafee. I think we ought to have them before
25 we get into this.

1 Senator Packwood. On direct support you said about \$360
2 billion direct support?

3 Mr. Morrison. That is as I understand it. Perhaps
4 representatives from the Education Department can fill in.

5 Senator Packwood. That is a close enough figure. What
6 I am thinking is this: If we are talking about changing this
7 bill to \$100, \$200, \$300, so that the third year it is \$300,
8 and you are saying there is about a one-fifth direct support
9 to private schools now--

10 Mr. Morrison. That is right.

11 Senator Packwood. That would make direct support, public
12 and private schools, almost identical from the Federal
13 government standpoint?

14 Mr. Morrison. That is right, Mr. Packwood.

15 Senator Byrd. That is an interesting figure. Then the
16 government would be financing two school systems; is that
17 right?

18 Mr. Morrison. The direct Federal support for public
19 schools is not necessarily all the financing for public
20 schools. They of course are supported by State and local.

21 Senator Byrd. Mostly supported by State.

22 Mr. Morrison. That is right. But there are Federal
23 contributions and Federal support for specific programs in
24 public education.

25 Senator Byrd. What you are saying, or is it correct that

1 what you are saying is that this legislation, if enacted, that
2 the Federal government will be supporting to the same extent
3 private schools and public schools?

4 Mr. Morrison. Based on these figures; that is correct.

5 The Chairman. We have Department witnesses here if you
6 want to comment on that question.

7 Mr. O'Malley. Mr. Chairman, there is no Federal direct
8 assistance going to private schools at the present time. What
9 we are talking about are services provided to children attend-
10 ing private schools through what are now block-grant programs,
11 formerly Elementary and Secondary Education Act. There are no
12 direct funds going to private and elementary and secondary
13 schools.

14 This is an estimate--

15 Senator Packwood. We do not pay for any books or school
16 busing, transportation, or anything like that?

17 Mr. O'Malley. No, Senator, not at the Federal level.

18 Senator Packwood. What were the figures--

19 Senator Moynihan. That is just not so. There is all
20 manner of Federal funds which make their way into non-
21 public schools in one mode or another. There is an office at
22 the Department of Health & Human Services called Non-Public
23 Education.

24 Mr. O'Malley. It is in the Department of Education.

25 Senator Moynihan. Department of Education. Is there a

1 representative of that office here?

2 Mr. O'Malley. Me.

3 Senator Moynihan. Your name?

4 Mr. O'Malley. Chuck O'Malley.

5 Senator Moynihan. Mr. O'Malley, say again what you did.

6 Mr. O'Malley. I said, Senator, there are no direct
7 Federal funds going to private and elementary secondary
8 schools. The services are made available through allocations
9 to the States, and then to public school district which, in
10 turn, administer the programs on behalf of private school
11 students identified by private school administrators.

12 Senator Packwood. I think I see what he means by
13 "direct." You mean the check is not coming from the United
14 States Treasury to the parish church?

15 Senator Moynihan. We know that.

16 Senator Packwood. It is money the Federal government
17 has paid out that is going through block grants or to the
18 Department of Education to the local school district that is
19 indeed paying for some transportation or paying for some
20 buses or some other things that the Court to date has said
21 are permissible.

22 Mr. O'Malley. It would not be paying for busing or
23 things of that nature, Senator. It might be paying for
24 library materials.

25 Senator Moynihan, Like books? What do you mean?

1 Mr. O'Malley. Books, audio-visual equipment.

2 Senator Moynihan. When did the word "books" disappear
3 from the Department of Education, about 1963, I suppose. You
4 mean books?

5 Mr. O'Malley. Yes, Senator.

6 Senator Moynihan. How much? How much?

7 Mr. O'Malley. The exact amount we cannot determine at
8 the present time.

9 Senator Moynihan. What do you do over there all day?

10 Mr. O'Malley. Pardon me?

11 Senator Moynihan. What do you do over there? What do
12 you do all day?

13 Mr. O'Malley. We try to collect that type of data and
14 try to work with the States so that we can collect those data
15 as to how many private school children--

16 Senator Moynihan. I believe the office was established
17 in the late 1960's following the Elementary and Secondary
18 Education Act, and then Secretary Califano abolished it, and
19 then when we proposed tuition tax credit, Senator Packwood
20 and I, he announced he was creating it, and it has been
21 around for about 15 years, and you have no data?

22 Mr. O'Malley. I think the office as it stands now was
23 established about three or four years ago.

24 Senator Moynihan. That was by Mr. Califano after he
25 abolished it, and we introduced that legislation.

1 Mr. O'Malley. The office was vacated for about six
2 months. I just came up in the position in January.

3 Senator Moynihan. The job was empty and you just took
4 it in January?

5 Mr. O'Malley. Yes, Senator.

6 Senator Moynihan. I do not mean to pressure you, but
7 I want you to say what you have, and if you do not have it,
8 all right.

9 The Chairman. Also in the discussion the other day where
10 I was present we were talking about refundability; the Admin-
11 istration is opposed to refundability. As I recall, Secre-
12 tary Bell indicated there might be 125,000 students--in fact
13 you were at the meeting--

14 Mr. O'Malley. Yes, sir.

15 The Chairman. --who would benefit from refundability,
16 and there would probably be 375,000 who would be above the
17 phaseout, would not benefit; but that he felt that low-income
18 families could avail themselves of other funding. I am not
19 certain I understood what he had in mind there. In other
20 words, refundability would not be necessary.

21 Mr. O'Malley. Mr. Chairman, right now current Title I
22 and new Chapter I programs, compensatory education programs,
23 are made available to children attending private elementary
24 schools and secondary schools, many of which are in inner
25 cities and are enrolling children from that low-income area.

1 The Department's regulations and the Title I statute do
2 make strong provisions for participation of these students in
3 compensatory education programs administered by the District.
4 So these are the children we are saying not currently being
5 served through Administration--

6 The Chairman. Are they actually receiving any of that
7 money?

8 Mr. O'Malley. They are not receiving the dollars, but
9 they are receiving speech therapy, remedial reading, and
10 math services administered by public schools in those par-
11 ticular areas.

12 Senator Packwood. When the Secretary made that pre-
13 sentation, he said this law had been on the books all along.
14 I am familiar with Title I. But somehow it had not been
15 getting down to the private school children, and by a simple
16 change in the regulations in overcoming what he described
17 as opposition out there, they are now receiving it. I would
18 like to see the regulations and how they are now getting it,
19 but I am intrigued as to why they were eligible for it before
20 and did not get it.

21 What change has the office made in the regulations that
22 now make them de facto eligible when they were not before?

23 Mr. O'Malley. One of the major provisions, Senator, was
24 a requirement that private school administrators be consulted
25 during planning of the projects. Speaking from personal

1 experiences as coordinator of Federal programs in Florida, we
2 had many situations wherein the division would start programs
3 and then invite private school people in to fit some of those
4 programs where the needs may not have been the same. But the
5 new regulations require private school administrators to be
6 contacted in the early stages of the program, and that a needs
7 assessment for private school children be conducted. This
8 will or should increase the number of children participating
9 in the Chapter I program.

10 Senator Packwood. Mr. Chairman, I would suggest this:

11 On the issue of refundability I think you ought to find
12 out if the Committee favors the concept or not. If you do not,
13 that is one thing. If we do, and it is an amendment we want
14 to add, it is an amendment we would want to add as a Committee
15 amendment on the Floor rather than adding it here for reasons
16 that we are all familiar with.

17 During that time I would like to see the Administration's
18 information about Title I, how they plan to reach these same
19 people in an equally similar fashion through refundability.

20 I would not close my mind to using that option, going
21 that route if, indeed, it works as simply and effectively as
22 refundability, and I think it is a decision we can make before
23 we have to consider it on the Floor.

24 Let me ask the Treasury Department on this, simply when
25 we talk about refundability, we mean that a person is not pay-

1 ing any tax; we do not necessarily mean that they are not
2 filing a tax return?

3 Mr. Glickman. That is correct, Senator.

4 I find it hard to believe that Title I, no matter how
5 well administered, no matter how much participation by the
6 private schools, and even if it could reach this 125,000
7 people we talk about, would be as simple as refundability.

