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ABSTRACT

Contents of this booklet include: (1) Chronology of the School Lunch Issue: Events Preceding the School Lunch Act of 1946, the 1946 School Lunch Act, "The Needy Go Unnoticed: 1946-1962," "Sorry, No Money: 1962-1965"; (2) "Their Daily Bread"--A Step Toward Action; (3) Congress Takes Action: The Vanik Program--A First Step; The House Takes Action; The White House Conference on Nutrition; The Senate Side; The Conference Committee; (4) Regulations of Public Law 91-248: The Citizens Conference; Proposed Regulations; Final Regulations; Were the Goals Achieved? (5) Implementation of Public Law 91-248: The Underlying story; (6) New Regulations--August, 1971. (7) Major Problems Today Within the National School Lunch Program: The Economics Means Test; The 25-Percent Matching Requirement on Equipment Funds; and, (8) Recommendations: Immediate Plan; Implementation of Pilot Programs from September 1972 to September, 1975. (JM)

92d Congress
2d Session

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HUNGER IN THE CLASSROOM: THEN AND NOW

PREPARED BY THE

SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS UNITED STATES SENATE

JANUARY 1972

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(II)

INTRODUCTION

> Some individualists there are who contend that society is wrong in doing this (educating children), and their opposition to the proposal that it should undertake to provide the children with food is far more logical than that of those who believe that society should assume the responsibility of educating the child, but not that of equipping it with the necessary physical basis for that education.
>
> *John Spargo.*

John Spargo shocked the Nation with the publication of his book, "The Bitter Cry of the Children" in 1906. Many questioned his statistics that in New York City alone, thousands of children went to school hungry every day, without even the prospect of returning home at night to a nourishing meal. Unfortunately, John Spargo's accusations, applied on a national basis, still ring true in January 1972.

The surplus food storage bins in the United States annually overflow. Each year America is able to produce greater quantities of food with the assistance of modern techniques. However, an ample food supply does not mean that the populace is well-nourished; to ensure this, an effective method of food distribution must be devised to meet the nutritional needs of the various population groups. The schoolchildren, especially the poor, were usually an afterthought in any food distribution technique. Not until 1966—20 years after the enactment of the National School Lunch Act—were funds appropriated by Congress specifically for providing free and reduced-price lunches for those children unable to pay the full price. While legislators debated the merits of a "welfare" lunch system, the needy children remained hungry.

The need for adequate food during the school day stands as an obvious one. A child cannot learn if he is hungry—that is a simple and undeniable fact. Hunger makes him restless, lethargic, and physically ill. Without at least one nutritious meal during his 4- to 7-hour stay at the school, no child can benefit from the tremendous educational opportunities offered in American schools today.

Basically, however, the question in the United States has been whether or not school feeding should be classified as an aspect of the school's responsibility to the children. The provision of food during the school day should be just as much an integral part of the educational process as is the provision of free bus rides and free textbooks. Furthermore, food supplied at school is the most efficient and economical way of feeding children a noontime meal.

Other compelling reasons exist for the existence of a national lunch program for students. Children increase their consumption of food groups as they grow older except for the critical ones such as green leafy and yellow vegetables and Vitamin-C carrying fruits. To ensure an adequate supply of these in the child's diet, balanced food must be available under a program open to all children.

In theory, this is the function of the National School Lunch Program; in practice, only 44 percent of the total number of schoolchildren in the United States participated in the program in 1970. The reasons for this low rate are many and complex. One of them is that, until very recent years, the National School Lunch Program stood for one ideal but was governed by other interests not necessarily consistent with that ideal. Like many other Government programs, the intent behind such a program has often been ignored. In this case, the child is the one who has suffered the consequences.

Progress has been made in ending childhood hunger and in bringing to more of our Nation's children a truly "adequate" noontime meal. But I believe that if we are to redeem our broken promises on this front of the hunger battle, we must not talk of progress accomplished but rather look ahead at the work yet to be done. We must attack this problem, simply because it is the just course for our Nation to follow. Hunger must be eliminated, most especially among our children, because it is wrong in and of itself.

The report which follows, details the historical development of the National School Lunch Program up to nearly October 1971. It lists many recommendations, legislative and administrative for the improvement and expansion of the program's benefits.

Change clearly must come. Too many of our children are not adequately nourished—to the point where they are actually "malnourished" or "undernourished." Some of our children suffer from "hunger." Not a single one should.

What direction this change should take is not yet completely clear. This committee has heard numerous expressions of support for a "Universal School Lunch Program"—one which feeds every child a free lunch, regardless of his family's income. The arguments for and against this concept must be fully explored. For this reason, one of our recommendations suggests a pilot program on such a basis. I regard this is an essential step—and as one of the most significant recommendations we have offered—in our efforts to adequately safeguard the health and nutritional well-being of America's children.

GEORGE MCGOVERN,
Chairman, Select Committee on Nutrition and Human Needs.

JANUARY 1972.

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HUNGER IN THE CLASSROOM: THEN AND NOW

Chapter I

CHRONOLOGY OF THE SCHOOL LUNCH ISSUE

1. EVENTS PRECEDING THE SCHOOL LUNCH ACT OF 1946

The idea that children need adequate nutrition to fully benefit from schooling is not a new one; in fact, this concept was recognized in Europe more than a century ago. Appropriately enough, the importance of food for schoolchildren was first recognized by France where by 1867, 464 school lunch programs had been established. In 1900, Holland became the first country to commit itself to a national policy of providing school lunches to all its children; Switzerland followed 3 years later by requiring that all municipalities provide free lunches to needy children. Norway's breakfast program was a variation of this idea. Noticeable physical improvements were observed in those children eating the breakfast of ½ pint of milk, whole-wheat bread, cheese, ½ orange, ½ apple and, from September to March, one dose of cod-liver oil.

The United States was somewhat slow in perceiving the nutritional value of hot lunches for its school-age children. Private societies and educational associations (e.g., schools, the PTA, etc.) initiated the earliest programs. However, few children were actually involved and those who did receive lunches were fed on a sporadic basis. In many areas, only high school children were covered because only they had to travel long distances to school. Since elementary schools usually existed on a "neighborhood school" basis, these children were sent home for lunches. According to the 1918 N.Y. Bureau of Municipal Research Survey, 76 percent of all the high schools in 86 cities throughout the country had at least a basic lunch program; comparatively, only 25 percent of the elementary schools had similar programs.

The principal roadblocks to vigorous local school feeding programs were the lack of a national commitment; the inability of the State and localities to fund programs; and, local prejudices which saw the lunch program as one which fell not in the educational, but in the welfare category. In 1910 for example, the Milwaukee County Board condemned the lunch programs, declaring such activities fostered parental indolence.

Nevertheless, the effort continued, aided by increased concern about hunger and malnutrition during the Depression. Fifteen States had passed statutes by 1937, establishing the operation of low-cost school lunch programs.

New Deal legislation provided fuel for the lunch programs. Loans from the Reconstruction Finance Corporation made possible the hiring of women to work in the kitchens. The National Youth Administration and the Work Projects Administration also acted as sources of labor.

In 1935, Section 32 of the Agricultural Adjustment Act of August 24 committed the Federal Government to provide surplus agricultural commodities to the schools. The Secretary of Agriculture was authorized to spend up to 30 percent of each year's customs receipts to maintain farm prices by purchasing excess commodities. Although the legislative intent clearly involved aid to the farmer—i.e., the elimination of price-depressing surplus—the State lunch programs became an excellent outlet for these goods. In 1937, 3,839 schools received food for 342,031 children; by 1942, 5.2 million children in 78,841 schools benefited from $21 million of Section 32 commodities.

Under Section 32, foods were allocated to all schools on the basis of the number of participating eligible children. Certain foods were almost guaranteed while others were available on a temporary or geographical basis. All children who attended the school, whether they could afford the lunch or not, were deemed eligible to obtain food. However, only a very small number of children actually received this lunch free, or at a reduced cost.

In the early 1940's, the "Penny Milk Program" was conceived. The Agriculture and Marketing Administration reimbursed local sponsoring agencies or associations for their purchases and distribution of milk to children at a maximum price of one-half cent per half pint. This program was open to public, denominational and nursery schools, community centers, child-care centers and other nonprofit institutions.

Both of these Federal programs were commendable but their basic purpose was to aid the farmer rather than the schoolchild, let alone the needy child. This is not to imply that aiding the farmer was, and is, not a commendable purpose. But no minimum nutritional standards were established; local officials, limited only by facilities, determined the type and quality of the meal served. The immediate benefits accruing to the farmer and the maintenance of certain price levels were stressed; the critical point that many children suffered from hunger while in school was either relegated to a secondary position or ignored. In fact, by 1943, increasing war needs had effectively destroyed the utility of Section 32 surplus—any surplus that the military could not use was of little benefit to schoolchildren.

A shift occurred in the USDA's policies, in early 1943, when funds transferred from Section 32 were used to indemnify the States for purchases they made on the local level for food served in their lunch programs. Certain specified procedures had to be completed for the States to receive their reimbursements. A per-meal maximum limited the total reimbursement available to any one school: These were set at 9¢, 6¢, and 2¢ for the Type A, B, and C lunches respectively. Type A included one-third of the daily caloric requirements necessary for a child; Type B was the same as Type A except that smaller portions were served; Type C consisted of milk only. The 1945 and 1946 USDA Appropriation Acts continued this program until the National School Lunch Act of 1946 became law. According to the USDA, 4.7 million public schoolchildren out of 24.5 million benefited from this program in 1945.

Prior to the passage of the 1946 National Act, the various programs in effect undoubtedly did feed a significant number of children. But, a far greater number did not benefit because the programs lacked a national scope. No State or individual school was required to accept any of the commodities or reimbursement funds. For those schools that did participate, too great an emphasis was placed on local initiative and control. Due to the lack of comprehensive surveys establishing how many schoolchildren actually needed—and could afford—lunches, funds that were appropriated were often unspent. In 1941, for example, one State appropriated $250,000 for its school lunch program but only spent $227,337.

Primarily, however, the early Federal programs stressed the need to aid the farmer in providing wider avenues of distribution for his products, and substantial price supports for any surplus that resulted at harvest time. Not until 1946 was the national policy priority declared to be that of feeding children.

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2. THE 1946 NATIONAL SCHOOL LUNCH ACT

In the early 1940's several surveys furnished statistical evidence of the urgent need for adequate lunches: In Vermont, 85 percent of children examined showed signs of healed rickets; in a 1940 New York City examination, 21 percent of the high school students in low-income families had less than two-thirds of the daily caloric requirements; and, in North Carolina, 24 percent of children examined had swollen gums accompanied by a low vitamin C level. This was followed by evidence of a surprisingly high Selective Service rejection rate during World War II for young men with poor nutrition histories. The correlation between "adequate nutrition and full production, full production and adequate nutrition" impressed itself on booming post-war America.

The National School Lunch Act, Public Law 79–396, emerged after numerous committee hearings which made the above disclosures, and the consequent pressures from private organizations which were generated. The new law was envisioned as a final answer to the school-feeding issue. An obvious need existed for some type of legislation to overcome the uncertainty of the Federal program which, prior to 1946, had operated on yearly extensions of the appropriations for the Department of Agriculture. For the first time, Congress declared a national policy to ". . . safeguard the health and well-being of the Nation's children" by providing ". . . an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school-lunch programs."

The final act, which the conference committee sent to President Truman, was a compromise between Senate Bill 962 and House Resolution 3370. The Senate bill constituted a merger of Senator Richard B. Russell's (D.-Ga.) and Senator Allen J. Ellender's (D.-La.) proposals. Senator Russell's plan envisioned a program run entirely from the Department of Agriculture. Senator Ellender's proposal established control by the Commissioner of Education, administration through the State educational agencies, and greater flexibility regarding State needs. The Ellender plan emphasized strongly the need for adequate school lunch programs, regardless of the particular agricultural situation of the day.

During the Senate hearings, traditional fears manifested themselves. They included the prediction of State laxity if Federal expenditures were provided (hence, the State matching funds provisions) ; and, an apprehension on the part of some of a Federal usurpation of a State function—namely, the education of its children.

Senate Bill 962 combined the Russell and Ellender proposals. A division of functions was established; the USDA administered Title I, because it was thought to be the logical agency to undertake the supervision of the nutrition and direct distribution aspects of the bill; the Commissioner of Education supervised Title II.

Basically, Title I outlined the functions and duties of the Secretary of Agriculture in assisting schools to obtain food for lunches while simultaneously relating this to the farm program of production, distribution and nutritional research. It provided for:

- $100 million, less administrative expenses and direct Federal expenditures on commodities, to be apportioned among the States, on the basis of school enrollment and relative need of the individual State, for reimbursement purposes.
- Distribution of these funds by the State educational agencies to schools it determined as eligible, provided the States matched Federal funds on an increasing rate—States with a lower per capita income paid a proportionately smaller share.
- Adherence to several basic Federal guidelines concerning: The fulfillment of minimum nutritional standards (i.e., the Type A, B, and C lunches); the prohibition of discrimination between paying and nonpaying children; and the maintenance of records and reports of participation. Distribution by the Federal Government of funds to the nonprofit private schools in those States unable to legally render assistance to these schools.

Title II, administered by the U.S. Commissioner of Education, allocated funds for: The establishment, maintenance, operation and expansion of the program; the training of technical and supervisory personnel; the establishment of nutritional education programs; and, the providing of equipment and facilities. Similar Federal guidelines were specified here as in Title I, except that no nonprofit, private schools were eligible unless the State already had been able to apportion funds to them.

The House Committee on Agriculture hearings also reflected several of the prevailing criticisms against a fully effective and adequately funded School Lunch Program. The most fundamental criticism centered on the belief that a school lunch program constituted a welfare rather than an educational function. Almost unanimous was the philosophy that Federal aid should be kept to a minimum (so that the States would not reduce their own spending); and, that any aid rendered should be tapered off as soon as possible (to avoid infringing too greatly on a State's responsibility). In response to a witness' remark that it was wishful thinking to expect the States to assume this responsibility, the Chairman of the Committee, John W. Flannagan, Jr. (D.-Va.) replied.

> If it is wishful thinking, I will tell you frankly that this school-lunch program is not going to last. If the States and localities cannot contribute their share, you are going to have to kiss it good-by.

The final House Bill, H.R. 3370, was similar to S. 962 in its basic outline of apportionment by need and school enrollment; provision for direct Federal expenditures on commodities; administrative expenses allowance; distribution to the schools by the various State agencies (unless it was a private school in a State forbidding such aid, in which case the funds went directly to the school from the Secretary); and, requirements for adherence to certain minimal Federal guidelines regarding the types of lunches served, prohibition of dis-

crimination against nonpaying children, and so on. Title II covered the same area of establishing, maintaining, operating and expanding the school lunch programs.

The most significant variation between the two bills occurred in the funds authorized and the "matching formula." H.R. 3370 specified a maximum of $50 million—half of that authorized by S. 962. Furthermore, the matching of funds required a much more stringent schedule, reflecting the House's concern over Federal dominance in what many considered a State function. Under H.R. 3370, States were to fund $4 for every $1 of Federal money by fiscal year 1951; S. 692 specified $3 of State money for every Federal $1 by fiscal year 1956. Both, however, applied the same proportionate decrease in matching for the poorer States; the required amount was decreased by the percentage by which the State's per-capita income fell below the per-capita income of the United States.

On May 20, 1946, the Conference Committee issued its report on the School Lunch Program. It was the most significant piece of legislation on the subject ever to come from Congress. Unifying the two-title concept of H.R. 3370 and S. 962, the bill surpassed previous legislation in several ways. In its sections the proposal contained:

Section 2—a national policy:

> It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs.

Section 3—an open-end authorization to spend such amounts as the Secretary of Agriculture deemed necessary to implement the act.

Section 4—a scheme for a minimum of 75 percent of the appropriated funds to be apportioned to the States using two factors: The number of schoolchildren in the State between the ages of 5 and 17 inclusive; and, the need rate as indicated by the relation of the per-capita income in the U.S. to the per-capita income in the State. The number of children was multiplied by the assistance need rate; this index was divided by the sum of all the indices for all the States; then the resulting figure was applied to the total funds to be apportioned. All public and and nonprofit, private schools of high school grade-and-under, plus the child-care centers in Puerto Rico, fell under the Act. Any funds not utilized by a State, or other additional funds, could be reapportioned by the Secretary. A maximum 3 percent of funds applied to Alaska, Hawaii, Puerto Rico and the Virgin Islands.

Section 5—$10 million of the authorized funds were designated annually by the Secretary for providing nonfood assistance (equipment, training programs, etc.) to the States. Each State received a minimum of $10,000; Alaska, Hawaii, Puerto Rico and the Virgin Islands received a maximum 3 percent of the funds;

and the remainder was apportioned among the States according to the Section 4 formula.

Section 6—an authorization for the Secretary to spend, of the total funds, less Sections 4, 5, 10 and 3.5 percent for administrative expenses on the Federal level, an amount for direct purchase and distribution of agricultural commodities and other foods among the States according to the needs specified by the local school authorities. Section 32 funds of the 1935 Act were also available for use by the Secretary for the provisions of this act.

Section 7—funds apportioned under Sections 4 and 5 were disbursed to State education agencies at times and amounts specified by the Secretary. From fiscal year 1947 to fiscal year 1950, Federal funds were matched dollar for dollar by the State; from fiscal year 1951 to fiscal year 1955, $1 of Federal funds required $1.50 of State funds; for any fiscal year thereafter, the rate was $1 of Federal money for every $3. These amounts were proportionately less if the State's per-capita income was lower than the national average. Matching funds included the money paid by the children, donated services, supplies, facilities and equipment; the land, costs of buildings, of donated Federal commodities and Federal contributions were excluded.

Section 8—the Secretary approved all State education agency/State school disbursement agreements while the State determined which schools were eligible based on need and attendance factors. Only commodity purchases and nonfood assistance connected with the program could be reimbursed by the State. The upper limit for reimbursement was set at the annual number of lunches served in the school under the act, multiplied by the maximum Federal food-cost contribution rate for the State.

Section 9—all lunches had to meet minimum Federal nutritional requirements. Children determined by local officials to be unable to pay were served free or reduced-price lunches. Schools could not discriminate against or segregate nonpaying children; commodities designated by the Secretary had to be used as much as practicable.

