

**NOMINATIONS OF CASPAR W. WEINBERGER, OF CALIFORNIA, TO
BE SECRETARY OF HEALTH, EDUCATION, AND WELFARE, AND
FRANK C. CARLUCCI, OF PENNSYLVANIA, TO BE UNDER SECRE-
TARY OF HEALTH, EDUCATION, AND WELFARE**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION

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JANUARY 11, 1973
—————

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**NOMINATIONS OF CASPAR W. WEINBERGER, TO BE
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THURSDAY, JANUARY 11, 1973

**U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.**

The committee met, pursuant to notice, at 10:50 a.m. in room 2221, Dirksen Senate Office Building, Senator Russell B. Long (chairman) presiding.

Present: Senators Long, Hartke, Ribicoff, Byrd, Jr., of Virginia, Nelson, Mondale, Bentsen, Bennett, Curtis, Fannin, and Hansen.

The CHAIRMAN. This meeting will come to order. I wish to extend my regrets to the nominee for Secretary of Health, Education, and Welfare and the present Director of the Office of Management and Budget that we are somewhat late in opening this committee hearing, and the reason is because of the Democratic caucus still going on, involving an issue about which I will interrogate the nominee as soon as he has made his statement.

We are pleased to have with us here this morning the Honorable Caspar W. Weinberger, who is currently serving as the Director of the Office of Management and Budget, to be Secretary of the Department of Health, Education, and Welfare.

We will also examine the qualifications of Mr. Frank C. Carlucci, Associate Director of the OMB, to be Under Secretary of the Department of Health, Education, and Welfare.

As each of the nominees is recognized this morning, I would hope that they would advise the committee of any conflict of interest with respect to their nomination, of which they may be aware.

Our first witness, of course, will be Mr. Caspar Weinberger.

Mr. Weinberger, I suggest that you proceed in your own fashion to make any statement that you care to present to the committee, and we will have the opportunity to ask you some questions thereafter.

Senator Cranston wanted to be here to introduce you. He is still in that meeting to which I made reference.

(The biographical sketch of Mr. Weinberger follows:)

CASPAR W. WEINBERGER

Born in San Francisco, 1917. Attended public schools in San Francisco. Graduated from Harvard College, A.B., 1938, magna cum laude; LL.B., Harvard Law School, 1941. Phi Beta Kappa.

Served in Army four years, entering as private in Infantry in 1941 and being discharged as Captain in 1945. Served over three years with the Forty-first Infantry Division in the Pacific and on General MacArthur's Intelligence Staff.

Law Clerk to United States Circuit Judge William E. Orr. Court of Appeals for the Ninth Circuit, 1945-47. In the private practice of law since 1947. Partner in law firm of Heller, Ehrman, White and McAuliffe, 1959-60.

Chairman of Republican State Central Committee of California 1962-64; Vice Chairman of Republican State Central Committee of California 1960-62.

Served six years in the Assembly of the California State Legislature (1952-58). Elected November 1952 from Twenty-first Assembly District in San Francisco; re-elected both in 1954 and 1956 without opposition. Chairman of Assembly Committee on Government Organization and Chairman of Joint Assembly-Senate Subcommittee on Alcoholic Beverage Control. Recommendations of this latter committee led to passage by Legislature, and adoption by the people, of the constitutional amendment re-organizing California's alcoholic beverage control. Weinberger's committee also secured passage of the bill creating the unified, responsible Department of Water Resources in the 1956 special session.

He was selected as the most able member of the State Legislature at the end of the 1955 session in a poll taken of all the newspaper correspondents who covered the legislative session in California.

For 9 years, from 1959 to 1968, he was author of a semi-weekly column on California State Government running in numerous California newspapers, and moderator of "Profile", Bay Area, KOED's (Channel 9, San Francisco) regular weekly local public affairs television program.

Formerly staff book reviewer for San Francisco Chronicle and San Francisco Magazine.

Served as Chairman of Commission on California State Government Organization and Economy ("Little Hoover Commission") 1967-68.

Appointed Director of Finance of California by Governor Reagan on February 1, 1968, effective March 1, 1968, and served until January 1, 1970.

He was appointed by President Nixon to be Chairman of the Federal Trade Commission and was sworn in on January 13, 1970, at the White House.

On July 2, 1970 he was sworn in as Deputy Director of the Office of Management and Budget with direct responsibility for the preparation of the Federal budget.

On June 12, 1972 he was sworn in as Director of the Office of Management and Budget.

He is married to the former Jane Dalton and has a daughter and a son.

STATEMENT OF CASPAR W. WEINBERGER, NOMINEE TO BE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Mr. WEINBERGER. Thank you.

Mr. Chairman, I would like to thank you and the committee at the outset for having scheduled this hearing on my nomination so promptly after it was submitted by the President. I am very much looking forward to undertaking this great new challenge at HEW as President Nixon's second term begins.

This committee is, of course, no stranger to me, since the position I now occupy as Director of OMB has brought me before you, both formally and informally, on many occasions in the past year. I was also privileged to work with you before that when I served as Deputy Director of that Office for 2 years. I look forward very much to the continuation of a friendly and fruitful relationship.

From 1969 until July 1970, I had the honor of serving as Chairman of the Federal Trade Commission. My prior public experience also includes 2 years as finance director for the State of California and

three terms as a member of the assembly in the California Legislature.

The Department of Health, Education, and Welfare is not entirely a new phenomenon to me, since it has become the largest of the executive departments during my tenure at OMB. Parenthetically, Mr. Chairman, I would like to disclaim any causal relationship between those two facts. I look forward to learning a great deal more about HEW's activities and programs in the days ahead than I have been able to in my present, overall budgetary role.

Clearly, I come to this new responsibility with a deep sense of the changing priorities which the Nation, this administration, and the Congress have reflected in shifting expenditures to emphasize human resources programs in the past 4 years. They are now the very largest part of our Federal budget. I also come to this hearing with a strong commitment to the President's goal of controlling the entire Federal budget to avoid higher taxes and inflation, which will only hurt those whom HEW is dedicated to help.

I will leave more specific questions to the committee, Mr. Chairman, and would conclude only that I look forward to developing a constructive relationship with you and the other committees which have jurisdiction over HEW. I hope that, working together, we may develop mutually satisfactory means of achieving the important objectives which we all desire.

In response to your statement, Mr. Chairman, I would only say that I am not aware of any conflict of interest.

The CHAIRMAN. Senator Cranston would like to make a brief statement. I recognize the Senator from California.

STATEMENT OF HON. ALAN CRANSTON, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator CRANSTON. Thank you, Mr. Chairman.

I came over here to introduce Cap. I am sorry that I was not here; I was in the meeting where you were when Cap started. I cannot stay, since I am leaving for California.

I simply wanted to say to the committee that I have known Cap Weinberger for many years, and he is a man of very high intelligence and vast ability and of absolute integrity. That is not something I would say carelessly. Thank you very much.

Mr. WEINBERGER. Thank you very much.

The CHAIRMAN. Mr. Weinberger, as you know, under the new reorganization arrangement, if confirmed, you will be one of the so-called super Cabinet officers, one of the three who will be visiting with the President in the entire broad area of human resources. Would you explain to us how you envisage your responsibilities insofar as they go beyond the task of being Secretary of the Department of Health, Education, and Welfare as it has been in the past?

Mr. WEINBERGER. Yes, Mr. Chairman; I would be glad to try to do that, though it is a new plan and has not yet been implemented formally, as you know.

In general, the plan is based upon the premise that the President, as Chief Executive Officer, is entitled to communicate with the departments, the agencies, the bureaus, concerning the various responsi-

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bilities that he has, in the way that seems best to him. As I understand the new reorganization proposal, the President has decided that he would like to communicate with those agencies that deal with human resources through one Presidential counselor. He has asked me to serve in that capacity, and I have accepted, of course.

Generally, it would mean that in order to fulfill these responsibilities, to enable him to communicate with the agencies involved in the human resources field, I would have to familiarize myself with their work. I would transmit to the President their requirements, their recommendations, their thoughts, and their reactions to various events. I would transmit to them, from the President, Presidential policy and Presidential requirements, and would insure that there is a coordinated response, that there is a coordinated series of activities in the human resources field. My understanding is that the same is true with respect to the other Presidential counselors in the fields of natural resources and community development.

The three Presidential counselors would not be running all these agencies. I would have quite enough to do with my responsibilities as Secretary of Health, Education, and Welfare. But there would be the additional task of trying to communicate, trying to serve as liaison between all of these agencies in the human resources field and the President, to convey his thoughts, requirements, and policies to them, and to convey their recommendations, reactions, and responses to him. It is a liaison task, it is a coordinating task, it is not an administrative, day-to-day operational kind of task. As a result of these additional duties, I would place additional reliance on the Under Secretary, and I am delighted that the President has nominated Mr. Carlucci for that very important post.

The CHAIRMAN. Now, with regard to these duties that go beyond your responsibilities as Secretary of HEW, under what circumstances with regard to those matters would you expect to plead executive privilege when interrogated in respect of these other duties?

Mr. WEINBERGER. Not in any circumstances that it would not be otherwise applicable throughout the Government at the present time. There are individual conversations I might have with the President. I might prepare some preliminary work documents for the President's eye or a draft of a memorandum for him; I would think those would be covered by the privilege, as they are at the present time, and I would feel that it was not proper to communicate those to the Congress, to anyone else in the executive branch, or to anyone. But that is precisely the situation that exists now. I would see no expansion of the executive privilege at all.

On the other hand, I would see a substantial increase in the amount of communication that would be possible between the Congress and the executive branch as a result of the system. At the present time, the liaison duties I have mentioned are carried out by White House staff, who do not appear before congressional committees. But I would believe, as I do now and as I have ever since I came to Washington, that I should accept every invitation of every congressional committee and try to honor that rule, schedule permitting.

The CHAIRMAN. Now, we have had before this committee no real call for complaint, to my knowledge, certainly not during this admin-

istration—I mean during the Nixon administration—of a situation where the Secretary of Health, Education, and Welfare had been unavailable to testify before us, and I do not think that we are likely to have that situation during your tenure.

Mr. WEINBERGER. No, sir; you will not.

The CHAIRMAN. But I do think, Mr. Secretary, that we have had among individual members, and perhaps Members of the Senate who do not serve on this committee, some justified cause for complaint in seeking information by way of letter where the information sought could have been made available much sooner. In addition to that, I believe even this committee had a complaint about information that we needed to do our job where it was very slow in coming from the Department. I hope that you would look into that in the course of doing your job and see if that cannot be improved upon.

Now, in many cases, Mr. Secretary, what we are seeking is not information that you possess personally, but it is information that somebody in your shop that has it, or if they do not have it, they can get it and make it available to you. I hope you would improve upon it.

There is another situation which was very much highlighted, where the Secretary of State failed to appear or declined to appear before the Foreign Relations Committee, and an effort is going to be made to seek a commitment from Presidential appointees in the future that they will appear before the committee in response to a reasonable summons. I think the interpretation of what is reasonable is intended to be more in the bosom of the Senate than for the determination of the officer himself.

Would you give us your reaction to that problem in view of the fact that, with your new responsibilities, you are going to be more in demand than previous Secretaries of HEW?

Mr. WEINBERGER. I appreciate that, Mr. Chairman, and my response is first of all simply to say that, to the best of my knowledge, I have never declined the invitation of a congressional committee or subcommittee. I would certainly not plan to do so. I would plan to give that the very highest priority. As I recall, sitting here, the only time I did not come when specifically requested was when I had a conflict with a meeting with the President, and I would think that that would still be the rule that I would follow. I suspect that with some 80 subcommittees and committees having oversight over various aspects of the Department of Health, Education, and Welfare, there may occasionally be times when there will be conflicts and when it will be necessary to try to be in two or three different places at once. But those can be ironed out, and I would feel it is an important part of my duties to appear before the congressional committees on request.

The CHAIRMAN. Well, hopefully, those of us on the Hill would be willing to leave you a few hours of your year to do something besides testify before the committee and all these various and sundry committees. As far as I am concerned, Mr. Weinberger, I think that assurance is adequate.

Senator Bennett?

Senator BENNETT. Thank you, Mr. Chairman. I am very happy that Mr. Weinberger has been given this assignment, because, as the chairman has indicated, we have had some very pleasant relationships with

him in his previous responsibility. I have two or three specific questions that I would like to ask for the purpose of getting them in the record.

The Professional Standards Review Organization provision recently enacted into law holds promise for improving the quality of medical care under both medicare and medicaid, and for controlling the costs of these programs. I, myself, and the entire Finance Committee, spent a great deal of time shaping this provision, and we feel that its significance can extend far beyond medicare and medicaid, as a cost and quality control mechanism of this sort is central to any expanded health insurance program which this Congress might consider in the next 2 years. I have stressed throughout the debate on this amendment, and the committee stressed in its report that the PSRO provision will demand substantial administrative effort, since the PSRO's will be the heart of the relationship between government and medicine in the United States. Because we are aware of the importance and sensitive nature of this amendment, I can assure you that the committee does not feel that our work in this area has been completed now that the provisions have been enacted. We will be engaged in constant oversight to monitor the effectiveness of this crucial amendment and to determine whether legislative changes will be necessary and the extent to which the legislative intent is being carried out.

I point out that because of the importance of the PSRO provision, both to government and to medicine, it seems important that those who are appointed to direct this effort have a background of experience and competence in the review of medical care. Additionally, it seems important to us that there be no appearance of or potential for conflict of interest in the dealings of the Administrator who may be chosen, with the various agencies with which medicare and medicaid have to deal.

Do you agree that this is a very important consideration in the forthcoming appointment of the man who may head this effort in your Department?

Mr. WEINBERGER. Yes, sir; I do. I think the amendment that you sponsored, to create the PSRO organization that is being established now, will be an extremely important factor in insuring that there is both high quality and proper utilization of medical care, along with efforts to control the cost of such care. And I would think an ideal person to head this organization would be one who had a substantial amount or all of his experience in the private practice of medicine and had familiarity with branches of it throughout the profession. I think that it would be disastrous if we got into anything that would be pointed to as a conflict of interest with providers of service or anything of that kind. It is a very useful, very helpful amendment, and since I hope that it will have the results that I know the committee intended for it, we would be searching for someone of that character and that ability.

Senator BENNETT. I am very grateful for that reassurance, because it is obvious that there will be forces exerted on you to try to change that situation.

Mr. Secretary, I have here a newspaper article, and I am sure you are familiar with it and others like it, which indicates that the White

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House is studying a sweeping proposal to revamp the Federal system of aiding the needy.

(The article referred to follows:)

WHITE HOUSE STUDIES AID, WELFARE BILL

(By Philip Shandler)

The White House is studying a sweeping proposal which would revamp the federal system of aiding the needy. The plan, developed by the outgoing secretary of Health, Education, and Welfare, also envisions a national health insurance program.

The master plan—so sweeping it is known at HEW as the "Mega" plan—would be in tune with President Nixon's New Federalism by giving states and individuals far more discretion in developing and administering aid programs than they now have.

WELFARE PLAN REVIEWED

The basic thrust of the plan is to bypass national special interest groups and give broad new spending and decisionmaking power to the states.

The proposed plan would create three big revenue sharing packages totaling more than \$7.5 billion annually which would consolidate existing varied categorical grants in health, education and social services.

It would consolidate \$4.5 billion in existing subsidies into a fund to help state and local governments improve their systems for providing these services.

It would create a national program of health insurance covering the "catastrophe" medical expenses of virtually everyone and absorbing the Medicare and Medicaid programs of insurance for the aged and the poor.

It also would revive, with tougher work requirements and benefits for fewer people, the Nixon administration's welfare reform plan that died in the last session of Congress and restyle student assistance to benefit individuals more directly than institutions.

7 FUNDING CATEGORIES

HEW Secretary Elliot L. Richardson, nominated by President Nixon to be Secretary of Defense, submitted the Mega blueprint about three weeks ago.

The three revenue sharing proposals would consolidate 42 state formula grants and 6 project grants into 7 funding categories—5 in education and one each in health and social services.

In the last Congress, the administration sought to consolidate 33 education grants into 5 categories—aid for educationally deprived children, for vocational education, for the handicapped, for areas "impacted" with large number of federal personnel (like Washington) and for support services such as libraries and equipment. Priced at \$2.9 billion, the proposal was virtually ignored.

The new plan would follow the same lines but would include additional programs and boost the cost to \$3.0 billion.

