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LEGAL SERVICES CORPORATION

MEETING OF

THE BOARD OF DIRECTORS

Room 405
Marvin Center
George Washington University
Washington, D. C.

Friday, 7 November 1975

The above-entitled meeting met, pursuant to notice,
at 9:00 a.m. Mr. Roger C. Cramton presiding.

BOARD MEMBERS PRESENT:

- Mr. Roger C. Cramton, presiding
- Mr. E. Clinton Bamberger
- Mr. J. Melville Broughton
- Mr. Marshall Breger
- Senator Marlow Cook
- Mr. Thomas Ehrlich
- Mr. Robert S. Kutak
- Mr. Rudolfo Montejano
- Mr. Louis F. Oberdorfer
- Mr. Revius Ortique
- Mr. Glee Smith
- Mr. Glenn Stophel

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P R O C E E D I N G S

MR. CRAMTON: The meeting will come to order.

Yesterday at 12:45 p.m., the Board, after convening its meeting, adjourned for lunch and an executive session. The Board met by itself and from time to time with Thomas Ehrlich, E. Clinton Bamberger, and Lou Oberdorfer, The discussion concerned details of appointment arrangements and the relationships of the Board to its president and officers both in the short and long term and on matters that don't require formal action today.

While the discussions took somewhat longer than had been anticipated they were useful and reached a happy conclusion. The Board regrets the inconvenience that it has caused to members of the public and to the staff who were waiting here for our reconvening.

It is resolved to do better in the future in meeting its announced schedule. In the future we hope to be more punctual.

We are now ready to proceed with the proposed agenda for the meeting. The first item of business is the adoption of the proposed agenda. There will be one change in the order because of the desirability of insuring adequate time for the discussion of the report of the Committee on Appropriations and Audit, that item will be moved up to follow item 5 of the proposed agenda as item 6 and all the other

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1 items will be delayed.

2 Do I have a motion with respect to the agenda?

3 MR. KUTAK: So moved.

4 MR. CRAMTON: It has been moved and seconded
5 that the proposed agenda be adopted for today's meeting.

6 All those in favor say aye.

7 (Chorus of aye's.)

8 MR. CRAMTON: All opposed say no.

9 (No response.)

10 The draft minutes have been circulated and made
11 available to members of the public. Are there changes or
12 amendments?

13 MR. MONTEJANO: I don't have a change or amendment,
14 just a comment. At times there are comments made by Board
15 members which are not reflected in the minutes and I think
16 we should have some guideline or standard by which comments
17 by Board members could be included or excluded from the
18 minutes.

19 MR. CRAMTON: My preference is the notion that the
20 minutes ought to reflect actions taken, motions made, votes
21 with very short summaries of the gist of the discussion,
22 not attributing it to the particular individuals partly
23 because when one starts getting those kinds of detailed
24 minutes the whole correction process of whether or not the
25 person preparing the minutes has accurately summarized

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1 the particular Board member's view becomes so tricky. But
2 this is a matter the Board has to decide on whether it wants
3 detailed minutes or not.

4 MR. SMITH: I think minutes of a meeting should
5 reflect only actions so that the actions can be located
6 and they aren't lost in the course of the discussion. The
7 discussion items are available in the complete transcript
8 if someone wants to locate them. But I think the minutes
9 should be kept clear of comments that are not related to
10 specific actions taken because they are more understandable.

11 MR. MONTEJANO: I agree on that point. How
12 about a specific request by a Board member? Should that not
13 be noted in the record?

14 MR. SMITH: If it is a request for some staff
15 member to do something I think it is sufficient that the
16 staff member do it.

17 I thought after a discussion we had determined
18 that the preparation of the agenda was left to the chairman
19 and we weren't going to get into the position of that. I
20 think the motion was made and withdrawn.

21 MR. CRAMTON: I think the fact that the motion was
22 made and then the second was withdrawn; I think those ac-
23 tions should be included in the minutes and I would think
24 the staff, however is preparing the minutes, would be so
25 instructed. That would be included in your notion of actions.

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1 MR. SMITH: That is right. This is a motion that
2 failed to warrant a second and I think that is in the
3 nature of an action or non-action and would formally appear
4 in the minutes.

5 MR. CRAMTON: The board members should be aware
6 that we are having a record made of all meetings and that
7 is available five to ten days after a Board meeting. And
8 if there are portions of the transcript which you want to
9 look at, sent a letter or call the office and they will
10 provide you with a copy of a limited number of pages of the
11 transcript or perhaps the whole transcript if you want it.