8 I am going to have to let Education talk about how
9 simple the applicability of Title I would be.

10 You are correct. There might have to be people who
11 would still file tax returns. But a goodly number of them,
12 I would think, would not be filing tax returns unless it
13 would be--it would set up a whole new structure; that type of
14 situation where there would be refund procedures that would
15 have to be established.

16 Senator Packwood. I am curious as to what difference
17 it would make.

18 Let's say they don't file a return. My hunch would be
19 that the bulk of these very low-income children are going to
20 be going to Catholic parish churches--my guess- and the
21 administrator of this school would be very helpful in telling
22 them how to fill out the return. I will wager they will have
23 returns at the school.

24 Why is it complex?

25 Let's say you have never filled out a return before and

1 you have no income but now you are going to be eligible for
2 refundable tax credit--fill out Jane Smith, John Jones--you
3 saw the box we had years ago when we indicated how we do this,
4 and you would pay \$800 tuition, and you were entitled to \$200
5 credit, and down at the bottom it says how much money you
6 are entitled to, \$200.

7 How is that different from any other refund that the IRS
8 has to send out?

9 Mr. Glickman. It possibly would not be any different in
10 that sense, Senator Packwood. The point I was making, it
11 would cause the Service to set up a procedure for checking
12 out the refunds. Whenever you have this type of situation,
13 you are going to have to start worrying about this information,
14 and it is going to have to be supplied.

15 Senator Packwood. You wouldn't audit them any different-
16 ly than the rest of all the other returns you have, would you?

17 Mr. Glickman. That is a good question. This is money
18 that would be flowing from the government to these people.
19 The question would be, are we going to let our normal audit
20 statistical sampling apply here, which is relatively low. Since
21 it is money, like I said, flowing out, are we going to try
22 to set up something which we would monitor closer? I mean,
23 I think the number of people that would be covered by it, it
24 would put an additional burden on the Service from an audit
25 standpoint.

1 Senator Packwood. Let me ask you this from the stand-
2 point of cost:

3 Would it be any more expensive to audit 20 percent of
4 them or all of them than it would be to administer to every
5 one of those 125,000 Title I grants?

6 Mr. Glickman. I do not know the answer to that, Senator
7 Packwood.

8 Senator Packwood. My hunch would be no.

9 Senator Moynihan. Could I ask a question of Mr. O'Malley?
10 I do not want to press him, but just so we know the basis on
11 which we are proceeding.

12 The issue here is whether we are involved in some radical
13 departure with respect to social policy or simply an exten-
14 sion of it, the point being from our point of view that there
15 is now a large participation of non-public schools in Federal
16 programs. They participate in school lunch programs, do they
17 not?

18 Mr. O'Malley. Yes, Senator; they do.

19 Senator Moynihan. When tuition payments under social
20 security for children in elementary-secondary schools, social
21 security payments go to the schools, do they not?

22 Mr. O'Malley. I believe that is restricted to day care
23 and preschool, Senator. I am not sure.

24 Senator Moynihan. I think you would find not, sir, but
25 you can check that out for us.

1 When you say that under the Title I ESDA no money goes
2 directly to the child, well, no money goes directly to the
3 child in public schools. Children do not get money. Admin-
4 istrators and teachers do. I would hope you would give us a
5 data base, and particularly I would like to add to Senator
6 Packwood's request that you tell us what ΔSecretary Bell has
7 said has been the past impediment.

8 May I say I negotiated an agreement that led to the
9 Elementary-Secondary Education Act. I know what agreement
10 in 1964 was. I know what the expectations were. I know they
11 were not kept. The reason we are in this situation with one
12 party that entered in good faith agreement to share in the
13 first bulk Federal Aid to Education program, and to this day
14 the basic one was kept out.

15 It would be helpful if we could hear from you what
16 happened, by what regulation, and what degree do you think
17 they have changed? I do want to make the point that some
18 say, and some dispute, and there is an issue question: Are
19 we moving in a continuum or are we breaking altogether new
20 areas of social policy?

21 Mr. O'Malley. Senator, in response to that, again I
22 can speak of my personal experience as a Federal program co-
23 ordinator, starting in 1967, three years after you passed
24 the legislation, I do know for a fact that a number of
25 States had difficulty in getting private school students

1 participating in Title I and Title III, innovative programs.
2 Title II, library books and material, was easily implemented
3 in almost every one of the States. But most of the States
4 had considerable difficulty in getting adequate Title I ser-
5 vices to private school children. There were some exceptions
6 in many of the inner-city areas, major cities, but it was
7 not until the late '60's, early '70's, when there started to
8 come some breakthroughs in the provision of services to
9 eligible children under Title I, and I believe the situation
10 has been gradually improving over the years as the relation-
11 ship between public and private educators has flourished, I
12 think as a result of the Federal programs. But there are
13 still some gaps in the program, and hopefully our regulations
14 will address these gaps.

15 Senator Moynihan. Thank you.

16 The Chairman. I might say we have a vote in progress.
17 We hope to resume as soon as we have voted.

18 I wonder if when we come back, we might go to the ques-
19 tion of discrimination. I think Senator Moynihan and Senator
20 Packwood, and then if we can resolve that area, decide what
21 we are going to do with this legislation. If there are
22 amendments to be offered, they will be offered.

23 We will be back in about ten minutes.

24 Senator Chafee. Mr. Chairman, I hope we will get a
25 chance to discuss the merits of the whole concept of the

1 legislation.

2 The Chairman. Fine-

3 (Brief recess.)

4 The Chairman. I think both Senators Moynihan and Pack-
5 wood have questions on the discrimination section.

6 Bob, do you want to go into that now, then Senator Chafee
7 would like to ask questions on the concept.

8 Senator Packwood. I have, Bob, 22 questions that I have
9 given to the Administration following our hearing last Monday
10 that they say they can have answers to by next Wednesday. I
11 would be inclined to send this bill out. I was rather
12 impressed with some of the answers they gave, not so impressed
13 with some of the others; and I will be happy to give this
14 list of 22 questions to members of the Committee and put it
15 in the record. I think it covers every possible discrimina-
16 tion question anybody on the Committee might have. I think
17 when we have the answers back as with refundability, we can
18 decide then after this is on the Floor, and we are bringing
19 it up, whether or not we want to make some changes in the
20 discrimination provisions or not.

21 I do not want to hold up at least the reporting of the
22 bill until I have these answers.

23 The Chairman. We will wait a second for Senator Moyni-
24 han.

25 Senator Boren. Are we open to questions?

1 The Chairman. Right. I thought Senator Moynihan had
2 questions on the discrimination area, but go ahead.

3 Senator Boren. I wanted to ask, in that area, what is
4 the planning for enforcement? What schools have to file
5 reports setting forth their policies in regard to admissions
6 policy, financial aid and extra curricular activities and
7 so on? Would they have to file any report?

8 Mr. Brockway. Senator, under the legislation, there is
9 a special procedure under which they would have to file a
10 statement stating they had non-discriminatory policy, both
11 to government and also to the parent, in addition to the extent
12 that they are required under 501(c)3 to do that, under present
13 law, and that obviously turns on what the Supreme Court
14 decides in the pending cases; they would also have some obli-
15 gation.

16 Senator Boren. How often would they have to do this,
17 annually?

18 Mr. Brockway. Annual report.

19 Senator Boren. Who would check to make sure; who would
20 make inspections of private schools, to make sure they were
21 complying? Suppose someone raised a complaint; what agency
22 of the government? Would it be the Justice Department?

23 Mr. Brockway. There is a special procedure under legis-
24 lation for declaratory judgment procedures where a person
25 who feels that they have been discriminated against could file

1 a complaint with the Justice Department within 180 days after
2 the act, and the Justice Department then reviews the complaint
3 and makes it known to the educational institution for its
4 comment. Then within one year after the initial act, the
5 Justice Department can file in Federal District Court a
6 declaratory judgment procedure that the school discriminated.

7 Senator Boren. If a school were found to have dis-
8 criminated, would the amount of the tax credit claimed by all
9 the parents in the school, would they have to refund that?
10 How would that be recouped? Let's say I got a claim for
11 tuition tax credit, had a child in school, and a year later,
12 following that tax year, it was ruled that that school was
13 in violation; that it was discriminating; would the govern-
14 ment send me a bill to pay up \$200 or \$300 or however much
15 tax I owed?