DIRECTLY TO GOVERNORS

The Mega proposal in health would consolidate \$523.5 million in grants scheduled in the fiscal 1974 budget for programs to combat alcoholism, narcotics addiction, venereal disease, lead poisoning, rat control and communicable diseases.

In social services, the proposal would consolidate grants in child welfare, vocational rehabilitation, aging and other programs, priced at \$3.1 billion in the budget for the fiscal year starting next July.

These include the controversial Head Start program for preschool children, now funded through community-action agencies, and other non-profit groups which operate generally outside the government structure.

The Richardson plan would give the consolidated grants in health and in education directly to governors according to a formula based on each state's poverty population or incidence of medical need.

The health insurance proposal would cost \$35.2 billion if it were in effect now, but this includes \$31.3 billion already being spent in Medicare and Medicaid which would be phased out.

It would be financed by individual income tax surcharges scaled by income, ranging from \$5 a year to \$1200.

Senator BENNETT. Have you made any decision about this proposal or any other variation of the family assistance plan which was submitted to Congress in 1970?

Mr. WEINBERGER. No, sir; I have not. The proposal that I think you are referring to is referred to around the Department of HEW as the Mega proposal, and it has been presented only in very general terms to me by the very able outgoing Secretary, Mr. Richardson, for whom I have great admiration. I have not had an opportunity to look through it in any detail. It is a matter which he informs me occupied the attention of a great many people for over 2 years, and I certainly want to look through it.

On the other part of your question, the answer again is no. I have been very fully occupied with trying to produce the budget on time, and we have not had any opportunity to go into any detailed legislative proposals for this session.

Senator BENNETT. Recently, Mr. Secretary, the Supreme Court refused to overturn a lower court ruling that the States must provide welfare to strikers because the HEW regulation defining unemployment did not exclude strikers from the definition. As I understand it, HEW indicated that it would address this question by issuing a more explicit regulation. Instead of clarifying matters by proposing an explicit regulation, however, HEW has proposed two regulations: One which would authorize the denial of aid to strikers, and one which would prohibit the denial of such aid.

Given the rather basic difference of philosophy represented by these two proposals, this seems to us as maybe being a stalling tactic which would allow the Department to put off facing up to this issue. After you take the helm in the Department, will you give special attention to this particular problem and develop a specific position on this very important issue?

Mr. WEINBERGER. Yes, sir; I certainly will. We will obviously have to, since we cannot take ultimately as ambivalent a position as that. I happened to see one of the staff papers that accompanied the transmittal of those alternative proposed regulations, and the last paragraph said that this was done so that the new Secretary would have the opportunity to make the final decision. I look forward to doing that.

Senator BENNETT. Well, the committee will look forward to your decision.

Finally, this past year, in connection with the Revenue Sharing Act, we enacted a two and a half billion dollar annual limit on social services funding because the cost of the program was skyrocketing and the money was being used in ways that were never intended by those who originally wrote the law. Since one of the biggest problems was in the area of social services provided under contract by agencies other than the Welfare agency, we changed the law to make it clearly mandatory that the Secretary of HEW, effective January 1978, must issue regulations governing and limiting the purchase of services.

In our report on the bill, H.R. 1, we further instructed the Secretary of HEW to issue those regulations in such a way as to make it clear that donated money, such as money raised by the United Fund or United Givers Fund, cannot be used by any State as its matching

share for Federal social service funds. So far, HEW has not even issued proposed regulations in this area. Are you aware of this problem and can you give us any assurance that you will take care of it promptly?

Mr WEINBERGER. Well, yes, sir, I am aware generally of the problems you refer to and, of course, very much aware of the rapidity with which Federal expenditures for social services have mounted in recent years. They increased, from somewhere in the neighborhood of \$37 million to an estimate of over \$6 billion, in a matter of 3 1/2 to 4 years. So we are very much aware of the size of the problem and of the need for a careful definition of what constitutes social services and where the matching funds are to come from. I believe the Department is working on preliminary drafts of regulations, and, again, I believe this is a matter that they will not complete until the transition is completed. So we will certainly want to address that very soon for many reasons, not only because of the problems for the Federal Treasury, but also because of the need for some certainty in the States as to what will and what will not qualify for Federal matching.

We would want to have input from the States in that process, under the terms of our own Office of Management and Budget circulars, and we would want to have in mind the ceiling and the intention expressed by the Senate committee in its report.

Senator BENNETT. Well, I raise the question today because I want to reaffirm the legislative intent with respect to the use of these private funds to generate Federal matching funds.

Mr. WEINBERGER. Yes, sir.

Senator BENNETT. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Senator. If I could be permitted, I would like to call the Senators in the order in which they came into the room. That will give me an opportunity to introduce one of our new members, the Senator from Texas, Mr. Bentsen, who is building an outstanding reputation in the Senate as a representative of his people and I am sure will make a very great contribution to the membership of this committee. In view of the fact that he was the first of those other than the chairman in the room, I would recognize him next.

Senator BENTSEN. It is with a great deal of pleasure, Mr. Chairman. I appreciate your kind comments and I want you to know that I am looking forward to serving on this great committee under your chairmanship.

I would like to echo my high regard for Mr. Weinberger's integrity and his ability, and I am pleased the President has chosen to nominate him for this most important position. The chairman has well covered this question of appearing before this committee, but I would like to reemphasize it for a moment, Mr. Weinberger.

I believe one of the great disciplines on a Cabinet officer in arriving at a judgment or his decision is the knowledge that he will have to justify that decision before a congressional committee, generally in a public forum. I am pleased to hear you say, as I understand your words, that you would answer any reasonable request in the way of an appearance before a congressional committee.

Mr. WEINBERGER. That is certainly correct, Senator. I have great respect for the legislative process. I was in the California Legislature

for 6 years, and I would certainly want to consider that the very highest priority whenever a committee wants to hear me, or a subcommittee. That has been the practice I have followed ever since I have been in Washington.

Senator BENTSEN. I respect the question of executive privilege and I understand that, but I believe it is terribly important that we know the logic and the rationale that goes behind a judgment and a decision made in order that we may exercise better our own responsibility.

That is all I have.

The CHAIRMAN. Senator Ribicoff?

Senator RIBICOFF. Thank you, Mr. Chairman.

Mr. Weinberger, I respect your ability and character. I also recognize that every President of the United States has the right to appoint men to the Cabinet who reflect his philosophy. I have a few questions.

Your Department contains some 110,000 employees. The budget is about \$80 billion. You have some 250 specific categorical programs that you are going to administer. From my own personal experience and watching my successors, it is very obvious that as Secretary of HEW you will be facing one or more crises each and every day that you are in that post. You will start early in the morning and, every night when you go home, you will carry a thick briefcase full of work to prepare yourself not only for the Congress but for your Department. Having been in OMB, you will realize the complexity and the tough job that faces you. Is that correct?

Mr. WEINBERGER. That is certainly correct, yes, sir. Incidentally, you have also described my normal working day at the present time.

Senator RIBICOFF. One thing bothers me. I find that now the President has named you a counselor for Human Resources. That covers what other departments and agencies?

Mr. WEINBERGER. Well, it covers programs in other agencies, sir, that deal with matters affecting the quality of life, the quality of education and training, the arts—matters of this kind. I do not know that there has been a very precise definition yet of all of the responsibilities, but as I mentioned to the chairman, fortunately one is not expected to administer all of these programs. It is a coordinating and a communicating role, to insure that Presidential policies, Presidential directions, and Presidential thoughts are transmitted to all the Executive organizations that have roughly similar missions and in turn to assure that their wishes, their recommendations, their suggestions to the President are transmitted to him. This is the method by which the President prefers to communicate with the many agencies in the executive branch, and that is essentially what the presidential counselor role would be, as I understand it.

Senator RIBICOFF. Well, but how many other programs would you anticipate would be encompassed in this responsibility?

Mr. WEINBERGER. I have not done the statistical work, nor have I seen it done yet, and I think largely that is because there has not been a precise definition of all of the responsibilities of the presidential counselor's role in this connection.

Incidentally, I am told that HEW alone now has well over 800 separate programs.

Senator RIBICOFF. I think you will find if you go into it that you will

not be able to find an exact catalog of how many programs they actually have. I do not think anybody knows.

Mr. WEINBERGER. I think that is true. I used to try to include mention of that in talks I would make outside of Washington, but I always felt that I had to add the caution that I had left the previous morning and was not sure what had happened since. I think that is likely to be the case with all the programs in the human resources field.

Again, if one were asked to administer and be responsible for and direct each one of these programs, it would clearly be an even more enormous task than the one I am appearing before you in connection with now. But that is not the case. The Presidential counselor role and the whole plan is to enable the President to have a much better opportunity than he has now, with so many separate organizations, to insure that there is a coordinated presentation and a coordinated development of his policies. And as I mentioned to the chairman, I think this would offer a very much larger opportunity to the Congress for questioning and for being furnished with information, because the people presently doing this task are, for the most part, White House staff who do not make a practice of appearing before congressional committees.

Senator RIBICOFF. Yes, but as a counselor you have the same White House immunity as the present White House employees in the executive branch.

Mr. WEINBERGER. Senator, it would not be my intention to invoke immunity on anything that I do not feel is presently covered by confidential or privileged communications of the kind I mentioned to the chairman. I would not feel that this plan enlarged present immunity or the opportunity to claim it. I would feel exactly to the contrary. All three of the Presidential counselors will be people who will be running departments, who will be confirmed by the Senate, and who will be coming before the Senate and the House and their committees and subcommittees in their secretarial roles. There will be no attempt that I know of, certainly not by me and I am sure not by the others, to try to separate out a presidential counselor role.

I would say, as I said to the chairman, exactly as is the case now or was last year, if I prepared a Presidential memorandum, if I prepared a recommendation to the President on how, I think, he should act on a certain matter, I would not feel it proper to come and hand in that paper to any committee or anyone else except the President, because it was prepared for him. There would be no change in the extent of the privilege with the creation of this new organizational pattern that the President has decided he wishes to use, as a means of trying to coordinate activities in generally related fields.

Senator RIBICOFF. But I do not understand. You will be a presidential counselor and you will be coordinating programs in other departments.

Mr. WEINBERGER. Yes, sir.

Senator RIBICOFF. And after you consult with these men who are responsible for these programs, you will then go to Mr. Ehrlichman.

Mr. WEINBERGER. I do that now, but I will certainly continue to do that, yes.

Senator RIBICOFF. Then would you or Mr. Ehrlichman be the man who would see the President on specific things?

Mr. WEINBERGER. Well, the program has just been developed. For

example, I have an appointment this afternoon to meet with the President on the subject. I should think there would not be any completely uniform policy, but on certain matters we would both go in together. On certain matters, I would talk to Mr. Ehrlichman and let him explain the matter or deal with the matter with the President.

It has been my experience, both in California and here, that a lot of the complaint by people who say they never have access to or an opportunity to see the Chief Executive usually arises from the fact that what they are talking about is not a matter that is of sufficient importance that they necessarily see the Chief Executive. And I do not feel that it is necessary on every single matter involving either the responsibilities of my present office or the one for which I have been nominated that there would be a need to see the President every day or anything of the kind. If Mr. Ehrlichman has an appointment later in the day, I will be quite content to explain the matter to him and ask him if he could add that to his agenda. The same thing would probably be done with me in other circumstances.

Senator RIBICOFF. With all these additional duties, how do you see yourself being able to administer a department of 110,000 people, with 300-plus programs and an \$80 billion budget, if your time is taken up with other departments and other programs for which you do not have the same direct responsibility?

Mr. WEINBERGER. Well, I guess I am the last man in Washington that should answer questions about my own ability to do things. I do not feel qualified to do that. But I do feel that I would be very fortunate in having the opportunity to rely on some extremely able people to assist me and one of them will be before you very shortly, Mr. Frank Carlucci, who is the present Deputy Director of the Office of Management and Budget and whom I am happy to say has been nominated as the Under Secretary of the Department of HEW. I think necessarily there will have to be—not a division of responsibility; I will certainly have to bear full responsibility for the Department's actions—but necessarily, consultation and discussion and reliance on individuals within the Department and on the Under Secretary. And, that, I think, is the present practice.

These are added duties. I think it is important that the activities in these various fields be coordinated. I think it is everyone's advantage.

I recall in the California Legislature situations in which officers of various executive departments would come before committees of which I was a chairman and testify in precisely opposite directions, and it was very hard for us to obtain any clear view of what the executive policy was in some of those years. I think that this plan can help correct that. I think it is to everyone's advantage that there be a coordinated, developed executive policy, and then the Congress is free to accept it or reject it. But at least they are entitled to have a uniform and a coordinated policy presented to them. That is one of the things that we hope will arise from this new plan.

Senator RIBICOFF. Now, the 93d Congress will undoubtedly be deeply involved in health insurance and health programs. Yet there is no general Federal policy on health. As a matter of fact, there are vacancies and a vacuum in health leadership in HEW. Top spots in the Social Security Administration, the National Institutes for Health,

the Health Services, and Mental Health Administration, the Social and Rehabilitation Service, as well as the assistant secretaryship of health, have remained unfilled for sometime. Do you intend to fill these spots, and what are your plans for them?

Mr. WEINBERGER. We certainly do intend to fill them, Senator; yes. In addition to trying to complete work on the budget to get it up to the Congress on January 29, which in itself is a substantial task, we have been devoting considerable time to talking with various people, to reviewing biographical sketches, and to discussing the qualifications required for many of these positions. I have spent a fair amount of time personally on this and would certainly want to spend a great deal more as soon as we complete the existing duties in my present office. I think it is of the utmost importance to have thoroughly qualified, able people in each of the positions you have mentioned, which are indeed vacant at this point.

They are filled with acting officers. In addition, as Secretary Richardson has done, we are not only looking at potential people to fill these vacancies, applicants and others who are not applicants but whom we are trying to persuade to come, but we are also looking at the internal structure of the Department to see if it is in the condition that we feel will enable it best to be administered by people with our general views. This is an active part of the work going on right now.

Senator RIBICOFF. Are you aware that the philosophy concerning health during the past years has been of such a nature that capable people recognized for their leadership in these fields have continuously refused to accept positions in this administration?

Mr. WEINBERGER. No, sir; I am not aware of it.

Senator RIBICOFF. Are you having any luck getting qualified people to fill these positions?

Mr. WEINBERGER. There is certainly no shortage of applicants.

Senator RIBICOFF. I know, but I mean qualified.

Mr. WEINBERGER. Yes, sir; we are receiving indications of substantial interest from a number of the people to whom we have talked. As you know from your own experience, it is not always the applicant or the list of applicants from whom you select a person. Usually, the one you want is the one who is hardest to persuade to come, not because of any dissatisfaction with anything, but simply because such people usually have happy, successful lives elsewhere, and it is not always easy to make the successful argument to bring them in. But we are working very diligently at that and regard it obviously as of the very highest priority at the present time.

Senator RIBICOFF. I would be very curious to follow your success or lack of success at getting qualified people for the health positions.

Now, what is the administration's program for health insurance for this coming Congress? Is it similar to the program of 1972 or the 92d Congress?

Mr. WEINBERGER. To my knowledge, sir, the plan at this point—and I do not think it is final yet—to present substantially similar legislation to that proposed by the President 2 years ago that has not yet been enacted.

Senator RIBICOFF. Now, under the leadership of the chairman, great advances were made in the social security field in H.R. 1. This ad-

ministration often says that the solution to poverty is work. I think we can all agree on that. The social security program is based on work. I wonder how you feel as to whether the social security program could be improved so that, on retirement, there would be more security and larger income as an effective way to beat poverty. I would like to have your thinking on the use of social security as an antipoverty tool.

Mr. WEINBERGER. Well, as you know, most of the benefits from social security are paid on retirement, and the benefits have been very substantially increased in the last few years, as you pointed out. We do have a problem with the allocation of the totality of our resources. The amendments that you mentioned in H.R. 1, passed toward the close of the last session, as well as the 20-percent increase in social security benefits passed earlier last year, will together have the effect of requiring an increase of over \$12 billion a year in Federal outlays. Some of these are financed, but not all of them. This represents a very substantial increase in benefits. I think the total in just about 3 years has been a 52-percent increase in social security benefits, in addition to which, as you know, there is now an increase built in, an automatic cost-of-living increase in the benefits. It would seem to me this is a very substantial increase in benefits, and one of our remaining tasks and challenges right now, an immediate one, is to insure that these are administered properly, that the payments are promptly made, and that we advise the Congress of any additional changes which seem to be necessary.