12 MR. KUTAK: Mr. Chairman, on page 5 with respect
13 to the motion made by Mr. Thurman, I believe I voted in
14 favor. I think I was one of the five. And even though
15 I always like to appear next to my colleague, Mr. Breger, I
16 don't think I was in that rank in this case. And I don't
17 know who among the five listed as voting in favor --

18 MR. CRAMTON: The vote was 6 to 3, I think.

19 MR. BROUGHTON: I think you are right because
20 I think in jest I expressed surprise over the fact that
21 you made a rather lengthy speech on the subject and then
22 when he put in his motion you didn't support his motion.

23 MR. BREGER: Mr. Kutak often leads me astray.

24 MR. CRAMTON: Do you recollect how you voted on
25 that question?

1 MR. MONTEJANO: I am sure I voted with Mr. Breger
2 on that question.

3 MR. CRAMTON: The Mr. Kutak substituted for Mr.
4 Montejano in voting in favor and Mr. Montejano voted against
5 it.

6 MR. BREGER: Mr. Chairman, why should it be the
7 position of the staff in regard to informal understandings
8 that develop at a Board meeting, rather than formal action,
9 that is to say, it is my recollection that it was an informal
10 understanding that the issue of the systems be placed on the
11 agenda at each meeting for discussion and for a report by
12 the staff.

13 Would such items even though they weren't taken
14 by formal action be placed in the minutes or not?

15 MR. SMITH: I would think not. I think that is
16 one fo the distinctions between a matter of record and
17 an informal understanding, which is not a matter of action.

18 MR. BREGER: Fine. That may create more votes.

19 MR. SMITH: I think that is partly true, other-
20 wise people keeping the minutes would be hardpressed to
21 know what is in the minutes and what is not in the minutes.

22 MR. ^{COE}~~KUTAK~~: Mr. Chairman, might I suggest that the
23 staff merely print up on small cards the members of the Board
24 with ayes and nays on particular votes so that when a vote
25 is taken at a Board meeting it merely be checked off by the

fm6 1 secretary and then it will be a part of the minutes. So
2 there will be no question on how everyone voted on a matter.

3 MR. CRAMTON: I think that is a very useful sug-
4 gestion. Are there further comments on the minutes or
5 amendments to them?

6 (No response.)

7 MR. CRAMTON: I gather there is unanimous
8 consent for the particular amendment that Mr. Kutak proposed.
9 Are you ready for the adoption of the minutes?

10 MR. SMITH: I move the adoption of these minutes
11 as amended.

12 MR. KUTAK: Second.

13 MR. CRAMTON: All those in favor say aye.

14 (Chorus of ayes.)

15 MR. CRAMTON: All opposed, no.

16 (No response.)

17 MR. CRAMTON: The minutes are adopted.

18 The next matter is the matter of the appointment
19 of the president. On Saturday, October 4, 1975 the Board
20 met in executive session to discuss specific candidates for
21 the office of president of the corporation. The Committee
22 on Presidential Search presented a unanimous report recom-
23 medning the selcection of Thomas Ehrlich, dean of the Stanford
24 Law School. Subsequently, Mr. Ehrlich was introduced by the
25 full Board. After Mr. Ehrlich had withdrawn from the meeting,

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1 the Board on motion to Mr. Thurman seconded, I
2 think, by Mr. Smith but my recollection on that may be wrong,
3 voted unanimously to authorize the chairman to offer the
4 position as president to Mr. Ehrlich. The chairman.
5 assisted by the transition staff reached an agreement with
6 Mr. Ehrlich on the terms of appointment as president to be
7 effective on ratification by the Board with full-time
8 service and compensation to begin on January 1, 1976, and
9 with parttime service to the extent permissible to the
10 extent consistent with his duties at Stanford Law School
11 between then and January 1.

12 A public announcement of the appointment was made
13 a week or so later.

14 Gentlemen, I am proud to present a resolution
15 ratifying these actions and confirming the arrangements
16 under which Thomas Ehrlich becomes the first president of the
17 Legal Services Corporation. I would like to read the
18 resolution.

19 "Resolved, that pursuant to section 1005 of the
20 Legal Service Corporation Act, the board of directors here-
21 by appoints effective immediately Thomas Ehrlich, a member
22 of the bar of the State of Wisconsin, a s president of
23 the Legal Service Croporation, to receive a salary at the rate
24 of level V of the Executive Schedule specified in the
25 section 5316 of title 5, United States Code. Until January 1,

1 1976 Mr. Ehrlich will devote a substantial portion of his
2 time to the work of the Corporation and will receive propor-
3 tionate compensation.

4 MR. SMITH: Second.

5 MR. CRAMTON It has been moved and seconded that
6 the Board ratify the action earlier taken to appoint Thomas
7 Ehrlich as president of the Legal Services Corporation. Is
8 there a discussion?