16 Mr. Brockway. Effectively, that is what would happen.
17 It would be a tax deficiency. As a result, under the pro-
18 cedures, when a school gets a notification that the Justice
19 Department has filed against it, that it must also notify
20 in a certificate that has non-discriminatory policy, it has
21 to notify to the parents of the students paying the tuition
22 that both the year that complaint was filed and he succeed-
23 ing two years, that there was a complaint outstanding, so
24 that the parent would be on notice.

25 The Chairman. Senator Moynihan, do you have any questions

1 in this area?

2 Senator Moynihan. Yes, I do, Mr. Chairman.

3 As I think you know, and I know that my colleague in this
4 enterprise, Senator Packwood, knows, we were shaken last
5 January when the Administration announced that it would no
6 longer pursue the procedures with respect to the tax-exempt
7 status of discriminatory schools which were placed in effect
8 in 1971. I was counselor to the President in 1970 when the
9 issue arose, and I helped draft the Presidential statement
10 that said there will be no tax exemption for discriminatory
11 schools, and that the Commissioner of the Internal Revenue
12 Service will issue regulations to that effect.

13 Then one day we woke up this winter and we find the
14 Administration thinks that is no longer so. I understand
15 there is a legitimate argument of legal difference of view.
16 But it is also the case that the Supreme Court of the United
17 States, taking on this subject, has had to appoint a former
18 Cabinet officer of the Ford Administration, Honorable William
19 C. Coleman, to represent the government on behalf of non-
20 discrimination because the government will not represent it-
21 self. That is a sorry thing; and that just set off a set
22 of alarms that had not been there. We thought we had
23 settled this matter.

24 Is Mr. Chapaton here?

25 Mr. Glickman. I am Mr. Chapaton's deputy.

1 Senator Moynihan. You are very welcome, Mr. Glickman.
2 You know the respect we hold for you in this Committee, but
3 it obviously is not a very important subject to the Admin-
4 istration, obviously.

5 I would like to ask you this, sir.

6 I am going to propose an amendment right here and now
7 on that matter, on the subject of discriminatory schools,
8 discriminatory policies of schools. There is a misprint
9 here, under Section 4--well, anyway, line 21, Page 11, it
10 says, "(a) in general.--Upon petition by a person who
11 alleges that he has been discriminated against under a
12 racially discriminatory policy of an educational institution,
13 the Attorney General is authorized, upon finding good cause,
14 to bring an action against the educational institution in
15 the United States District Court."

16 Now, Mr. Glickman, how after all we have been through
17 can we propose legislation that says the Attorney General
18 "is authorized" to enforce the Constitution instead of
19 "shall."

20 Mr. Glickman. Senator Moynihan, as I understand it,
21 the Attorney General always has discretion to make the
22 determination of whether a suit is appropriate to be brought.

23 Senator Moynihan. Even if on finding good cause?

24 Mr. Glickman. I think if he finds good cause,
25 undoubtedly the suit would be brought in that sense--

1 Senator Moynihan. Why shouldn't we say "shall"?

2 There are a lot of whispers going on, and there is no
3 point--

4 Mr. Oliver. I am general counsel of the Department of
5 Education. My name is Daniel Oliver.

6 May I comment?

7 Senator Moynihan. Of course.

8 Mr. Oliver. On Page 12, paragraph (c), the line
9 beginning at the end of the paragraph, beginning at the end
10 of line 13, says, "Before any action may be filed, the
11 Attorney General shall give the institution a fair opportunity
12 to comment on all allegations made against it and to show
13 that the racially discriminatory policy alleged in the
14 petition does not exist or has been abandoned."

15 If we insert the word "shall," where you would like to,
16 it might decrease the Attorney General's--

17 Senator Moynihan. Would not the Court have the same
18 opportunity in hearings or the IRS have the same opportunity?

19 Senator Bradley. Would the Senator yield on that point?

20 I think we are now into an area that all of us are extremely
21 concerned about. I think there is a strong feeling on the
22 Committee that we do want to pass tuition tax credit legisla-
23 tion but that we do not want to do it in any way that would
24 result in a racially discriminatory policy being followed by
25 private schools. I do not think that is the intent of the

1 Administration; I would hope not.

2 Mr. Chairman, I think that we really need to go over
3 these sections of this bill with a fine-tooth comb. For
4 example, what the general counsel of the Education Department
5 just said, let's look at what he just said. He said that
6 you do not want to put "shall" in there because you want to
7 give the school the opportunity to demonstrate that they are
8 not discriminating.

9 As I understand this procedure, there is the act of
10 alleged discrimination. There is a 180-day period in which
11 that person has the right to lodge a petition. The Attorney
12 General then asks the school to give a response and only
13 then does he determine good cause. So I think that to argue
14 that you do not want to say "shall" because the response
15 might be that they have abandoned discriminatory procedure
16 ignores the fact that the school's response is in part the
17 calculation that the Attorney General has to make in order
18 to find good cause.

19 Now, I think this is the kind of opener of what I think
20 we have to do on these discrimination segments of the bill.
21 I do not think it is something that we want to kind of rush
22 through with questions being answered by someone--I cast
23 no aspersions--whispering in the ear on a matter that is
24 fundamental to our Constitution and fundamental to what we
25 think about ourselves hopefully as Americans.

1 So I can take each one of those points and go over this
2 bill with a fine-tooth comb because I think that is what we
3 want to assure. We want a bill to come out of here, we want
4 to be able to assist private schools, but we in no way want
5 to lock ourselves into a corner here where we are turning
6 back the clock.

7 I am sure that is not the intent of the Committee as
8 we have reiterated over and over and over..

9 Therefore, I think it is incumbent upon us in this
10 Committee to go over these issues with a fine-tooth comb,
11 and I know that is what your intention is.

12 The Chairman. I certainly agree, Senator Bradley.
13 If there is any hit that we might be passing legislation that
14 would somehow aid segregated schools, then we are not going
15 to move it at all. I think we need reassurance, as Senator
16 Bradley, Senator Moynihan and others will suggest, a care-
17 ful analysis of each provision in the bill.

18 Senato Packwood has submitted a series of some 20 ques-
19 tions. I understand you are now in the process--some
20 different agencies--responding to those questions.

21 Does the Justice Department have a representative here?
22 I would assume they would be directly involved also.

23 Senator Moynihan. Does the Justice Department have a
24 reprsenetative here?

25 Mr. Morrison. Senator Moynihan, no, sir.

1 Senator Moynihan. No, the Justice Department does not
2 have a representative here when they know the heart of our
3 concern is this subject.

4 Mr. Chapaton is not here. The Justice Department is
5 not here.

6 Mr. Chairman, for someone who has worked as long as I
7 have done on this subject, I find this hard to understand.

8 The Chairman. I think it makes the point. I would hope
9 what we might do is to make certain that the different
10 agencies who are involved in this one issue of discrimination
11 and non-discrimination will be available with the members
12 and the members of their staff this afternoon, tomorrow,
13 to make certain that we have not overlooked anything in
14 this area; because if in fact there is even any hint that
15 we might be moving backward in this area, then we are not
16 going to report the bill. We are not going to finish this
17 markup this morning in any event.

18 What I might suggest is that we immediately start, some-
19 body start coordinating efforts in this one area. I do not
20 know who the lead agency would be. I assume it would be the
21 Department of Education which would take the initiative and
22 bring someone from Justice and Treasury and other members and
23 their staffs as early as this afternoon if we can do that,
24 and have a thorough airing of every phrase, every word that
25 might give some pause for concern.

1 Would you do that?

2 Mr. Oliver. Yes.

3 Senator Bradley. I think that is certainly better than
4 just dealing with representatives that are here. I would
5 hope that the people who are brought in from the Justice
6 Department and from the Treasury Department would be able to
7 address this question specifically rather than education
8 policy. I mean, the Committee is, I think, in some agree-
9 ment on the education policy aspect. Revenues, I think that
10 is a matter of punching some numbers, but on discrimination
11 I think that you want people who understand the civil rights
12 laws and their interaction; and you want to be able to frame
13 a discrimination section here that is airtight, and I think
14 there are a number of other areas that we have to address in
15 the Committee prior to any report; and I hope that we would,
16 and I say this because I would like to see this enacted.