In short, in answer to your question, I would think that we have moved quite a fair distance in this area very rapidly, and it would be very desirable to absorb and handle what has been voted into law as efficiently as we possibly can.

Senator RIBICOFF. Now, my understanding is that there are some 35,000 people today, on all levels, administering welfare to the aged, blind, and infirm. These categories, under H.R. 1, have been moved to social security.

I further understand that Commissioner Ball felt that he needed 15,000 more people to administer this program, but OMB allocated only 9,000 people. How do you anticipate administering proper assistance and payments to the new categories of the millions of people that now will be under social security?

Mr. WEINBERGER. I would make two points, Senator. As you know, the new program starts on January 1, 1974, and the requests that you speak of were considerably higher. The Commissioner wanted something like 18,000 people ultimately to be added to the Federal rolls to handle the federalization of the adult categories. The hope he expressed and others expressed was that, as these people were added, the State and local employees in the same categories would no longer be required and no longer be employed. Thus, the total number of government employees—Federal, State, and local, administering these programs—would remain relatively stable.

I think that our task in this connection is to insure that the addition of the adult categories to the Federal role is handled, first of all, as expeditiously and as efficiently as we can do it; and second, to see if it isn't possible to administer this addition to the existing social

security rolls with somewhat fewer people. It seems to me that an addition of 18,000 people to the Federal payrolls within the next year would be, obviously, a very substantial amount, and I would hope there would be some efficiencies that could be obtained through an addition to an already very large system that might make it possible for us to operate with somewhat fewer people than that. I do not know at this time. I have not had an opportunity to look at the Social Security Administration in any detail at all. I think it has been very efficiently operated, and I would like to insure that these additions do not change that.

Senator RIBICOFF. You know, I was rather shocked at the forced—and I do not use that word carelessly—removal of Bob Ball as Commissioner of Social Security. I feel that Bob Ball is probably one of the most outstanding civil servants in this entire Government. I do not know Bob Ball's politics; I do not know whether he is a Democrat, a Republican, or independent. Over many years, five different Secretaries of both parties have relied on Bob Ball as a professional. Being on this committee for 10 years, I do not believe that any man who came before this committee was more respected than Bob Ball. He answered the questions, he was knowledgeable, he knew every nuance of this very, very complicated social security law. It is a tragedy when Government pushes men like Bob Ball out of Government. How do you explain the forcing out of Bob Ball from HEW as Commissioner of Social Security?

Mr. WEINBERGER. Well, Senator, first of all, I would deny that he was forced out. There was a very cordial exchange of letters between Mr. Ball and the President, and the President's letter, which I have here and which I would like to put into the record, Mr. Chairman, if I might, says among other things that, perhaps more than any other Government program, the administration of social security demonstrates the efficiency and responsiveness of Government.

The President said:

It is to your great credit that the Social Security Administration has, indeed, become a model for other government agencies in discharging its responsibilities to the American public.

During your service as Commissioner, the scope of Social Security has been enlarged and enhanced many times. Legislative additions and amendments to the law have demanded the finest in administrative implementation and this you have given superbly. You have every reason to be proud of such distinguished efforts.

As you prepare to return to private life, you have my special thanks for your service to our country and my very best wishes for success and happiness in the years ahead.

Senator HARTKE. Will the Senator yield?

Senator RIBICOFF. I just want to make one comment.

Mr. WEINBERGER. If I could complete just this one thing, Senator. The letter from Mr. Ball to the President said:

As you have known for some time, my personal preference, after nearly eleven years as Commissioner of Social Security, has been to ask you to accept my resignation, effective at the beginning of the new term. I have refrained from doing so only because of my concern for the program and the social security organization during the coming period of great challenge and difficulty arising from the need to implement the major new legislation contained in H.R. 1.

It is my understanding that you now believe that a successor can and will be found shortly and that you wish to accept my resignation at this time with the

understanding that I will stay on until he is confirmed and with the understanding that I will be available for whatever help I can give during the period of transition.

I believe, Mr. President, that the social security program and the organization that administers it are in excellent shape. It has been a great privilege to have contributed to this development.

Please be assured that I will continue to be available for whatever help I can give in promoting the sound development and sound administration of this important program.

Mr. WEINBERGER. This morning, Senator, the Commissioner, Mr. Ball, was on television and I understand—I did not hear it myself—specifically answered the question that you have put, whether he was forced out. He said no, he was not forced out.

My feeling is that Commissioner Ball is exactly as the President has described him. I know him, not too well but well enough, and have talked to him about his work and discussed official business with him many times in my office. I regard him very highly indeed, and he clearly is a man we are going to rely on very thoroughly in implementing the changes. His advice will be sought, I am sure, not only by me but by his successor. His successor, of course, will come before you for confirmation.

Senator RIBICOFF. I just want to make one comment. Based on my years of experience in and out of Government, there is no more creative fiction than letters of resignation and acceptance. It is a matter of great wonder how they hide the true feelings and emotions of the resigner and the resignee. My understanding is that Mr. Ball, who is a man of 58, who has many more vigorous years—he is a man of great capacity—would have been more than pleased and delighted to stay as Commissioner of Social Security during the next 4 years.

I will be glad to yield to Senator Hartke.

Senator HARTKE. I just wondered whether or not the Senator from Connecticut thought we ought to take up a collection to give a gold watch to this man.

Senator RIBICOFF. I would say that Bob Ball has done such an outstanding job and has been so helpful to this committee, to give you an idea, maybe this committee ought to memorialize its appreciation to Bob Ball for the outstanding service he has given to this committee whenever we have needed it.

Senator HARTKE. If you will so move, I will be glad to second it.

Senator RIBICOFF. The chairman and the committee well realize that day after day, he sweated it out, he came before this committee with good humor and knowledge. It is always a tragedy when men of Bob Ball's caliber leave Government.

Senator HARTKE. I would like to just really, in a serious vein, associate myself with the remarks of the Senator from Connecticut.

Senator RIBICOFF. Now, would you list for us the impoundments of funds for various health programs that are now in existence for which Congress appropriated funds?

Mr. WEINBERGER. I do not have that with me, Senator. We are preparing a total list of impoundments on a Government-wide basis. That will be submitted immediately after the budget is completed. We submitted a list on June 30, I think, or shortly thereafter—I guess it was in September. That is a difficult task to do, for we have been wholly engaged in preparing the budget; but during the time we

are preparing the budget we necessarily look at the state of the accounts, and we are pulling that together and an update of the list will be transmitted in complete form to the Congress.

Senator RIBICOFF. Mr. Chairman, I have many more questions, but there are many more members of the committee here and I would defer further questions until all the other members have had an opportunity to ask them.

The CHAIRMAN. Thank you, Senator. I would like to ask other Senators if they will perhaps interrogate the witnesses, if they wish, for about 10 minutes or so and then to reserve any remaining questions until others have had a chance to ask questions that they would like to put to the nominee for Secretary of Health, Education, and Welfare.

I have been proceeding on the basis that I was recognizing the Senators as they entered the room, and on that basis, Senator Mondale, one of our new members, who I am sure will make a very outstanding contribution to this Nation's interest as he has done so in many areas already, including some that fall within the jurisdiction of this committee, is recognized.

We are pleased to have you here, Senator, and I am sure we will very much enjoy working with you.

Senator MONDALE. Thank you very much, Mr. Chairman. I am delighted to be a member of this committee.

Mr. Weinberger, how do you relate the work of this so-called super-Cabinet with the existence of the Domestic Council? What is the function of one and what is the function of the other?

Mr. WEINBERGER. The Domestic Council staff is being very substantially reduced in accordance with the President's directive, Senator. The Domestic Council was used before for a variety of duties, one of which was, through its committees, to help develop legislation that deals with particular interests of the President. Another was that several of its staff members served as individual liaison for various agencies, working with our Office, the Office of Management and Budget, and working with the Director of the Domestic Council and its Deputy Director, Mr. Ehrlichman and Mr. Cole. I would think that now, with the new administration of the President, the Presidential counselors would succeed to these liaison duties and that the Presidential counselors would utilize the remaining staff of the Domestic Council to assist in the development of legislative proposals of particular interest to the President.

Senator MONDALE. What legislative proposals would the Domestic Council staff develop that you could not develop in your existing staffs in the departments?

Mr. WEINBERGER. Well, they work in fields that cut across the responsibilities of various agencies.

Senator MONDALE. Give me an example.

Mr. WEINBERGER. Well, manpower training, for one. I think there are some 26 different agencies of the Federal Government which deal with this. This would be a responsibility in the human resources field for which the counselor would be asked to do some of the coordinating. As I would envision it, there might be an attempt to develop some kind of consolidated program in this area.

Housing is another. A great many different Federal agencies have responsibilities for housing. Housing subsidy programs cut across

three or four different departments and the new counselor for community development will be interested in trying to coordinate and develop programs in this area after having a chance to evaluate the existing programs. These are a couple of examples.

Senator MONDALE. Let's take manpower. Suppose you wanted to work up some programs there. Is it your testimony that if the proposals might spill over existing jurisdictional lines, of necessity, you have to turn to the Domestic Council staff?

Mr. WEINBERGER. No, not of necessity, simply that that is one of the ways the President has preferred to work and one of the ways that has been utilized. But to my knowledge, in almost all of these processes, people familiar with the operations of the existing programs have also been called in and worked with. The Domestic Council is a very flexible organization and there has not been any rigidity to it. As a matter of fact, I cannot think of a single situation in which people in, for example, the Department of Labor or the Veterans' Administration or two or three agencies have not been working with the Council committees or groups in developing legislation.

Senator MONDALE. If the Domestic Council staff were eliminated, can you think of one function that you have to carry out that you could not carry out?

Mr. WEINBERGER. The reduction in the staff of the Domestic Council is one of the reasons why the Presidential counselors have come into being, as I understand it.

Senator MONDALE. But the reduction comes after a massive increase. I think you have some 85 people over there, maybe 90, almost a new Department of HEW was drawn up there. Now we have this Super-Cabinet. The question is whether the Council any longer performs any function—at least the staff—and why you need it.

Mr. WEINBERGER. Well, I think the staff has been very drastically reduced, Senator. I do not know the dimension of the final staff that will result but my understanding is that it has been reduced by far more than 50 percent. I think it has been reduced, because the President now desires to have coordination and communication with agencies in very broadly related areas that take place through the Presidential counselor method. That has been substituted, on a very much smaller basis, for the Domestic Council staff.

You characterize the Council staff as a new organization. Actually, my understanding is that it was simply the form, or the name, of a portion of the Presidential staff that was utilized by this President. All Presidents have utilized in one way or another Presidential assistants or White House staff or various officials for this purpose.

Senator MONDALE. Will you have separate staff serving you in the Super-Cabinet?

Mr. WEINBERGER. There is a very small staff contemplated. I believe at the moment they are talking about three people.

Senator MONDALE. For each of you or for the whole—

Mr. WEINBERGER. Yes, sir; for each.

Senator MONDALE. As you know, this country faces a crisis of tragic proportions in the failure of our current institutions to deliver an equal and fair opportunity for poor and disadvantaged and handicapped children. It has always been thought that one of the key avenues for escape from such tragic lives and one of the key hopes

that we offer to such people is the opportunity for a decent education—which will equip them with the tools that they need to have a much broader opportunity. Yet, of late, some have said that education cannot be counted on, even when it is effective, to increase economic opportunity. Others have said even if it can be counted on, no one knows how to do it. One of your most important functions, it seems to me, would be to decide, so far as the executive can decide such matters, what will be the educational objectives of this country, what sort of hopes should we set forth in terms of what education can achieve, what fundamental strategies are most hopeful in converting the present heartbreaking situation into one which is more hopeful. Would you just give us your views on that?

Mr. WEINBERGER. Well, I do not think anyone can disagree with the hopes you have expressed, and I certainly do not. I would be a little hesitant to advise the States and local school districts of my overall broad general strategy for education or to tell them what objectives they should achieve, because I am not at all sure this is a Federal role. I think there is a Federal role for assistance in education. I think the administration of the schools and the operation of the schools is essentially a State and local function, and I would think that it would be proper that it remain that way. I think we have to recognize, as we have in place very substantial Federal appropriation and plan to continue those in the future, the fact that some assistance is needed for local schools, for local school districts, and for States. That assistance has been given and, of course, will continue to be given. It has been given, even where it is aimed at particular problems such as trying to relieve the educational handicaps of disadvantaged children and things of that kind, on the specific understanding that the Federal Government should not dictate what textbooks should be used or how certain subjects should be taught. I think this is a proper caution to put on these matters, because I have seen no evidence in the short time that I have been in Washington that we have any better ability to run the schools than the people in charge of them, who are elected or appointed locally. I would want to continue that.

But I do think there is a Federal role in assisting in very specific sets of cases, and I think that Federal role is being fulfilled and obviously will continue to be fulfilled.

Senator MONDALE. Well, let's assume, then, the proposition—which no one, to my knowledge, has ever challenged—that we want local school districts to run their own schools. Do you see any role that the Federal Government should play in terms of encouraging certain directions in education or in terms of broad Federal aid to education to assist local school districts, many of which are in terrible shape financially, with more funds to fulfill their responsibilities? Or do you essentially see the Federal role as the one we are now living through?

Mr. WEINBERGER. Well, the Federal role is a very broad one at the present time, Senator. I do think that there are proper roles for the Federal Government to play in this. I think we can be quite helpful in the development and sponsorship of research in new methods in education, both of management and program, in the elementary and

secondary grades and in higher education. And I think we are doing some of that.

I think we can help in certain disadvantaged areas. I think we can help such programs with our tax structure and in assisting the States and local school districts to secure a somewhat more favorable basis for support than the property tax. Alternatives of that kind have been under discussion for quite a long time.

I think there are a great many things in the area of new developments that might be too expensive for individual school districts to pioneer or pursue that we can be very helpful in encouraging them to develop. Again, I think that is being done to a very considerable extent.

I think it is important that we preserve the basic rule that school districts should be operated and administered and run by people very close to them, locally elected in the case of school boards or in any other way the local government wishes to choose them. I think that they do need some assistance in certain cases and I think, in many cases, that assistance is being provided.

I think the *Serrano* and other decisions indicate the States should play a larger role in equalizing the tax burden and the allocation of funds so that local school districts can be more nearly equal in resources. Again, this is a State function which many States are now moving to accept.

Senator MONDALE. Do you contemplate that your philosophy would involve any increased Federal support for education?

Mr. WEINBERGER. I do not contemplate that it would not. I would want to see specifically what it was for, what we hoped to gain from it.

Senator MONDALE. I am asking what you believe, not what —

Mr. WEINBERGER. That is what I believe. I would be flexible and open on the subject. I would like to see what the proposal is, I would like to see what the chances for success are; I would like to see that it offered some promise. I would like to try it out on an experimental basis so we could evaluate the results. I would be most interested in supplying additional resources without strings and without categories to States and localities to let them do some experimentation.

Senator MONDALE. Maybe title III of the Elementary and Secondary Education Act?

Mr. WEINBERGER. Something along that general line, yes sir.

Senator MONDALE. Last year, the administration, through its spokesmen, said that they had come to the conclusion that title I, compensatory education assistance for disadvantaged children, was effective where it was made available in what they called the critical mass, say of \$300 a child—that where such efforts had been undertaken and had been responsibly administered, there was evidence that children were beginning to achieve impressively. And of course, if that is true, that could be one of the key answers that we are searching for. Do you stand behind that recommendation?

Mr. WEINBERGER. That was part of the rationale behind the Equal Educational Opportunity Act that was submitted last year, and I believe that has been reasonably well demonstrated.

First of all, we ought to know what we are trying to get; and secondly, we ought to have the capability to measure the effectiveness

of the dollars that are being spent, of the way the program is being applied.

Third, we ought to have the courage to stop doing something that we can demonstrate is not being useful so we can free some resources to try something else.

SENATOR MONDALE. Do you have some examples of that?

MR. WEINBERGER. I have some examples based on my experience in California; yes, sir. One of those is that there was a continual demand when I was finance director that we increase very drastically the proportion of State aid going to schools. That was done 2 or 3 times, but it was never sufficient. And there was always the same outcry and the same demand. When I inquired if anyone who was making the demand really knew what was going to be done with the funds, the usual reply was, certainly, it is going for the children. As a matter of fact, it really was not. What it was going to do was increase the salaries of people who were already teaching; something around 85 to 90 percent of it would be used for that purpose. And most of the people who were asking for the additional funds were asking for it on the basis that some of the teachers were incompetent and they needed more money for this purpose.