Section 10—eligible nonprofit private schools unable to receive disbursements from the State due to State laws received direct Federal payments, subject to all other conditions of the act, including the matching requirement. The amount apportioned to these schools was in the same proportion to the total funds given to the State as was the number of children between 5 and 17 inclusive attending nonprofit private schools in the State to the total number of people that age in the State.

Section 11—among the miscellaneous clauses and definitions covered by this section was the stipulation that the Secretary was forbidden from imposing any requirement respecting teachers, curriculum, methods of instruction, and materials of instruction on the schools. Furthermore, State disbursements, in a State with segregated black and white schools, had to be equitably distributed.

The act represented a substantial step forward in attempting to deal with the nutritional problems of America's children. The open-

end fund authorization, reinforced by a national policy declaration, theoretically provided the Secretary with sufficient money to do this. The apportionment formula, together with the sliding matching scale, was an attempt to recognize the fact that some States would need more aid than others. The Section 5 nonfood assistance provision dealt with the fact that lunches could not be served without the necessary facilities. Rural sections of the country and older urban schools particularly lacked the equipment required to establish even a small scale School Lunch Program. The $10 million appropriation was absolutely essential for a successful nationwide program.

Taking note of the fact that some 38 States had passed laws excluding State aid to nonprofit private schools, Section 10 brought these schools within the scope of the act so that the children would not suffer from lack of an adequate lunch.

Finally, Congress attempted to counterbalance any social stigma attached to being poor by banning any lunchroom discrimination between the needy children who were to receive the free or reduced-price lunches and their more affluent classmates.

Nevertheless, the National School Lunch Act failed in certain areas. Though no maximum amount was placed on the authorization in Section 3, neither was there a minimum. Therefore the school lunch budget was never adequate to cover all eligible children.

The provision in the apportionment formula recognizing school population greatly outbalanced the other factor, i.e., the per-capita income of the State. Wealthy States having a large number of school children, but with a much smaller number of actual participants, would receive more of the appropriated cash reimbursement funds than would a very poor State with a smaller number of schoolchildren. Furthermore, the formula failed to compensate for the fact that even a high per-capita-income State could still have isolated pockets of desperate poverty which would not be able even to begin a program without special assistance.

Another inequitable area of the act concerned the matching formula. The State's matching requirement came principally from the children's lunch payments; in fact, over half of the lunch program cost was to be paid for by the children. This created pressure to have all children pay for these lunches and thus worked to the detriment of the poor child.

In their determination to maintain the Federal-State areas of responsibility, Congress severely limited the Secretary's control over the program. The State determined what schools were eligible according to need and attendance in the schools. This opened the way for possible abuse of discretionary authority, a lack of uniformity, and vast discrepancies between State standards. Beyond this, and most significantly, local authorities established the guidelines for free and reduced-price lunches; the criteria that should be employed in determining this was left unspecified. The Secretary did not have the power to establish even a minimum floor below which the local school could not go. This uncertainty as to the eligibility requirements and, just as important, how the school attained the information on which to base its decision, eventually operated to exclude most poor children.

Finally, Section 11 also accepted the fact that racial segregation was condoned in many States. This mere separation by race alone signaled, by itself, a near impossibility of equitable distribution of the apportioned funds. Beyond this, even though many educators considered a nutrition education course essential to improving the diet of the child, Section 11 specifically prohibited the Secretary implementing such courses.

Although an improvement over the farmer-directed programs of the past, the National School Lunch Act could not be termed an adequate answer. Several of its major clauses permitted State control to such a degree that inequitable consequences, intentional or not, were inevitable.

3. "THE NEEDY GO UNNOTICED: 1946–1962"

With the enactment of the National School Lunch Act in 1946, the post-war years looked somewhat brighter for the next generation of hungry children in American schools. Encouraged by higher prices and aided by modern techniques, farmers produced greater quantities of food. The school lunch programs appeared to be natural benefactors of this agricultural explosion. However, an ample food supply does not necessarily indicate a well-fed population, unless an efficient method of distribution is devised to meet the nutritional needs of the hungry. Unfortunately, the United States not only lacked a method of effective distribution but, more basically, the Government consistently refused to recognize the intensity of the problem and the cost necessary to correct it. In 1952, at a Washington, D.C., conference, the Director of the National Institutes of Health, demonstrated this lack of awareness by stating: "obesity has replaced the vitamin deficiency diseases as the number one nutrition problem in the U.S."

Under the 1946 Act, administration of the program became the responsibility of the Secretary of the Department of Agriculture. This power was delegated to the Agricultural Marketing Services (AMS) which designated the Food Distribution Division (FDD) as the actual administrator. From the beginning, the FDD underestimated the annual appropriations necessary for an adequate program.

Usually participating schools exhausted their apportionments by March or April of each school year. For fiscal year 1947, Congress appropriated $6 million as a supplement to the $65 million budget; however, this came so late in the school term that many schools could not use the money. In fiscal year 1948, $65 million was again appropriated even though the needs were greater due to increased participation; an administration economy drive cut back the spring term emergency money to $5 million. *In 1953, over $5 billion was spent on overseas relief by the United States; during the same year, the cafeteria manager serving 500 lunches daily in her Fargo, North Dakota, school was notified that her budget would be "drastically cut in April and eliminated altogether in May because of inadequate funds."*

Local program administrators annually faced this shortage of funds. Until 1949, actual cost disbursements were set extremely low because large transfers from "Section 32" funds, used in purchasing surplus commodities, were authorized by Congress. Beginning in 1949, Congress appropriated money solely from the Treasury, leaving Section 32 funds for the purchase of surplus commodities which, in turn, were donated to the schools by the Federal Government.

In 1949, the Congress reserved $75 million for the School Lunch Program; by 1955, this had increased to only $83 million. Despite the influx of war babies into the school system, amendments to increase the appropriations were consistently voted down. In 1949, a Senate amendment to increase the appropriation to $100 million was defeated

30 to 14; in 1950, there was considerable opposition in the House of Representatives to a move to increase funds from $83.5 million to $85 million because, it was claimed, the States could better afford the cost of the program.

Congress did not constitute the sole opposition to adequate funding of the program. The executive branch, with its policy of economic austerity in the 1950's, formed another obstacle. The USDA proposed budget cuts or leveling off throughout the decade. The appropriated amount for fiscal year 1955 totaled $83 million; the USDA budget request for 1956 reached only $68 million. For fiscal year 1959, the same 1958 figure of $100 million was asked even though the number of schoolchildren had risen by 20 percent. The Congress appropriated $145 million. For fiscal year 1960, $155 million was required just to maintain the existing participation rate; the USDA budget requested only $100 million and $153.6 million finally was appropriated.

A more subtle method of reducing appropriations for the lunch program was the USDA policy of cutting Section 6 funds while simultaneously increasing the amount of Section 32 funds in maintaining and expanding the program. The Section 32 funds constituted 30 percent of the customs receipts collected annually by the United States. Section 2 of the 1935 Act authorized the Secretary of Agriculture to use this money to buy any agricultural surplus that was not covered by the price-support program, to divert it to low-income groups. The National School Lunch Program was designated one of the recipients of this surplus. While Section 6 funds could be used in purchasing and distributing any needed commodities, though the applicable surplus goods had to be considered first, Section 32 money was solely limited to surplus goods. The basic unsoundness of this policy lay in the fact that:

1. It was unknown what surplus would be available until after it was produced;
2. The surplus usually given was not of a type that children could consume to any greater extent than presently supplied by the Federal Government; and
3. Since the surplus constituted a mere addition to the menus, the schools did not save any money that could have been used to purchase other more nutritious foods.

The Section 32 funds were undoubtedly of immediate benefit to the School Lunch Program. Their unreliability, however, indicated that the primary beneficiary was to be the farmer not the children, and caused a degree of irresponsibility in planning that the program simply could not afford. This Section 32 fund reached a total of $132 million in fiscal year 1957 and by fiscal year 1959 it had fallen to $35 million. As a result, the schools never knew beforehand what commodities they were to receive, nor the quantity of them. Effective planning was virtually blocked in this regard.

In addition, the reluctance on the part of USDA to press for substantially higher appropriations meant that the principal financial burden fell on the child rather than on the Federal or State governments. As costs rose under the pressures of inflation and as the appropriation either fell or leveled off, the weight of this burden continually shifted to the child in greater and greater degrees.

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Apportioned funds were usually distributed quarterly, so that any unanticipated increase in participation resulted in an early depletion of funds, or a reduction in meal allowances, or both. Surplus commodities, themselves, could not fill the gaps in the program. Again, the burden shifted to the child who had to pay a higher price for his lunch. This usually meant that the children of the low-income families, the very ones who most needed the hot meal, were priced out of the program.

In 1947, the average reimbursement rate was 8.7¢ per meal. In 1955, Los Angeles voluntarily withdrew from the national program claiming the Federal subsidy had plummeted to an unmanageable rate. By 1960, at a time when food prices, labor contracts and all other costs soared increasingly higher, the average Federal reimbursement rate stood at 4.4¢ per meal—a drop of 49 percent. This rate, 4.6¢ below the 9¢ maximum was usually inadequate to supply the Federal-mandated free meals to the needy children; in reality, the School Lunch Program subsidized meals for the middle-to-upper-class children who could afford to pay the prices.

The USDA was not ignorant of the dimensions of the problem. In fact, the Secretary of Agriculture possessed periodic reports, required by the typical Federal/State agreements, of the States and the nonprofit private schools. These reports detailed the severe inadequacy of funds, and the fact that, while participation in the program from 1947 to 1960 soared 242.9 percent, the Federal appropriations rose by a meager 35.8 percent.

Agriculture commodities and other foods supplied by a number of means supplemented the cash disbursements to the States. Under Section 6 of the 1946 lunch act, a maximum 21.5 percent of the total funds available could be used by the Secretary to purchase foods which were then distributed to the States. Section 32 of the Agriculture Adjustment Act of August 24, 1935, authorized purchases of surplus goods for distribution to the schools which requested them. Section 416 of the Agricultural Act of 1949 authorized the donation to the schools of food commodities acquired by the USDA's Commodity Credit Corporation through its price-support operations.

Unfortunately, the donations made mainly with Section 32 funds but supplemented by the price-support commodities of Section 416 greatly outweighed donations under Section 6. Under the first two provisions, benefits to the farmer stood as the first priority; the School Lunch Program was a convenient disposal system even though the schools often could not use the available commodities in their menus. Under Section 6, the Secretary, first using the available surplus, could purchase those commodities that the schools needed most, usually meats.

As for the Section 32 funds, a maximum $300 million carry-over of funds was allowed each year to enable the Secretary to cope with any disaster on the farm market. In fiscal year 1962, the customs receipts added $325.8 million to the carry-over of $300 million. Since only $216.2 million was spent on the various commodity distribution programs in that year, the remainder of $109.6 million reverted to the Treasury—as the excess did every year.

Beginning in fiscal year 1959, Congress transferred some of the available Section 32 funds to the National School Lunch Act to be

used by the Secretary in the same manner that Section 6 funds of the lunch act were spent. This amount constituted an addition on top of the customary Section 32 donations of surplus commodities. Congress emphasized that this money was to be principally used for the purchase of meats and other high-protein foods. By fiscal year 1962, despite USDA's reluctance and proposals to cut back on this money, the transferred Section 32 funds had risen to $45 million. This contribution must be compared, however, to the $109.6 million that was returned to the Treasury by the USDA; for the most part, due to the fact that the Department was generally unaware of the need for these funds and there was not a great demand for them on the part of the States.

With the heavy emphasis in the School Lunch Program on the need to dispose of surplus and price-support commodities, most of which were seasonal in availability, an obvious requirement existed for storage facilities. Section 5 of the National School Lunch Act, with its $10 million annual appropriation, was designed to meet this need. However, in 1948 and every year thereafter, the House Appropriation Subcommittee specifically excluded the $10 million from being spent on nonfood assistance, i.e., lunch room equipment. This was thought to be the responsibility of the local officials, and therefore, only local funds could be employed in this area. In addition, the commodities that provided the best nutritional balance—meats, fresh fruits and vegetables—were exactly those that required special equipment such as refrigeration and storage facilities.

The inadequacies and inequities of the 1946 National School Lunch Act became more apparent as each year passed. Donated surplus foods were sometimes used to reduce normal food purchases rather than to supplement them. Some States diverted the donated commodities, in violation of Federal law, to ineligible recipients, e.g., State penal institutions. Theoretically, the Secretary possessed general authority to regulate the program: The States had to ensure a nonprofit operation by the schools; lunches were to meet minimum nutritional requirements; free or reduced-price lunches had to be served to needy children, and no discrimination was allowed because of a child's inability to pay; surplus commodities had to be purchased if at all practicable; the acceptance and use of donated commodities, if possible, was required; and accurate records had to be maintained by the schools.

But as a practical matter, only a policy of education, persuasion and the hope of cooperation was available to correct operating deficiencies in the program. Therefore, no effective remedy was available to the USDA when most State agencies employed the same rate of reimbursement for all their schools. This clearly controverted the Federal/State agency agreements recommending determination of reimbursement rates by the State on an individual school-by-school, not a statewide, basis utilizing the varied needs of the schools.

The implicit sanction by Congress of counting children's payments for meals as part of the matching formula removed any incentive on the States' part to participate financially in the program to any great degree. By 1953, the national average matching ratios for public schools and nonprofit private schools were $1 to $5.65 and $1 to $3.43 respectively. Most of the matching constituted lunch payments by the participating children; in fact, in 1953 only 10 States made contributions from State revenues other than for administrative expenses. By

1960, the cost breakdown of the program appeared as this: Federal funds—20 percent; State and local funds—25 percent; and children's lunch payments—55 percent.

One of the most basic flaws of the 1946 Act concerned its apportionment formula—a combination of the total number of school-age children in the State and the per-capita income of the State. Although the need of the State was considered in the latter, the total-number-of-children factor greatly offset this. In two States with similar per-capita incomes and the identical number of children, both would receive the same amount of funds. But if State A had 25 percent of its children in the program compared to State B's coverage of 75 percent, State A could reimburse its schools on a much greater scale; in short, the 1946 formula favored a low participation rate. The submergence of the need factor was demonstrated by the fact that the 25 richest States in fiscal year 1959 received 4.39¢ per lunch while the 25 poorest States were reimbursed at the rate of 4.53¢ per lunch.

In the early 1960's, various House and Senate bills were introduced calling for an alteration in the original apportionment formula. The most promising ones (which eventually led to the 1962 amendment to be discussed later) compensated for the malapportionment resulting from the "total-number-of-children" factor by substituting a "participation rate" factor. This correlated the relative economic ability of the State and its Federal allocation in terms of each complete school lunch served. Based on a sliding scale, a minimum floor of 5¢ per lunch would be established, with those States having a per-capita increase less than the national average being reimbursed up to a 9¢ per lunch maximum.

The USDA objected to these proposed changes for two reasons:

1. They claimed that commodities were donated in such a way as to recognize a participation factor; and,
2. The minimum reimbursement rate of 5¢ required an additional $25 million appropriation over the previous rate of some $100 million; claiming that Congress would never accept such an increase, the USDA stated that the new formula would actually hurt some States because, if the 5¢ floor could not be met, all States would be reimbursed at the identical rate with funds that were available.

The Department's objections illustrated an overestimation of the value of the commodity-donation programs, an open reluctance to recognize that a substantial increase in funds was needed to provide the basic coverage called for by the 1946 Act.

Clearly, the national goal of safeguarding the health and well-being of the country's children had not yet been attained, or even pursued, in a manner that could be interpreted as placing the welfare of the children above any other interest. Furthermore, the slow expansion of the program—only some 12.8 million children covered out of the total 43 million—and the perennially inadequate appropriation, demonstrated that the Secretary was not adhering to Section 3 of the 1946 National School Lunch Act which authorized him to spend such sums as necessary.

Despite the receipt of monthly reports substantiating the significant student increases, the USDA often recommended reduction in cash

distributions. Its response of increasing the surplus and price-support commodities was, at best, only a stopgap measure; the foods donated usually consisted of the wrong types given at the wrong time, in undesired quantities.

An additional program was initiated in the 1950's with the enactment of the Special Milk Program in September 1954. The primary and highly laudable objective was "to increase the consumption of fluid whole milk," thereby reducing the movement of manufactured dairy products into the Commodity Credit Corporation under its price-support programs. Schools serving Types A or B lunches under the National School Lunch Act were reimbursed at a rate of 4¢ per half pint included in the lunch. Other schools serving lunches received 3¢ per half pint. Those institutions serving milk, but not selling it as an individual item, were given 2¢ per half pint; these were the child-care centers.

At first, only nonprofit schools and child-care centers came under the act. In 1956, this coverage was extended to summer camps, settlement houses, orphanages, and other similar institutions serving economically underprivileged children. These places could least afford additional milk at regular prices. Later, the "underprivileged children" requirement was deleted from the program, thereby extending coverage to such organizations as 4–H clubs.

Several problems plagued the Special Milk Program. The annual appropriations never approached the level necessary to supply milk for all the children who needed it. Indeed, by 1958, only 18 million from an estimated 43 million youngsters received milk under either the School Lunch or the Special Milk Programs. Since the reimbursement rate applied solely to the additional milk consumed, many schools could not participate due to an inability to finance the needed facilities. Furthermore, State administrative expenses were not reimbursed to any degree by the Commodity Credit Corporation. Those schools that participated did so with a sense of insecurity, for the Special Milk Program was not a permanent one; Congress authorized it for 1 or 2 years at a time. Unfortunately, the Special Milk Program, to an even greater extent than the School Lunch Program, was considered by the USDA primarily as assistance to the farmer. In testimony on February 26, 1958, before the House Subcommittee on Dairy Products, Deputy Director H. P. Davis, Food Distribution Division, stated the effort was ". . . to maintain a certain return to the producer." Subsequently, Davis acknowledged that the program would probably be discontinued if the milk surplus disappeared because the act, as a price-support measure, would then no longer be necessary.