17 Senator Packwood. You were here earlier when I said
18 I am sending a list of 22 questions on civil rights. I
19 raised them on Monday to the Administration. They will have
20 an answer back a week from today, they indicated. I think
21 the questions cover every conceivable thing, and the answers
22 may not be satisfactory, but I do not think I have left out
23 any questions as to what we want to know about their inten-
24 tions and how they regard the present law or the law in the
25 bill and how they would interpret it; but I believe I would

1 agree with you that if the answers are not satisfactory, I
2 would be prepared to try to write--I may try to do it regard-
3 less of the answers--a civil rights section that is as
4 airtight as you can make one, fully realizing that you can
5 probably not make one that is 100 percent airtight because
6 there is always some prosecutorial discretion in any kind of
7 law. Make the law as clear as possible as to what we intend.

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Senator Bradley. So we will wait till we hear from the Department for the answer to those questions?

Senator Packwood. What I would suggest, Bill, is this. I think we have three issues; John wants to talk about the merits of the bill, and we have got three issues--discrimination, CAP, refundability. I think we ought to decide on those issues generically. Do we want to have refundability, do we want to have a cap, or where, and do we agree that we want it to be as anti-discriminatory as possible?

Then I think we ought to send the bill out and prepare committee amendments and be ready for the floor to offer them, but I am not sure I would hold up sending the bill out until we had resolved all of those in committee.

Senator Bradley. Let me just respond by saying that as we have seen this morning the issue of discrimination is one that has some different perceptions, and I think it is very important that as a body we talk about that rather than having separate meetings in separate places and polling the committee in a way that the issue might not be framed the same way for all of us.

And I frankly would like to resolve this issue before it gets out of the committee, because I have great faith in this committee's judgment on the issue of discrimination--not that I don't have great faith in the Senate as a whole, but I think it is our responsibility as a committee to be able to

1 resolve that to the best of our ability prior to submitting
2 it to the Senate. That is kind of our constitutional respon-
3 sibility.

4 Senator Packwood. I wasn't talking about the committee
5 one at a time afterwards, trying to see what we would come
6 up with; I was suggesting that we would get together as a
7 committee--we would have sent the bill out, and it's on the
8 calendar, and we would get together as a committee after-
9 wards and say all right, these are the amendments we will
10 offer on refundability, if we don't like the Administration's
11 suggestions on Title 1; these are what we would offer on
12 discrimination, and maybe we can resolve the CAP issue here--
13 I don't know.

14 The Chairman. I wonder if we might do this--I think
15 until we have some initial resolution of the discrimination
16 area, it doesn't do much good to spend a lot of time on
17 refundability and the cost and CAP. So what I will suggest
18 is that we move on to the debt ceiling at this time, defer
19 any further action on this markup, but this afternoon the
20 appropriate representatives who are in a position to make
21 policy decisions start working on this area. They may not
22 be able to answer all of Senator Packwood's questions, but I
23 would hope that they could--in other words, if there is any
24 question at all, we may have to wait until we have answers to
25 those questions. So I would hope they might expedite that

1 request also.

2 But it seems to me that it's fundamental, if we have a
3 question on the discrimination area, the non-discrimination
4 area, that should be resolved before we try to solve some of
5 the questions that may not be so fundamental--refundability,
6 on the CAP, on other areas. And I know that Senator Chafee
7 and others want to have extensive questions about the con-
8 cept, to make certain that we are going in the right direc-
9 tion. And I think we should withhold that, too. If we
10 don't resolve the discrimination problem, or at least the
11 questions, there may not be any further markup.

12 So at this point we will end the markup session on tui-
13 tion tax credits, and we will now move to the extension of
14 the debt ceiling, so I guess we need some new players.

15 [Pause]

16 Let's see, who wants to give us--we had a one-page memo
17 on the increase in the public debt limit. Who wants to give
18 us preliminary information? And who is representing Treasury?

19 Mr. Pieler. Mr. Chairman, Mark Stalnecker on my left
20 is with the Treasury Department, with the Office of Public
21 Debt, and he will answer any questions concerning the Ad-
22 ministration.

23 The Chairman. Well, one thing I want to find out ini-
24 tially--yesterday afternoon I had received from Senator Long
25 an amendment that Senator Armstrong and Senator Long have an

1 interest in, and I ask that be delivered to Treasury. I
2 wonder if they have had a chance to examine that amendment?

3 Mr. Stalnecker. We have had a chance to take a preli-
4 minary look at the amendment, and if you would like the
5 Treasury's views on it, I would be happy--.

6 The Chairman. Well, not if you have only taken a pre-
7 liminary look, because I think it's a rather significant
8 amendment. I think both Senators Armstrong and Long prefer
9 that you look at it rather carefully, is that correct, Bill?
10 They only received it yesterday, so don't give me a prelimi-
11 nary rejection--or preliminary approval. What do you have,
12 preliminary approval?

13 Mr. Stalnecker. Well, we have some reservations about
14 the efficaciousness of this.

15 The Chairman. That's why I think it's better that we
16 discuss that with Senator Armstrong and Senator Long. In
17 fact, I think Senator Armstrong has indicated that it may not
18 be in final form, is that correct, Bill?

19 Senator Armstrong. Yes, Mr. Chairman. The amendment
20 that Senator Long and I plan to offer does need some techni-
21 cal work, in my opinion--and I am glad you submitted it to
22 Treasury, I have also submitted it to OMB. I don't think we
23 have got the numbers quite nailed down yet.

24 Mr. Stalnecker. I think it's important that the OMB
25 input also be heard here, because it would involve changes in

1 terms of Presidential authority to--.

2 The Chairman. We understand it might have some budget
3 implications, too, under Section 306 of the Budget Act. But,
4 in any event, if you will permit us to do that, Bill, I will
5 ask them to thoroughly review it, and hopefully to be of-
6 fered on the Senate floor as an amendment.

7 All right, Mr. Pieler and Mr. Brockway, can you give us
8 a quick--.

9 Mr. Pieler. Mr. Chairman, the one-page memo that the
10 Members should have indicates that what we have before us is
11 H. J. Res. 520, a House-passed resolution that provides for
12 a public-debt ceiling to cover through the end of fiscal
13 1983.

14 Senator Chafee. Mr. Chairman, I have some trouble
15 understanding. Can we get that mike closer?

16 Mr. Pieler. I was just saying that the matter before
17 the committee is H. J. Res 520; it is a resolution passed by
18 the House in connection with their consideration of the
19 first budget resolution. And it would provide a debt ceiling
20 through fiscal 1983. The amount of the increase is \$147.1
21 billion, which should be consistent with Administration pro-
22 jections in the mid-year review of the budget, both for the
23 budget deficit and for off-budget financing.

24 It is also consistent with the budget resolution economic
25 assumptions and deficit projections.

1 This resolution would pick up as of October 1st of this
2 year and carry through September 30th of 1983, and the ceil-
3 ing provided is \$1 trillion 290.2 billion as of September
4 30, 1983.

5 The Chairman. Does the Joint Committee have anything
6 to add? It's just a flat-out extension, is that correct?

7 Mr. Brockway. It's an extension, beginning at the end
8 of this fiscal year, it will increase it by--.

9 The Chairman. As I understand it, the present debt
10 ceiling extension terminates on September 30, midnight?

11 Mr. Brockway. September 30.

12 The Chairman. So it's not so much the amount, it's
13 the date that we have to act, not later than September 30.
14 And it's also fair to state that the Majority Leader has
15 indicated to me rather strongly that he would very much like
16 us to report the debt ceiling so that it might be a vehicle
17 for a number of discussions that would be coming up maybe
18 next Monday, so it's critical, if we can, that we report it
19 out today.

20 Are there any questions? Senator Armstrong?

21 Senator Armstrong. I do have a couple of questions I
22 wanted to raise. I did not here Mr. Pieler say, but is the
23 number in this bill, the \$1 trillion 290 billion--is that
24 consistent with the number in the budget resolution?