What I would think is a more practical, proper use of the additional funds would be to go into disadvantaged areas and increase very substantially the amount of individual attention and care in those areas. Instead of a pupil-teacher ratio of 20 or 20 and a half or 30 to one, you might get it down to perhaps four or five teachers for 10 or 12 children in an area where those children are not getting the kind of start that their contemporaries may be getting in their own homes.

So I think what you should look for is focus and direction and an ability to measure what you are accomplishing with the dollars, not just the blind application of more money to help the children; that is the usual phrase.

SENATOR MONDALE. I must say at one point you seem to be arguing that the money ought to be going to local school districts without strings because they knew what was best; the second argument seems to be, by all means do not do that, send money with these strings of, say—

MR. WEINBERGER. No; I am speaking of my State experience. In the State experience, there is a substantially greater direction and focus to the State funds than I think is proper with the Federal funds. I do think, however, that it is perfectly proper on the basis that I have mentioned for the Federal Government, too, to pick out certain areas where disadvantaged children can be benefited by increasing the amount of dollars that would be spent for the specific purpose of increasing the number of qualified instructors in those areas. I do not think any State or local government objects to that in any way.

SENATOR MONDALE. Would you support a national program to provide such help?

MR. WEINBERGER. There is a national program to provide such help.

SENATOR MONDALE. For all schoolchildren?

MR. WEINBERGER. Yes; for schoolchildren that need it. I would want to make sure there is a need and a focus.

Senator MONDALE. How many children are getting that help now?

Mr. WEINBERGER. I do not know how many are getting it right at the present time, but substantial numbers.

Senator MONDALE. Two hundred thousand?

Mr. WEINBERGER. The President has requested a very substantial increase under the Equal Educational Opportunity Act to bring it up to the critical mass you spoke of, the \$800 per student. That was not enacted.

Senator MONDALE. We have about 9 million children who are defined as educationally disadvantaged under our economic formula.

Would you support a so-called critical-mass strategy for all of the children who need this?

Mr. WEINBERGER. I would support the idea that there can be very good uses for more funds in areas of educational need. I would certainly want to see precisely what was the final utilization of the Federal funds involved, and I would not think that we would necessarily solve the problem by simply adding up totals and saying the Federal Government must do it all. I think we have to look at educational expenditures on a nationwide basis. Some are generated from local taxing districts, some from the States, some from the Federal Government. I think it would be proper to look at the distribution and utilization of all of those funds.

Senator MONDALE. I have already taken more than my time. I would like to come back if I might, but I would like to yield.

The CHAIRMAN. Certainly, Senator.

Senator Byrd has to go to the floor and I would like to call on him next.

Senator BYRD. Thank you, Mr. Chairman.

Mr. Weinberger, we have many mutual friends, all of whom hold you in the highest esteem and speak so well of you and your abilities. I am looking forward to getting to know you and to working with you.

Mr. WEINBERGER. Thank you, sir.

Senator BYRD. I will be very brief. I have only a few brief questions. First, I want to say that I concur in the remarks made by Senator Ribicoff with regard to Bob Ball. I have felt he was an outstanding Commissioner and so far as I could tell he was a technician. I do not know anything about his politics. He impressed me as being a technician in the best sense of that word.

Many Members of Congress have had some difficulty, Mr. Weinberger, with HEW in getting responses to communications. I have had considerable difficulty with Mr. Finch, a little less with Mr. Richardson when Mr. Richardson was Secretary. But still, it has been great difficulty, and I have learned that from both the Members of the House and Members of the Senate, in getting prompt responses from the office which you will assume. I would just hope that you might give some attention to that, because the inquiries are not on behalf of us personally, but on behalf of the people whom we represent. I represent 5 million people in Virginia, and I feel some obligation to them.

Mr. WEINBERGER. I regard that as a very high priority, Senator. We have had that same situation in the various public offices I have held. I have always taken the view that the mail generally, and certainly the congressional mail, which, as you say, is representative in character,

should be handled very promptly, and I certainly would want to be sure that that is done. It is my understanding that Mr. Richardson has instituted some new procedures in the Department that offer the opportunity for more rapid answers, and I certainly would want to continue to encourage that.

Senator BYRD. Thank you, sir.

Now, for several years—let me say this. I think that welfare reform is extremely important. However, the proposal which was sent to the committee by HEW would have doubled the number of persons drawing public assistance. I did not regard it as welfare reform; I regarded it as welfare expansion. The committee almost unanimously, I believe, was against it. The Senate voted it down. I would hope that you, coming in new, would not feel bound by the old program, but would at the appropriate time submit a new program of welfare reform rather than welfare expansion.

Mr. WEINBERGER. I think that correctly describes the situation.

Senator BYRD. Now, do you favor or oppose compulsory busing to achieve an artificial racial balance in the schools?

Mr. WEINBERGER. I oppose it, sir.

Senator BYRD. Will that be the policy of your Department?

Mr. WEINBERGER. It will be my policy. It is my understanding that is the President's policy.

Senator BYRD. Will your subordinates in HEW be so instructed?

Mr. WEINBERGER. Certainly, if that is the policy, the Department would act in a unified way on it. We would take our direction, as we should, from the President. And when that direction is set out, as I understand it is now, that will be the direction we will follow in that Department. As an appointee of the President, I would feel that I should carry out Presidential policy and that is what my intention would be. I would certainly want to insure as a matter of proper management that the Department also did that. I have no reason now to suppose that it would not.

Senator BYRD. Thank you for that response. The President has made his position clear on this issue.

Mr. WEINBERGER. I might say, in further response to your question, I have attended integrated schools ever since I was in the elementary classes in California. I think that there is an advantage to having people of all walks of life, all colors, all races, mixed together in the school system. I have found great educational advantage from it. I think that the way you phrased your question, it was easy for me to answer no, because you are asking if I favored requiring busing to produce artificial statistical results and things of that kind. I think you lose so much educational value in the attempt to produce some artificial statistical result that it is not a proper use of the time that is available. That is why it was easy for me to answer no, the way you phrased your question.

Senator BYRD. I think you are quite right. I am not speaking of integrating schools or segregating schools or anything like that, I am speaking of, which you have already addressed yourself to, whether it is to anybody's advantage or whether it is wise or desirable to have a policy of compulsory busing just for the purpose of creating an artificial racial balance?

Mr. WEINBERGER. Just for that purpose, I would oppose it. I think it is an important part of the educational experience to have desegregation and I think there are ways of achieving that. That would be what the President wants and that would obviously be the intention of the Department.

Senator BYRD. The President, in the conversation that I had with him when I asked him whether I could make this public statement, and he said that I could—otherwise, of course, I would not do it—the President said, “I am against compulsory busing, period,” which I think it is a very clear and direct statement. I am glad to get your views in that regard.

Mr. WEINBERGER. Yes, sir.

Senator BYRD. I am correct, am I not, that the budget of your Department, the Department that you will be Secretary of, your budget will be greater than any in Government, greater than the Department of Defense.

Mr. WEINBERGER. By a very substantial amount, yes, sir.

Senator BYRD. By a substantial amount?

Mr. WEINBERGER. Yes, sir.

Part of that is because of the \$12 billion increase that is required by the passage of H.R. 1 at the close of the last session.

Senator BYRD. The Defense budget will be in the area of \$90 billion, as I recollect.

Mr. WEINBERGER. It is less than that this fiscal year; yes, sir.

Senator BYRD. The expenditure will be about \$77.5 billion; is that right?

Mr. WEINBERGER. Well, it is still a bit less, but right in that range; yes, sir.

Senator BYRD. And HEW will be in the range of \$88, \$84, \$85 billion?

Mr. WEINBERGER. In this fiscal year; yes, sir.

Senator BYRD. Thank you, Mr. Weinberger. I am pleased to support your confirmation, and I wish you the best of luck in your new assignment.

Mr. WEINBERGER. Thank you, sir.

Senator BYRD. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Fannin? Thank you very much for your cooperation in yielding to Senator Byrd.

Senator BYRD. If you will yield just a moment, I would like to thank Senator Fannin for permitting me to inquire.

Senator FANNIN. I was very pleased to do so, and any time I can accommodate the fine Senator from Virginia, I will be glad to.

Mr. Secretary, I am very pleased with your appointment. I have worked with you over the years, and I have had the great privilege of observing your work. I consider you one of the finest administrators I have ever worked with in Government. I say that very sincerely, knowing that at times we were on opposite sides of the fence. We have had our difficulties, but I have always realized that you were working for the best interest either of your State of California or of the office in which you were employed here in Washington. You have been frugal but very fair, and I think with the responsibilities that you are assuming now, you will be of great assistance, not only to this committee but to this United States of America.

Mr. WEINBERGER. Thank you very much.

Senator FANNIN. I am very pleased with this appointment. I have some thoughts about some of the programs that you will have.

I understand the basic approval of State welfare plans is accomplished in the regional offices rather than here in Washington. In connection with the skyrocketing social services costs this past year, it came to light that some regional officials of HEW see their role as one of assuring that State welfare programs comply with the objectives and requirements of Federal law, while other regional officials place their first loyalty with the States in the region and set themselves the task of encouraging and assisting those States in milking the Federal Treasury to the maximum extent possible. I have observed this even in my own State, and I think we have a State that perhaps is almost at the top of the list in their accomplishments in trying to stay within the budget requirements. What is your view of the proper function of your regional officials, and what plans do you have for assuring that your views are carried out in all regions? I assume your views will be the same as they have in the past.

Mr. WEINBERGER. Thank you, Senator. They would be. I feel very strongly that the regional offices should carry out the requirements and programs of the Department. I also think that we would want to insure that regional offices have sufficient authority to be of assistance to the people in their immediate area so that it would not be necessary for all decisions to have to come to Washington for resolution. But I would certainly want to insure that the regional officials carried out their tasks in a way that was completely consistent with Presidential and departmental policy. I would think that is an essential part of good management and one that we would want to insure.

Senator FANNIN. I was alarmed to see in a bulletin from a State governments association—I cannot think of the exact name of the organization, but it is an organization of State governments—where they stated that they expected to have a release of a new ruling as far as a requirement for mothers to identify the husband or the father of the child. I see this as not a great issue, but something I know that the chairman and I have been concerned about because of the mistreatment of so many mothers. I was just alarmed that in this bulletin they stated that this was a prospective decision of the Department.

Mr. WEINBERGER. I am not familiar with that. I certainly will make myself familiar with it.

Senator FANNIN. I will send you a copy of that bulletin and also a copy to the chairman so he will have that information available. I think this is indicative of some of the problems that we have whereby the States may be in a position to handle a problem beneficially, and then we get a ruling of the Federal Government that precludes it from doing so. I am really concerned about what is being done in some of those programs.

(The material referred to follows:)

[From p. 2, National Governors' Conference Bulletin, Dec. 22, 1972]

STUDENT AID

HEW is proposing new rules which would provide welfare aid to some college students up to age 21 in needy families receiving aid to families with dependent children. The rules would also prohibit states from denying welfare aid to

children in AFDC families because the mother refused to name the father or seek his financial support and would require states to provide aid to all welfare children up to age 18, even if they have dropped out of school.

[45 CFR Part 233]

COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS
FACTORS SPECIFIC TO AFDC

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations implement the U.S. Supreme Court decision in "Townsend v. Swank," December 20, 1971, regarding age and school attendance requirements in AFDC and the U.S. Supreme Court's summary affirmances in "Juras v. Meyers," "Weaver v. Doe," and "Carleson v. Taylor," prohibiting the denial of AFDC to otherwise eligible children on the basis of a caretaker relative's refusal to cooperate in establishing paternity or seeking support for dependent children. The proposed amendments to § 233.90 require, as conditions for approval of State AFDC plans, that:

1. The plan must include all otherwise eligible children under age 18 regardless of school attendance;
2. If the plan includes children over 17, it must include all children 18 through 20 who are regularly attending a school, college, or university or regularly attending a course of vocational or technical training designed to fit them for gainful employment;
3. There may be no denial of assistance because a caretaker relative does not cooperate in naming the putative father of a child born out of wedlock or seeking support from a person with legal responsibility to support the child.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue S.W., Washington, D.C. 20201, within a period of 30 days from date of publication of this notice in the Federal Register. Comments received will be available for public inspection in Room 5121 of the Department's offices at 301 C Street S.W., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-903-7861).

(Sec. 1102, 49 Stat. 82 U.S.C. 1302)

Dated: November 8, 1972.

JOHN D. TWINAME,
*Administrator, Social and
Rehabilitation Service.*

Approved: December 7, 1972.

ELLOIT L. RICHARDSON,
Secretary.

Section 233.90 is amended by adding three new subparagraphs to paragraph (b). As amended, § 233.90 reads as follows:

§ 233.90 Factors specific to AFDC.

(b) *Conditions for plan approval.* (1) A child may not be denied AFDC either initially or subsequently "because of the conditions of the home in which the child resides", or because the home is considered "unsuitable", unless "provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child". (Section 404(b) of the Social Security Act.)

(2) An otherwise eligible child who is under the age of 18 years may not be denied AFDC, regardless of whether he attends school or makes satisfactory grades.

(3) If a State elects to include in its AFDC program children 18 and over, it must include all children 18 years of age and under 21 who are regularly attending a school, college, or university, or a course of vocational or technical training designed to fit them for gainful employment.

(4) A child may not be denied AFDC either initially or subsequently because a parent or caretaker relative fails to assist:

- (1) In the establishment of paternity of a child born out of wedlock;
or
(11) In seeking support from a person having a legal duty to support the child.

[FR Doc. 72-21731 Filed 12-18-72; 8:48 am]

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF PUBLIC AFFAIRS

[From the Los Angeles Times, Dec. 19, 1972]

HEW TO FORCE COMPLIANCE ON WELFARE LAWS

(By Vincent J. Burke)

WASHINGTON.—The government said Monday that no state can deny federal welfare cash to an abandoned mother because she refused to identify the father of her children or refused to cooperate with authorities trying to force him to contribute to the children's support.

Eighteen states still require such cooperation as a condition of welfare eligibility, even though Supreme Court decisions more than a year ago halted the practice in several states, including California.

The Department of Health, Education, and Welfare also announced that no state can impose its own educational requirements on children as a condition for welfare payments.

It said 17 states, including California, still impose such educational requirements even though the Supreme Court outlawed the practice in Illinois a year ago.

ENFORCEMENT TO START

Monday's long-delayed announcement served notice that HEW intends to start enforcing the law in states that have ignored the Supreme Court rulings.

The department announced its intention of incorporating the court decisions into federal welfare regulations. The department pays at least one-half of state welfare program costs and it can deny federal welfare cash to states violating its regulations.

The new regulations will be published in the Federal Register today in tentative form. State welfare directors and others will have 30 days to comment before the regulations are issued.

The effect in California will be to enlarge eligibility for Aid to Families with Dependent Children (AFDC). Under this program federally aided assistance is provided for children under 18, and the state has the option of covering those aged 18, 19 and 20, if they are attending school.

OTHER REGULATIONS

Embodying the Supreme Court ruling, the new regulation holds that federal law does not permit states to impose tighter eligibility rules of their own. That is, if a state provides assistance for some children under 18, it must provide it for all who are needy. Similarly, if it provides assistance to 18, 19 and 20-year-olds attending school, it must not make any distinction between the type of school attended.

The effect in California would be to strike down rules that deny assistance to a 17-year-old child, if the child drops out of school. California also would have to stop imposing on 18, 19 and 20-year-olds a tougher welfare eligibility test if they attend college than if they attend high school or a training program.

To qualify for assistance under California law an otherwise qualified individual, aged 18, 19 or 20 need merely be regularly attending school or a training program. But if enrolled in college, the student must also be "achieving a passing grade and making progress according to standards set by the (welfare) department."

Senator FANNIN. One of the major issues in social security revolves around the cost of the program and the relatively high taxes that some

lower salaried people pay. For a growing number of people, social security taxes are more than income taxes. What idea do you have as to what might be done to alleviate this tax problem for these low-salaried people?

Mr. WEINBERGER. Senator, I mentioned, I think in response to a question from Senator Ribicoff a few minutes ago, that we have had very substantial increases in social security benefits, something like 52 percent, in the last few years, and that some of these have been financed with increased payroll taxes and some have not. The 20 percent increase last June was not. Most of the H.R. 1 increases were.

It would seem to me that at this point, those increases, together with the built-in cost-of-living increase provision we now have, should be sufficient, and we should turn to trying to assimilate, manage, and handle those very substantial additions to the program as well as we can.