9 (No response.)

10 Are you ready for the question?

11 MR. ORTIQUE: Question.

12 MR. CRAMTON: All those in favor please raise
13 their hand.

14 (Show of hands.)

15 MR. CRAMTON: All those opposed raise your hand.

16 (Show of hands.)

17 MR. ^{Cook}KUTAK: Mr. Chairman, I would like the op-
18 portunity to explain my vote, if I may.

19 Yesterday, the client community in the United
20 States was totally forgotten. We met for lunch and were
21 presented with a contract of employment not for our new
22 president but for our to-be-voted-on executive vice president.
23 In that contract, as originally proposed to the Board, was a
24 section that required absolutely that the executive vice
25 president have complete and full access to all executive

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1 Board meetings of this Corporation. We were told at that
2 time that without that clause in it , that the then proposed
3 executive vice president would under no circumstances accept
4 the position as executive vice president.

5 We were then advised by the candidate for the
6 presidency that unless that contract were accepted as
7 written that he would not accept the position of the presi-
8 dency.

9 We were advised that if we did not accept the
10 vice president and the president or the president and the
11 vice president that we were not to accept either.

12 I do not think that that was the understanding of
13 any member of the Board. I was not a member of the com-
14 mittee of the presidential selection. I was not a member
15 of any of the discussions with the candidate for the president,
16 that these were to be the conditions of employment.

17 This member of the Board felt very seriously that
18 this was an action which to him was unconscionable. I have
19 thought about it and thought that these things should be on
20 the record. I am sure that this will in some way impede
21 my ability to work with the executive staff. I would hope
22 that ultimately this will be rectified. It is not my
23 intention to remove myself from this Board. As a matter
24 of fact, it is far more my intention to stay now than ever
25 before.

1 I felt as if we were being offered a shot gun
2 marriage. If we did not accept either or both we could not
3 have either one of them.

4 To this extent this Board could not have a board
5 meeting yesterday because of the insistence for hours that we
6 had to have a written contract, that we had to have, in
7 fact, an absolute commitment on the part of this Board, that
8 the executive vice president was absolutely allowed to come
9 to ever executive Board meeting of this organization, to
10 the extent at one time late yesterday afternoon that if
11 he did not receive -- Oh, no, I take that back.

12 If it were agreed that he would not come, that
13 that would be considered as the assumption on the executive
14 vice president's part, the nominee for the executive vice
15 president, that he was being fired and that he therefore
16 could remove himself and that he could demand six months'
17 compensation from the organization, an amazing set of cir-
18 cumstances.

19 Under those circumstances, I knew then that I
20 could not cast a vote for Mr. Bamberger to be executive
21 vice president. And because of the absolute, undaunted
22 attitude of the candidate for the presidency that it was
23 not an either/or situation and that you either take us both
24 or you take none of us, I then had to make up my mind that I
25 could not vote for either. I am distressed. I am distressed

fml1 1 very frankly that we have caved into this situation.

2 We are Presidential appointees. We are not
3 running a dog and pony show. We are running an 88-million
4 dollar a year program. We had to make a decision to select
5 a president. This was not in the nature of whether you took
6 two young oods into the neighborhood into the treehouse
7 club.

8 And to that extent I was compelled to raise my
9 hand "No" against the motion for the president. And I
10 will be compelled to vote "No" on the next motion, which
11 will be for the executive vice president.

12 I happen to believe, Mr. Chairman, that we are
13 either going to succeed under this law or Legal Services
14 will be one of the phenomenal targets of the Congress that
15 it has ever been before. I lived through this legislation,
16 every bit of it. And it was not easy to come by.

17 This Board has now been told that it had to accept
18 this particular set of circumstances. We were told in our --
19 one of our meetings yesterday, that the relationship between
20 vice president and the president would be a partnership. I
21 do not consider this so. It was not my intention to agree
22 either in my discussions with the chairman of the Board or
23 anyone else that, in fact, we were picking a president and
24 a vice president but in fact we were picking a partnership.
25 And to that extent the activities of yesterday were most

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1 disturbing to me.

2 Thank you, Mr. Chairman.

3 MR. CRAMTON: I would like to briefly place at
4 least some facts in the record, which I don't think Mr. Cook
5 will dispute on the record.

6 After the Board in executive session voted to
7 authorize me to extend the Board's offer to Mr. Ehrlich, Mr.
8 Ehrlich and I had a number of conversations in which his
9 desire to have a degree of freedom concerning appointments
10 to the top executive staff was discussed in considerable
11 detail. As part of those conversations a letter was sent to
12 all members of the Board and telephonic communications occur-
13 red with all except two members of the Board who could not
14 be reached on the particular day in which they were told,
15 they were read the entire letter, which included a paragraph
16 essentially stating that Mr. Ehrlich would accept the pres-
17 idency only if the Board was willing to appoint E. Clinton
18 Bamberger as executive vice president.