25 Mr. Pieler. That is the number provided by the first

1 budget resolution.

2 Senator Armstrong. It is the number that was in the
3 budget resolution.

4 Mr. Pieler. That is correct.

5 Senator Armstrong. Second, Mr. Chairman, I would like
6 to move that we do away in this bill with the notion of the
7 temporary debt. That is a housekeeping measure at one level,
8 but at another level it promotes the most irresponsible kind
9 of situation imaginable: every time the debt ceiling comes
10 up for extension, we have this fiction that two-thirds of it
11 is temporary in nature, and there is a reversion to--what is
12 the number, 435?

13 Mr. Pieler. The permanent ceiling, Senator Armstrong,
14 would be 400 billion.

15 Senator Armstrong. 400 billion. And it is really a
16 very bad situation, it seems to me. I don't have the lan-
17 guage, but it's a simple thing to draft, to just extinguish
18 that distinction.

19 I want it clearly understood that I am not, by making
20 this suggestion, saying that I favor a permanent debt of a
21 trillion-plus dollars. I wish that in fact that we had a
22 temporary limit that was of some significance, but what it
23 is is a procedural situation that is just untenable, in my
24 view. I don't think that is a controversial proposal within
25 this committee.

1 And so I would just move that with the usual understand-
2 ing that it would have to be drafted in the proper way.

3 The Chairman. I wonder if we might hear from Treasury.
4 That was suggested I think not the last time--the time before
5 we extended it, the temporary debt. The Treasury raised some
6 objection, which I am not certain I fully understood at the
7 time or remember.

8 Mr. Stalnecker. Well, I would just like to refer back
9 to the most recent problem we had with the debt limit, back
10 in June, when there would not have been a reversion back to
11 a permanent level of 400 billion, but we were just plain
12 running out of issuing authority because we were approaching
13 the current temporary level. And that could be analogous to
14 what could happen if we enlarged the temporary ceiling; it
15 would give us a few extra days in terms of financing the
16 government's operation, because we wouldn't have to pay off
17 maturing debt as it comes due in an effort to get back to the
18 so-called permanent \$400-billion ceiling.

19 But ultimately, if the government was still operating
20 in a cash-deficit basis, the fact that there would be a
21 higher permanent level of debt limit would only give us a
22 few more days breathing space, and ultimately we would still
23 have a problem where the government would run out of cash,
24 because we could not issue new securities to meet the opera-
25 ting needs of the government.

1 I would also like to point out that if this change were
2 made, it would have to go back to the House.

3 The Chairman. We don't mind going back to the House.

4 Senator Armstrong. We like them over there.

5 Mr. Stalnecker. Because the House bill kept the \$400-
6 -billion permanent level and just put an incremental addi-
7 tion, temporary.

8 The Chairman. Well, in other words, it's not a bad
9 idea, then.

10 Mr. Stalnecker. I don't think that the Treasury would
11 oppose this at all. I would just like to point out that it
12 wouldn't alleviate the financing problems that we have when-
13 ever a debt-limit problem is reached, and ultimately, as long
14 as the government is operating at a deficit, the Treasury
15 would ultimately need to have additional issuing authority
16 to finance the needs of government.

17 The Chairman. Bill, could you restate your motion?
18 Senator Byrd has a continuing interest in this.

19 Senator Armstrong. Well, Mr. Chairman, I was looking to
20 see if we had a copy of the bill, and I was just going to go
21 ahead and draft the amendment, but I don't seem to have a
22 copy of it in front of me.

23 But the essence of it is to eliminate the distinction
24 between temporary and permanent debt, because that fiction
25 has triggered a lot of difficulty.

1 Let me just take a moment and see if I can't put into
2 the form of an amendment--.

3 The Chairman. I think it's a good idea.

4 Senator Byrd. Do you have a bill?

5 Mr. Brockway. Senator Byrd, I gather that Senator
6 Armstrong has not drafted this change yet, but--.

7 The Chairman. No, we are talking about the bill it-
8 self.

9 Senator Armstrong. I have the bill, Mr. Chairman, but
10 that is not what we would want to amend, because this is
11 keyed to the temporary debt limit. But in essence what we
12 would want to say is that, effective such and such a date,
13 the limitation on the public debt is \$ blank--whatever it is
14 --and it shall not be increased above that amount except by
15 subsequent act of Congress. In other words, to just simply
16 finesse the question of the temporary debt by taking that out
17 of the statute, this notion that it is going to revert to
18 some lower number.

19 Mr. Brockway. Senator, just to clarify your amendment,
20 this is in effect then to make the permanent debt ceiling
21 \$1.29 trillion rather than--just keep it at that level.

22 Senator Armstrong. Well, it's actually to make the
23 debt ceiling 1.29. It is neither a permanent debt ceiling
24 nor a temporary debt ceiling, it is simply the limitation on
25 the amount of public debt which may be authorized until some

1 Senator Byrd. What figure did you use, Bill?

2 Senator Armstrong. Senator, I was not changing the
3 figure that was suggested by Treasury. I do not favor that
4 figure, but that is a separate issue from the drafting ques-
5 tion that is before us.

6 Senator Byrd. Your proposal, as I understand it, is to
7 abolish the distinction between permanent debt and temporary
8 debt--all of it is debt, whether you call it temporary or
9 whether you call it permanent. So your proposal is just to
10 call it debt.

11 Senator Armstrong. Precisely.

12 The Chairman. Is there any objection to that suggestion
13 of Senator Armstrong?

14 Senator Chafee. It seems to me it has some merit, be-
15 cause what happens is, every year we are brought up to the
16 crisis point--and it isn't that we have just got to provide a
17 few or a couple of billion more or maybe 20 or 30 or 40 or
18 100 billion more; it's that we drop way back to 400, or what-
19 ever the limit is, which is of course ridiculous.

20 Mr. Chairman, I missed a part here. Was there a ra-
21 tionale given as to why we should--has anyone got an argument
22 on the other side?

23 The Chairman. The main argument is we would have to go
24 back to the House, and it might not pass, but if it didn't
25 pass, we would try it again. I don't know that there is any

1 real argument. We have raised it a couple of times, and it
2 has always been, well, maybe we couldn't pass it again
3 through the House. But I think the House has been so coopera-
4 tive lately that we wouldn't have any problem.

5 Senator Chafee. Also I think the record is pretty clear,
6 that by fostering this amendment the Senator from Colorado
7 is not going on record in favor of increased federal expen-
8 ditures. I think he has made that quite clear.

9 Senator Armstrong. I thank the Senator from Rhode
10 Island for making that point for the record.

11 The Chairman. Is there any objection to the Senator
12 from Colorado's amendment?

13 If it, it will be drafted and approved--drafted before
14 we approve it.

15 Senator Byrd. Mr. Chairman, could I ask a question?

16 The Chairman. Yes.

17 Senator Byrd. What is the debt as of today or last
18 week, the latest figure you have got?

19 Mr. Stalnecker. As of the end of July, the debt subject
20 to limit was 1 trillion 90.5 billion.

21 Senator Byrd. Trillion zero ninety?

22 Mr. Stalnecker. One trillion 90.5 billion.

23 Senator Byrd. What do you estimate it will be September
24 the 30th a year from now?

25 Mr. Stalnecker.. We estimate that, adjusting our initial

1 estimate for the mid-session review deficit numbers for fis-
2 cal '83, that the debt subject to limit at the end of 1983
3 will be approximately 1 trillion 290 billion dollars.

4 Senator Byrd. So what you are saying is--.

5 Mr. Stalnecker. That includes a contingency for \$5
6 billion.

7 Senator Byrd. What you are saying is, in 14 months the
8 deficits will equal \$200 billion?

9 Mr. Stalnecker. Well, that number includes not just the
10 on-budget deficit, of course, but the so-called off-budget
11 deficit, which is financed from Treasury borrowing.

12 Senator Byrd. Well, it's a deficit.

13 Mr. Stalnecker. And issuance of securities to the
14 Trust Fund.

15 Senator Byrd. It's a deficit.

16 Mr. Stalnecker. Yes, sir.

17 Senator Byrd. So the deficit--we want to get this
18 straight, because I think it's important--the deficit in the
19 next fourteen months will be \$200 billion, under your own
20 figures?