I think that if there are to be future increases of a major nature, there will obviously have to be very careful consideration as to whether those should be financed out of the General Treasury, which would certainly require an increase in the general level of taxation, or whether we should continue financing them out of the payroll tax.

The need to resolve that will not be present for some time, I think, because it is my understanding that the predicted growth in the revenues at the existing level of taxation will cover the cost-of-living increase. So unless there is to be some new major benefit increase on top of the 52 percent we have just had, I do not think the problem would arise immediately. But there is no doubt that the payroll tax now is a very substantial portion of the total tax requirement of the Federal Government and, before any additions are made to it, I would think there should be very careful examination of other ways to finance any additional benefits that might be thought necessary somewhere out in the future.

The Social Security Advisory Council has looked at this problem. They have made some recommendations. There are other groups that I think will be asked to do the same thing. But I would certainly think that, if we had not in the past, we should in the future have in mind clearly the tax load that is placed upon everyone, from Federal, State, and local requirements, and we should also consider the payroll taxes as an integral part of the total tax requirement. I think there has been some tendency in the past to feel that, since people never saw these and they were deducted at the source, they weren't real taxes; but obviously they are. And clearly they add to the decision of the employer as to whether he should employ people or try to arrive at his goal by other means, and they will have a very clear impact in the future.

Senator FANNIN. I am very aware of this problem and I am very pleased that you are going to give this matter the consideration that you have expressed. I know we have complaints continuously from people that say, well, here I am supposed to get an increase in my social security payment but it comes right along and my tax on social security increases more than my increase in payment.

Mr. WEINBERGER. Yes.

Senator FANNIN. They are very alarmed at that and I cannot blame them for being alarmed.

Recent HEW reports have confirmed longstanding suspicions that many States have an abysmally poor record with respect to the eligibility of those on the welfare rolls and the correctness of the payments to those who are eligible. HEW is now apparently going to place the responsibility for policing all this bad administration in the hands of the bad administrators by allowing the States to operate the quality control surveys on which any Federal penalties will be based.

Now, I am alarmed as far as what is happening. Some States, as we all know, have good administration. Others certainly have just tried to place the load on the Federal Government. I do not want to name States—but we will discuss them extensively in our meetings—that have even had people here in Washington studying as to how they could place a further load on the Federal Government.

Is this not a prime example of the fox guarding the henhouse? Do you intend to establish a quality control program which will be staffed and controlled by Federal employees?

Mr. WEINBERGER. We certainly intend to have a quality control program instituted in a way, Senator, that will enable us to see the numbers of ineligible people or people who are getting overpayments. I think that is a very essential part of it. We think we can do that by establishing standards for the actual examination of these rolls and then insuring, through audit procedures, that States follow these guidelines. I think most of the States are very eager to do this themselves because it is very much to their advantage and very much to the county governments' advantage to insure that people who are ineligible are not being paid or that people who are eligible are not being paid too much. I do not think there is any defense of the use of taxpayers' money for ineligible payments or overpayments.

How we get at it is a matter of mechanics. I would prefer to see very well-trained and skilled State and local people doing the checking. In several of the States—New York, California, and two or three of the others—they are well advanced in developing systems of this kind. We would want to give Federal assistance and establish Federal guidelines so that other States would have the same capability. That is the major purpose of the quality control program as I understand it. Certainly it would be my major purpose.

Senator FANNIN. Very good.

Thank you very much. I wish you well. I am sure that you will perform admirably.

The CHAIRMAN. In line with the procedure I have been using, I will call on the Senator from Wyoming, Mr. Hansen.

Senator HANSEN. Thank you very much, Mr. Chairman. I am sorry that I was not able to be here for the entire appearance of the Secretary-Designate nor to hear all of the questions which may have been asked him. It is very probable that I may be plowing ground that has already been gone over.

With respect to welfare costs and efforts that I know each of us hope may be more successfully pursued in order to make certain that those receiving welfare do deserve it and that those who are ineligible under the law be cut off, what is your attitude, Mr. Weinberger, with respect to greater cooperation between HEW and State and local law enforcement officials in making what some have held to be confi-

dential information available to the full extent within the confines of the law to State and local people?

Mr. WEINBERGER. Well, Senator, I think that we do have a mutual problem here with State and local governments in enforcing these matters. I think that it is to the interest of everyone—taxpayers, State governments, local governments and the people generally—that we can assure everyone that the payments are going to those who are in need and who are eligible and that we are not getting into payments to people who are ineligible, or overpayments. I think it is a mutual problem. Funds of State and local and Federal Governments are involved, and it would be entirely appropriate to have a mutual effort to prevent abuse and to secure the cooperation and the utilization of the resources of the various governments to prevent that. That was one of the purposes for the federalization of the adult welfare categories under H.R. 1 as enacted last year, to utilize the social security system and its controls for the payments under these categories. In the case of the remaining AFDC program, I think that the Congress and the administration, and, as far as I know, everyone, feels that there should be cooperative effort to insure that taxpayers' funds are being used for the purposes that the Congress intended.

Senator HANSEN. In hearings that I have attended in the last couple of years, and recalling questions asked repeatedly by the chairman of this committee, it is my feeling that if State officials and county officials were given the support that could come from other agencies of Government within your vast Department, it would be far easier and the search to seek out fathers who abandon families and flee across State lines could be more successfully completed than has been the case in the past. Within the limits of the law, would it be your desire to make available all such information as legally could be made available in order to support this kind of effort on the part of State and local officials?

Mr. WEINBERGER. Yes, I would not hesitate on those matters. Again, I think it is to everyone's interest to insure that we do utilize the resources we have to be able to assure people that only eligible persons are receiving their proper payments. I think anything other than that is a very inefficient use of taxpayers' funds and I think an effort should be made so that we can give assurance. I think anything else would be a serious erosion of confidence in Federal assistance to the needy, and I think that would have a very undesirable effect.

Senator HANSEN. Do you share the feeling that some of us on this committee have that people who are able to work and who are offered jobs should be required to accept those jobs or to be denied welfare benefits?

Mr. WEINBERGER. Well, yes sir. I think that is a reasonable enough assumption and a reasonable enough request. They have had very substantial success in California with the adoption of rules similar to that with the removal of some 225,000, people from the welfare rolls, many of them people who simply no longer turned up to receive payments after the requirement was established. I do not feel that any effort whatever should be made to force work upon people who are obviously unable to do it. But I think that one of the basic reasons for the adoption of the rules in California has been not just to save money but to free resources for an increase in benefits to the people who need

it, who require it. That, it seems to me, is a perfectly worthwhile and proper procedure and a proper goal.

Senator HANSEN. There is a lot of concern about what mechanisms, what new laws might be devised in order to make certain that older people on social security payments and welfare recipients as well do not suffer unduly from the erosive effects of inflation on their purchasing power. You have had experience in the Office of Management and Budget which suggests me to think that you might offer yet another solution to these which I have heard so far. Would it be your feeling that aside from other steps which might be taken, steps to bring about an automatic escalation of social security payments, if the Congress were to face up to its responsibility and make a greater effort than it has so far made to come up with tax revenues approaching equality with outlays of cash, would we not have made a very major contribution in an effort to see that people did not suffer in this particular way from a diminution of purchasing power because of inflation?

Mr. WEINBERGER. I think the Federal Government can and should play a major role in preserving purchasing power, and I think one of the ways they can do that is to adopt policies that prevent or discourage inflation. And I think that in years past, the Federal Government has been one of the principal offenders in causing inflation by a failure to recognize that through very expensive fiscal policies in times when there is no need for that, in times when we are in full employment, the Federal Government can be one of the greatest factors toward producing inflation in the country. Inflation certainly robs from everyone and is something, as you say, that can cause a very serious hardship, particularly for older people on fixed incomes. So it would be, I think, an important part of the decisionmaking process in all of these proposals and policies as to whether or not it is going to have an inflationary effect. That is why, Senator, we were so strongly supportive of the President's proposal for a spending ceiling in the last Congress and why we are making every effort to achieve the fiscal goals that he has set. We feel that if those goals can be achieved, we will have taken the Federal Government out of the inflation-producing business, so to speak, and put it on a basis where, while it can stimulate the economy when stimulation is necessary, it will not overstimulate the economy and it will not be a principal factor in the production of more inflation.

I think we have to recognize that just spending more money is not automatically going to help poor people or, indeed, anyone unless it is a focused, necessary program within the resources we can afford under a given tax system. And I think we ought to look long and hard when suggestions for increases in taxes are made because we are now already utilizing over a third of the gross national product to support government at all levels. That is a very substantial amount and one that could, if substantially increased, risk our whole incentive system.

So I think the easy answer is not just to spend more money or to increase taxes. The answer is to try to set priorities for programs within our existing resources, having in mind that a high priority goal has to be the prevention of inflation and that one of the principal causes of inflation can be improper fiscal policies of the Federal Government.

Senator HANSEN. Thank you, Mr. Weinberger.

Senator CURTIS. Mr. Weinberger, I am happy about your appointment. I shall be delighted to vote for your confirmation.

Mr. WEINBERGER. Thank you.

Senator CURTIS. The question I am about to ask relates to the Department of Health, Education, and Welfare, but it also has its roots in the Bureau of the Budget, with which you are so very familiar. What do we mean by the expression, "uncontrollable expenditures" or what is the term you use for overexpenditures—what term is it you use in the Bureau of the Budget concerning expenditures that we really have no choice about?

Mr. WEINBERGER. That is the term, "uncontrollable." Generally, our definition is, Senator, that it is an expenditure that is required to be made without any ability to change it or reduce it on the part of the President or the executive branch in the absence of some change in the law. Uncontrollable expenditures in that category run about 71 percent of the Federal budget. They include such expenditures as interest on the national debt, unemployment insurance, until the ceiling was put on by the Congress expenditures for social services, most of the welfare, medicare, and medicaid expenditures. These are cases in which the law requires that, if the State, for example, tenders a voucher to the Federal Government, our duty is only the ministerial one of writing the check. There are a great many expenditures—as I say, a little over 71 percent of the Federal budget—in that category now.

Senator CURTIS. Yes, and to state it another way, that means that the voters who voted last November for an entire new House of Representatives, for a President, and for a third of the Senate were electing people that really had no control over 70 percent of the cost of Government.

Mr. WEINBERGER. That is one of the frustrating things about my present position, Senator, yes. Public opinion cannot affect that much of the budget. The commitment was made years ago.

Senator CURTIS. I do not want to take a lot of time to get into a philosophical conversation, but what it amounts to is a loss of self-government and this generation of taxpayers and the next generation of taxpayers not having a major voice in their government, but tied to the past.

Mr. WEINBERGER. That is right.

Senator CURTIS. It is a very reactionary, backward situation.

Mr. WEINBERGER. I have heard it described by someone saying that we are prisoners of the programs adopted in the past to solve problems that we did not cause. In many cases, this is true.

Senator CURTIS. You said one other thing. Nothing can be done about it unless there is a change in the law. With some of these things, we can change the law. In the field of social legislation, which comes under HEW, in many instances, we cannot change the law without breaking faith with people who have relied on them; isn't that true?

Mr. WEINBERGER. Yes, sir; commitments have been made and contracts have to be carried out; yes, sir.

Senator CURTIS. And when the Congress voted a few months ago to increase social security payments, which, in turn, mean increase in social security taxes, that was a cumulative raise in both expenditures and taxes of all the other raises that took place before.

Mr. WEINBERGER. That is correct.

Senator CURTIS. And if just prior to the next election, Congress does the same thing, it will be accumulated upon all of that.

Mr. WEINBERGER. Yes, sir.

Senator CURTIS. Are we not facing a time when a generation of social security taxpayers will be paying a heavy bill and nearly the entire obligation was determined before they came on the scene?

Mr. WEINBERGER. There is no question about that. That is why I mentioned the total amount of the increases that have been voted in the last very few years, over 52 percent in something under 8 years, I believe. For example, H.R. 1 and the 20-percent increase last year will together require a \$12 billion increase in annual outlays in the future. With the cost-of-living escalator provision, this will be further added to. So I think we have to realize that we have already committed a very large proportion of the national resources under the present tax system to social security benefits. That is a congressional decision that was made. As you say, it is a contract. Therefore, it means, I think, that we have to examine new proposals with considerable care.

Senator CURTIS. But definitely, it would be breaking faith with the people; would it not?

Mr. WEINBERGER. Yes, sir.

Senator CURTIS. Well, now, what portion of the HEW budget is uncontrollable?

Mr. WEINBERGER. About 94 percent, sir.

Senator CURTIS. About 94 percent?

Mr. WEINBERGER. Yes.

Senator CURTIS. You have a tough job.

Mr. WEINBERGER. Yes, sir.

Senator CURTIS. And you will have both my prayers and my sympathy.

Mr. WEINBERGER. Thank you. I will need them.

Senator CURTIS. I believe that there is no better training-ground for a Cabinet member than the Bureau of the Budget.

At this time, I will take no more time. I am delighted at your appointment.

Mr. WEINBERGER. Thank you, sir.

The CHAIRMAN. Mr. Weinberger, there are a number of Senators who would like to ask additional questions and some of them have deferred in order that other Senators could have an opportunity to at least have some say this morning. I believe that you are probably going to have to perform before this committee for about 2 more hours before the day is out. Under the circumstances, I think it would probably expedite the procedure and help you get your job done as well if we would bring the Treasury witnesses before us at 2:30 p.m. and then, if you could arrange your business to be here, let us say, about 3:30 p.m., I think that might let you do some things that are pressing during the interim and hope that we can conclude this hearing, both for you and Mr. Carlucci and for others. I think in view of the great interest in your confirmation, there will not be a great deal of interrogation of the Treasury witnesses and we can get back to a conclusion of this hearing, hopefully by around 5 or 5:30 p.m.

I gain the impression that you are expected to be at the White House at 8 o'clock.

Mr. WEINBERGER. I had a presidential appointment at 3 p.m., but I will, in view of the committee's wishes, see if that can be changed to a later time, sir.

The CHAIRMAN. I would think we could accommodate you by letting you go ahead and keep your appointment and we could dispose of the other nominees.

Mr. WEINBERGER. I think I can be back by 3:30 or 3:45 p.m.

The CHAIRMAN. Well, that is fine. We will proceed on that basis, then. We will plan to finish up the hearing insofar as you are concerned starting at 3:30 p.m. Then we will come back in at 2:30 p.m. and we would hope that any questions the Senator might ask Mr. Carlucci they might do between now and then. In view of the fact that you are the star witness today, Mr. Weinberger, we might just let you open and close today's meeting.

Senator BENNETT. Then we want the Treasury men and Mr. Carlucci back at 2:30 p.m.

The CHAIRMAN. Yes, I would like to ask Mr. Carlucci, unless he is committed to be with you at the White House—

Mr. WEINBERGER. No.

The CHAIRMAN (continuing). That he and the two Treasury witnesses be here at 2:30 p.m. and if you can be here at 3:30 p.m. we will conclude the hearing at that point.

Mr. WEINBERGER. Thank you very much.

(Whereupon at 12:40 p.m., the committee recessed to reconvene at 2:30 p.m., the same day.)

AFTERNOON SESSION

The CHAIRMAN. Senator Scott is here to introduce you, Mr. Carlucci. We are pleased to have you with us today.

STATEMENT OF HON. HUGH SCOTT, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator SCOTT. I thank you, Mr. Chairman. I appreciate your courtesy in arranging for me to have this opportunity.

I have known Mr. Carlucci for some time and I have admired the way in which he manages the conduct of the public affairs. He has shown a remarkable aptitude for the administrative and difficult responsibilities of government. He has served in this very onerous work of the Department of Budget he has served well and has received the praise of his superiors and of those with whom he has dealt and notably and recently in the handling of the Agnes disaster relief administration. In a bill which I may add with some pride I introduced, he, as a native of Wilkes-Barre, entered a situation where there was much controversy where the people of the Wyoming Valley of Pennsylvania, particularly, and of Harrisburg, had been torn by many contentious claims. They were in a mood not to know to whom to turn, be it the local authorities or the State or the Federal Government. The President directed that every Federal resource be made instantly available, that legislation be introduced to supplement it if necessary, and still the problem continued until the people of Wilkes-Barre and Scranton were advised that Mr. Carlucci, who is a native of Wilkes-

Barre, was coming up there to administer the program. In fact, when Mr. Carlucci was meeting with the President, I believe at Camp David, the President made a spur-of-the-moment decision to go up and see for himself and to, at that point, turn over funds for the rehabilitation of Wilkes College, a private secretarial school.