These statements cannot obscure the fact that many children did benefit from the program—by 1959, 2.2 billion additional half pints were being consumed annually. However, the actions by the USDA in establishing the program as a price-support level, coupled with their repeated resistance to a comprehension coverage of all children, served only to lead to a suspicion of their sense of priorities. The question of balance was inevitably raised when, in 1961, the schools were reimbursed at a rate of 4¢ per Type A lunch (which includes milk, and costs an average of 40¢ and at a rate of 4¢ per half pint of additional milk served (which costs approximately 6¢).

4. "SORRY, NO MONEY: 1962–1965"

Several events in the early 1960's prompted a reexamination of the National School Lunch Program. One of these was the 1962 publication of Michael Harrington's *The Other America.* Harrington, accusing the United States of having the "best-dressed poverty" in the world, pointed to millions of impoverished Americans living on totally inadequate diets. The publication of this book laid the foundation for a growing public awareness that the National School Lunch Act's goal of nutritious lunches for all children stood far from being achieved.

Responding to the entreaties of several members of Congress and numerous school administrators, President John F. Kennedy promised the adequate funding necessary for an expansion of the program to particularly needy schools, and for a redesign of the apportionment formula. The original allocation formula, however, still favored a low participation rate; this fact, along with a lack of facilities in the poorer schools, caused most needy children to go without the free lunch that the 1946 Act guaranteed them.

One significant effort did eventually come, albeit on a limited scale. A $2.5 million pilot program was initiated in fiscal year 1962 for apportionment to the State education agencies specifically for disbursement to needy schools. This led to the addition, in 1962, of the Special Assistance Section to the National School Lunch Act.

This pilot lunch program of special assistance to needy children helped to a limited degree. By the end of the 1961–1962 school year, 24,550 children were fed in 287 schools throughout 22 States. However, only $1 million of the $2.5 million appropriation was actually spent. Furthermore, this pilot program distributed the money in the form of commodities which the selected schools had to request. If the more favorable method of cash reimbursements had been employed, problems of storage and transportation would have been avoided.

A companion Special Assistance Milk Program suffered from an initial lack of aggressive implementation. The USDA had agreed to reimburse schools up to the full cost of milk served to children unable to pay for it. However, during this period, the attention of the USDA had been focused on the pilot program of special assistance for lunches.

On June 6, 1962, H.R. 11665 passed the House by an overwhelming margin—370–11. Sponsored by Representative O'Hara (D-Mich.), the bill changed at least one key section of the 1946 Act—to reward those States that had implemented comprehensive lunch programs and to encourage other States to do so, the apportionment formula was altered. Henceforth, apportionment of the funds would center on:

1. The participation rate of the State, rather than on the total number of school-age children; and
2. The "assistance-need rate" of the State.

For the first fiscal year, 50 percent of the funds were to be allocated by the old formula and 50 percent using the new formula. This revision did not alter the distribution of Section 32 or Section 416 commodities because they were already given on the basis of the previous year's number of lunches served.

In an attempt to reach the poor who couldn't afford to pay for a lunch or who attended nonparticipating schools, a special assistance authorization of $10 million—designated Section 11 of the National School Lunch Act—was enacted.

In addition, American Samoa was brought under the coverage of the act and the provision allowing for assistance to segregated, separate-but-equal, schools was repealed.

Reflecting Senate changes in H.R. 11665, the Conference Committee altered several aspects of the bill:

- A 3-year transition period for the reapportionment formula was provided to ease any abrupt changes in reimbursement rates for some States. Now, the funds were to be progressively allocated on the basis of a sliding scale. The new participation rate formula was to be used for 25 percent of the funds in fiscal year 1963; 50 percent of the funds in fiscal year 1964; 75 percent of the funds in fiscal year 1965; and a complete changeover in fiscal year 1966. This method allowed for a more orderly administrative procedure.
- The $10 million authorization for Section 11 was to be apportioned using a more mathematical formula. By substituting a quantitative figure for the discretion of the Secretary of Agriculture, congressional fears of an arbitrary exercise of power by the Secretary were allayed. With 3 percent of the funds going to the territories, 50 percent of the remainder was apportioned using:
  1. The number of free or reduced-price lunches served in the State during the preceding fiscal year; and
  2. The assistance need rate of the State.

  The remainder, plus any returned, unused apportioned funds, was allocated by the same formula to States justifying the need for additional special assistance. In this way, each State received a basic minimum while, simultaneously, recognition was given to the fact that some States had greater unmet needs for Section 11 assistance.

On October 15, 1962, 6 days after establishing an annual National School Lunch Week, President Kennedy signed the final bill. However, the implementation of its features proved a more difficult problem. No funds were actually appropriated for Section 11. Furthermore, an additional $20 million was necessary to fully utilize the new apportionment formula. Congress finally appropriated a supplemental $10 million but, at the same time, cut $10 million from the commodities

provided for under Section 11. This occurred despite a 7 percent increase in the number of participating schoolchildren.

A new formula for apportioning Section 4 funds was critically needed. The consolidation of small rural schools into one large district school had been occurring throughout the country. This required a massive busing program, thereby eliminating the possibility of many children walking home for lunch. The old formula had penalized any increased participation: The reimbursement rate fell below 4¢ per lunch in 25 States during the 1962 school term; in 6 States it was less than 3¢ per lunch. These rates encouraged withdrawals of schools from the program and a reversion to the far less nutritious snackbar arrangement. Since snackbar items reflected the actual cost of the food, most children from low-income families were deprived of any type of lunch, nutritious or not. The new formula provided incentive for States to expand their programs, especially high-income States with isolated poverty pockets.

The need for substantial Section 11 funds had been documented in 1962 by the USDA's Economic Research Service. This report showed 9 million children without access to food service with 1 million of them being entitled to free or reduced-price lunches. An additional 500,000 children attended schools with some type of food service, but, where the resources available could not support the necessary level of free or reduced-price lunches.

In an attempt to correct this situation, the USDA urged States to use variable reimbursement rates—up to 15¢ per lunch—for needy schools. But, this meant that less money had to go to other schools who, in turn, had to raise their prices to cover the free lunches that they were serving. This procedure attracted little support among the States.

Section 11 appeared to be an answer to this problem. It did not disturb the existing framework of the National School Lunch Program. The States determined the eligibility of the schools for the available funds except in those 20 States and territories where, because of State law, the USDA dealt directly with the private schools.

The five factors used by the States to determine eligibility were:

1. The economic condition of the area from which attendance comes;
2. The need of the pupils for free or reduced-price lunches;
3. The percentage of free and reduced-price lunches served in such schools;
4. The prevailing price of lunches in such schools as compared with the average prevailing price in the State; and
5. The need of such schools for additional assistance as reflected by the financial position of the School Lunch Program.

However, USDA and the Congress simply failed to use the full leverage available under Section 11. Although the authorization stood at $10 million, the USDA asked for only $4 million for fiscal year 1963. Among their reasons were:

1. Section 11 involved a new field of endeavor and the program had to proceed slowly;
2. Tests of administrative procedures had to be made to determine what safeguards were needed; and
3. Experience had to be gained before a full implementation was possible.

In testimony on June 23, 1964, before the Senate Agriculture Appropriations Committee, Howard P. Davis, Director of the Food Distribution Division, referred to this measurement of need for Section 11 assistance:

> It could be a staggering number, a staggering amount of need. We feel that we would not want to attempt to meet that need quickly until we felt our way along, until we had some experience and until we had perhaps a little better basis on which to judge which schools and which areas were in need of the special assistance.

Congressional sentiment matched that of the USDA. Not until fiscal year 1966 was any money appropriated for Section 11. At that time, due principally to Senator Philip A. Hart's (D-Mich.) insistence, a $2 million appropriation, deleted by the House, was reinstated by the Conference Committee. However, the committee clearly expressed its intent that the $2 million was only an "experimental" program and not a permanent part of the National School Lunch Act's annual appropriation.

Up until fiscal year 1966, the USDA annually budgeted $2 million for Section 11 and the Congress annually eliminated it or added it to the regulation Section 4 funds. One objection to providing these funds was, that while the need for the hungry and poor children was clearly recognized, no funds could be allocated until criteria has been developed for allocating them from the State to the schools. The fallacy in this reasoning was that the USDA had drawn up a set of regulations on this matter, albeit without a comprehensive national survey. But, beyond this, no State could distribute funds unless the school demonstrated a need for them. The States were to have discretion in distributing the funds since the entire concept of Section 11 was to increase the availability of free lunches, not merely to reimburse the cost of those already being supplied.

Another factor that severely restricted the possibilities of a successful Section 11 program was the annual decision to deny Section 5 nonfood assistance money. Many of the needy children entitled to, but not receiving free lunches, attended schools with a high enrollment of needy children. Often, these were the old, urban slum schools built without lunch facilities. Without adequate refrigeration, cooking, and other needed equipment essential for an acceptable lunch service, these children could not benefit from Section 11—even after the meager fiscal year 1966 appropriation of $2 million.

In explaining this complication to the House Appropriation Committee in 1962, Howard P. Davis if the FDD stated that Section 5 had proved difficult to administer in the only year it was funded, fiscal year 1947. Furthermore, according to Davis, the needy schools showed either a remarkable ingenuity in getting the equipment or they did not have room for any equipment if it could have been given.

The enactment of the Section 11 provision in 1962 gave official recognition to a fact local administrators faced since 1946—schools with heavy concentrations of needy children could not provide the required free and reduced-price lunches without special financial assistance. However, 4 years elapsed before this recognition was transformed into actual cash subsidies. The $2 million which was finally appropriated in

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fiscal year 1966 was terribly inadequate; it could never realistically begin to reach the millions of children involved. Since what money was available could be used solely for food, State and local funds were necessary; unfortunately, these were even more scarce than the Federal contributions.

Many States used funds supplied by Title I of the Elementary and Secondary School Act of 1965 to provide free and reduced-price lunches to children who would otherwise go hungry. But, the purpose of the ESEA was to expand and to improve "educational" programs for children from low-income families. Using this money for feeding children so that they could participate fully, while entirely justifiable, also conflicted with the other purposes behind the ESEA. If there had been sufficient congressional appropriations for Section 11, the ESEA money could then have better met the special educational problems of these children from the low-income families.

Chapter II

"THEIR DAILY BREAD" A STEP TOWARD ACTION

By 1968, the National School Lunch Program was feeding over 18 million children. There was little doubt that many children were being fed; in addition, an increasing percentage received free or reduced-price lunches. However, due to the inadequate funding and review procedures contained in the Act, the degree of efficient operation of the program remained an open question.

In 1968, "Their Daily Bread," sponsored by five women's organizations—Church Women United, the YWCA, the National Council of Catholic Women, the National Council of Negro Women, and the National Council of Jewish Women—conducted a thorough study of the lunch program in the United States. On the basis of a 35-page questionnaire and extensive personal interviews, the procedures and progress in the lunch programs of 40 select communities in the rural and urban areas of the United States were studied. Their results confirmed what many who had worked in the program strongly suspected: The basic framework of the act frustrated the achievement of the goal of providing a lunch for every schoolchild in America.

The study began with two primary objectives:

1. To determine why more, if not most, children did not participate in the National School Lunch Program; and
2. To establish why the program failed to meet the needs of the needy children.

The results of the investigation led to the conclusion that the goal of the program was, under existing procedures, unattainable due to the limitations built into the system. It was not the local or State administrators who frustrated the program; rather, the procedures with which they had to operate served as the stumbling block. "Their Daily Bread" pointed to four such inadequacies:

- Although the USDA knew only 18 million of some 50 million eligible schoolchildren participated in the program, the rate of Federal financing advanced, when it did at all, at an incredibly slow rate. Large Federal increases each year would have had a tremendous effect on the participation rate. However, many school administrators, rather than face a constant worry over the program and an annual fight for lunch funds, chose not to participate at all.
- The matching formula requiring $3 of State and local revenues for every $1 of Federal money was actually met by payments from the children. Under these conditions, when the costs could

not be met, the price of the lunch to the child rose. This caused the poorer children to drop out and as their contributions were lost, the price rose again. Those States that did contribute on a substantial scale found that the extra money allowed a phenomenal increase in participation and, more importantly, in the number of free and reduced-price lunches that could be served. Louisiana and South Carolina, both heavy investors in their lunch programs, had participation rates of 73 percent and 61 percent respectively. Their rates of free lunches stood high above the national average—25.6 percent for South Carolina and 18 percent for Louisiana.

- The lack of uniform national standards for determining the eligibility requirement for a free lunch created an inequitable situation. With no guidelines, local officials often were influenced by extraneous factors and community prejudices—e.g., the child's conduct or attendance record. Many administrators failed to connect hunger with lethargic or tempermental attitude on the part of the child. With varying guidelines, children from the same family attending separate schools were judged and fed by different standards. Hence, a child might be "poor" in one school while his sister was considered not so "poor" in a different school just miles away. This lack of national standards denied to many children the lunch that Congress had guaranteed them.
- The lack of appropriations for nonfood assistance resulted in a program of de facto economic discrimination against the poor. Many of the slum-area schools did not have the facilities to serve lunches, even if the money was available to buy the food. Since it was the poor who attended these schools, they were denied lunches under the program. This type of policy served only to maintain their poverty. Without an adequate diet they could not hope to obtain the energy necessary to raise themselves out of the depths of poverty; because they were poor the children were denied the nutritious lunch which was rightfully theirs.

The findings of "Their Daily Bread" documented the vast discrepancies between the goals of the 1946 National School Lunch Act and its progress as of 1968. The USDA's claims of significant achievements dimmed when compared with the work still to be done. The conclusions of this study were undeniable. The financing of the program was woefully inadequate; the administrative procedures were, at best, marginally acceptable; the outright discrimination between paying children and nonpaying children oftentimes was disgraceful, and frequently in violation of the specified provisions of the act.

The main recommendation advanced by "Their Daily Bread" was the adoption of a Universal Free School Lunch Program in the United States. The committee believed that food at school was an integral part of a sound education; indeed, without it there could be no educational system in the true sense of the word. Many of our inner-city schools stood as stark evidence to this fact.

Until this could be implemented, seven short-term recommendations were raised, all of which could quickly be established if Congress led the way. Basically, this program called for:

- Increased Federal, State, local and commodity contributions to decrease the price of the lunch.
- A change in USDA regulations to establish the school district, and not the individual school, as the contracting unit. This would mean that all the children in one family, though in different schools, would have the opportunity to receive a Type A lunch.
- Higher reimbursement rates and increased Section 11 special assistance funds to needy schools.
- A uniform, national standard of need to determine the eligibility requirements for a free or reduced-price lunch.
- The strict prohibition of discrimination, segregation or identification of needy children in the lunchrooms.
- The consolidation of all school food programs at all levels under one administration for uniformity in funding, eligibility standards, record-keeping and reviews.
- More aggressive implementation of the objectives of the National School Lunch Program by USDA and the States.

"Their Daily Bread" served as a much-needed stimulus to many people in the country to demand more effective administration and a greater coverage of children in the lunch programs. It emphasized the critical point that the act was not intended to establish a welfare system and should not be administered as such. Indeed, the program constituted the foundation of the American educational system. John Perryman, president of the American School Food Service Administration conveyed this idea when he said: "We use the food to get the child into the school; we use the school to get the child out of poverty." By underfinancing the program, particularly for the hungry and the poor, the Government was, in reality, shortchanging the future health of the Nation.

Chapter III

CONGRESS TAKES ACTION

1. THE VANIK PROGRAM—A FIRST STEP

The 1963 USDA regulations governing the School Lunch Program specifically excluded many of the children who most needed the nutritious Type A lunch. A Department of Agriculture memo, SL 2-1, stated:

> Prefirst-grade schools such as kindergartens, nursery schools, and child-care centers are not eligible to participate (in the National School Lunch Program). Children who are receiving prefirst-grade instruction in an eligible participating school may participate in the school's lunch program.

This policy ignored the fact that the children who attended a participating school, and were eligible under these regulations, frequently had the least need for the benefits of a Type A lunch. Usually, most of them remained at the school for half a day and then ate lunch at home. On the other hand, the children in a nonprofit, private, independent kindergarten school or child-care center often stayed the whole day because both of their parents worked. These children clearly needed nutritious meals as much as any other children—yet they were excluded from the program by the USDA regulations.

The National School Lunch Act also excluded summer camps and recreation programs even though they were eligible for the milk and commodity-donation programs. If a child was suffering from dietary deficiencies, he could not fully participate in a vigorous and healthful summer program.

The importance of these activities was explained by Timothy Costello, Deputy Mayor of New York City in testimony before the House Committee on Education and Labor on March 18, 1966. Mr. Costello stressed the importance of social skills learned in summer group activities:

> It is entirely possible to make out a case for the fact that the kind of social experience provided by group activity in the summer constitutes an even more important type of learning than might take place under some circumstances in the classroom.

Not until 1968 did the United States officially attempt to correct the situation described by Senator Robert F. Kennedy when he said: "The schoolchild may take a vacation from school, but he does not take a vacation from hunger."

Efforts throughout the 1960's—proposals by Senator Javits in 1962, and Representative James H. Scheuer in early 1966—to provide lunches for those children in child-care centers and summer programs met with strong opposition.

By 1967, the need for provision of lunches to nonschool institutions serving children grew acute. President Johnson's emphasis on the establishment of summer educational programs for children, such as OEO's Headstart Program, and the amendments added to the 1967 Social Security Act, providing for training programs for welfare recipients, created thousands of additional institutions of this nature.

Finally, a greater awareness of the need for nutritious food for preschoolage children was developing. Scientific data established that the first 5 years of life were critical to normal development of a person's mental abilities. Deprivation of nutritious food obstructed this process causing irreparable harm to the future mental and physical well-being of the child.

Representative Charles A. Vanik reintroduced a bill in 1968, H.R. 13293, that was brought before the House in late 1967. The Vanik bill, strongly supported by the Committee on Education and Labor which had jurisdiction over it, extended the National School Lunch Program to all:

1. Public or private nonprofit day care centers;
2. Settlement houses;
3. Private, nonprofit preschool activities; and
4. Summer recreational programs such as day camps and youth centers but excluding full-care, live-in institutions and camps.

Emphasis was placed on children from areas in which poor economic conditions existed and from areas in which there were high concentrations of working mothers. The bill authorized the funding of $32 million for each fiscal year 1969, 1970, and 1971. It also called for the establishment of a permanent school breakfast program.