21 Mr. Stalnecker. That's correct.

22 Senator Byrd. That's correct--your statement is, that
23 is correct?

24 Mr. Stalnecker. Not the so-called budget deficit, but
25 when you include the off-budget and the total financing needs

1 of the federal government, that is correct, yes, sir.

2 Senator Byrd. The government's total deficit, including
3 off-budget deficits, will be \$200 billion in fourteen months.

4 Mr. Stalnecker. Including the issuance of securities
5 to the trust funds, that is correct.

6 Senator Byrd. Now, what do you estimate the deficit
7 will be September 30, 1985? If I said "deficit," I meant
8 "debt." What do you estimate the national debt will be as
9 of September 30, 1985?

10 Mr. Stalnecker. Senator, we don't have debt numbers
11 our that far, but, as you know, the projected budget numbers
12 do not show a surplus going out that far, so you would have
13 to increase the debt to take into account the financing
14 requirements for the on-budget deficit plus the projected
15 off-budget deficits for the next two years?

16 Senator Byrd. You don't have a projected national debt
17 figure for September 30, 1985?

18 Mr. Stalnecker. No; we can supply those numbers for you.
19 I don't have them with me right now, Senator.

20 Senator Byrd. Well, do you have the Senate budget
21 resolution that the Senate approved--as a matter of fact,
22 the budget resolution approved by the Congress, do you have
23 that? And you will find that that figure--I believe, if my
24 memory serves me correct--is \$1 trillion 533 billion.

25 Mr. Brockway. That's correct, Senator.

1 Senator Byrd. But Treasury says it doesn't have a
2 figure, is that what you are saying?

3 Mr. Brockway. These are the figures in the resolution,
4 Senator.

5 Senator Byrd. The figure in the first concurrent reso-
6 lution is \$1 trillion 533 billion. Now, the Congress seems
7 to have that figure. Does Treasury have a different figure?

8 Mr. Stalnecker. No, we would be using the number in
9 the first budget resolution at this time.

10 Senator Byrd. What's that?

11 Mr. Stalnecker. Those numbers would be consistent with
12 all the deficit and off-budget deficits incorporated in the
13 budget resolution.

14 Senator Byrd. So the Treasury's position is, your
15 estimate is that the debt will be \$1 trillion 533 billion on
16 September 30, 1985, am I correct in that statement?

17 Mr. Stalnecker. That is not an official Administration
18 projection, Senator. We do not have an official estimate out
19 that far. But the numbers as I understand them would result
20 in a debt-subject-to-limit number of approximately that
21 figure, given the budget assumptions incorporated in the
22 resolution.

23 Senator Byrd. The spending envisioned in the budget
24 resolution will project to a national debt of \$1 trillion
25 533 billion by September 30, 1985, is that stated correctly?

1 Mr. Stalnecker. The expenditures that are associated
2 with the first budget resolution are consistent with that
3 debt-subject-to-limit number, yes.

4 Senator Byrd. All right, now, on April the 30th of
5 this year, the national debt was \$1 trillion 65 billion, am
6 I correct on that figure?

7 Mr. Stalnecker. It was actually \$1 trillion 66.6 bil-
8 lion.

9 Senator Byrd. Now, my next question, then, is--in that
10 three years and five months from April the 30th, 1982, to
11 September the 30th, 1985, using the budget resolution figures,
12 the national debt will increase by \$468 billion, or 44 per-
13 cent? Do you have any quarrel with those figures?

14 Mr. Stalnecker. No.

15 Senator Byrd. Now, what is your estimate of the defi-
16 cit for fiscal year 1983?

17 Mr. Stalnecker. \$115 billion.

18 Senator Byrd. 115 billion. Is it your own personal
19 solid judgment that the deficit will be as low as \$115 bil-
20 lion?

21 Mr. Stalnecker. I think, Senator, that that assumes
22 that the spending cuts and revenue increases that have been
23 recommended by the Administration are enacted into law, and,
24 of course, the deficit figures also are highly dependent upon
25 the economic conditions that obtain over the next year or so.

1 But I do think that the \$115 billion is a reasonable
2 figure, if legislative initiatives to reduce spending and
3 increase taxes are carried out.

4 Senator Byrd. If the tax bill is approved, as now
5 before the Senate-House conference, if that legislation is
6 approved, you figure that 115 is a reasonable figure?

7 Mr. Stalnecker. Well, more than that has to be done,
8 Senator. There have to be substantial spending cuts enacted
9 as well, but certainly that is an inherent part of the effort
10 to get the budget back down to the \$115-billion level.

11 Senator Byrd. Well, now, as I recall, Secretary
12 Baldrige said that it would be far greater than 115. I
13 think he used 130 to 140, did he not?

14 Mr. Stalnecker. The accounts that I read indicate that
15 the Secretary did make a statement that the deficit could be
16 that high. Again, I would just stress that one's budget
17 deficit estimate is dependent upon your economic assumptions
18 and also how much you assume is done here in the Congress in
19 terms of spending and tax increases.

20 Senator Byrd. The CBO has a much higher figure than you
21 have, is that correct?

22 Mr. Stalnecker. That is my understanding, yes.

23 Senator Byrd. And the Secretary of Commerce has a much
24 higher figure than you have, is that correct?

25 Mr. Stalnecker. According to the news accounts I've

1 read.

2 Senator Byrd. Well, I think it's interesting to note
3 that three consecutive years in a row--'82, '81, '80--the
4 spending figure submitted by the first budget resolution
5 proved to underestimate spending by \$44 billion--in each of
6 those years.

7 Now, if that is the case, then these deficits are going
8 to be far greater than your \$115-billion figure. It would be
9 \$150 billion.

10 Do you feel that an estimate of \$140 to \$150 billion
11 is an unreasonable estimate for the 1983 budget?

12 Mr. Stalnecker. I don't think a deficit higher than the
13 \$115-billion estimate can be ruled out, because the estimates
14 are very sensitive to economic assumptions, and, as you know,
15 a difference in a percentage point in real-GNP growth or
16 inflation can have a significant impact on outlays and
17 revenues.

18 So I don't believe a number in the \$130-billion or
19 higher range can be ruled out, but I am just suggesting that
20 you can make any kind of budget deficit come out depending
21 on one's economic and legislative assumptions.

22 Senator Byrd. Well, I just, as one Senator, want to
23 express the view that I am horrified by the projected defi-
24 cits. I am deeply alarmed that the Senate of the United
25 States, the Congress of the United States, would pass a budget

1 resolution calling for spending that will increase the na-
2 tional debt by 44 percent in three years and five months.
3 It's not your fault--I'm not directing it at you, you didn't
4 vote the budget resolution, and neither did I. But the
5 Congress did.

6 Mr. Stalnecker. Senator Byrd, I would just also say
7 that the deficit could be somewhat lower than \$115 billion
8 if expenditures are cut more heavily than suggested or if
9 the economic outlook improves somewhat.

10 Senator Byrd. Well, the possibility of that would be
11 1000 to 1, those odds. If you think Congress is going to
12 cut spending, you've got a lot more faith in the Congress
13 than the Senator from Virginia.

14 Senator Long. Mr. Chairman.

15 The Chairman. Senator Long.

16 Senator Long. I am concerned that we on this committee
17 may be and have been perhaps in the process of permitting
18 this debt-limit legislation to be anything other than what
19 it was intended to be. Now, in the beginning, as I under-
20 stand it, the fact about the debt legislation was that
21 initially, back in World War I, when the government would
22 want to borrow money, we would have a Liberty Bond Act and
23 the government would pass a law permitting a bond issue to
24 help pay for the war, and the government would be permitted
25 to go out and borrow some money to help meet expenses because

1 we were going into debt during the war.

2 Now, subsequent to that, this debt-limit legislation
3 developed where the government could borrow money and the
4 debt-limit bill would authorize them to borrow money to pay
5 necessary expenses of government.