It is the first time such a grant had been made possible by the action of the Congress, with the support of the members of this committee, and the spirits and the morale of that entire valley were immediately lifted. They felt that they could tell their troubles to a hometown boy, and in the course of doing so, they built up a real mountain of work, much of it detail—the necessity for moving rapidly with mobile housing, with all the other forms of relief, with coordinating and correlating the activities of numerous Federal agencies, as well as State and local. Mr. Carlucci performed this job not only with patience but with brilliance, and as a result, the people of that community feel that the Government does have a deep and compassionate interest in the problems which confronted them in the worst natural disaster which has struck this country.

So I can indeed endorse Mr. Carlucci for a job which involves these qualifications in HEW, and he would work well with Secretary Weinberger as he has worked with him before in the Budget. So it is a great pleasure to say to him that I have no hesitation whatsoever in returning to your committee the so-called blue slip, which I have done with somewhat briefer endorsement.

The CHAIRMAN. Thank you very much for a very fine statement, Senator Scott.

Mr. Carlucci, we will include your biographical sketch in the record at this point.

(The biographical sketch of Mr. Carlucci follows:)

FRANK C. CARLUCCI

Frank Carlucci was sworn in as Deputy Director of the Office of Management and Budget on July 10, 1972. Prior to that date, he served as Associate Director of OMB from September 1971, Director of the Office of Economic Opportunity from December 1970 to September 1971, and as Assistant Director of OEO for Operations from September 1969 until December 1970.

Mr. Carlucci is a Foreign Service Officer (FSO-1) who has served in Africa and Brazil. In his most recent Foreign Service assignment, he served as Counselor for Political Affairs in Rio de Janeiro. He joined the Foreign Service in 1956 and has twice received the State Department's Superior Honor Award. In his present assignment to the Office of Management and Budget, he is on loan from the Foreign Service.

Mr. Carlucci is a graduate of Princeton (class of 1952) and attended Harvard Graduate School of Business for 1 year.

Following graduation from college, he entered on active duty with the U.S. Navy and was discharged as Lt. (j.g.) in 1954. From 1955 to 1956, he was in private business in Portland, Oregon.

Carlucci is a native of Pennsylvania and resides with his wife and two children in Washington, D.C.

STATEMENT OF FRANK C. CARLUCCI, NOMINEE TO BE UNDER SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Mr. CARLUCCI. Mr. Chairman and members of the committee, I would like at the outset to thank my good friend, the Senior Senator from my native State of Pennsylvania, and the distinguished Minority

Leader, Senator Hugh Scott, for his kind introduction of me to the committee.

As in Mr. Weinberger's case, I am familiar to many of the members of this committee in my present role as Deputy Director of the Office of Management and Budget, a position which I have held for the past 6 months. Previously, I spent a year as Associate Director of the Office of Management and Budget. Prior to that, I served as Director of the Office of Economic Opportunity. I am a career Foreign Service Officer, class one, and have held these positions under a provision of the Foreign Service Act which allows Foreign Service Officers to serve in Presidential appointments anywhere in the Government.

In my most recent assignments I have been concerned with matters which affect the Department of Health, Education, and Welfare, and therefore do not come to it as a total newcomer. But these positions have involved very different responsibilities from that for which I have been nominated within the Department. Hence, I am very much looking forward to gaining a much more detailed knowledge of the Department's programs in the days ahead.

In HEW, I would view my role as totally supportive of the Secretary. I would expect to be involved in program issues in all the areas of HEW's responsibility. In addition, I would assume responsibility for coordinating the administrative machinery and assisting the Secretary in the policy formulation process. I would be prepared to work fully and cooperatively with this committee on any matters of mutual interest.

Mr. Chairman, I know of no conflicts of interest with regard to the post for which I have been nominated, and I believe you have my financial statement in hand.

The CHAIRMAN. Senator Bennett?

Senator BENNETT. I have no questions.

The CHAIRMAN. Can the committee expect to have you available for testimony at hearings that we may call during the time you are in office with respect to matters coming within our jurisdiction?

Mr. CARLUCCI. I can foresee no reason why I would not be available to the committee when it wished, subject only to scheduling requirements, of course.

The CHAIRMAN. I would think we will let your boss speak for the two of you from this point forward as far as this committee is concerned, Mr. Carlucci. I take it that you are the man he wants as his deputy, and it seems to me that if we vote for him, and I intend to, we ought to vote for you. So I think that pretty well takes care of any situation with regard to your nomination. I expect to vote for him and in due course—I think we ought to vote on his nomination first and when we vote for him, I expect to vote for you as well.

Mr. CARLUCCI. Thank you, Mr. Chairman.

The CHAIRMAN. We are scheduled, I believe, for 3:30 p.m. to hear Mr. Weinberger and for any additional questions the Senators want to ask. I suggest we stand in recess until 3:30 p.m.

Thank you very much.

(Whereupon the committee recessed to reconvene at 3:30 the same day.)

Senator MONDALE (presiding). Come to order please.

Mr. WEINBERGER, after I came back, I was advised that you are scheduled to appear before the Labor Committee, which I did not know. I would be pleased to wait and ask you these same questions then, or I can ask them now, however you prefer.

Mr. WEINBERGER. Either way is fine, sir.

Senator MONDALE. As long as you have appeared, if you do not mind, I would like to ask some more questions.

Mr. WEINBERGER. Certainly.

Senator MONDALE. There are a number of categorical aid programs funded at the Federal level which I would like to ask about. The first is title I of the Elementary and Secondary Education Act, which is the main program for Federal assistance for so-called educationally disadvantaged children, and which is funded now at approximately \$1.5 billion yearly. That is the main artery of help to the Federal level for such children. Can you tell us whether you support the concept of title I and will support funding at that level or some other level?

Mr. WEINBERGER. Well, generally, Senator, all of the budgetary information is going to be furnished when the President sends the budget up on January 29, and we do not anticipate any of his decisions ahead of that time. But the general principle of title I of the Educational Act, Elementary and Secondary Education Act, has been pretty well ingrained and that funding level was about the level that you mentioned. There has been a tendency in other areas to break down educational programs into very numerous narrow categories, and generally speaking, I favor instead the administration position, which is to consolidate a lot of these and put them into an educational revenue sharing program and let the States and local communities set their own priorities.

Senator MONDALE. Will you support the continued funding of title I until and unless you receive this alternative special revenue sharing?

Mr. WEINBERGER. Well, we have been, and I would anticipate that the new budget would look favorably on that kind of continuation. But the general idea of consolidating these programs into special revenue sharing, I think, offers a great deal more attractive alternative. The longer we delay that, the more ingrained we get in the narrow categorical grant type of program, which I do not think has been a useful use of resources.

Senator MONDALE. Are you concerned at all that some school districts might take the money now going for those who are most disadvantaged and use it in other ways?

Mr. WEINBERGER. Well, what money? Their own money or Federal money or what?

Senator MONDALE. Title I money.

Mr. WEINBERGER. Well, if they take the title I money, they can only use it within the guidelines of title I. It is certainly possible within educational revenue sharing to have the funds focused on the educationally needy, but the specific ways in which they are used should be up to the local school districts. It is possible to have sufficient focus to take care of the educationally needy, as is evidenced by the Equal Educational Opportunity Act that the President proposed last year.

Senator MONDALE. You are not concerned, then, if title I is disbanded and the money routed through special revenue sharing that any of the thrust for the educationally disadvantaged would be lost?

Mr. WEINBERGER. I do not think that it is necessarily correct to assume that that thrust would be lost.

Senator MONDALE. What do you think would happen?

Mr. WEINBERGER. Well, I do not know what would happen. I would think what would happen would be that those States and local communities that felt they have the greatest need for programs in a particular area would use them that way. I think that would be better than the situation now, where in 30 or 45 very specific categorical programs we have required them to spend money. But I think as I said before, through the mechanism of the Equal Educational Opportunity Act, it is quite possible to focus in a general way Federal funds on the educationally disadvantaged without having as narrow a set of categorical programs as we have had in the past.

Senator MONDALE. Now, the President's Equal Educational Opportunity Act has a very specific national categorical program, far more specific than title I, to bring Federal financial resources to bear on the education of disadvantaged children. The President strongly endorses that. Why the reluctance to support the title I concept?

Mr. WEINBERGER. Well, I would not characterize the President's proposal as one that is more narrowly categorical than title I and I think that there has been—

Senator MONDALE. How else would you describe it?

Mr. WEINBERGER. I would describe it as I did a moment ago. I think it is broadly focused into the area of the disadvantaged and is not narrowly broken down into a lot of categorical programs the way much of the title I money has ended up.

Senator MONDALE. I will not argue with you, but I think it is a far more specifically conditioned Federal categorical grant for the educationally disadvantaged than is title I. But I will not argue about it.

How about title II, the libraries? Are you committed to support of the title II section?

Mr. WEINBERGER. I have tried to avoid very specific commitments, Senator, as you can understand and appreciate would be the proper course to take. I intend to make a careful examination of all of the activities of the Department. We have had some general familiarity with them in the budget work, but I have not had the day-to-day operating responsibilities for them, and I would want to take a pretty careful look at everything rather than tie myself down with premature commitments in a hearing of this kind to a course that I may not wish to follow permanently.

Senator MONDALE. What about bilingual education? You are from California, where you have substantial numbers of children who are monolingual in a language other than English, who then start school far too often in an educational environment in which the teachers and the teaching materials are all in English. Could you tell us whether you have any views on bilingual education at the Federal level?

Mr. WEINBERGER. Yes, I have supported the California bilingual education programs. Senator Murphy had a program at the Federal level, and a very substantial amount has gone into bilingual educa-

tion programs. I think that basically it is a good idea. I think there would be continued support for programs of that kind.

I do think in the conduct of those, we want to neglect the teaching and instruction in English for all peoples, and I would not want to have that happen, either. But I do not think that will necessarily happen. I think it is important to emphasize both so that they are truly bilingual.

Senator MONDALE. We have in title VII of the Elementary and Secondary Education Act programs a bilingual program, which as you pointed out, Senator Murphy once helped adopt. Can, we assume, then, that you will be supportive of title VII?

Mr. WEINBERGER. Yes, I think that in general, it would be quite fair to say that I would be supportive of programs designated to encourage bilingual education, whether they took the form of educational revenue sharing or some other forms. I think it is important that that work be done; it has been done in California under State auspices and has worked very well there. I would be supportive of efforts to continue that kind of thing without trying to be terribly specific about the best ways to do it. Because I am not sure I know the best way to do it.

Senator MONDALE. Last year, we passed an Indian Education Act which was adopted on the heels of several years of effort by a committee known as the Special Subcommittee on Indian Education. We obtained an appropriation, I think, of \$191 million, although there is authority for appropriations of \$191 million. Could you give us your views on whether you intend to implement and support the prompt implementation of the Indian Education Act?

Mr. WEINBERGER. Well, there is an Office of Indian Education that is to be established in the Office of Education, I am advised, and there is the establishment of a National Advisory Council on Indian Education—the rather familiar pattern that is used when we get into categorical programs of this kind. And there is at the present time also a situation in which about two-thirds of the American Indian children attend public schools. I think that within that framework, we would certainly want to take a look at the provisions of the act and see what is the best way to proceed under that act to improve Indian education.

I have some feeling that more Indian children in the public schools would probably be a pretty good solution, but we would certainly want to look at all aspects of that, and I would do that with an open mind.

Senator MONDALE. Well, I mean do you support the present Indian Education Act and the funding for it? I just do not understand that answer.

Mr. WEINBERGER. Well, I support Indian education and I think it is a very important thing that we use Federal funds to improve the quality and character of Indian education. I am not prepared at this time, because I am not sufficiently familiar with the program, to say that implementing and spending everything required under the Indian Education Act is necessarily the best way to go. But I did say and I would repeat that I would certainly look at it very carefully with an open mind to try to bring about the result that I thought would be the best—that is, one that provided the best possible education for Indian children.

Senator MONDALE. That you thought would be the best. In this case, there was a bill passed by the Senate, finally passed by the House, signed into law by the President, money appropriated. Is it your position that whether that act would be implemented, funds expended, would depend upon your personal discretion? Or do you see some restrictions upon your performance based upon the provisions of this act?

Mr. WEINBERGER. I thought you were talking entirely about the allocation of funds for it. The allocation of funds for it would be made by the Office of Management and Budget, and if there is a possibility that the fiscal situation permits full funding, why, then, we would necessarily try to implement that in the Department of Health, Education, and Welfare as provided by the act.

Senator MONDALE. Are you in a position to indicate whether you support funding for that Indian Education Act?

Mr. WEINBERGER. I do not know in which capacity you are talking to me, Senator. If you are talking to me as Director of the Office of Management and Budget, I am not in a position to indicate, because I would want to clear questions of that kind with the President. I would make recommendations to him and I would carry out his decisions because it is his budget and his fiscal policy that we are attempting to assist him with.

Senator MONDALE. Let's say in your role here seeking to be confirmed as Secretary of HEW. What is your position then?

Mr. WEINBERGER. When the funds come to the department, if they are allocated, we will certainly try to spend them in the best way that we could in accordance with the intention of the Congress.

Senator MONDALE. What would you tell us what your intention in the budget-making process is? Would you seek adequate funding for Indian education?

Mr. WEINBERGER. Yes, I would seek adequate funding within the total national resources that we have for all purposes.

Senator MONDALE. Would that be \$1 or a thousand, or—

Mr. WEINBERGER. I am not in a position to say because I do not have the figures available to go into the funding or the allocation of all resources.

Senator MONDALE. Well, the money in these categorical aid programs, are there any you can assure us you will support and ask funding for, any of them?

Mr. WEINBERGER. Senator, what the department has been doing in the past would be to make recommendations to the President for the allocation of funds as required by acts of Congress on a priority basis that the department felt was satisfactory and felt was proper. The President, to the extent national resources permitted it, would make allocations of funds for those purposes. And that would be what we would try to continue to do.

Senator MONDALE. Do you have figures that you can give us on how many dollars have been impounded in this fiscal year in the various categorical education programs?

Mr. WEINBERGER. No, sir; I do not. We expect to furnish those to the Congress a few days after the budget comes up. We furnished them to the Congress as of June 30th of last year and we will furnish an updated list a few days after the budget is transmitted.

Senator MONDALE. You have no figures?

Mr. WEINBERGER. No, sir.

Senator MONDALE. None at all?

Mr. WEINBERGER. Not with me, no, and none in my mind, and certainly none at this time that I am able to reveal, because, in all likelihood, they would be incomplete and misleading until we get a complete list.

Senator MONDALE. Can you give us some, say in the next week, for the record?

Mr. WEINBERGER. No, sir; I can only give them when we complete the work that is required to produce them. Now we are heavily engaged, as I am sure you can appreciate, in producing the budget. That is the reason we asked for and obtained extra time to produce the budget. The Congress granted that up to January 29th. I am told. But a few days after that, we will send the complete list of impounded, withheld funds.

Senator MONDALE. So you can give us no figures on the impoundment of educational money in this fiscal year?

Mr. WEINBERGER. Not at this time, no, sir. We will send a complete list of all of the funds that are in this category, both restrictive and nonrestrictive withholdings, a few days after the budget, which I would assume is somewhere in the neighborhood of a week.

Senator MONDALE. Which will show impoundments?

Mr. WEINBERGER. Which will show all of the funds which have been authorized and appropriated which we have not felt able to spend, yes, sir.

Senator MONDALE. Could you give us any projections about the next fiscal year?

Mr. WEINBERGER. No, I can't, because you do not project withholdings. These occur as they are required by overall fiscal policy, or in situations where it is neither profitable, economical, nor possible to spend them. The great bulk of the impounded funds, as you know, Senator, perhaps 80 percent of them, involve situations in which there is simply no recipient available to receive the funds, or there is no design for the building or the site is not owned—things of that kind. The actual so-called restrictive withholdings constitute a very small fraction of the total.

Senator MONDALE. As you know, we spend a great deal of time in the Congress—at least I do and many others on this committee and on the Labor Committee—a great deal of time trying to develop legislation to deal with human problems as we see them; and many times we spend years trying to get a proposal adopted into law. Sometimes we are successful in doing so, and it becomes the law of the land. Then we spend a good deal of time trying to get appropriations for these measures. Then we go back home and we tell the people. "This is the program and these are the funds, now go to the Department of HEW and try to fit within them"—whether it is health or education, manpower, or whatever. Now we face a new and broad concept called impoundment, in which, after all of that, we are told that whatever the terms of the law or the amount of the funding, all of it is contingent upon the discretion of the Executive. Would you give us your theory on the authority by which such funds are impounded and tell

us if you see any legal restriction on the extent to which the Executive can impound funds?