The Secretary of Agriculture, Orville Freeman, testified in favor of the program but requested a 2-year pilot program and a funding of only $8 million each year. The USDA believed that the 1967 Social Security Act provided adequate funds—up to 85 percent of the financing, including food service, of a *new* day care center. However, this would not apply to the thousands of centers already caring for children whose mothers worked full time; if part-time working mothers were included, the figure rose substantially higher.

On March 5, 1968, the House sent the Vanik bill to the Senate after passing it by a vote of 398 to 0. The proposed permanent breakfast provision had been amended to provide for a 2-year program. The Senate Agriculture Committee, striking out all provisions except the one concerning the school breakfast program, said that the Vanik bill lay outside the scope of the National School Lunch Act, pointing to OEO Headstart Program as evidence that the Vanik bill was unnecessary. It was then that Senator George McGovern, suggested the formation of a Senate Select Committee on Nutrition to deal with the various nutrition programs, the agencies responsible for them, and their overlapping functions.

The Senate, influenced by "Their Daily Bread" and its exposé of the inadequacy of the School Lunch Program, assented to the arguments in favor of the Vanik bill. The "breakfast-only" amendment

was defeated by a vote of 38 to 14. On May 8, 1968, President Johnson signed the bill and the Vanik program became Public Law 90–302.

As had happened in the past, an admirable concept became law only to be hampered by inadequate funding. Of the $32 million authorized for fiscal year 1969, a bare $10 million was appropriated, and only $687,000 was actually spent. President Johnson had recommended $20 million for fiscal year 1970; President Nixon reduced that to $10 million; the Senate amended that to $15 million.

The expansion of the Vanik program suffered from a total lack of aggressive implementation on the Federal level. Furthermore, USDA regulations defining a "nonprofit" institution eliminated many centers neither wealthy nor expert enough to acquire a tax-exempt status under complicated Internal Revenue Service regulations. Many small, neighborhood centers were disqualified because marginal profits were made.

In addition, many institutions could not "afford" the Vanik program. Lack of funds for equipment, for the 25-percent matching index, or to pay the labor costs (which soared after child-feeding program workers were included in the Fair Labor Standards Act in 1966) prevented hundreds of child-care or service institutions from participation in the program.

To reach these people, the USDA had to initiate programs to actively recruit centers while simultaneously solving any problems that might obstruct their admission. Such an effort was never made.

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2. THE HOUSE TAKES ACTION

The attention given to "Their Daily Bread" and various congressional hearings on poverty spurred a concerted drive within the House to reach the poor, particularly the needy children attending school without a nourishing lunch. Although surveys placed the number of children entitled to free lunches as high as 9 or 10 million, only 2 million actually received them.

The Committee on Education and Labor, chaired by Representative Carl Perkins, led the renewed fight against malnutrition by sponsoring several innovative and corrective bills. One of these, H.R. 17872 introduced on July 1, 1968, sought to improve the nutritional status of needy children in group situations away from home, excluding those children maintained in residence. A transfer of $100 million from Section 32 would cover food and equipment costs plus Federal and State administrative expenses. No matching was required for this money to be apportioned on the basis of the number of children in families with yearly incomes below $3,000 and children from AFDC families with yearly incomes above $3,000.

Questions immediately arose regarding the appropriateness of using Section 32 funds for these purposes. Some argued that Section 32 had been established to protect the farmers from the destructive effect of agricultural surplus on prices. To accomplish this end, large amounts of unrestricted money had to be kept free to instantly meet any threat to stable price levels.

Representative Perkins, whose Education and Labor Committee had jurisdiction in the House over the school feeding programs, reasoned that H.R. 17872 would lead to the consumption of more surplus commodities, not less. Beyond this, if the Section 32 $300 million carryover fund could not handle the situation, Congress could always appropriate emergency funds for the farmer. Chairman Perkins also pointed out that since 1959 more than $1 billion had been returned to the Treasury, unused, from Section 32 even after the $300 million carryover had been provided. Only in 1966 did the carryover fall short by $2 million of the carryover mark. This reasoning prevailed and H.R. 17872 passed the House by a vote of 274–78.

In testimony before the Senate Committee on Agriculture, USDA Secretary Freeman endorsed the basic principles of H.R. 17872. However, he claimed that $100 million constituted too large an amount for the local and State operations to handle in the coming school year. Senator Ellender's amendment to the House bill proposed $50 million for fiscal year 1969, $50 million for fiscal year 1970, and $100 million for fiscal year 1971. The Senate accepted this by a vote of 57–31.

The Conference Committee on H.R. 17872 granted $50 million for fiscal year 1969. This became Public Law 90–463 on August 8, 1968. Since the funds were earmarked for the needy children, but with no specific method of spending them, the various regions could meet

their own individual needs. Hence, Northern schools lacking equipment to a greater degree than Southern schools, could satisfy this need. Unfortunately, a lack of controls on the Federal level led to an abuse of this appropriation; perhaps up to 20 percent of the funds spent were diverted into the regular School Lunch Program, bypassing the needy children. Furthermore, lack of aggressive implementation by the USDA resulted in $18 million being returned to the Treasury at the end of fiscal year 1969.

Representative Perkins continued his efforts by introducing H.R. 11651 in 1969. This bill provided $100 million from Section 32 for each of the following 3 fiscal years to supply emergency assistance for nutritious lunches to needy children. Mr. Perkins estimated that to feed all of the needy children free lunches required $225 million in Federal funds. On July 21, 1969—the day that the first man walked on the moon, after an expenditure of $24 billion—Mr. Perkins asked for $100 million. The House passed H.R. 11651, 352–5.

The Senate Agriculture Committee considered H.R. 11651 6 months later. Once again, opposition was encountered regarding the expenditure of Section 32 funds. However, on February 20, the Senate with USDA support passed an amended version; $30 million was reserved for a 1-year program. Because of what he considered a desperate need for additional money, Mr. Perkins reluctantly urged the House to acquiesce in the Senate's amendment. On March 12, 1970, Section 13A to the National School Lunch Act, providing temporary emergency assistance to the needy, became Public Law 91–207.

Representative Perkins' endeavors to effect fundamental changes in the basic structure of the National School Lunch Act were even more significant than his efforts at providing short-term relief for the needy children. On the first day of the 91st Congress, Chairman Perkins introduced H.R. 515, a comprehensive school lunch reform measure which set the tone of the coming debate in Congress on new directions in this program.

At the end of 1968, Secretary Freeman issued the following school lunch regulations:

1. Eligibility requirements for free lunches were to be "published;"
2. Any overt identification of children receiving these free lunches was to cease; and
3. An experimental pilot program allowing food service companies to supply the lunches was to be conducted.

Unfortunately, these regulations were all too often ignored or circumvented.

H.R. 515 was proposed to clear express congressional intent on these vital matters. In addition, its provisions would strengthen State and local administration of the child-feeding programs while simultaneously extending and improving nutritional benefits accruing to all children. The welfare of needy children was to be emphasized. The sole concern of H.R. 515 lay in redirecting the administrative procedures of the program.

The Committee on Education and Labor unanimously reported H.R. 515 to the House floor on March 17, 1969, where, on March 20, it passed without opposition. The bill contained six main features—

most importantly, concrete criteria were established to be used in determining the level of need for a free lunch. These basic factors were:

1. The level of family income (including welfare grants);
2. The number in the family unit; and
3. The number of children in school.

Information concerning these criteria had to come from existing public agencies; detailed written applications were prohibited. An affidavit stating that the family could not afford to pay for the food was sufficient. Furthermore, H.R. 515 required these procedures to be publicly announced.

Overt identification of any child receiving a free lunch would be prohibited. This included any procedure in distributing different colored tickets or tokens, separate lunch lines or tables, requiring a child to work for a free lunch, or any other method whereby the child's classmates knew that he was not paying for his lunch. Numerous local administrators repeatedly testified to the fact that many poor children would rather not eat than be embarrassed before their classmates. The matching formula for State contributions to the program, exclusive of revenues from the children's payments, was to rise to 10 percent by fiscal year 1977. Statistics demonstrated that the significant increases in participation rates occurred when the State financially involved itself in the program. In Louisiana and South Carolina, where State contributions were considerable, the participation rates stood at 73 percent and 61 percent respectively; more significantly these two States supplied free lunches at a rate far above the national average. In South Carolina, 25.6 percent of the participants received their lunches at no cost; in Louisiana, the rate was 18 percent.

To enable the local school authorities to plan their programs with some degree of certainty, appropriations under the National School Lunch Act were to be made 1 year in advance.

A maximum 1 percent of the total appropriation was to be used by the Secretary of Agriculture to establish nutritional training and educational programs for the workers and students in the feeding program. This would enable State administrative agencies to give special attention to the important task of improving the knowledge of sound nutritional principles among all the people involved in the programs.

Flexibility was to be granted to the States in disbursing their funds to participating schools. However, every school would have to consider the USDA regulations concerning eligibility for a free lunch, while local needs and standards of living were additional factors that the schools could employ. In testimony on March 6, 1969, before the Perkins Committee on Education and Labor, Mr. Howard P. Davis, the USDA spokesman, specifically rejected the concept of a binding national minimum standard. The USDA preferred a policy of cooperation and persuasion if local levels were set too low.

H.R. 515 stood as an expression of the House's intent to adequately provide for all the Nation's schoolchildren. Months elapsed, however, before the Senate considered this vital piece of legislation.

3. THE WHITE HOUSE CONFERENCE ON NUTRITION

In November 1968, a Senate Select Committee on Nutrition and Human Needs was formed to focus on the fundamental and complex problems of poor and malnourished Americans. Senator George McGovern, former Director of the Food for Peace Program, who had introduced the original resolution to create the committee, was named as the chairman.

Testifying before the "Hunger Committee," Dr. Charles Lowe, scientific director, National Institute of Child Health Development, stated: "There is no evidence that feeding people makes them smart, but it is indisputable that hunger makes them dull." Again and again the committee heard such testimony. Repeatedly, witnesses attributed a large proportion of the problem to a lack of a strong commitment by the Federal Government to use all the resources available to assist the hungry millions. Too often, appropriations fell far short of authorizations; too often, appropriations were not fully extended.

The Nixon administration recognized the inconsistency between the stated goal of the National School Lunch Act and its progress to that time. On May 6, 1969, the President, in a message to Congress on hunger and malnutrition declared:

> Something very like the honor of American democracy is at issue . . . the moment is at hand to put an end to hunger in America itself for all time. It is a moment to act with vigor; it is a moment to be recalled with pride.

Following this pledge, President Nixon announced in June that a White House Conference on Food, Nutrition and Health, directed by Dr. Jean Mayer of Harvard, would be held in December 1969. The conference was to formulate a national policy aimed at the elimination of hunger and malnutrition due to poverty.

The conference met for 3 days in Washington after the various panels had studied nutrition problems assigned to them for several months. The 3,000 delegates represented the academic, medical, industrial, and agricultural worlds—approximately 400 poor people were involved in the panel discussions and recommendations.

The panel dealing with the school feeding program included such people as Miss Jean Fairfax, who directed the publication of "Their Daily Bread;" Mrs. Marian Wright Edelman, director, Washington Research Project; and Mrs. Thelma Flanagan, associate director, National School Food Service Finance Project in Florida.

This panel based their far-reaching recommendations on the premise that "every child has a right to the nutritional resources that he needs to achieve optimal health." The school system, was considered to be the institution best able to serve as a delivery system in pursuit of this goal. Pointing to the gross failures, and innumerable unfulfilled promises of the National School Lunch Program, the panel recommended a sweeping overhaul of all school feeding programs.

Foremost among the long-range recommendations was the call for a universal, free school lunch program—a free Type A lunch for every American schoolchild regardless of his family's income. The rationale behind the call for a universal lunch program essentially was this: Every child is entitled to adequate nutrition, yet, adequate income, as we have come to learn, does not necessarily guarantee an adequate diet. The school was believed to be the only mechanism which could serve as a delivery system to all children, and the technological advancements made in recent years by food service companies would greatly help to keep the cost of such a program within reason. Finally, many felt that only with such a program could we be certain that those children suffering from hunger and undernutrition, from a lack of any food as opposed to simply a lack of the proper food, would receive the free lunch they need and that discrimination against and overt identification of the poor would be impossible.

In addition, nutritional supplements for the needy, particularly free breakfasts, were thought necessary to compensate for the long years of malnutrition. Comprehensive and imaginative "outreach" programs were recommended to reach preschool children and school-age children in child service institutions and summer programs.

The panel also recommended complete Federal financing, except for construction costs, of the nutrition program; the establishment of a Child Nutrition Administration to administer all the school-feeding programs; incentive grants to bring schools into the program and Federal sanctions to ensure their adherence to established, minimum nutrition standards; funds for annual evaluation, research and development; and the establishment of a National Citizens' Advisory Committee to encourage citizens' participation in the program.

The most significant short-term recommendations of the panel urged a crash program to feed the 5 million needy children entitled to a free lunch but not receiving it; a national standard of eligibility for a free or reduced-price meal; a simple self-certification process free from any humiliating stigma; the development of breakfast programs complementing, not substituting for, the lunch program; and a concentrated effort to reach those poor urban schools without lunch facilities.

On December 24, Dr. Jean Mayer announced President Nixon's pledge to provide free lunches for all needy children by Thanksgiving Day 1970. This was the strongest, and most direct, pledge ever to come from any administration on the school-lunch issue. The executive branch for the first time went on record in agreement with the proposition long known to the millions of poor Americans: "A hungry child cannot learn."

4. THE SENATE SIDE

On July 7, 1969, Senator Herman E. Talmadge (D-Ga.) introduced S. 2548. This bill sought to extend benefits to more children needing a nutritious lunch and called for increased appropriations and proposed an administrative overhaul in the National School Lunch Act and the Child Nutrition Act. Representative Carl Perkins introduced a similar bill, H.R. 14660, in the House during January 1970.

On January 29, 1970, the Senate Committee on Agriculture, favorably reported S. 2548 to the Senate.

Directed primarily to reaching the hungry children too poor to afford participation in the School Lunch Program, S. 2548's nine sections provided:

Section 1. All appropriations for the National School Lunch Act and the Child Nutrition Act were to be authorized 1 year in advance of the fiscal year they were designated for. Furthermore, all funds appropriated but unspent would be carried over into the next year. This would provide the local school authorities with a greater degree of certainty regarding the type and size of program for which they could plan.

Section 2. Authorizations for Section 5 of the Child Nutrition Act, providing funds for nonfood assistance to needy schools, were to be increased to $38 million for fiscal year 1971, $33 million for fiscal year 1972, $15 million for fiscal year 1973 and $10 million for each fiscal year thereafter. Of the amount actually appropriated, 50 percent would be allocated using the participation rate appropriated, 50 percent would be allocated using the participation rate and assistance-need rate formula of Section 4 of the National School Lunch Act. The remainder was apportioned on the basis of the ratio between the number of children enrolled in schools without a food service in all States. States would match such funds on a 25-percent basis.

Section 3. Funds available for Section 6 direct Federal purchase and distribution of commodities were to be fixed as those remaining after deductions for:

a. A maximum 3.5 percent for Federal administrative expenses;

b. Sections 4, 5, 11 and 13 of the National School Lunch Act;

c. A maximum 1 percent for nutritional training and education programs for workers and participants, and for the necessary surveys and studies needed for a more efficient child feeding program.

Section 4. State funds expended on the National School Lunch Act and the Child Nutrition Act (other than revenues derived from lunch payments by the children) would be required at a 4-percent level for fiscal year 1972 and fiscal year 1973, 6 percent

for fiscal year 1974 and fiscal year 1975; 8 percent for fiscal year 1976 and fiscal year 1977; and, at least 10 percent each fiscal year thereafter. Only a handful of States exceeded the 10 percent in 1969. This amendment, therefore, meant an influx of better than $30 million by 1978. The matching provision was designed to not only increase the number of free and reduced-price lunches served but also to encourage more careful State administration of their lunch programs.

Section 5. This question would enable the States to designate any State agency to receive reimbursements for expenses incurred in administering the program.

Section 6. Local school and service institution authorities would be required to publicly announce and equitably apply their plan for determining the qualifications necessary to receive a free or reduced-price lunch. As a minimum, consideration had to be given to the level of family income (including welfare grants), the number in the family unit and the number of children in the family attending school or a service institution. In addition, any type of overt identification of those receiving a free or reduced-price meal would be strictly prohibited.

Section 7. Under the 1962 Section 11 Special Assistance formula, based on the number of free and reduced-price meals served the previous year, the schools that could not afford in the past to serve any free lunches obviously received no Section 11 money. S. 2548 provided an apportionment formula based on the number of schoolchildren in a State aged 3 to 17, inclusive, in families with incomes less than $3,000 per year plus the number of such children in families that receive more than $3,000 per year from Federal-assisted public assistance programs. Any unexpended money was to be reapportioned using this same formula. The authorization for the Special Assistance provision was open-ended; more importantly, the Secretary directed the funds to assure access to the School Lunch Program by needy children and not, as before, to schools from economically depressed areas. Hence, the money "followed the child," not the school. However, although the Secretary was to establish a maximum per-meal special allowance, financial assistance up to 80 percent of the operating costs of the program was allowed in circumstances of severe need.

Section 8. Allowed a State to transfer funds among its various child feeding programs, provided its plan to do so received Federal approval. The costs of special development projects were covered by reserving a maximum 1 percent of the funds available for this purpose.

Section 9. Provided for a National Advisory Council on Child Nutrition composed of representatives from the various fields involved in the child feeding programs. The council was to study the programs and recommend any actions needed to improve the administration and the implementation of the National School Lunch and Child Nutrition Acts.

Although S. 2548 promised a greatly improved School Lunch Program, it later became clear, during debate, that some barriers would re-

main to prevent every needy child from receiving the free lunch to which he was entitled.

In response to the announced aims of the White House Conference on Nutrition, and in light of President Nixon's pledge of free lunches for all the needy by Thanksgiving Day 1970, five amendments were offered on the Senate floor by a bipartisan group of Senators led by Senators McGovern and Javits. The amendments were an attempt to ensure that this goal could be met.