6 Now, as everyone who has been around here for awhile--
7 as you have, Mr. Chairman, and almost all of us who have
8 some familiarity with it--know, this thing has just become
9 a way of life, just living on the deficit. People come in
10 and want a revenue-sharing bill, and we have Members of this
11 committee saying: revenue sharing, there is no revenue to
12 share, we are in the red! And they say, we know about that,
13 we want you to cut us in on the deficit, give us part of the
14 deficit.

15 So here we go, year by year, just saying, well, now,
16 here is \$200 billion, come back when this runs out, and let
17 me know when you need more. Now, I think we ought to stop
18 that and start doing what the Senate has been trying to do,
19 the majority of this committee has taken a responsible posi-
20 tion trying to do, trying to move us into a balanced budget

21 Now, at one point I was thinking of offering an amend-
22 ment to say just take that constitutional amendment, just add
23 it to statutory law and say, all right, within two years we
24 have got to be in a balanced-budget situation. Now, I am
25 told by the people on the Budget Committee whose judgment I

1 trust that that would be chaos if we would try to do that,
2 that we can't get there that soon.

3 But I do think that we ought to use the debt limit
4 what it is intended to be, and that is not give them more
5 money than they are going to need for the immediate foresee-
6 able future to do a job, because that just makes it possible
7 for everybody else to go out and make their plans to spend
8 more money.

9 So I was thinking of proposing an amendment--I discussed
10 it with other Members, and Senator Armstrong thought enough
11 of it that he was willing to consider joining as a cosponsor
12 --I was thinking about supporting an amendment to say that
13 instead of providing just \$200 billion more and say come back
14 when that's gone, that we phase it out month by month based
15 upon what we think the spending requirements ought to be,
16 and try to have those figures gradually phase on in to a
17 balanced budget, and to do that by 1985.

18 Now, the philosophy of that follows the pattern that
19 Senator Johnston proposed when he proposed on the budget
20 resolution a balance-the-budget resolution to balance it in
21 fiscal year 1985.

22 Senator Johnston told me just a few minutes ago that
23 there has been enough changes in the figures and the projec-
24 tions and the assumptions since that time, he doesn't think
25 you can balance it in 1985; he thinks about the best you

1 could hope to do would be if you could make this government
2 stay within its own budget resolution; stay within their own
3 figure through 1985, that you might be able to balance it in
4 1986. That is what he just told me a few minutes ago when
5 I talked to him, and I also had the ear of Mr. Domenici,
6 Chairman of the Budget Committee, at that time.

7 In any event, if we do what I would like to do, we would
8 be confronted with a point of order, because to spread out
9 these figures on a month-by-month basis is not subject to
10 a point of order, but to do the next step--say that the
11 President would withhold a certain amount, that he would be
12 required to cut spending enough to stay within these figures,
13 that that would be subject to a point of order coming out of
14 the committee. If it were offered on the floor, it would
15 take a mere waiver, which would be a majority vote. But I
16 think that the Budget Committee hopefully ought to join us
17 in trying to work for something where we say, all right, now,
18 here is the amount that we want to spend month by month--we
19 don't want to go above that, and if it is going to go above
20 that the President will make reductions. And I think we
21 ought to give him the authority to make reductions and even
22 require that he do so.

23 Now, to do that I think he is going to have to make
24 reductions in the entitlement programs, which includes Social
25 Security as well as reductions in all of the--by my lights,

1 it has got to be in all spending programs, because people
2 are worried more about Social Security, and the total con-
3 cern there is greater than any other program--I thought it
4 would be, well, why don't we state it that we wouldn't re-
5 duce Social Security by more than 3 percent--even that per-
6 haps ought to be on the cost-of-living increases--but where
7 you can make reductions in the program, urge him to do it.
8 And then say that he could make reduction up to a certain
9 point--I would suggest 20 percent, it could even be 10 per-
10 cent. But you couldn't--on any line item--but say that he
11 could not completely withhold a project, he can only just
12 defer, stretch it out, reduce the amount of manpower or
13 womanpower, or use other methods other than just completely
14 withholding a construction project or closing a military base,
15 that he could make the kind of reduction that every governor,
16 every mayor is familiar with; in other words, city govern-
17 ments, state governments, don't have enough money, what do
18 they do? The governor calls in his department heads and
19 says, look, we haven't got enough money to go around, every-
20 body has to take a cut, you have got to take your share and
21 every department has got to take their share, and you reduce
22 it. Now, the President tells me that the law won't let him
23 do that, the law makes him spend the money even if he doesn't
24 want to spend it--and we ought to stop that. I don't know
25 of any office, federal, state, or local, that I ever visited

1 where they couldn't operate on less payroll if they had to
2 do it, just told you have got to get by with less money--
3 it seems to me as though they could do it.

4 So my thought is at a minimum we ought to start out
5 here by parcelling this money out--I say "parcel," pretty
6 big parcels--and take the figures that look practical after
7 consulting with the Treasury. Now, the figures that I have
8 here were provided by the--I believe you got that from the
9 Budget Committee, didn't you, Mr. Stern?

10 Mr. Stern. No, sir, the Joint Committee staff, Mr.
11 Buckburg, who handles the debt limit, took those on the
12 basis of the deficits that were in that floor amendment
13 that resulted in a balanced budget.

14 The Chairman. Could I interrupt just a second? I
15 sneaked a couple of guys away from the environmental markup,
16 and I don't want to interfere with the discussion, but I
17 wonder if we might, while we have a quorum, maybe vote on
18 the extension. You don't intend to offer the amendment to
19 this, do you, today?

20 Senator Long. Well, the phase back in these numbers I
21 might, but if you want to vote to report the bill, it's all
22 right with me to vote to report, provided we could talk
23 about amendments after they depart.

24 The Chairman. Oh, sure. Is there any objection to
25 that?

1 Mr. Stalnecker. Mr. Chairman, could I ask one ques-
2 tion?

3 The Chairman. Well, we were going to vote to report
4 the debt ceiling, and we need eleven to do that.

5 Yes?

6 Mr. Stalnecker. My question is going back to this
7 amendment of the permanent and temporary--.

8 The Chairman. We've already adopted that amendment.

9 Mr. Stalnecker. And that will require it to go back to
10 the House?

11 The Chairman. That's right, we go back there a lot.

12 Senator Moynihan. - Mr. Chairman, this is to report the
13 \$1 trillion 275 extending through September 30, 1983?

14 The Chairman. It's 1.29, is that correct? In the
15 first budget resolution.

16 Mr. Pieler. Yes, it's \$1 trillion 290.2 billion.

17 Senator Moynihan. To September 30, 1983?

18 Mr. Pieler. That's correct.

19 Senator Moynihan. Mr. Chairman, may I just, as a matter
20 of record, say that I will vote to report the bill, as I
21 have told you, because the full Senate has to consider it,
22 but I cannot commit myself to vote for it on the floor be-
23 cause I do not think the projections are sustainable. I
24 think the projected debt will be greater because I think the
25 Administration has relied upon economic forecasts which are

1 not reliable--and that would not be the first time that we
2 have encountered that--but I am happy to vote.

3 The Chairman. Well, all in favor of reporting the
4 resolution indicate by saying aye.

5 [Chorus of "ayes"]

6 Opposed, no.

7 [Chorus of "noes"]