Mr. WEINBERGER. Well, Senator, several points. The record of various committee hearings are replete with my testimony on this, so I think most people are pretty tired of it, but I will run through it again gladly.

Impoundment is not a new or a broad concept. It is a practice which has been followed by every President since Thomas Jefferson and a concept which I assume every President would have to follow because in the great bulk of the situations in which this arises it is a case where there is no site where the building has to be built, there is nobody to hand the money to so you cannot build the building, Congress has appropriated the money for a nuclear battleship or a carrier or whatever and the design for it isn't finished, or for some other reason we can't pay the money to anybody. The general authority under which the President acts may involve his authority as Chief Executive, his authority as Commander in Chief, his authority to take care that the laws are faithfully executed, his authority to insure that the full employment concepts are carried out and that we do not have a fiscal policy which is inflationary. All of these at one time or another have been directions of the Congress.

For a while, we were operating under a spending ceiling in 1970. We are always operating under a debt ceiling.

There are a great many different categories of laws under which the President is required to act. He does not act in an arbitrary fashion, and he acts in a way that is designed to insure that we have a fiscal policy which is consistent with the laws of the Congress.

You mention the amount of time that it takes to pass legislation and the amount of time that you have to devote to it to do that. I am thoroughly familiar with that as a former legislator and sympathetic with it. On the other hand, very few people are devoting any time at all looking at the overall picture. A lot of people are devoting a lot of time looking at the needs of education, the needs of environment, the needs of the military, or the needs of various other groups. Nobody is spending any time looking at the needs of the U.S. Government's fiscal policy. That is what the President has to do. Somebody has to be there to add up the total.

I doubt if there were five people in the Congress who knew when you adjourned on October 28 of last year that you had directed the spending of \$261 billion, because nobody does take the time or has the responsibility or, in many cases, the capability of looking over the entire Government activity and making that kind of computation. We are very hopeful that the new Joint Committee which was created will have that capability. So the President, who has the responsibility for the overall operation of the executive branch, has to do this, and he does it through his Office of Management and Budget. That is one of our major responsibilities.

The degree to which this is done, the areas in which it is done, are reported from time to time, and the existing situation will be reported within a few days after the budget comes up.

Senator MONDALE. Would you say, then, that you recognize no

limit in the Executive to the reduction or elimination of authorized programs and their funding?

Mr. WEINBERGER. No, sir; I did not say that.

Senator MONDALE. Specifically, what limitations do you see?

Mr. WEINBERGER. I think it would be inappropriate for me to go into the full legal background or to identify any specific areas where I think the President may or may not have this authority, because, in the first place, it would only be a personal opinion and, in the second place, these matters, as you know, are in litigation.

Many Senators have joined in the lawsuit against the Office of Management and Budget and the Department of Transportation to try to ascertain a judicial decision in this matter, and I think it would be quite inappropriate for me to put forth a few personal opinions as to when and whether the President can or cannot withhold. These matters are in litigation and the Department of Justice and the attorneys for the Senate are arguing them. I do not think this is an appropriate forum, with all due respect, to try that case in, too.

Senator MONDALE. It is quite an extraordinary thing. We ask for an explanation on the bombing, the negotiations, we ask about impoundment, which paralyzes every program that we are interested in, and we are told that we undermine lawsuits.

Mr. WEINBERGER. No; I am not saying you undermine the lawsuit. I am saying we will furnish full information about all of the withholding and all of the impounding as soon as we can physically do it in connection with the preparation of the budget. I am saying that for me to make a few guesses as to whether the President can or cannot withhold in certain situations based on personal opinions is neither particularly helpful nor appropriate. I do not say it undermines anything, but I say that it is not appropriate with the pendency of a lawsuit for me to make that kind of a personal estimate.

Senator MONDALE. We are faced with one of the most profound constitutional crises in American history, according to many legal scholars, in the question of whether the Executive has unlimited powers to disregard legislation and appropriation as he sees fit. You have been the key administrator of that impoundment program. And now you are here to be confirmed to administer the largest section of our national programs, dealing with every conceivable kind of human problem from manpower to health to education. The lives of millions of people will be affected by what you decide to do. So we would like to know whether you see any limit to the power of the Executive to totally disregard these laws that we are passing.

As I understand your answer, you cannot answer.

Mr. WEINBERGER. Senator, you have not understood me very well.

Senator MONDALE. Well, why don't you try it again?

Mr. WEINBERGER. I have tried it many times and I will try it once again.

Senator MONDALE. Give it one more time.

Mr. WEINBERGER. I also disagree very strongly with you that we are in the midst of the gravest constitutional crisis in history. We are discussing a matter and a course of action which has been followed by every President since Thomas Jefferson. We are at no greater withholding on a percentage basis than many other Presidents. In fact, we

are considerably under some of the President's predecessors, and there is no different situation now than has existed since almost the beginning of the Republic. So I do not see the constitutional crisis that is involved in the practice that has been going on here.

Indeed, the Congress has acquiesced in that whole process as recently as last October, with a very specific direction to the President to report what it is that he is withholding; if he cannot withhold, I do not know what it is that we are to report. So it seems to me there has been full constitutional recognition and acquiescence in a very specific statute just within the last few months.

Senator MONDALE. Are you arguing that that report on impoundments was an authority to impound?

Mr. WEINBERGER. I do not know what it is requested we report if we cannot impound.

Senator MONDALE. You were impounding, weren't you?

Mr. WEINBERGER. We have been, as I say, since those Jeffersonian days. I cannot imagine how a President can administer his office without doing so. That is why I say I cannot have made myself very clear if I have left you in any doubt as to the basic fundamental authority for the continuation of the practice over the years. It is part of the Nation's history, that is all.

Senator MONDALE. Did the administration last year ask for authority to reduce or eliminate funding in any program in the discretion of the administration without limit?

Mr. WEINBERGER. No; the administration has followed, since the President was in office—and all of his predecessors have followed—the practice of withholding under certain conditions and circumstances which have been set forth in considerable detail in the reports of the amounts that are withheld that have been made periodically to the Congress. This President has done exactly as his predecessors have done.

Senator MONDALE. As I remember, the President at the end of the last session asked for the authority of the Congress—he got it in the House, but he did not get it in the Senate—to eliminate, reduce, diminish to any extent he wished, any appropriation made by the Congress.

Mr. WEINBERGER. No, sir; he asked for a spending ceiling, as I recall the situation, and the Senate did pass it and the House passed it, but they were not able to agree on the same version.

Senator MONDALE. As I recall, we passed in the Senate a provision to say, all right, we will give you the \$250 billion ceiling, but why don't you make a percentage pro rata reduction in each budget? The President refused that and said he wanted unlimited powers to reduce budgets as he saw fit.

Do I remember that correctly?

Mr. WEINBERGER. I do not recall the precise provisions of the Senate version. The President did ask for a spending ceiling in which he would assume the responsibility for making reductions where necessary to reach it. He had, I think, very proper objections to a ratable reduction which would have required reductions in every program, whether appropriate or not, to come within the \$250 billion, whereas, if he had the discretion and exercised it to make reductions selectively

as he has done and to stay within the \$250 billion ceiling, it would be possible to do that without injury to many programs. The ratable reduction program requires a reduction in every program, whether it is sound programmatically or not.

Senator MONDALE. We had one of the first stand downs on this issue, before it took such massive proportions, in the Hill-Burton program, where the Congress said it opposed any reduction in hospital construction programs.

Then we passed a bill which said that HEW could not spend money for any health program unless they spent the full amount on Hill-Burton construction grants, which the President vetoed. Then we overrode his veto.

Now, I am told that despite that, funds are being withheld in the Hill-Burton construction program under the continuing resolution. I might be wrong as a matter of fact. Would you tell us?

Mr. WEINBERGER. The continuing resolution under which the department is operating at the present moment has been subjected to a variety of interpretations. I have not seen any authoritative one. We necessarily have to use one ourselves, and the interpretation under which we are operating, I believe, does not show any withholding of Hill-Burton funds.

Senator MONDALE. But as a matter of fact, your answer is they are not being withheld?

Mr. WEINBERGER. I think it is fair to tell you, Senator, that there are differing interpretations of the continuing resolution. In order to bring the matter to a head, and to act as we have to, we are operating under an interpretation that we have made. Under that interpretation, I do not believe there are Hill-Burton funds being withheld. This is not to say that there could not be or that there is or is not authority to do so. We believe the continuing resolution as we interpret it does not require that the total of the funds provided in the vetoed appropriation bill be spent.

Senator MONDALE. In other words, even though we had this bill I have described and that long history of congressional intent for full funding of Hill-Burton, you would still maintain that the President has power to impound funds in that program on a continuing resolution?

Mr. WEINBERGER. No, sir. I am not answering that question that way. What I am saying is that the later act of the Congress, the continuing resolution, under the interpretation we have made of it, appears to change the earlier provisions.

Senator MONDALE. In the emergency school assistance program, we appropriated \$271 million and I understand that the administration expects to spend \$40 million, approximately, for activities conducted this fiscal year. Is that information essentially correct and how do you view the workings of the emergency school program?

Mr. WEINBERGER. Well, as I said, Senator, I do not have the figures on withholding and I will be glad to have them supplied to you at the same time they come up to the Congress or shortly after the budget does. At that time, the total amounts would be available. We do not have them now.

Senator MONDALE. It has been 5 months since the President nominated Commissioner Marland to become Assistant Secretary for Edu-

education and 3 months since confirmation, and during that period, the Office of Education has been operating with a part-time Commissioner or an Acting Commissioner. Can we expect the nomination of a Commissioner of Education soon?

Mr. WEINBERGER. I think so; yes, sir.

Senator MONDALE. In that same legislation, we established the National Institute of Education and appropriated \$92 million. This is a highly important program which I supported, but I understand that the National Council, which is to set policy for the Institute, has still not been appointed. Can we expect those appointments shortly?

Mr. WEINBERGER. Yes, I believe so.

Senator MONDALE. When can we expect an administration budget request for the new student assistance provisions and the institution aid provision which were adopted, I believe, last September?

Mr. WEINBERGER. I think there was a—

Senator MONDALE. Let me rephrase that. We were told that that request would be here before the Congress last September. We have not gotten them yet.

Mr. WEINBERGER. I think there was an indication of the administration's request in that area sent up toward the close of the Congress. I do not have the exact date, but my understanding was that they did send up, the Department did send up one.

Senator MONDALE. I might be wrong. Our understanding is that that has not been done. I wish that would be checked, because that whole program is sitting there. It had, as I understand it, the support of the administration at that time and I would hope that that would be forthcoming.

Senator NELSON (presiding). I am sorry I was not here earlier. This morning, we had a Democratic conference and this afternoon, a pending resolution that I was involved in so I was not able to be here. I do not know if all the questions have been covered and I do not want to repeat them.

Mr. WEINBERGER. I will be glad to try to answer anything you wish, sir, to the extent that I can.

Senator NELSON. I was interested in the issues raised by the impoundment of funds. I recognize there—but many Presidents, of the past have impounded appropriated funds for one reason or another. I do not know whether it is more extensive now than at any other time, save possibly—

Mr. WEINBERGER. It is less now than it has been at times in the past. We are about at the average.

Senator NELSON. What other times were you referring to?

Mr. WEINBERGER. All, generally, over the average. It has run somewhere in the neighborhood of 6 to 8 percent of the total appropriated funds over the years, and we are about at that average now or were the last time I saw the figures, which was sometime in September.

Senator NELSON. I might say that the fact that historically, Presidents have impounded funds does not give it any legal status so far as I am concerned, anyway.

Mr. WEINBERGER. Well, the courts have had a somewhat different view in other areas, but this matter is in litigation now.

Senator NELSON. But the reasons you gave for the historical cases

involved such things as appropriations to build a building when the land was not available and so forth. What conceivable explanation is there for what is in effect an impoundment on the water funds—that is, a refusal to give EPA the appropriated funds?

Mr. WEINBERGER. There is very specific authority for that one. The Congressional Record is replete with the legislative history inviting the President to withhold appropriations in that bill in order to encourage him to sign the measure. There are a great many instances in the debate and in the reports and language in the act itself from which it can be concluded that the Congress, in effect, said to the President, you should not let any worries about fiscal problems beset you in signing this bill, because you can withhold. That legislative history, I think, is very easy to develop and puts that bill in perhaps a somewhat special category.

Senator NELSON. But the President vetoed the bill on the grounds that it was excessive and the Congress overwhelmingly overrode the veto.

Mr. WEINBERGER. That is right, but that would not change the legislative history nor the language in the act.

Senator NELSON. What language in the act?

Mr. WEINBERGER. Well, there is language to spend up to a certain amount, and there is floor debate and language, from which the courts derive and interpret legislative history, to show that speaker after speaker took the position that the President should not be concerned about the fact that the bill was \$24 billion instead of the \$6 billion that he requested because he need not spend any more of it than he felt was necessary. There is at one point, if I recall correctly, specific language which says you should spend up to a maximum of so and so.

Senator NELSON. You are talking about—are you referring to some language in the debate on the floor, or are you referring to some specific language in the bill?

Mr. WEINBERGER. Specific language in the bill.

Senator NELSON. I do not recall that.

Mr. WEINBERGER. We will have some information we will be glad to supply in connection with that legislative history, yes, sir.

(The following was subsequently supplied for the record:)

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., January 15, 1973.

Hon. RUSSELL B. LONG,
Chairman, Finance Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to a question from Senator Nelson during the hearing on January 11, 1973, before the Senate Finance Committee, I agreed to furnish an explanation of the basis for the Environmental Protection Agency's recent allotment among the States of sums authorized to be appropriated for construction of sewage-treatment works by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500).

Section 207 of the Act authorized appropriations for grants for construction of sewage-treatment works in the following terms: "for the fiscal year ending June 30, 1973, not to exceed \$5,000,000,000, for the fiscal year ending June 30, 1974, not to exceed \$6,000,000,000, and for the fiscal year ending June 30, 1975, not to exceed \$7,000,000,000." The words "not to exceed" before each stated dollar amount were added by the Conference Committee on S. 2770, but no explanation of this change is included in the Joint Explanatory Statement of the Committee of Conference.

Section 205 of the Act provides that the Administrator of the Environmental Protection Agency shall allot among the States "sums authorized to be appropriated pursuant to section 207 for each fiscal year" in accordance with a statutory timetable. The Joint Explanatory Statement of the Committee of Conference stated that this section "is the same as the House amendment, except that the initial phrase 'All sums authorized to be appropriated' has been revised to read 'Sums authorized to be appropriated.'" The House amendment referred to in this statement authorized the Administrator to allot the construction funds. This section of the law also specifies that any sums allotted to a State thereunder shall be available for obligation (under the project approval procedure of section 208) on and after the date of such allotment. Thus, the authority to obligate the United States comes into existence on the date the allotments to the States are made and the amount of the total obligational authority thus provided is determined by the total amount allotted.

The Senate and House discussion of the question of spending controls occurred in connection with their adoption of the Conference Report on October 4, 1972. It is found in the Congressional Record of that date on pages H 9122-9123 and S 16869-16895. Copies of the relevant pages from the Record are enclosed for your convenience.* We believe the wording of the statute and this discussion clearly show that the amounts to be actually allotted among the States within the stated maximum amounts are necessarily for determination by the Executive Branch.

The question of determining the precise amounts which should be allotted among the States within the stated maximum amounts for each of the fiscal years for which authorizations were provided was resolved by President Nixon's letter of November 22, 1972, to Administrator Ruckelshaus. A copy of this letter is enclosed. This sets forth the considerations upon which the amounts of the allotments for the fiscal years 1973 and 1974 were based.

I hope the above explanation will provide the desired information.

Sincerely,

CASPAR W. WEINBERGER, Director.

Enclosures.

THE WHITE HOUSE,
Washington, November 22, 1972.

HON. WILLIAM D. RUCKELSHAUS,
Administrator, Environmental Protection Agency,
Washington, D.C.

DEAR MR. RUCKELSHAUS: The purpose of this letter is to request your cooperation in my attempt to maintain a strong and growing economy without inflation or tax increases.

Notwithstanding my earlier disapproval, the Congress enacted the Federal Water Pollution Control Act Amendments of 1972. This act permits a significant increase over our programs to fund the construction of wastewater treatment facilities. During this Administration, budget requests for this purpose have grown from \$214 million for the fiscal year 1969 to \$2 billion for the fiscal year 1973. The new act authorizes vastly larger sums. Furthermore, the Federal share of project costs has been increased significantly to a level of 75 percent.