Amendment 508 called for the establishment of national uniform eligibility standards for free and reduced-price lunches. All children from households eligible for the Food Stamps or Commodity Distribution Programs, or from families of four with an annual income below $4,000 would be eligible. The $4,000 per-year income test matched that established for the Food Stamp Program and the standard operating under Title I of ESEA. However, the standard remained below the Bureau of Labor Statistics index of $6,000 yearly income for a family of four needed to maintain a "low standard of living."

A national standard clearly was required. Utter confusion prevailed where standards varied from State to State, district to district, school to school. Evidence indicated that many areas ignored USDA regulations calling for a publicly announced eligibility policy.

The amendment attempted to clarify free-lunch eligibility requirements for schools, parents and children. The stipulation that only an affidavit by the parent was necessary in this process eliminated long, inquisitive and frequently embarrassing interviews. Just as important, calculations could be made at the national, State, and local levels as to the cost of feeding all the needy children according to President Nixon's pledge. The 14,000 schools with their own lunch programs, but receiving Section 32 and Section 416 commodities, would also have to adhere to these standards.

Amendment 508 further required that no reduced-price lunch could exceed 20¢. The States would establish the criteria as to who qualified for a free- and who qualified for a reduced-price lunch. This applied only to public schools since 26 States could not contribute the additional tax revenues, which would be necessary to finance this proposal, to private schools.

The previous lack of a definition of a reduced-price meal had penalized school districts serving truly reduced-price lunches by allowing districts that provided reduced-price meals at a trivial 1¢ or 2¢ less than the cost of a regular price meal in other districts to claim the larger reimbursement due a free or reduced-price meal. The money reserved for these meals was depleted at the expense of schools providing a lunch substantially lower in cost than a regular meal.

"Their Daily Bread" had demonstrated that the lower the price, the higher the number of students who bought the lunch. In schools where the price was 20¢, participation was 100 percent; at 25¢, participation dropped to 80 percent; at 30¢, only 27 percent to 37 percent of the students participated. The 20¢ lunch was a necessity if the recommendations of the White House Conference were to be effectively implemented.

The opposition to the 20¢ limit on the price of a reduced-price lunch claimed that it was an unreasonable restriction and unenforceable

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unless full and adequate funding was assured. According to the USDA, both the national eligibility standard and the 20¢ lunch would force many schools to drop out of the National School Lunch Program, thereby depriving the needy children of their free lunch. Furthermore, the USDA pointed to the lack of provision for different standards of living; e.g., 26.2 percent of the families in the North fell below the annual income of $4,000 figure, while in the South, 46.5 percent of the families were below the index.

Senator Javits, one of the principal cosponsors of Amendment 508, replied to these criticisms by urging a reordering of priorities on the Federal and State levels to provide the necessary funds. Amendment 508 passed the Senate 41–40.

Amendment 509 also furnished the authorization to allow schools to contract-out their lunch programs to a private food company. This was particularly crucial for those schools unable to provide the equipment and the facilities necessary for the preparation of the food. However, since the USDA had already embraced this concept and was in the process of revising its regulations to allow it, Amendment 509 was withdrawn from consideration on the Senate floor.

Amendment 511 applied the national minimum eligibility standards of Amendment 508 to the School Breakfast Program. Emphasis was focused on needy children because witnesses before the Select Committee on Nutrition and Human Needs had pointed out that many poor children subsist mainly on the Type A lunch supplied free at midday. All too often, children came to school hungry and because of this, these students were unable to properly learn.

Because the preponderance of evidence regarding the value of breakfast in the educative process, increased authorizations of funds were proposed at levels of $25 million for fiscal year 1971, $50 million for fiscal year 1972 and $75 million for fiscal year 1973.

Provision was also made for Federal reimbursement up to 100 percent of the operating costs in the very poorest of the schools. Under Amendment 511, 3 million children would be eating breakfast free by 1973.

Opponents of the amendment felt that it might violate the Equal Protection clause of the Constitution. Since only $25 million was asked for (as opposed to $250 million for free lunches) and only the neediest children would qualify, rigid economic means test would have to be applied to select the participants.

However, the nutritional value of a breakfast for a hungry child remained a fact; a beginning had to be made to reach these students. Furthermore, Amendment 511 clearly contemplated a yearly expansion of the program.

Amendment 511 passed the Senate by a vote of 36–34.

Amendment 512 concerned the allocation of funds and the necessity for filing State plans of child nutrition operations. The allocation of Section 11 special assistance funds for free and reduced-price lunches was to be revised to accord with that existing under Title I of the ESEA. The basis for the new allocation was the number of schoolchildren from households with an income of less than $4,000-or-less per year for a family of four. S. 2548 had proposed an index of $3,000 annual income.

The amendment also proposed a reimbursement rate up to 100 percent (S. 2548 offered up to 80 percent) for schools not able to provide

the number of free lunches to which their students were entitled. Senate sponsors of the amendment felt that many of the neediest schools were so hardpressed economically that even S. 2548's 80-percent rate would not be sufficient. Furthermore, by covering the full cost, schools diverting Title I, ESEA funds to their lunch programs (some $37.3 million in fiscal year 1968) could then use the Title I money for its intended purposes—providing new educational experiences for its pupils.

Several Senators objected to a 100-percent reimbursement rate, claiming that it destroyed State and local initiative. However, whether they desired to or not, the most depressed schools just could not manage their programs, and still cover all of the children, if they were forced to pay 20 percent of the costs.

The third provision of Amendment 512 sought to correct the most glaring deficiency in the National School Lunch Act—the lack of accountability on the part of local school districts and States to the USDA. Each State would be required to file an annual plan of its school feeding programs stating:

1. How the available money for free lunches was to be served;
2. How the State intended to extend the National School Lunch Program to every student; and
3. How the needs of the poor, in particular, were to be met.

The local school districts would be required to file monthly reports to the State on the number of children entitled to a free lunch and those actually receiving them. Cash and donated commodities would not be given to those States which failed to file this plan; however, failure to achieve any of the ultimate objectives of the program would not mean a loss of Federal aid.

Critics of this amendment contended that the plan asked the impossible. They suggested that many State education agencies would not have the necessary competence to require their school districts to submit plans. Furthermore, Senate opposition to Amendment 512 pointed out that 26 States could not aid private schools, and therefore, a realistic State plan in these States hinged on voluntary cooperation by these private schools—and this cooperation would not be forthcoming.

However, S. 2548 itself required a State plan prior to transferring funds from one child feeding program to another. This was to counteract the tendency by many States to use special Section 32 funds, intended solely for the needy, in their general lunch programs.

Proponents of the amendment pointed out that Title I of ESEA demanded an even more detailed plan for its purposes. The amendment was constructed not to place an onerous requirement on the States; rather, it served to focus the State's attention on meeting its nutrition priorities and to inhibit them from misallocating its child feeding funds.

The Senate agreed with the general aims of the State plans and passed Amendment 512 by a vote of 38–32.

During its consideration on S. 2548 the Agriculture and Forestry Committee had set an "open-ended" authorization for Section 11 Special Assistance funds. The sponsors of Amendment 510 felt that if the USDA was provided with a monetary target figure, they would have

to push on to that figure and thereby greatly expand the program. President Nixon's Thanksgiving Day deadline was a mere 9 months away. Yet, the administration requested only $44 million in Section 11 money for fiscal year 1971. It was felt by the sponsors that too great an emphasis was placed on fluctuating Section 32 funds over direct appropriations.

The Agriculture Committee itself had projected $712.8 million as the sum necessary to feed 6.6 million needy children. Even with a normal 10-percent absenteeism reduction, more than $640 million would be needed. This formula rested on the administration estimate of 6.6 million needy children entitled to free lunches. The Bureau of Census placed the number at 8.4 million. Since the combined Federal-State-local contribution for free and reduced-price lunches in fiscal year 1971 would reach only $400 million, a minimum deficit of $240 million remained, using the administration's figure of 6.6 million needy children. It seemed clear that President Nixon's pledge could not be attained without a vast increase in funding.

Amendment 510 sought to remedy this defect by increasing Section 11 authorizations to $250 million for fiscal year 1971, an increase of $206 million over the USDA request of $44 million.

To cover the Census Bureau estimate of 8.4 million needy children, authorizations for Section 11 were to increase to $300 million and $350 million for fiscal year 1972 and fiscal year 1973. Senate sponsors of the amendment felt that an open-end authorization lacked the emphasis on quickly expanding the program which President Nixon's Thanksgiving Day pledge obviously required. They also felt that these money target figures would also serve to convince local administrators that the stated goal of the National School Lunch Act was about to be fulfilled. The Senate rejected Amendment 510, by a vote of 36 to 35.

5. THE CONFERENCE COMMITTEE

The Senate passed H.R. 515—actually the enabling clause of the House bill and the provisions of S. 2548—on February 24, 1970, without opposition. No fundamental changes were made in the bill by the Conference Committee, but several minor alterations were put forward:

1. Instead of a $4,000 annual income index as the national minimum standard for a free or reduced-price lunch, the Secretary of the Department of Agriculture was to establish a national standard. The Conference Committee expected the standard to be the same as that established by HEW and OEO. This poverty line served as the only mandatory national standard but children from a family meeting other criteria were also to be eligible for free or reduced-price lunches.
2. Amendment 512 to S. 2548 proposed a reimbursement up to 100 percent of the operating costs of the neediest schools unable to provide free lunches to all its eligible students. The Conference Committee deleted this and merely retained a maximum per-meal reimbursement rate to be determined by the Secretary.
3. Section 11 Special Assistance funds were to be allocated on the basis of the number of children aged 3 to 17, inclusive, in households with a yearly income less than $4,000 for a family of four. The S. 2548 formula fixing the number of "school" children in such families was not available from the Census Bureau.
4. The 3-year breakfast program funded at levels of $25 million, $50 million, and $75 million for fiscal years 1971, 1972, and 1973 was reduced to a 1-year pilot program with an authorization of $25 million.
5. The provision requiring State plans for extending their free lunch programs was modified slightly: The plan was due January 1 of each year, and not June 1; the target date of 1973 for including all schools in the program was deleted; the plan had to include information on reduced-price lunches as well as free lunches; semiannual progress reports, rather than monthly reports, by the school districts to the States, were required.

The fundamental revisions of the National School Lunch Act and the Child Nutrition Act proposed by S. 2548 were retained intact. With effective implementation, more millions of children would be covered by the lunch and breakfast programs.

The crucial language of Section 6—"meals *shall* be served without cost or at a reduced cost to children who are determined by local school authorities to be unable to pay the full cost," (emphasis added)—meant that each needy child had a "right" to a lunch. This, together with the President's pledge to provide every needy child with a free lunch by the end of 1970, meant that the legislative structure existed to establish a truly effective child feeding program.

However, the signing of S. 2548 into law on May 6—Public Law 91-248—only provided the framework to accomplish this necessary task. Without a greater influx of money into the programs, effective regulations and aggressive implementation, little headway could realistically be expected.

Chapter IV

REGULATIONS OF PUBLIC LAW 91–248

1. THE CITIZENS CONFERENCE

The 1970 changes in the National School Lunch Act constituted fundamental alterations in the program. To effectively implement the congressional policy decisions for Public Law 91–248, the development of new management and administrative procedures was necessary. At the suggestion of Senator George McGovern, the Children's Foundation of Washington, D.C., sponsored a 3-day conference in mid-June for the purpose of assisting in the formulation of recommendations for the new regulations which would govern the operation of the School Lunch Program in compliance with Public Law 91–248.

Members of the conference included representatives of various congressional staffs, directors of State and community school lunch programs, lawyers and personnel from national groups concerned with hunger in the United States and Government representatives from the USDA and the Office of Management and Budget.

The Citizens Conference proposed six principal recommendations:

- National minimum standards, based on family size and income, identical to OEO poverty level guidelines, should be quickly established for determining eligibility for a free or reduced-price lunch. Furthermore, States and school districts should be allowed to *increase* these minimal standards by considering the geographical, social and economic characteristics of the area.
- An affidavit signed by a parent, declaring the child to be qualified for the program, should be the sole criteria used in determining eligibility for a free or reduced-price lunch. The affidavit should state the *income eligibility levels* in annual terms, according to household size, and ask only if the applicant's actual income level falls below the appropriate figure. The applicant should not have to state his exact income. Beyond the name of the child, the name of the parent, the address and the telephone number, no other questions should be permitted in the affidavit. Immediately upon receipt of this affidavit, either before or during the school year, the child should begin receiving his free or reduced-price lunch.
- To protect school officials against fraud, an impartial appeal board should be established on a local basis. The committees should be publicly announced and be easily accessible to all within the various districts over which it has jurisdiction. Procedural safeguards for the indigent should encompass: The right to counsel; the right to present witnesses; the right to cross-exami-

nation; the opportunities to have adequate notice and to convene the hearing at a convenient time. Furthermore, all decisions should deal solely with the question of eligibility and be made on the record alone: all transcripts should be available to the parties involved. Finally, the costs of the hearing are to be considered normal administrative expenses.

- To extend the program to all schools, the Federal Government should be able to reimburse up to 100 percent of the costs for food and food service, rather than only 100 percent of food costs as the regulations provided at the time of the conference. Where 100-percent reimbursement is not required, the maximum special assistance rate should be increased by 10¢—to 40¢ from Section 11 or special Section 32 funds.
- Schools with programs selling candy, soft drinks, and such during the lunch period should be required to put the full income from these sales into the school food service programs.
- Type A lunch standards should be based on nutritional characteristics, and not on arbitrary food groups. School districts should be allowed maximum flexibility in developing food programs for the community.

The recommendations of the Citizens Conference provided guidelines for Public Law 91-248 which closely reflected congressional intent in enacting the law. Every recommendation was formulated in such a way as to provide maximum benefits for the children, particularly the needy children. The demand for specific national guideline criteria for eligibility determination met the need for a degree of uniformity; yet, flexibility was preserved for the States in that they could raise these standards to include more children in the program. The affidavit-application procedures drawn up by the conference sought to eliminate the embarrassment to the poor, inherent in signing a form attesting to one's negligible income.

The recommendations concerning the appeals procedures clearly reflected congressional intent that a child, whose family signed an affidavit, should eat a free or reduced-price meal until someone else could prove that the child was not entitled to the lunch. The burden of proving ineligibility fell on the administrator; the child's right to eat in the interim was to be guaranteed. However, if challenged, the indigent's rights were protected by the various due process guarantees specified.

The recommendations of the Citizens Conference were, in short, an adequate reflection of what the various House and Senate leaders intended by their efforts to pass and implement Public Law 91-248.

2. PROPOSED REGULATIONS

A positive mandate rested with the USDA to ensure the extension of the National School Lunch Program to all needy children. The governing standard of the act lies in Section 9 which states that "meals *shall* be served without cost or at a reduced cost to children who are determined by local school authorities to be unable to pay the full cost" (emphasis added). The Conference Report on Public Law 91-248 reiterated this standard by specifying that "under no circumstances shall those unable to pay be charged for their lunches."

On July 17, 1970, the USDA issued proposed regulations for Public Law 91-248 and provided for a 20-day period for interested parties to submit suggestions and criticisms. This was the first time that school lunch regulations had been offered in proposed form for comment. The regulations, issued 2 months after the Presidential signing of Public Law 91-248 in May, were widely criticized as ignoring statements of Congressional intent.

The principal objections to the USDA regulations concerned the congressional pledge to guarantee every needy child a nutritious lunch. The relevant sections are examined below.

SEC. 245.1—GENERAL PURPOSE AND SCOPE

This section stated that specified minimum criteria were to be employed to determine who is eligible for a free and reduced-price lunch. However, even though the House managers of Public Law 91-248 and the Citizens Conference stipulated that the guideline was to be the same utilized by HEW and OEO, *the USDA failed to state any income figure.* This figure to delineate a clear policy on the standard to be used served only to confuse State and local officials.

Furthermore, the unannounced guidelines were to take effect on January 1, 1971. This directly contradicted Public Law 91-248 which specified that the guidelines should be established on July 1 of each fiscal year. Therefore, two standards were used for fiscal year 1971—the September to January one, determined by local officials, and the January to June standard to be established by the USDA. Again, this could only cause confusion in the program.

Finally, one of the greatest inadequacies of the regulations was the failure by the USDA to explicitly state that the announced guidelines established only a floor, a minimum level of eligibility, and not a ceiling. Crucial to the fulfillment of the goal of Public Law 91-248 was the need to *provide food for all children* unable to pay the full price of a meal, *be they above or below the national guidelines.* The regulations failed to mention this clear intent of Congress in the passage of Public Law 91-248.

Sec. 245.3—Eligibility Standards for Free and Reduced-Price Luncies

Three problems were encountered, and avoided, by the USDA regarding the eligibility standards for Public Law 91–248.

First, no guidance was provided in establishing which needy children were to receive free lunches and which ones had to pay a reduced price. Although the Conference Report stressed the importance of providing free lunches, with emphasis on the most needy children, the regulations did not specifically forbid local officials from charging reduced prices before funds for free lunches were exhausted. Under the proposed regulations, school boards could attempt to save money by charging needy children as much as the traffic could bear up to the 20¢ limit.

The second area of confusion regarding Sec. 245.3 concerned the proposal that "the school authorities *of each school*" establish "the eligibility standards" (emphasis added). In every other provision in the regulation "school food authorities" (i.e., presumably the school district), and not the local school, were responsible for the program.

This aspect of the regulations meant that officials in each individual school unit would establish that school's eligibility standards. Therefore, eligibility variations within a school district, and consequently within a family with children in different schools, would be commonplace. It was entirely conceivable that this proposal would allow school boards to pressure local units with high concentrations of needy children to prescribe more restrictive free lunch criteria, thereby saving district school money.

The proposal for school-by-school standards contravened clear congressional intent to provide districtwide free lunches and Section 9 of the National School Lunch Act calling for eligibility determinations by school authorities to be equitably applied.

The final obstacle in Sec. 245.3 to a full implementation of Public Law 91–248 centered on the criteria to be used in determining eligibility. This section in the proposed regulations stated that:

> School authorities *may* include such additional criteria in their eligibility standards *as they deem necessary* to assure access to lunches by children who are not able to pay the full price of the lunch (emphasis added).