8 The ayes have it.

9 Okay, we will just call the roll.

10 Senator Bentsen. Mr. Chairman, I would reserve my right
11 to vote no on the floor.

12 The Chairman. Just call the roll.

13 Mr. Pieler. Mr. Packwood.

14 The Chairman. Packwood votes aye.

15 Mr. Pieler. Mr. Roth.

16 The Chairman. Roth votes aye.

17 Mr. Pieler. Mr. Danforth.

18 Senator Danforth. Aye.

19 Mr. Pieler. Mr. Chafee.

20 Senator Chafee. Aye.

21 Mr. Pieler. Mr. Heinz. Mr. Wallop. Mr. Durenberger.

22 Senator Durenberger. Aye.

23 Mr. Pieler. Mr. Armstrong.

24 Senator Armstrong. Pass.

25 Mr. Pieler. Mr. Symms.

1 Senator Danforth. Senator Symms is on the floor, re-
2 corded as aye.

3 Mr. Pieler. Mr. Grassley.

4 Senator Grassley. Aye.

5 Mr. Pieler. Mr. Long.

6 Senator Long. Aye.

7 Mr. Pieler. Mr. Byrd.

8 Senator Byrd. No.

9 Mr. Pieler. Mr. Bentsen.

10 Senator Bentsen. Aye.

11 Mr. Pieler. Mr. Matsunaga. Mr. Moynihan.

12 Senator Moynihan. Aye.

13 Mr. Pieler. Mr. Baucus.

14 Senator Baucus. No.

15 Mr. Pieler. Mr. Boren. Mr. Bradley. Mr. Mitchell.

16 Mr. Chairman.

17 The Chairman. Aye.

18 Senator Moynihan. Mr. Chairman, has everyone present
19 voted? May I ask, has everyone present been recorded?

20 The Chairman. The vote is 11 yeas and 2 nays.

21 Senator Moynihan. And there are thirteen Members pre-
22 sent?

23 The Chairman. Well, there were a couple of proxies

24 Senator Moynihan. Did anybody here not vote?

25 The Chairman. Not that I heard.

1 Senator Armstrong. The Senator from Colorado did not
2 vote, I would say to the Senator from New York.

3 Senator Moynihan. Mr. Chairman, I find that difficult,
4 in good faith, that someone who will be attacked for having
5 voted on \$1.3 trillion--I voted for you and on the other
6 side--I find that--I am sorry about that.

7 The Chairman. Well, we did pretty well.

8 Senator Moynihan. Mr. Chairman, I would like to have
9 my vote recorded as no.

10 The Chairman. Okay, and we will poll the absent Sena-
11 tors.

12 Now, I might suggest now, we have approved the resolu-
13 tion, but what do we attach it to to get it to the floor?
14 As I understand, we need a vehicle now to get it to the
15 Senate floor.

16 Mr. Pieler. The debt-limit resolution?

17 The Chairman. Yes. Oh, excuse me, this is the House
18 resolution, which we have amended, okay.

19 Mr. Pieler. Let me make clear, Mr. Chairman, this is
20 reported with the Armstrong amendment consolidating temporary
21 and permanent debt ceilings.

22 The Chairman. Senator Long?

23 Senator Long. Let me ask this question, if we could
24 agree to put this debt-limit increase on a month-by-month
25 basis rather than a one-figure basis?

1 The Chairman. Does the Treasury want to respond to
2 that?

3 Mr. Stalnecker. I think that the best way to handle
4 this would be for the Administration to take a closer look
5 at this monthly debt-limit proposal.

6 The Chairman. Can you advise us who is reviewing that
7 at Treasury?

8 Mr. Stalnecker. It will be the Office of Domestic
9 Finance and I believe the tax policy people will also have
10 something to say.

11 The Chairman. Mr. Chapoton?

12 Mr. Stalnecker. Mr. Mehle is the Assistant Secretary
13 for Domestic Finance and Mr. Chapoton is the Assistant
14 Secretary for Tax Policy.

15 The Chairman. They do have the material we sent down
16 yesterday?

17 Mr. Stalnecker. Yes.

18 Senator Long. Well, I suggest that you get your people
19 up here, then, because we would like to talk to them.

20 The Chairman. Now, you might suggest or advise Mr.
21 Mehle--and I will see Mr. Chapoton later this morning--that
22 Senator Long and Senator Armstrong expect serious considera-
23 tion of this proposal and want to discuss it with them.
24 Maybe we can arrange Senator Long and Senator Armstrong to
25 meet with the two Secretaries.

1 Senator Armstrong. Mr. Chairman, I think we are wise-
2 ly not going to act this morning on this, but I hope we will
3 adopt this amendment on the floor. I honestly think that
4 the suggestion Senator Long has made is about the most impor-
5 tant proposal to get this overall financial situation of the
6 country straightened out that I have heard in a long, long
7 time. And I do think we need to be sure that we are on
8 sound ground from a technical standpoint on the monthly num-
9 bers, and that it is drafted in a way that it will accomplish
10 its intended purpose.

11 But I do expect to join him in cosponsoring it, and I
12 hope other Members of the committee will, too.

13 Senator Long. I am concerned that we ought to be using
14 whatever is available to us to move towards a balanced bud-
15 get, and if we can't get there during the next couple or
16 three years, at least reduce the deficit, put us on a glide
17 pattern towards that. Now, amendments will be offered on the
18 floor--at least one, Senator Hollings indicates, he is going
19 to offer his amendment to try to get us down to a balanced
20 budget or put us on a glide path toward it--and I honestly
21 think that this committee, which historically has been the
22 most responsible committee in the Senate from a fiscal point
23 of view, ought to be providing leadership rather than just
24 going along with these debt-limit figures.

25 Now, I have voted for the resolution, I have voted for

1 the debt-limit provision under this Administration and pre-
2 vious Administrations. But I just don't think that we have
3 discharged our duty by just extending these debt limits.
4 I think we are going to have to put something on these
5 debt-limit bills that does part of the chore of getting us
6 into a balanced budget, and part of it I think would be to
7 put this thing on a month-by-month basis. I think beyond
8 that we need to put a spending limitation into it, so if
9 you can't do any better, at least keep them from going above
10 what the budget agreed to by the Senate on the budget resolu-
11 tion would suggest, because so far, as Senator Byrd has
12 pointed out so well on the Senate floor, the last three years
13 the spending exceeded the debt limit--exceeded the recommenda-
14 tions of the Budget Committee by \$43 billion a year for three
15 years in a row--that's \$129 billion right there over and
16 above even what they said.

17 So that this could be a vehicle--and I hope if we are
18 not ready here on the committee, we might be able to offer an
19 amendment on the floor that will put us on a glide pattern
20 toward a balanced budget. I voted for the resolution to re-
21 quire one. If we try to do it in the next couple of years
22 it looks like there would be fiscal chaos--but we ought to
23 try to be moving into it.

24 The Chairman. I appreciate the willingness of Senators
25 Long and Armstrong to defer until we have had an opportunity

1 for Treasury, and OMB I understand, to take a hard look at
2 the amendment, and it doesn't, of course, prejudice your
3 rights. In fact, I guess it would be subject to a point of
4 order if it were offered here; on the floor I guess it takes,
5 what, a waiver, a budget waiver.

6 Senator Byrd.

7 Senator Byrd. I just have two brief questions. Mr.
8 Secretary, the spending increase for fiscal year 1982 is
9 14 percent, is that correct--was 14 percent, is that cor-
10 rect?

11 Mr. Stalnecker. Are you referring to the budget resolu-
12 tion?

13 Senator Byrd. No, I am referring to actual spending--
14 1982 is over with, fiscal '82 is over with.

15 Mr. Stalnecker. Well, it will be in another month and
16 a half.

17 Senator Byrd. Another month.

18 Mr. Stalnecker. I believe the number in the resolution
19 would be an 11.2-percent increase.

20 Senator Byrd. Does that include the supplemental?

21 Mr. Pieler. Senator Byrd, that 11.2-percent figure is
22 out of the Administration's mid-year economic review which
23 is the latest official--.

24 Senator Byrd. What's that?

25 Mr. Pieler. That 11.2-percent figure is out of the

1 Administration's mid-year economic review, which is the
2 latest official Administration statement.

3 Senator Byrd. What date was that?

4 Mr. Stalnecker. I'm sorry?

5 Senator Byrd. What date? Let me ask you this: what
6 are your total outlays for--what do you figure your total
7 outlays will be for fiscal '82?

8 Mr. Stalnecker. That assumes an increase in outlays
9 from \$657.2 billion, which was the actual level for 1981, to
10 \$731 billion, which is the estimate for the current fiscal
11 year.

12 Senator Byrd. You figure outlays for the current fiscal
13 year of \$731 billion, did I understand you correctly?

14 Mr. Stalnecker. Yes, Senator.

15 Senator Byrd. And the total outlays for fiscal '81
16 were 657?

17 Mr. Stalnecker. 657.2 billion, yes.

18 Senator Byrd. Well, that is an increase of about \$80-
19 some billion.

20 Mr. Stalnecker. It's about \$74 billion.

21 Senator Byrd. Thank you.

22 The Chairman. Any other questions? If not, the meeting
23 will be adjourned.

24 [The Committee adjourned at 11:45 a.m.]

25