In addition to the program increases in the new legislation, \$5.1 billion of Federal funds are already committed or available for spending under former programs. Included in these amounts are:

\$1.0 billion to reimburse State and local governments which have funded projects without full Federal assistance.

\$1.8 billion of Federal funds to liquidate prior obligations for State and local projects.

\$1.4 billion in unobligated balances carried forward from fiscal year 1972 and prior years.

I stated that even if the Congress were to default its obligation to the taxpayers through enactment of this legislation, I would not default mine. Under these circumstances, I direct that you not allot among the States the maximum amounts provided by section 207 of the Federal Water Pollution Control Act Amendments of 1972. No more than \$2 billion of the amount authorized for the fiscal year 1973, and no more than \$3 billion of the amount authorized for the fiscal year 1974 should be allotted. These amounts will provide for improving water quality and yet give proper recognition to competing national priorities for our tax dollars, the resources now available for this program and the

*This material was made a part of the official files of the Committee.

projected condition of the Federal treasury under existing tax laws and the statutory limit on the national debt.

I believe this course is the most responsible one—one which deals generously with environmental problems and at the same time recognizes the highest national priority, the need to protect the working men and women of America against tax increases and renewed inflation.

Sincerely,

RICHARD NIXON.

Senator NELSON. Without any specific legislative authorization, I think there is a very serious, it seems to me, very serious question about impoundment of funds. Senator Ervin has, in the last session, introduced legislation and I believe he will this time which recognizes that from time to time, circumstances may certainly change and that it would make some sense not to spend all the appropriated fund for some reason that arises subsequent to the authorization and the appropriation. He provides in his proposal, if I understand it correctly, that in the event the legislation is passed, signed by the President, the appropriation is made, agreed to, signed by the President, and then some facts arise that cause the President to decide that he ought to reduce the amount, impound some of the money, he proposes that the President then send a message to the Congress stating his reasons for desiring not to expend a certain amount of money and then if the Congress approves his recommendation by a positive vote, that the President then is allowed to—well, the President is then authorized by the Congress itself to impound the funds. Now, what is your view of that kind of a proposal, which continues to keep Congress in the field of appropriation and authorization, which is their responsibility under the Constitution?

Mr. WEINBERGER. I have not seen Senator Ervin's specific proposal, so I will not comment on that.

On the general idea, I think it would be more desirable, first of all, to attack the problem from the beginning rather than the end. I think if the Congress passed some kind of spending ceiling so that there was a definite limitation on the amount that could be spent, we would have a much better result, both fiscally and economically and for the country generally. In the absence of that, it would seem to me that a provision which requires specific congressional consideration of each individual situation where the President found it was not possible consistent with the other laws or his other duties to spend money—that he had to get specific congressional approval not to spend it—such a provision would be a very difficult administrative straight-jacket to operate under. The Congress might not be in session; a date might go by during which by congressionally passed bills, some money had to be spent for a particular purpose, but there might be no recipient there, the work might not be completed satisfactorily. Yet, because the President had not gotten the specific permission of the Congress, he would not be able to withhold and would have to waste the money of the country. The Anti-Deficiency Act would be violated every day, it seems to me, by a provision of that kind, and I would not think it was very useful.

I think if you approached the problem from the beginning, as the President urged very strongly last year, and said that the details of what is to be spent for what purpose is a congressional power, as it undoubtedly is, but that in any event, the President shall not spend

more than a specific amount—it seems to me that is a much better way of going about accomplishing the result the President has now to accomplish by the withholding procedure. But there is not any kind of procedure at the moment for attacking the problem overall or from the beginning of the process.

It seems to me if you get at it at the end in little dribblets like this and say, all right, but in each case you have to get specific authorization from the Congress, it would be an impossible situation and a very vast amount of waste of tax dollars.

Senator NELSON. Of course, the democratic system itself is very cumbersome. It is very simple if you have just one man at the top and if he does not like what the legislative body authorizes or appropriates, he just says, I do not like the policy, no matter whether it is supported unanimously by the elected officials representing the people in the country and I decline to spend the money, that is a very simple situation but not very democratic.

Mr. WEINBERGER. We do not have any such situation as that, Senator. For everyone of these situations in which it is necessary to withhold 5 or 6 percent of the total funds, whatever it may be, there is a very specific reason and in many cases, the Anti-Deficiency Act would be violated if there were spending as directed by another act of the Congress. The President has the obligation to enforce faithfully all of the laws and it is necessary for him to have an overall approach. I can appreciate why individual committees or members do not have. It is, nevertheless, essential that someone have this responsibility.

Personally, I wish the Congress had it. That is why I am very hopeful that the joint committee will develop some new procedures, because this is an added burden on the executive branch and I do not think one that any President particularly welcomes. When he asked for the spending ceiling, a lot of his political advisers urged that he not do so because of the unpopular nature of a lot of the decisions required. But somebody has to make them or we find ourselves, as I say, spending over \$260 billion this year, with a tax increase absolutely inevitable and with a far greater sum being spent next year than the President will request from the Congress at the end of this month.

Senator NELSON. I might point out that the President, since whatever he says is a front-page story can make many assertions that seem to be factual; he can say that Congress is being irresponsible. The President's own budget was out of balance the day he introduced it, by about \$25 billion.

Mr. WEINBERGER. Well, the President was aware of that and chose that course because he likes unemployment considerably less than he does budget deficits. He deliberately chose a course that would stimulate the economy. He was also careful to choose a course that would not overstimulate the economy.

As we get closer to full employment, as we are now, it is singularly important that we not have a program that will make it necessary to continue spending.

Yet, forces would seem to require that once you start on a path of overspending, no matter what the economy requires or what the danger of overspending, you are committing yourself to a course of spending that is unwise to do when it is absolutely certain to cause inflation

or higher taxes. The President therefore felt that while fiscal stimulation was certainly necessary to avoid unemployment, which was caused in the first place because we had to follow a restrictive policy after so much inflation, the President thought it perfectly proper to try his best to avoid another round of punishing inflation which robs everybody in a quite unequal fashion.

Senator NELSON. Well, I was just trying to reach this point: I believe that the President and the Congress, were equally irresponsible.

Mr. WEINBERGER. I do not think there is anything irresponsible about proposing a course that is designed to bring the country back to full employment, but at the same time is designed to prevent another punishing round of inflation, which is what caused the unemployment in the first place. I do not think that is an irresponsible course. I think it is irresponsible to keep on spending way above the amount necessary to stimulate the economy and to make no effort to retrench when retrenchment is clearly indicated.

Senator NELSON. I thought it was irresponsible for the Congress and the President very shortly before he said, we needed to cut back some \$6 or \$7 billion, to hold to a spending ceiling of \$250 billion to push successfully through Congress a revenue sharing bill which had to be paid from the Federal deficit at the rate of \$6 billion a year for 5 years.

Mr. WEINBERGER. Well, the revenue sharing bill, which a great many people supported in the Senate and the House, was a bill which was provided for in the President's budget. The President had requested that in January and had put in the amount in his budget necessary to cover that. It was part of the planned deficit, part of the fiscal stimulation, part of the approved governmental mechanism that the President had been recommending right along. If that provision had been passed without a lot of the additional measures, why, then, it would not have been necessary to make so many reductions to get back to a level of reasonable and responsible spending.

Senator NELSON. I voted against it on the grounds that I thought it was totally irresponsible unless we were going to finance it with taxes.

Mr. WEINBERGER. It was financed within the existing revenues of the country and within the need for stimulation, but it was not financed if we had another \$10 billion laid on top of it. That is the overall problem that we have been talking about.

Senator NELSON. Well, everything I have ever proposed is financed if you are prepared to allow me to say that all these other matters I do not propose are cut out of the budget. That is like saying the President's budget is balanced so long as the Congress agrees absolutely, that we appropriate exactly what he wants and if when he wants a \$23 billion or \$25 billion deficit, we will do that, but if the Congress on its own initiates a program, that is irresponsible spending.

Mr. WEINBERGER. No.

Senator NELSON. All I am saying, Mr. Weinberger, is that it was clear at the time the revenue sharing bill was passed that we were in a serious deficit situation. It was clear that all kinds of States that were going to get the money were in a surplus situation, including many cities in a surplus situation. And I considered it so irresponsible I voted against it.

Mr. WEINBERGER. All I can say, Senator, is it was not clear to me that that was the case, because a lot of the States and cities got into a surplus situation as a result of the revenue sharing.

Senator NELSON. If you look at all the fiscal predictions of the city and State governments, you can see that right down the line, a considerable number of States were predicting coming into a surplus situation, including my own State, but still dying to get the money.

Mr. WEINBERGER. It is certainly true they were in a lot better fiscal condition than we were, in many instances because they have constitutional provisions that do not permit them to spend beyond their anticipated revenues.

Senator NELSON. I want to point out that that \$6 billion deficit was added just a month or two prior to the—

Mr. WEINBERGER. The point I was making was that there is a need for selection, that we cannot do everything that everyone wants. That is why it seems to me critically important that, preferably at the start of the session, a spending ceiling be adopted and that there be general agreement that regardless of how the pieces are fitted into that, we will all agree to live within that. If that can be the case, then I think we can solve quite a few of these problems.

The revenue sharing bill that you speak of was a bill that the President proposed, I think 3 years ago and then several times since, and it finally did pass by an overwhelming vote. It was one of the President's high priorities. In order to make it that, he deliberately refrained from sponsoring other things that would have required other additional spending.

All I am saying is that once the Congress agrees that that particular piece of the President's budget should be adopted, as they did when they passed the bill it seems to me a corollary decision is required: That is that some other things that perhaps other people would also like should not be adopted that year, so that our totals do not run into an area where we are causing more inflation and making higher taxes inevitable.

Senator NELSON. The other measure which I thought was irresponsible was the \$11 billion tax cut about 12 months prior to revenue sharing. All the point I am making is that there are many programs that the President himself introduced, supported, and the Congress foolishly passed that created a \$17 billion loss in revenue, one through taxes and one through giving the money away.

Mr. WEINBERGER. This, too, was projected at the time the budget was submitted and constituted the President's program. All I am saying is that if the Congress is going to adopt pieces of the President's program, and we obviously hope they will or we would not submit them, at the same time, there should be a recognition that that is the portion of the national resources that can be committed to that. That is a decision which by its nature pretty much excludes, if we are going to have fiscal responsibility, the adoption of a great many other programs.

Senator NELSON. If we are going to follow that procedure, I think the first thing we ought to do is examine the President's proposals and make those cuts necessary to make room for congressional proposals.

Mr. WEINBERGER. This was inherent in the President's request. He urged the ceiling, and, as I recall it, two or three times he indicated clearly that he wanted the ceiling of \$250 billion and he indicated what he would spend that for. The Congress might have different views, but the important thing was the ceiling, and he pushed it just as hard as any piece of legislation I have seen pushed.

Senator NELSON. Just another question on another matter. This is from a news story on October 16. I know nothing about the accuracy of it, therefore I will not attest to its accuracy. It is from the Evening Star saying Nixon plans to kill public service jobs in 1974 budgeting. Do you know whether that is true?

Mr. WEINBERGER. No, sir; I would not be able to say whether I did or not. You say October, that is a little early for the rumor factory to have started, but we are not in a position to confirm or deny any suggestions about what is or is not contained in the budget other than what has been officially disclosed. That is a standard rule, which, as you know, has been followed right straight through.

Senator NELSON. Are you saying you are not aware of any plans—

Mr. WEINBERGER. I am saying I am not in a position to confirm or deny any provisions in the President's 1974 budget until that is transmitted to the Congress and I understand that is a standard practice which is always followed.

Senator NELSON. I do not have any more questions.

Senator BENNETT. I understand there is one here that Senator Gravel asked to have read into the record: Do you think it would be a good policy to increase social security benefits to residents of areas that the Federal Government recognizes to have a high cost of living in order to make their real income from benefits more equal to that received by the benefit recipients in other States?

In other words, this is the hardship provision.

Mr. WEINBERGER. Well, there is a provision for cost of living built into the existing social security system. I do not know precisely how that will be administered and how it would work, because we have never had it before. I can foresee some problems. If there is an attempt to administer it on a regional basis—and I would suspect as each individual region developed a criterion for hardship, other regions would want to share in that—it might work out to an increase far in advance of the cost of living. But there is a cost of living increase generally built into the benefit system. I think that can be administered in a way that will carry out the intent of the Congress fairly.

Senator BENNETT. But that is across-the-board and not regional.

Mr. WEINBERGER. Yes, sir.

Senator BENNETT. And I am sure, since Senator Gravel comes from Alaska and they have a feeling in Alaska that their cost of living is always much higher there than anywhere else, he is referring specifically to the imposition of a regional standard.

Mr. WEINBERGER. Yes. I do not know how it could be much higher than Washington, but perhaps it is.

Senator NELSON. Does anybody have any further questions? Thank you very much, Mr. Weinberger.

The committee will adjourn until 5:30 p.m. at which time they will

meet in executive session on the Treasury nominations, Mr. Simon and Mr. Morgan.

Thank you.

(Whereupon at 4:25 p.m., the committee recessed to reconvene in executive session.)

(By the direction of the Chairman, the following communications are made part of the printed record:)

ROSWELL, N. MEX., January 15, 1973.

Hon. RUSSELL B. LONG,
Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LONG: I am responding to the Press Release of January 10, 1973 concerning hearings on the nominations of Caspar W. Weinberger to be Secretary of Health, Education, and Welfare and of Frank Carlucci to be Under Secretary of Health, Education, and Welfare. I recognize that the hearings have been completed; however, I would like to voice my strong reservation concerning the nomination of the above two individuals since I feel that their administration of the many health programs for which Health, Education, and Welfare is responsible would be inimical to the best interest of the citizenry. I support judicious financial management, but the present administration has indicated verbally and through the nomination of the above-mentioned individuals that they intend to go far beyond exercising financial prudence in administering the programs of the Department. In fact, it appears they intend to emasculate many of the programs which are presently operational in the health care field.

I trust you will take the above concerns into consideration when the nominations reach the floor and later as these agencies requests reach the Senate Finance Committee. Thank you for your consideration and help.

Very sincerely yours,

THOMAS W. AIKEN.

CITIZENS COMMITTEE ON PUBLIC EDUCATION IN PHILADELPHIA,
Philadelphia, Pa., January 16, 1973.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
Senate Office Building,
Washington, D.C.

DEAR SENATOR LONG: On behalf of Citizens Committee on Public Education in Philadelphia, I am requesting an opportunity to testify in opposition to the confirmation of Caspar W. Weinberger, Secretary designate of Health, Education, and Welfare before the Senate Finance Committee.

CCPEP is a 33-year-old broad based, independent civic organization which has long been dedicated to the preservation and improvement of public education in Philadelphia. We have, over the last several years, watched with great dismay while the federal share of public education funds in our city has dwindled. Not only has support of General Fund monies been declining significantly, but our categorical aid is now seriously jeopardized. This position has been maintained, notwithstanding consistent congressional approval of basic educational appropriation bills.

We believe that a person must meet certain minimum criteria before confirmation to such a significant and sensitive position as Secretary of Health, Education and Welfare. These criteria include commitment to improving the quality of public basic educational programs, and particularly, insuring the continued viability of urban educational systems which currently constitute major disaster areas. It is our contention that Mr. Weinberger fails to meet such minimum criteria as demonstrated by his record at the Office of Management and Budget and his recent public statements.

We think that before judgment is passed on his credentials, opinion and data from broadly representative citizens' groups should be heard by your committee. To this end, we request an opportunity to testify, at which time our criteria and assessments will be presented and documented.

Sincerely yours,

MIRIAM L. GAFNI, President.

AMERICAN WORLD'S FAIR,
Elmhurst, N.Y., January 18, 1973.

Statement to Finance Committee, U.S. Senate.

To: Hon. Russell Long, Chairman.

Subject: Nomination of Caspar Weinberger.

Having noted the distinguished career of Caspar Weinberger, including his successful administration of the Federal budget, our Board has approved the following:

Resolved: That Caspar Weinberger's nomination as Secretary of H.E.W. be approved by the Finance Committee and by the entire Senate, and

Resolved further: That this statement be printed on the hearings so that it will be available for the entire membership of the Senate when it considers and votes upon his nomination.

WARWICK R. HARWOOD,
Chairman, Board of Directors,
American World's Fair Corp.