This provision granted a degree of flexibility to the local officials. However, Congress envisioned such flexibility so that program benefits could be extended to children above the minimum guidelines. The regulations did not reflect this congressional intent. *Such discretionary authority might lead to only the barest possible coverage of needy students thereby negating the congressional mandate that all needy children were to receive free or reduced-price lunches.* Without expressly requiring consideration of hardship circumstances, the proposed regulations seemed to many to enable local officials to circumvent the intent of Public Law 91–248.

Sec. 245.4—Public Announcement of the Eligibility Standards

Under this section, the school food authority was to publicly announce eligibility standards and provide for distribution of a letter or notice to inform parents of the specific program requirements. How-

ever, although a notification was stipulated, the regulations failed to require the enclosure of the actual application affidavit. Since Public Law 91-248 specified the composition of "an affidavit executed in such a form as the Secretary may prescribe," the proposed regulations should have presented this national affidavit. *The failure to include the terms of this national affidavit opened the way for inquisitive and lengthy applications written by local officials, a practice which Public Law 91-248 sought to eliminate.*

SEC. 245.5—APPLICATIONS FOR FREE AND REDUCED-PRICE LUNCHES

Congress intended that the determination of eligibility for a free and reduced-price lunch should rest "sole on the basis of an affidavit." An affirmative statement that the household meets the eligibility standards would meet this requirement. Any extension of the affidavit beyond questions as to name, address, family size, number of children in school and the level of income would go beyond congressional authorization and ignore the recommendations of the Citizens Conference.

The proposed regulations required the above questions but did not expressly prohibit others. The forms could, as a practical matter, contain any additional questions provided the affidavit contained the minimum number of required questions. Only narrow restrictions could exclude additional questions and the regulations lacked such restrictions.

In an attempt to eliminate unnecessary redtape where the child's need for a free lunch was obvious, the proposed regulations also allowed local officials to do away with the affidavit, if alternative for determining eligibility means were available. Though an admirable objective, *the regulations failed to make clear that although schools could supply free and reduced-price lunches to needy students without demanding an affidavit. Public Law 91-248 prohibited these schools from denying a child not granted a lunch under this procedure from filing a form to establish his alleged eligibility.* Since such "alternative methods" had been a cause for great abuse in the past, strict clarification was needed to ensure that abuses would not be repeated.

SEC. 245.7—THE APPEALS PROCEDURE

The proposed regulations delineating the procedures for hearings served to confuse the issue as to which party had to appeal and under what circumstances. The regulations acted to perpetuate the beliefs of many local administrators that the applicant always was shouldered with the burden of appealing.

The congressional intent on this matter was clearly set forth in the Conference Report:

> The determination of income of an eligible household shall be made solely on the basis of an affidavit and such family shall be judged eligible for free or reduced-price meals until it is proven otherwise in a proceeding subject to the approval of the Secretary of Agriculture.

Since no other independent verification or investigation was permissible by local school authorities, only an application invalid on its

face—e.g., lacking a signature—would be grounds for denying a child a free or reduced-price meal. Congress meant to limit local officials to this narrow interpretation and to shift the burden of the appeal procedure to the school food authorities. No child was to be denied a lunch in the interim. The proposed regulations appeared to sanction the consideration of information outside the affidavit in determining the child's eligibility. Such possibilities should have been excluded from the USDA proposals. *Rather than emphasize congressional intent of extending the program to all needy children the USDA elected to focus on the prevention of fraud within the system.*

Section 245.7 did incorporate several of the due process procedural safeguards for the indigent as suggested by the Citizens Conference. An attorney could be present; a written record of the proceedings was authorized; the indigent had a right to know in advance the information to be presented against him; and the hearing had to be held with reasonable promptness and convenience to the family.

Several key rights for the defending party were, however, conspicuously, lacking in the regulations. The right to cross-examination was not mentioned; the "promptness" requirement for convening the hearing was too vague—a definite time period might have been established; a provision that only the question of eligibility for a free or reduced-price meal could be examined was necessary to prevent general fishing expeditions regarding the family; and, finally, *the regulations should have explicitly stated that the costs of the proceedings constituted a part of the administrative expenses of the programs.*

3. FINAL REGULATIONS

Final regulations appeared on August 31, *only days before the opening of the fall school term*, and a full 5 months after enactment of Public Law 91–248. Without official explanations, any set of regulations presents a formidable challenge; not until December 31 did the USDA publish its own review of the school lunch regulations.

In several respects, the final regulations noticeably improved the July 14 standards. However, in other areas, the regulations fell far short of the basic intent of Public Law 91–248.

SEC. 245.1—GENERAL PURPOSE AND SCOPE

Although the heart of Public Law 91–248 concerned the imposition of national eligibility standards for free and reduced-price eligibility standards for free and reduced-price lunches, *the USDA failed to announce them with these regulations*. There was not even an indication in this section that the guidelines would be the same as the HEW and OEO levels, as intended by the congressional leaders. Section 245.1 also failed to establish a set of reasonable criteria to be used in determining when a reduced-price lunch was to be served instead of a free meal.

SEC. 245.3—ELIGIBILITY STANDARDS FOR FREE AND REDUCED-PRICE LUNCHES

The USDA corrected several possible areas for abuse regarding this section that existed in the proposed regulations. Since "school food authorities" replaced "local schools," all schools within one district necessarily had to employ identical standards. No longer could a brother received a free lunch in school A while school B denied the same benefits to his sister.

The local authorities had to include, as a minimum, in their standards of eligibility:

1. The level of family income, including welfare;
2. The number of individuals in the family; and
3. The number of children in the family attending school or service institutions.

Under these new regulations, any additional criteria had to expand the program to those children not eligible under the minimum criteria. The USDA specifically forbade any school food authority from denying lunches to those who fulfilled the minimum requirements. *However, the regulations refrained from taking the extra step and did not state that all needy children not meeting the baseline figure, who could not pay, should benefit from the program.* In this sense, the spirit of the law was not yet reflected by the regulations.

Section 245.3 contained a final provision that any family not meeting the eligibility requirements could submit an application for a free or reduced-price lunch together with an explanation of their alleged inability to pay the full price. Using this application, "and such additional information as may be presented," the school food authority made its decision. *The inclusion of "additional information" contradicted Congress' expressed intention that only an affidavit was to be used in the determination procedure.* This phrase increased the possibility of abuse. If the family filed a valid affidavit-application, the child was entitled to a meal, according to clear congressional dictates. If the State wished to challenge the truthfulness of the affidavit, appropriate procedures were outlined in the regulations.

Sec. 245.5—Public Announcement of the Eligibility Standards

The final regulations regarding the promulgation of the program adopted the suggestion developed by the Citizens Conference and other leaders in the School Lunch Program. Included in the letter or notice "distributed" to the parent or guardian announcing the eligibility standards, application and appeal procedures was a copy of the application-affidavit. Therefore, if the notice was received by the parent, he possessed the means to join the program at the same time. The "if" constituted a significant factor however. *There was no assurance that the parent would receive the notice.*

Sec. 245.6—Applications for Free and Reduced-Price Lunches

Congressional intent was especially clear on the matter of applications for a free or reduced-price lunch: Eligibility rested solely on the affidavit; and, the parent had only to state that his income, *not to be specified*, was under the income eligibility level. Nothing else beyond name, address, telephone number, and number of children in school mattered. The Citizens Conference strongly endorsed this concept by making it one of their recommendations.

The USDA final regulations initially accepted this by stating the affidavit must be "clear and simple." However, it then went on to authorize questions concerning:

> the type or types of such income such as salary, wages or commissions from employment; earnings from self-employment, including farming; welfare payments; payments from social security, pensions, retirement, or annuities; and other cash income; and the amount of income for the family in total or by type.

Such regulations reemphasized USDA concern with preventing fraud rather than with extending the program to the greatest number of children. Preferably, the applicant should only have to state that his income was less than the standard; he should not have to reveal his exact earnings by an item-by-item dissection of his annual income.

Section 245.6 did, however, enable a child to receive a free or reduced-price lunch to continue participation in the program if he transferred to another school *within* the district. If he went to another district, the

application procedure had to be initiated again. Furthermore, the child was guaranteed the right to continue eating a free or reduced-price meal if the State challenged his eligibility for the program.

The provision of "alternative means," other than an affidavit, for determining eligibility was retained by the final USDA regulations. Such means could not deny food to children meeting the school's eligibility criteria, and a public announcement of them in the notice to the parents was required. *However, in cases where this method was employed to greatly expand participation rates (e.g., in West Virginia), the USDA threatened action against the schools.* This controversy—the so-called "majority-system"—will be examined later in this study.

Sec. 245.7—Hearing Procedures

The due process rights suggested by the Citizens Conference were adopted in toto by the USDA. Both the indigent and the government received access to their benefits. The comprehensive list of safeguards included:

A simple, publicly-announced method for the party to make an oral or written request for a hearing;

The right to counsel;

The opportunity to examine the documents and records to be presented;

The right to a reasonably prompt hearing, convenient to the indigent, and with adequate notice provided as to the time and place of the hearing;

The right to present witnesses;

The right to cross-examination;

The right to an impartial official to decide the case;

The basing of the decision solely upon evidence presented at the hearing;

Notification, in writing, of the decision to both parties; and

The provision of a complete written record to be preserved for 3 years, open to all parties involved.

Most important was the provision entitling the child to uninterrupted free or reduced-price lunches, if the government was the challenger, during the hearing period.

Sec. 245.8—Nondiscrimination Practices

Although the original 1946 act had prohibited segregation or discrimination against children receiving free or reduced-price lunches, such practices had continued. The 1970 regulations again outlawed such actions. However, no penalties were provided for any violations other than a vague authorization to "take such actions as are necessary" to ensure that no child was identified or humiliated. *All too often such practices occurred; all too often the USDA, the State and the local officials took no action to prevent such violations.*

Sec. 245.11—Action by State Agencies

Because the guidelines to be announced January 1, 1971, were national standards with a uniform application to all States, some technique was required to recognize varying standards of living. Section 245.11 allowed this by permitting States to lower their reduced-price lunch below the 20¢ maximum and to raise their income eligibility standards above the Federal level, thereby including more children in the program.

Furthermore, the regulation opened the door for intrastate differences by sanctioning variations justified by different economic conditions within the State. Therefore, States were, theoretically, able to reimburse city schools with a higher standard of living at a greater rate than rural schools which generally encountered lower operating expenses. This provision, of course, would necessitate a clear indication of willingness on the part of the Federal Government to provide sufficient funding for the program.

Beyond eligibility for a free and reduced-price lunch, the other significant section of the 1970 regulations dealt with Reimbursement Payments. This section, Sec. 210.11, caused great consternation among the schools which had to implement it.

Basically, Section 210.11 established the maximum reimbursement rate for Section 4 general-cash funds at 12¢ per meal; the maximum rate for Section 11 special assistance funds stood at 30¢ per Type A lunch. The difficulty was encountered when a school asked for a greater special assistance rate. To receive a higher rate—up to a maximum 100 percent of food and service costs, or 60¢ per meal whichever was lesser—the school had to meet three criteria:

1. Maximum use of State funds was required;
2. Donated commodities had to be utilized to the widest extent; and
3. *All* lunches—free, reduced-price and full-price—had to be reimbursed at a rate of 12¢ from Section 4 general cash funds.

The requirement that all lunches had to receive 12¢ from Section 4 meant these funds would be quickly diluted. To maintain such a rate, the school necessarily had to restrict its total output. A jump to 12¢ from the average reimbursement of 5¢ from Section 4, simply cut down on the number of lunches that could possibly be served. Since the 30¢ rate for free lunches fell far short of what most of the poorer schools needed for their free lunches, the 12¢ rate would have to be reached to qualify for increased special assistance money. To attain the 12¢ rate, the school had to cut down on the number of lunches served.

4. WERE THE GOALS ACHIEVED?

Public Law 91-248 provided the legislative vehicle necessary to arrive at the goal of safeguarding the health of America's children. The final regulations issued by the USDA, a full 5 months after the law was signed, slowed the advancement to this goal. *Despite the clear language of the law, the Department delayed for another long 5 months before announcing national eligibility standards for free and reduced-price lunches.* The favorable features of the regulations were matched by the provisions hampering full implementation of Public Law 91-248. The mere fact that the national guidelines were not to be announced until January 1—or 6 months after the specified date of July 1—lead many local authorities to believe that none of the August regulations applied until January 1.

Chapter V

IMPLEMENTATION OF PUBLIC LAW 91–248

THE UNDERLYING STORY

A new era of hope dawned for the needy children in America's classrooms when President Nixon pledged to feed every hungry child by Thanksgiving Day 1970. The pledge, buttressed by Public Law 91–248, clearly meant that no child who is needy should, in the future, go without a school lunch.

However, the USDA qualified the President's 1969 Christmas promise by clearing that only needy children in schools already possessing the necessary lunchroom facilities—or 6.6 million students—fell within the limits of the pledge; the needy children in the 23,000 schools without facilities were still excluded from the program.

By January 1971, the USDA stated that 6.4 million of the target group of 6.6 million needy children were being fed free or reduced-price Type A lunches. Both of these figures—the participation rate and the target figure—were misleading. The discrepancies in the 6.6 million figure stemmed from the fact that:

- The total number of eligible children was based on a subsistence level of $3,720 for a family of four which had not been adjusted for cost of living increases since 1969.
- The total number of eligible children did not include the children eligible for the program in the States which exercised the right granted by the regulations to establish higher income eligibility limits for the program—an additional 1.5 million children.
- No eligible children under the age of 6 in kindergarten classes were included.

Discrepancies involved in the 6.4 million participation rate figure emerged when USDA Food and Nutrition Administrator Edward Hekman testified before the Senate Appropriation Subcommittee on Agriculture that 6.4 million needy children *received* a free or reduced-price lunch in January 1971. Actually, the figure stood at 5.8 million children eating a free or reduced-price lunch in January.

This was so because to the *actual* number of lunches served free or at reduced-price daily in January—just above 5.8 million—the USDA added a percentage of the normal 10 percent absenteeism figure for all children which, according to the USDA, represented those needy children who would have received a free or reduced-price lunch, if they had gone to school that day. Therefore, the USDA added approximately another 582,000 "phantom" children to the 5.8 million total needy children actually going to school and eating a free or reduced-price lunch.

Two independent surveys of the number of needy children eligible for a free or reduced-price lunch indicated the seriousness of the USDA's underestimation of the problem. Both of these surveys placed the number of needy children far above the official Government estimates.

During June 1970, Representative Carl Perkins sent a questionnaire to the 50 State directors of the School Lunch Program. The results of his survey were startling: Some 8.9 million needy children were found to be qualified for a free or reduced-price lunch. Actually, the precise figure lay at a higher level. No provision was made for tabulating the eligible number of needy students in private schools in those 25 States that could not administer a lunch program to parochial schools. Furthermore, the 8.9 million estimate came before the USDA poverty level of $3,720 was issued; since 35 States had used a level lower than this, the total number of children necessarily reflected an underestimation.

Based on the Perkins' study, fulfillment of the "Thanksgiving Day goal" required an increase in special assistance funding of $310.4 million or 230 percent above the fiscal year 1970 level; the House and Senate appropriated only $75.2 million, or 55.7 percent more for fiscal year 1971. With this type of funding, the State directors were limited in their endeavors to expand their programs. The available funds governed program growth; the needs of the students received secondary consideration.

The second survey of the total number of needy children resulted from a compilation of the semiannual State reports, in October 1970, required by Public Law 91–248. This estimate claimed that 7.8 million children were eligible. However, the State reports excluded consideration of those 6.7 million children in the 23,000 schools without lunch facilities; at least 1.4 million of those "forgotten Americans" were needy. Since the States used their own eligibility standards in determining need (the $3,720 Federal level had not yet been announced), the 7.8 million total reflected underestimation in this respect also.

Extrapolating the 7.8 million eligibility figure upward to reflect an increase for the 31 States adopting higher income eligibility levels, and to include a reasonable percentage of needy children in schools without facilities, a minimum total of 10 million needy children qualified for a free or reduced-price lunch.

In response to the Perkins questionnaire, the Kansas State Food Director had responded that: "People are being informed of their rights while there are no funds to finance their demands." Public Law 91–248 *guaranteed* a free or reduced-price lunch to *all* children unable to pay the full cost; total coverage was expected by the congressional supporters. No one in Congress envisioned an attempt to squeeze an expanding program mandated by the law into an outdated budget.

To enforce the spirit of Public Law 91–248, the USDA needed reliable figures of the number of eligible needy children. However, the USDA had done nothing to obtain similar information; instead, they merely submitted a figure of 6.6 million that was obviously too low. It was not until the Perkins survey was released that such an estimate was available.

The USDA's underestimate of eligible guaranteed an inadequate source of funds for fiscal year 1971. This was reinforced when the October edition of the States' reports placed the total of eligible children far in excess of the USDA budgeted figure. Funded at a 6.6 million eligibility rate, reporting a 7.8 million rate, but faced with a more realistic total of 10 million needy children, the States were forced to curtail any efforts they might have initiated to adhere to the clear principles of Public Law 91–248. Yet, the school lunch budget for fiscal year 1972 requested the identical amount as appropriated for fiscal year 1971.

A game of musical chairs developed between the Congress and the USDA. Assistant Secretary Lyng suggested that inadequate Federal appropriations prevented him from expanding the program. Congressional leaders, on the other hand, explained to their constituents that they were willing to allocate all that the administration requested.

In an attempt to reach the 6.7 million students in the 23,000 schools without lunchroom facilities, Congress authorized $33 million for fiscal year 1972 in nonfood assistance. A large percentage of these schools are inner-city schools having an unusually high concentration f needy pupils. Under the insistence of the Office of Management and Budget, the USDA requested only $16.1 million. If the full authorization had been appropriated and renewed for several years, all these 23,000 schools would have had some type of lunch program by 1974. *At the rate sanctioned by the OMB, it will be 1980 before every child in these schools receives the lunch which Public Law 91-248 guaranteed him.*

The summer lunch program was also beset by financial inadequacies in 1971. As a result of apparent intentions by USDA to provide funds to guarantee a lunch to every needy child, many States had overextended their commitments for food service for the coming summer. In testimony before the House Committee on Education and Labor, the USDA announced that at least 17 States were short $27 million for fiscal year 1971.

To meet these and other needs, H.R. 5257, sponsored by Representative Perkins unanimously passed the House on May 17. H.R. 5257 authorized the USDA to expend $50 million for the nearly expired fiscal year 1971 and $100 million for fiscal year 1972—both from Section 32 funds—to provide free and reduced-price meals for needy children.

At the same time, USDA was encouraging State agencies to expand their summer feeding programs, pledging that adequate funding would be made available. Responding to this initiation by USDA, Washington, D.C. planned a $1 million summer program for 50,000 children; Los Angeles anticipated feeding 200,000 children with $5 million in Federal aid. By June 1971, requests from various cities had soared to $26 million.

On June 17, only days before most summer programs were scheduled to open, USDA Assistant Secretary Lyng announced that the summer programs anticipated could not operate due to insufficient funds. Los Angeles, with a $5 million proposal, was informed that the entire State of California was scheduled to receive a total of $863,000.

Reflecting the public concern regarding the apparent broken promise to feed needy children during the summer, the Senate on June 18,

passed the enabling clause of H.R. 5257 followed by extensive Senate amendments.

A conference report quickly followed 4 days later. The report stressed congressional awareness of the problems of hungry children and a resolve to assist in the task of alleviating the situation. Among H.R. 5257's final provisions were:

- $35 million from Section 32 was authorized for any commitment incurred in fiscal year 1971; $100 million was authorized for fiscal year 1972 solely to assist in feeding the needy. Unexpended funds could be carried over.
- Authorization for the breakfast program was renewed for fiscal year 1972 and 1973 at $25 million each year.
- The breakfast program was directed to children in:
  1. Schools from low economic conditions;
  2. Schools to which the children have to travel distances; and
  3. Schools having a special need for improving the nutritional and dietary practices of children with working mothers and of children from low income families.
- Authorization for the USDA Secretary to reimburse schools up to 100 percent of the operating costs of their breakfast programs. Calling the Secretary "unduly restrictive" in the past in this area, the House report stressed the critical need for the USDA to liberally employ this authority.
- The eligibility requirements for the breakfast program changed to those of the National School Lunch Program—i.e., a national income eligibility level.
- $20 million was authorized for supplemental food programs, e.g., providing nutritious food for needy, pregnant mothers.
- The Vanik program received authorizations of $32 million each for fiscal year 1972 and fiscal year 1973.

Even though Public Law 92–32—the result of the congressional action in June—authorized the breakfast program to expend $25 million for fiscal year 1972, the USDA had requested only half this amount in appropriations. This occurred despite the fact that some 10 million children could qualify for it. An amendment by Senator Humphrey increased the appropriation to the full authorization.

Determined to cover as many of the 25,000 schools without facilities as possible, Senator McGovern offered an amendment in July 19[illegible] to appropriate the full $33 million authorization. The administration had requested only $16.1 million. Since many of these schools were located in the poor, inner-city sections of the urban areas, maximum Federal aid was a prerequisite for development of a lunch program. The McGovern amendment passed by a vote of 56 to 28. However, this provision was deleted by the Conference Committee, and USDA received its original request of $16.1 million. Undoubtedly, adequate funding of the child feeding programs constitutes an essential element; however, without a sound administrative framework, even money can be ineffective.

Section 210.11 of the fiscal year 1971 regulations required that all full-price, reduced-price, and free lunches receive a 12¢ per-meal re-

imbursement before any needy school obtained a special assistance reimbursement above the regular maximum of 30¢ per meal. This requirement created a vicious circle for participating schools. To assist schools in their efforts, the USDA planned a Spring 1971 transfer of $150 million from Section 32 special assistance funds to the general cash reimbursement funds of Section 4. By transferring this money, the average Section 4 reimbursement would rise from 5¢ per lunch to 12¢ lunch.

However, implicit in this action was an admission by the USDA that it did not intend to use all money appropriated for the needy children solely for their benefit. By transferring $150 million to Section 4, the lunch of the middle- and upper-class child was further subsidized at the expense of the needy child. Furthermore, the USDA thereby reverted to a policy of aiding the school in place of the theory developed by Public Law 91-248 that special assistance money should go to the needy child, regardless of what type of school he attends.

The fiscal year 1972 regulations concerning the matching requirements from general State revenues serve to undercut the clear intent of Congress—that the States must make a substantial contribution to their lunch programs. Since the States, according to the regulations have to "utilize" State revenues at rate of 4 percent, significant dilutions may occur in States wishing to avoid their responsibilities. Most States appropriate their education grants in "bloc" form. When this is done, difficulty is encountered in trying to determine which part of the "bloc" was invested in the lunch program and which parts were expended elsewhere. Many functions in the school overlap. The student, particularly the hungry one, may suffer from his State's financial juggling of the accounting sheets.

Another fault in the current regulations rests with the fact that the States have the final responsibility for determining if their matching requirements are being met. Any Federal review must be based solely on material submitted by the State. Without a method for independent audit and evaluation, the USDA can only accept at face value what the State presents. Since several States have demonstrated a noticeable reluctance to contribute *any* money over the years for their lunch programs, some avenue of adequate Federal supervision should be provided.

Since the 1971 regulations authorized States to raise their eligibility standards for free and reduced-price lunches to a figure higher than the Federal level, many States had done so in recognition of varying standards of living throughout the Nation. Without some form of assurance that additional funding was forthcoming for such a State, any upward revision of the eligibility level did not necessarily imply automatic coverage of all needy children in that State.

However, West Virginia—and the school district in San Diego, Texas—seized this opportunity to implement the most progressive lunch programs in the country. In West Virginia, any child under the eligibility standard received a free lunch; *all* other schoolchildren, regardless of their financial situation, were fed a reduced-price meal. In enacting this program, West Virginia attempted to serve nutritious lunches at a price that all children would be able to afford.

Claiming that children should pay what they could afford—and no less—the USDA prohibited West Virginia from conducting such a

program. At the August 1971 convention of the American School Food Service Association, USDA Assistant Secretary Lyng called for "fiscal discipline" and opposed any attempt to spend Federal funds for the needy on the middle- and upper-class.

The fiscal year 1972 regulations specifically deal with the West Virginia situation, the "majority system" where a school having a majority of its children eligible for free and reduced-price lunches extends both types to the entire student body. Presently, a school must be able to document *beforehand* that a minimum of 90 percent of its enrollment qualifies for a free or reduced-price lunch before all of its students may receive at least a reduced-price meal.

In effect, the new regulation serves as another barrier to the development of innovative programs on the local and State levels. Although Public Law 91–248 instructs the Nation to provide free lunches for at least the needy, and then to safeguard the health of the remaining children, the present policy does not facilitate that goal.

Chapter VI

NEW REGULATIONS—AUGUST 1971

On August 13, 1971, the Department of Agriculture issued proposed regulations for the 1971–72 school year. The regulations met with the most widespread and vociferous condemnation of program operations to date. Opposition to the new regulations centered on the Department of Agriculture's intention to cut back the Federal reimbursement for free and reduced-price meals from a maximum possible 60¢ per lunch to a mandatory statewide average of 35¢ per lunch.

The reimbursement rate had been raised to a maximum 60¢ (48¢ from Section 11 funds and 12¢ from Section 4 funds) in March 1971 instructions, in response to warnings from State school lunch directors that unless they were so raised, programs would have to be closed down in April. The new reimbursement rates were necessary because the States had taken seriously both the words of Public Law 91–248, requiring that every needy child "shall be fed,"; and, the Christmas (1969) pledge of President Nixon promising administration support of the fight to end hunger in America's classrooms. These indications of Federal intent led the State directors to make every effort to bring all of the needy children into the program. Indeed, these steps were successful: From May 1970 to May 1971, participation of the needy in the School Lunch Program increased by more than 42 percent. While all of the Nation's needy were not yet being reached, substantial progress in that direction was clearly being made.

State school lunch directors anticipated further expansion in the participation of needy children so that all might be fed, and hence, anticipated levels of reimbursement of at least the same level. The average cost of a school lunch was 53¢ last year. At the same time, the average Federal reimbursement in April 1971, the peak month for participation, from Sections 11 and 4 was 42¢. Important to note, however, is that the States were free to reimburse those schools with heavy concentrations of needy children at a level of 60¢, which, of course, many did. The new regulations would require a statewide average reimbursement of 35¢ (30¢ from Section 11 and 5¢ from Section 4). This meant that while a State might still reimburse particularly needy schools up to 60¢, it would have to average these reimbursements as no more than 35¢—7¢ lower than the average reimbursement in the peak participation month of last year.

While meeting at a convention in Minneapolis, 37 State school lunch directors unanimously (the 14 other directors were not present at this time) stated that the new spending ceilings were entirely inadequate. They charged that the proposed regulation would bring the School Lunch Program "to a screeching halt . . . and preclude any expan-

sion to reach the additional estimated 3 to 5 million hungry children in America."

Congress, at the time the proposed regulations were issued, was not in session. When they returned after Labor Day the reaction to the proposals was immediate. Senator McGovern sent a letter to Secretary of Agriculture Clifford Hardin requesting that the proposals be withdrawn. This request was not met. Senator McGovern then called an emergency hearing* of the Select Committee on Nutrition and Human Needs on September 7, 1971, for the purpose of obtaining a full explanation of the alleged necessity for the cutback in reimbursement rates. The spokesman for the Department of Agriculture, Assistant Secretary Richard Lyng, claimed that the purpose of the regulation was to distribute the school lunch funds more equitably to the States and denied charges that the regulation was to save funds. "Our proposals are not designed to save funds," Mr. Lyng said. "We have not reduced the maximum rates of assistance that were authorized for last year." The new statewide average rule, however, had the clear effect of reducing the assistance rates.

The Senate Committee on Agriculture and Forestry then held a hearing on this matter. At this hearing, Mr. Lyng acknowledged that the budget for the School Lunch Program for fiscal year 1972 was inadequate to support a reimbursement rate higher than the proposed 35¢ average. He stated that the budget request would be adequate only with such a rate:

> It is just a question of what the reimbursement rate would be. We have sufficient funds, we think, to have a reimbursement rate of 30¢ for the free and reduced-price lunches, plus 5¢ for all lunches. This gets to the very root of the issue, it seems to me, that those who oppose the regulations have made it clear that they do not think this is a sufficient amount of Federal funding of these lunches.

Yet, when the budget request for school lunches was before Congress, Mr. Lyng reported to the Agriculture Appropriation Subcommittee that:

> Our best estimates would indicate that it (the budget request) would probably be sufficient based on the same kinds of reimbursement and grants to the States that we have had in the past, the same level.

After these facts were brought out at the Agriculture Committee hearing, the Chairman of the Committee, Senator Herman Talmadge, introduced S.J. Res. 157, a resolution directing the Secretary of Agriculture to use funds from Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c):

> Until such time as a supplemental appropriation may provide additional funds for such purpose . . . (and) as may be necessary, in addition to the funds now available therefor, to carry out the purpose of Section 11 of the National School Lunch Act and provide a rate of reimbursement which will assure every needy child of free or reduced lunches during the fiscal year ending June 30, 1972.

*See Part 7—Crisis in the National School Lunch Program.

This resolution, as amended, provided for a minimum average reimbursement level of 46¢. It passed the Senate on October 1, 1971, by a vote of 75 to 5.

In the meantime a direct letter* to the President, drafted by Senators Philip Hart and Marlow Cook—both members of the Select Committee on Nutrition and Human Needs—was sent by 44 members of the Senate to President Nixon stating that the proposed regulations for the School Lunch Program would not make it possible for the States and localities to meet the obligation imposed on them by Public Law 91-248, i.e., to provide a free or reduced-price lunch to "any child who is a member of a household which has an annual income level set forth in the income poverty guidelines . . ." The 44 Senators asked President Nixon to order the withdrawal of the proposed regulations and to reinstitute the previous levels of reimbursement. The President responded that he had ordered the Department of Agriculture to review its position.

Shortly before a third congressional hearing, this time in the House of Representatives, the Department of Agriculture announced a change in the proposed regulations, raising the average to 45¢, just 1¢ short of the level required by the Senate-passed bill. This action, it was stated, would add another $135 million to the program cost.

However, at the same time, the Department announced that, henceforth, the national eligibility standard in the National School Lunch Act would be a maximum standard rather than a minimum level—as intended by Public Law 91–248. The national standard for this year was set at $3,940 per year for a family of four. However, the previous school year some 40 States and the District of Columbia set levels higher than the minimum standard, as the law and the program regulations allowed. These higher standards were never questioned in the past, and the Congress, in passing Public Law 91–248, made clear that the standard was to be floor, below which no child should be denied a free or reduced-price lunch. It was never intended to be a ceiling. States where geographical differences or cost of livng variations or particular economic problems existed were allowed to set higher standards, and obviously, many did so.

Again, the reaction was immediate. The staff of the Select Committee on Nutrition and Human Needs estimated that this move would eliminate as many as 1.5 million previously eligible children from the program and critics charged that the new proposal was designed to save the $135 million cost of raising the reimbursement rate. Another letter† was sent to the President—this one signed by 59 Senators—urging the President:

> to intervene in this situation immediately and to prevent what we must consider the unlawful interpretation of Public Law 91–248 which was passed by the Congress and signed by you, as a fulfillment of our pledges to put an end to hunger in America's school rooms.

The House of Representatives moved quickly and unanimously by a vote of 373 to 0 to pass a resolution like S.J. Res. 157, but which also contained a provision which would require the Department to honor any State eligibility level approved prior to October 1, 1971,

*See Part 7—Crisis in the National School Lunch Program, p. 1892.
†*Ibid.*, p. 1913.

i.e., all of them. The Senate accepted unanimously the House version of the resolution, and it was signed into law by the President on November 6, 1971. The House version of the resolution also differed from the original Senate resolution by establishing 40¢ from Section 11 as a minimum level of reimbursement. It also provided for a 6-cent statewide average reimbursement from Section 4.

At this time, it is likely that this recent struggle over the operation of the School Lunch Program will profoundly affect the coming debate on the future of the program. The School Lunch Act will have to be reviewed in 1972; and, already proposals are being made to reorient and restructure the entire program so that crises like those of September and October 1971 will not reoccur.

Many have suggested that experiences like this justify the call for a Universal Free Lunch Program. Dr. Jean Mayer, President Nixon's advisor on nutrition problems, adequately stated this sentiment in a hearing before the Select Committee during October.* While expressing great concern over the projected cost of the program, Dr. Mayer stated that renewed fighting over the operation of the program "will leave us with no recourse but to fight for a Universal School Lunch Program."

*See Part 9—Universal School Lunch Program, hearing of October 14, 1971.

Chapter VII

MAJOR PROBLEMS TODAY WITHIN THE NATIONAL SCHOOL LUNCH PROGRAM

1. THE ECONOMIC MEANS TEST

Since the current school lunch law allows free and reduced-price lunches solely for the "needy," and the USDA has rejected the blanket coverage of the "majority system," a test is employed to determine who are the needy. Logically, this standard is based on a national economic guideline of $3,940, annual income for a family of four. All schools, however, are strictly prohibited from publicly indentifying the needy students receiving a free or reduced-price lunch.

There is an inherent incongruity in demanding that schools "select" the needy while simultaneously forbidding any identification of these children. Often, this stipulation is ignored entirely and needy children are identified by having their names announced over the public address system or by being forced to stand in separate lines, to use different colored lunch tokens or to eat at specified tables. In some schools, those receiving the free and reduced-price lunches must work in the cafeteria, the justification being that "no one should get something for nothing." Some claim that children working for free keep the costs of food preparation down.

Many schools do adhere to the letter and, more importantly, the spirit of Public Law 91–248 in that the identity of the needy child remains strictly confidential. However, even in these situations many problems arise. The school superintendent in Palm Beach County, Florida stated in "Their Daily Bread" that:

> Children receiving free lunches are too frequently reminded that they are not paying and are made to feel guilty if they do not eat all of the food.

Because the concept that having a nutritious lunch has not yet been fully integrated into the education process, many children entitled to a free or reduced-price lunch are ashamed to take advantage of it. If the procedures in their particular school identifies them to their classmates, many needy children would rather suffer the pangs of hunger than be humiliated before their peers. If, at best, overt identification can be avoided, the child still incurs a psychological defeat for he often equates inability to pay for a lunch with the social stigma of being a welfare recipient.

The economic means test affects the parents of the needy child as well. Even under optimum conditions, *someone* knows that the parent cannot afford to buy his child a lunch at full price because the parent

usually has to sign an affidavit. Countless parents would rather preserve what they consider to be a matter of dignity than admit that they are below the national poverty level established by the USDA. Therefore, they refuse to sign the affidavit and the child goes hungry.

Difficulties are also encountered on the school administrative level. The economic means test demands an inordinate amount of paper work and clerical assistance. Schools, pressed for time and funds, must ration their resources among the varying interests and programs competing for attention. Oftentimes, this can force schools to ignore the requirements of Public Law 91–248 entirely. The administrative headaches involved in the economic means test obviously operate to the disadvantage of the "cause" of the situation—the needy children. In many school districts a wait of 10 days to 2 weeks before an affidavit receives approval is not uncommon. In the interim the hungry child remains hungry. On the other hand, imaginative programs such as the ones initiated in West Virginia or San Diego, Texas, reduce the differentiations in the economic means test from free, reduced-price or full price to merely two categories—in these situations *every* child receives a free or reduced-price lunch. Such a "majority system" is not prohibited by the USDA fiscal year 1972 regulations. *Attempts to solve the problems in the economic means test are met with bureaucratic obstinancy.*

Public Law 91–248 stipulates that the economic means test is to be applied by way of a "clear and simple" affidavit. Even if the protections in the law and regulations are adhered to, the needy child will not necessarily receive the free or reduced-price lunch to which he is entitled. Since the affidavit will be in English, parents speaking another language—may not understand it; even English-speaking parents may be illiterate and therefore unable to read and comprehend the affidavit. Furthermore, the regulations state that the affidavit must be "distributed" to the parents. This usually means that the child is supposed to deliver it personally to his parents and guardians. All too often, the child loses the application or transforms it into a paper airplane. If the affidavit was to be *mailed* to the parents, many more parents would be aware of the School Lunch Program.

Unfortunately, the spirit of Public Law 91–248 is circumvented in many areas. The January 1971 USDA prototype affidavit itself is far from a "clear and simple" form. Three pages long and condescending in many aspects, the model Federal affidavit encourages lengthy and inquisitive inquiries on the local level. Innumerable flagrant violations exist in many schools. *In one California district, a parent had to sign an affidavit in March 1971 containing a provision forfeiting his due process rights in any appeals procedure before his child could receive a free lunch.*

Abuses are not uncommon. But even under the best conditions, the basic nature of an economic means test operates to penalize the needy. If the child is not openly humiliated he is at least psychologically injured. The economic means test will remain as a necessary evil as long as the focus of the School Lunch Program centers on the ques-

2. THE 25-PERCENT MATCHING REQUIREMENT ON EQUIPMENT FUNDS

Section 5 of the Child Nutrition Act requires the States and local authorities to supply 25 percent of the total amount of nonfood assistance available for appropriation. Schools from poor economic areas—mainly schools in the major cities and the Nation's 1,000 poorest counties—having insufficient funds for the equipment necessary to maintain an adequate lunch program are the primary targets for Section 5. The principal reason why the 23,000 schools in the U.S. without food services do not have them is that there are no facilities available in these schools. Correspondingly, those schools lacking facilities can generally least afford to finance either the full cost or even 25 percent of it.

To remedy this situation, the 1969 White House Conference on Food, Nutrition and Health recommended Federal financing up to 100 percent of the costs—excluding those for construction—to provide equipment for lunch programs. Senator McGovern estimated that $100 million per year in nonfood assistance would be necessary to include all schools in the National School Lunch Program by 1974. A much higher price was placed on this essential aspect of the program by the 1971 National School Food Service and Nutrition Education Finance Project: $63 million per year for the next 4 years represents the cost of expanding the program to cover all 6.7 million children in nonparticipating schools.

Whichever estimate is chosen, many sections of the country will be hard pressed to match Federal funds on a 25-percent basis. The fiscal crisis which faces the Nation as a whole has put the States and localities in a particularly difficult situation. In addition, it has been shown that child nutrition programs have generally not been accorded a high priority in many State budgets.

And yet, the 25-percent matching requirement for nonfood assistance remains. Since several States refuse to shift their scale of priorities, the local communities must shoulder the burden. Since many of the schools needing facilities are located in the poorer areas of the inner-city, the city school board must supply the required 25 percent of the allocation to receive Federal money. Generally, property taxes constitute the primary source of funds for the school board. Obviously, the ghetto areas cannot support higher property taxes. Even if the school board can locate another source for the money, other educational demands, e.g., the explosive rise in teachers' salaries, often claim it first. If the 25-percent matching formula cannot be fulfilled, no nonfood assistance can be expected.

The entire concept of the National School Lunch Program since the enactment of Public Law 91-248 has stressed the importance of providing nutritious lunches for hungry children unable to pay the full price. A significant proportion of schools operate in the United

States with enrollments of needy children ranging between 30 to 50 percent. Complex financial difficulties constantly plague these schools. Since Section 5 nonfood assistance covers only equipment purchases for the lunchroom, tremendous construction costs will have to be incurred in these already overcrowded schools to provide the rooms necessary for, at a minimum, eating facilities. Under present conditions in those schools fortunate enough to have a food program, lunch periods from 9:50 a.m. to 1:10 p.m. in a dirty, cold basement are commonplace.

Participation in the School Lunch Program is, therefore, a financial impossibility for many of the poorer schools, even given modern food technology and the use of central kitchens and satellite service since these innovations still require equipment. If the costs of construction cannot be met by the schools without lunchrooms, the 25 percent matching provision for equipment stands as an utterly impossible burden. For those schools needing only equipment replacement, the matching funds just cannot be found. In the affluent, new suburban schools, money is provided because the parents can afford the price. However, in the ghetto schools with the high concentration of needy children, and a higher concentration of nutrition problems, the 25-percent matching formula obstructs the ultimate intent of Public Law 91-248. Local initiative can only produce so many miracles; it cannot manufacture money.

Chapter VIII

RECOMMENDATIONS

The American education system offers a myriad of advantages to those children able to avail themselves of them. However, even the best teachers and most modern facilities cannot aid the hungry and the malnourished child. A child concerns himself with that which is closest to him; too often in American classrooms, hunger is the constant companion of many children. Weak from a lack of proper nutrients, the hungry child responds to classroom stimuli in an apathetic and lethargic manner.

Since the school dominates the day of most children under 18 years of age, it must provide the items necessary for the child to grow and learn. Nutritious food in adequate quantities is a prerequisite for a sound education. It should assist the student by contributing to his physical well-being and to his mental receptivity.

The Select Committee on Nutrition and Human Needs feels that the recommendations which follow will contribute significantly to our ultimate goal of adequate nutrition for all of our Nation's children. The formulation of these recommendations is a framework within which we shall study the means by which our ultimate goal may become a reality. We recognize that further study of many of these areas is necessary and the committee plans to undertake that task in the coming year.

1. IMMEDIATE PLAN

Every child has the unquestionable right to the nutritional resources needed for optimal health. The school offers the best avenue to supply the means necessary to enjoy this right. Adequate nutrition must, above all, be recognized as an integral part of the educational process. To emphasize this, the Congress should renew its pledge, and recommit the Nation, to provide food free or at a reduced-price to all of the 10 million needy children unable to pay for it.

The following steps must be taken to feed all needy children:

1. To enable full expansion of the program, reimbursement rates to be raised to a minimum of 10¢ for Section 4 and maintained at a minimum of 40¢, now currently provided, for Section 11; or, the full cost of the lunch.

Without a school lunch program in the school for all students, the needy child cannot receive a lunch. Low participation rates due to meager reimbursements coupled with high food prices prevent many schools from participating in the program.

2. The National School Lunch Act to be amended to require that: As long as one school in the district participates in the lunch program, all schools in the district must participate in the program.

Also, all payments from the children to be pooled on a statewide basis to be redistributed to the individual school.

In this manner, surplus funds would be distributed to a school having a large percentage of needy children; thus reducing the amount of money to be contributed by needy children qualifying for reduced-price lunch.

3. Congress to immediately increase Section 11 Special Assistance Funds to enable all needy children to receive free or reduced-price lunches.

As discussed earlier in this report, the target participation figure for this section must be placed at the realistic minimum figure of 10 million needy children.

4. To reach these students, schools should be encouraged to seek reimbursement for lunch payments at the maximum rate of 60¢ per lunch.

To attain this rate, any combination of funds ought to be permitted. Thus schools with high concentrations of poor students will be more able to take part in the program.

5. The requirement that Section 5 nonfood assistance funds be matched on a Federal/State and local 75–25 percent basis should be eliminated. Total Federal financing for nonfood assistance is required.

This 25 percent has, for the most part, been forced upon the local authorities since only 22 States contribute to their respective lunch programs. Too many local authorities cannot afford to match even 25 percent of the nonfood assistance appropriations. Practically no school with a high percentage of needy students can afford the program under this provision of the law; thus, again, the neediest pupils have been disqualified.

6. Congress should continue to fund the Special Milk Program to provide supplemental nourishment during the mid-morning and mid-afternoon periods.

The beneficial aspects of this program have been demonstrated to this committee time and again.

7. Information about the school feeding programs to be disseminated to the parents on several occasions during the school year.

Direct mail is probably more preferable than having the schoolchildren deliver these items to their parents. However, mass news media, with emphasis upon the electronic medium, reaches the largest mass of people. Ethnic languages spoken by the local populace should be utilized to ensure that all eligible people know of their rights to this program.

8. Strict enforcement of the required "clear and simple" affidavit self-certification form must be assured.

Since we must, for the time being, work with an economic means test, careful attention must be given to the preservation of the dignity and self-respect of the children and families in these circumstances.

9. All hungry children, not just those aged 5 to 17, unable to pay for a meal, must be considered in the expansion of the lunch program.

Since hunger and malnutrition are just as prevalent among preschoolers, these children must be taken into consideration.

Also, children of migrant workers, who often are out of school during the regular academic term, must be reached for at least one meal per day. The possibility of using surplus mobile kitchens from the Department of Defense for this purpose should be investigated.

10. All changes of USDA policy in the regulations, rates, national eligibility standards and policy statements should be promulgated by May 1st of each year for the following Fall school term.

To effectively plan their school lunch programs, school authorities need an effective lead-time. USDA policy in the past has seemed to be a lag-time process thus disrupting many programs already planned by the authorities for the coming school season.

11. The national minimum eligibility standard should, in the near future, be based upon the Bureau of Labor Statistics minimum income standard.

This figure relates closer to the standards used by many of the States and localities, and also to realities of poverty in America than does the OEO–HEW poverty standard. Such a change should in no event reduce the eligibility of students presently eligible for free or reduced-price lunches.

12. Blanket certification for schools which have high proportions of eligible needy students should be reinstated. The cutoff level for this should be set at 80 percent.

Without this provision, schools with greater than 80-percent eligible children must raise prices for those paying for their lunches. The high price that must be set forces them out of the program; thus entirely negating the whole program for the neediest children.

13. Nonfood assistance funds to be available to all schools, whether or not they presently are operating food programs.

At this time, these funds are only available to schools with no program. While the need to expand the number of new starts is predominant, we believe that more resources—not an arbitrarily discriminating policy—are needed to answer the facilities problem. The present policy prevents a school which has a program, but inadequate facilities to serve all the children, from seeking funds to fulfill the intent of the National School Lunch Program. New York City, for example, has 500 schools which need new equipment; they cannot apply for assistance as they are already serving the less desirable "soup and sandwich" meal.

14. The reduced-price-lunch category should be eliminated in favor of free lunches for several reasons.

The administrative difficulties at both the State and local level; the fine distinction between "free" and "reduced-price" variations; the hardship to the "near-poor" to pay for a reduced-price lunch; are just some of the reasons to drop this unworkable category.

15. New legislation should provide for an "advance payment system" that operates on a "future service basis" for the operation of the lunch program.

An advance payment system would provide for greater planning ability for both State and localities, than does the reimbursement system now in use. To accomplish this end, the cost of the school lunch should be outlined in the School Lunch Act, or in its regulations, providing that items of cost be fully spelled out and all extraneous matter be excluded.

16. We should provide greater funds for States' administrative expenses in the School Lunch Act.

Lack of personnel usage has resulted in poor program planning and administration with the resulting financial wastage and failure to implement the intent of the Act. The Act should provide a legislative definition of the minimum administrative staff which a State may employ, based on the size of their program.

17. USDA should distribute the 1-percent research and development funds to the States on a priority basis at the start of the fiscal year.

It is essential that these funds be allocated at the beginning of the fiscal year, so that the States may have sufficient time to utilize the possibilities they offer.

18. Of the total program budget, an additional 1 percent should be devoted to nutrition education development.

Greater emphasis must be placed in the area of nutrition education, including provision for the development of nutrition courses at State teacher education schools.

19. The Advisory Committee, created by Public Law 91-248 should be greatly strengthened.

All regulatory changes should be submitted to this group in proposed form previous to publication in the Federal Register.

Community representation in the Advisory Committee should be increased to reflect the interest of this constituency in the program.

2. IMPLEMENTATION OF PILOT PROGRAMS FROM SEPTEMBER 1972 TO JUNE 1976

It should be clear that the present structure under which the National School Lunch Program operates has failed to achieve its stated goal of safeguarding "the health and well-being of the Nation's children." Progress in reaching the hungry has generally been too little, too late. Assurance that all children receive at least one nutritious meal a day has not yet been attained. At a time when it can now be said that adequate income does not guarantee an adequate diet, we have yet to at least reach the point where those with a clearly inadequate income are provided with just a portion of their minimum daily nutritional requirements.

The time has come for a thorough reconsideration of the child nutrition concept. This report has been aimed at a complete review of our progress, an account of our shortcomings and the recommendations stated are meant only to deal with the immediate problems under the present structure. More fundamental problems exist which these recommendations cannot deal with. In the coming year it is apparent that the universal school lunch concept, a free meal for every schoolchild in America regardless of his family's income, is likely to be at the center of the debate as to the basic structural deficiencies in our present efforts. Legislation to this effect has been introduced in both Houses of Congress and has been endorsed by many prominent members of the interested public.

Those who oppose the Universal School Lunch Program do so because of its cost; or, because they feel that the role of feeding the child should not be taken away from the family by the State. Those who favor the program point out that adequate nutrition during childhood acts as a preventive medicine—it reduces medical problems and the expenses necessary to correct them; it reduces dropout rates and disciplinary problems in school; and, it teaches children proper eating habits. In short, they say, tax money spent on the child is tax money saved when many of the problems associated with malnutrition subsequently fail to appear. Proponents claim that, given the current state of nutrition education, adequate income does not guarantee adequate nutrition; and that only with a universal program will all of the needy truly be fed, and only then will the "economic segregation" of the present system also disappear.

Change is needed. What form that change should take must be more thoroughly evaluated. The Select Committee on Nutrition and Human Needs has approved plans to thoroughly investigate the validity of the arguments stated above. In order to complement our investigations the following pilot programs should be established so

that an accurate appraisal of the cost, necessity, and value of the universal school lunch concept may take place:

1. The USDA should establish a pilot Universal School Lunch Program.

Several sample areas are needed to determine the administrative benefits and/or problems when providing free lunches for all preschool, elementary, secondary, and service institution children. The evaluation to also consider the nutritional, educational, and social benefits of the program and the cost thereof.

2. Innovative food delivery systems which will efficiently distribute more food to a larger number of students must be developed and tested in sample areas.

These should include central kitchens, commissaries, and prepackaged food systems. Preliminary studies have demonstrated that schools with central kitchens average 18 to 24 meals per worker hour while schools with unit kitchens average only 8 to 12 meals per worker hour.

3. Implementation of menus to reflect the individual and ethnic tastes of the students. In conjunction with this approach, the USDA to undertake a consumer (school child) preference test similar to the survey conducted by Natick Laboratories for the Army.

This requires a renovation of the traditional Type A lunch. While recognizing his individual and cultural tastes, nutritional needs can still be fulfilled. By achieving an appealing and desirable meal, increased participation will be accomplished—thus attaining the twin goals of reaching all the students and a lower per unit cost rate.

4. Micronutrient and other vitamin supplements along with engineered foods should be thoroughly examined for their usage in these pilot programs.

The research techniques and findings of the private food industry sector will serve as an invaluable source for this information. Their assistance should be utilized on a broad level.

5. The pilot programs should implement and evaluate the latest technological advances in facilities design, equipment production, and food preparation.

A free hand must be given to the pilot programs that they determine what needs must be met, to what degree, and with which type of program.

6. Effective methods of employing lunchroom volunteers and/or salaried assistants should be developed.

A controlled lunchroom atmosphere is necessary to achieve a workable program. Since most teachers' unions have negotiated a "free lunch period" for their members, other sources must be found for this task. Cost accounting must take necessary supervision, as well as administrative duties, into account for these child feeding programs.

Chapter IX

CONCLUSION

The suffocating cycle of poverty will not be broken by any one legislative pronouncement. Its roots lie too deep, its causes are too intertwined. *However, the total eradication of malnutrition will break one strong link in the poverty cycle.*

We must face the fact that we have, for too long, neglected to undertake and enthusiastically support a complete drive against childhood hunger in the United States. Instead, inflated participation rates are still compiled, delayed and confusing regulations are still handed down, and a destructive commitment to grossly inadequate budgets remains in the minds of program planners.

Unfortunately, the parents, and more importantly the children, recognize this insensitivity by the Government. Bruno Bettelheim pointed to an inescapable observation:

> School is the child's first great encounter with society . . . to him it represents the whole society. It is doubly important that we convince him from the very first that society both gives and demands and that it gives first before it demands. And for the small child there is no giving more obvious than the giving of food.

Until 1966, the practice was sanctioned of "subsidizing" food, to those who could buy it, while their poorer classmates not only went hungry but were often forced to sit in the same lunchrooms to watch their friends eat. The National School Lunch Program constituted a subsidy primarily to those who did not need the assistance. *Granted, all children should receive a free lunch; but, until that time, all poor, hungry children should receive first priority.* For too long they were accorded last consideration. The interests of corporate farmers and the food industries dominated the school feeding program. Rather than direct their attention to the needy, the administrative structure of these programs focused on the prevention of fraud within the system. In the process, the dignity and pride of the poor were discounted.

This study has examined the problems of a system that has long been a series of inadequate responses to local conditions: Inadequate budgets; lack of planning on the Federal, State and local levels; a dearth of information needed for reasonable Congressional decisions; and, the absence of research on more feasible alternatives. All of these, and more, have combined to the disadvantage of the hungry child.

The public response to the direction and the ineffectiveness of the school feeding programs has been prolonged and often bitter. In

testimony on May 4, 1971,* before the Select Committee on Nutrition and Human Needs, Mrs. Joseph H. Young, of the National Executive Committee, United Presbyterian Women, described the agonizing frustration involved in attempting to push for greater coverage in the program:

> We do not hesitate to outlaw murder when it is quick but when it comes in the form of a slow decline due to hunger and malnutrition even we equivocate and refuse to take a stand.
>
> We search our souls when a soldier is killing civilians, but we look the other way when civilians—in and out of government—condemn people to slow starvation by refusing to implement programs like the school lunch.

Progress has been made in the National School Lunch Program. But it has come much too slowly, on a grossly inadequate scale, to a relatively select group of students. Rather than discuss the 6.6 million poor children actually eating a free or reduced-price lunch, emphasis must focus on the some 4 million needy children who presently do not receive the same benefits. Attention must be paid to those 23,000 schools that for varying reasons, are not yet in the program.

The goal of the program—to safeguard the health of the Nation's children—must finally be fulfilled, and fulfilled quickly.

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*Part 4—P.L. 91-248—Implementation, 1970 Amendments to the National School Lunch Act.

tion "How many lunches do we have to give away?" rather than the more relevant inquiry "How many needy children do we have yet to reach?" *Nevertheless, the economic means test remains an oddity of the National School Lunch Program; no other aspect of the public educational process requires that parents reveal their financial status in order to receive the benefits.*