19 Mr. Cook, when I read that paragraph to him
20 on the telephone and talked with him about it, responded, I
21 believe in very short compass, saying, "I want Tom. If
22 that is what Tom wants, that is what I want."

23 The only fact that is new, the only change that is
24 subsequent, is of subsequent nature, is the desire of the
25 president to have Mr. Bamberger as the number two official

fm13 1 of this Board attend not only its public meetings, which any-
2 one is free to do, but attend at the request of the pre-
3 sident those meetings which the Board holds in executive
4 session.

5 SENATOR COOK: Mr. Chairman, I will not pursue
6 the point except to ask tht the letters sent pursuant to the
7 remarks you have made, I would move that those letters
8 be made a part of the record of this discussion.

9 MR. CRAMTON: I would be delighted to add them
10 into the record.

11 MR. BREGER: Mr. Chairman, I would also like
12 to note that the communication with at least myself on this
13 matter occurred effectively after the relevant discussions
end 1 14 and considerations had been made.

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1 MR. CRAMTON: You were not considered by a
2 member of the Corporation staff who read the letter to you?

3 MR. BREGER: I was. But I didn't have a chance
4 to discuss the matter with a member of the Board until I
5 was, until at a point that I was given to understand that the
6 matter had been resolved.

7 MR. CRAMTON: Did you not lead a member of the
8 staff to believe that you did not have objections to the terms
9 which were read to you on the telephone?

10 MR. BREGER: I did not lead a member of the staff
11 to believe that I had no objections.

12 MR. BROUGHTON: Mr. Chairman, as I have already
13 indicated, I voted no on the motion. I expressed myself at
14 the time you are referring to in the last Board meeting as
15 being in favor of Mr. Ehrlich. I was enroute at the time
16 the so-called proposal involving Mr. Bamberger was presented.
17 In fact, I was partway in from a trip to the Boston region.
18 An effort was made to reach me and I did not get the message.

19 In any event, I think the Chairman will recall that.
20 At that time I expressed my reservations and serious concern
21 to item 4 of the letter which, as I understood the Chairman
22 to say, incorporated then-established conditions as the
23 acceptance of Mr. Ehrlich. Very frankly, it was my feeling
24 that we were past that and have been past that, and the
25 question of Mr. Ehrlich's acceptance was a matter relating

1 to housekeeping details, notification by him. I told Mr.
2 Cramton at that time that I had reservations about that.

3 And I was also told, however, that a majority of
4 the members of the Board had expressed themselves in agree-
5 ment with that particular item. And I did not agree with it.
6 And I expressed my feeling about that very frankly, as
7 frankly as I could to Mr. Ehrlich during the meeting yesterday.

8 As Mr. Cook has expressed, I did become concerned
9 during the meeting yesterday at the very rigid position that
10 has been taken by Mr. Ehrlich and Mr. Bamberger in connection
11 with the efforts that were made to resolve what had become
12 clearly a very, very unfortunate situation.

13 I did feel that -- I don't know whether this was a
14 breakdown in communications or what; but at the point I
15 was advised I was away from my office, and I am saying an
16 effort was made to reach me and I received a letter and read
17 it in detail after my return a week or so later. And I could
18 not support the fourth condition that was outlined, and I
19 indicated such to Mr. Cramton.

20 And the circumstances occurring yesterday concerned
21 me greatly. And I would also like to say, Mr. Chairman, that
22 action of the Board with respect to Mr. Ehrlich having been
23 taken, and clearly a substantial majority have expressed
24 themselves in favor of him, and I accept that. And as a
25 member of the Board, I will say to him that I will try my

1 best to work with him in a supportive fashion. And I am
2 sorry the circumstances developed as they did.

3 MR. SMITH: Mr. Chairman, I think it may be
4 important unless it was already stated by you to have the
5 record show that in spite of the reason which related to
6 yesterday's discussion for which Senator Cook and Mr. Broughton
7 already know now that the vote in executive session last month
8 authorizing you to offer this position was a unanimous vote.

9 On the question of offering him the position it
10 was unanimous and I believe it is correct and proper that that
11 be shown in the record at this time. And these two no votes
12 relate to the points that they explained in explanation of
13 their vote.

14 MR. BROUGHTON: I said that I support that action
15 and that my departure as indicated in my vote this morning
16 came out of the circumstances yesterday.

17 SENATOR COOK: I was not at that meeting, as you
18 know, but there is no question about the fact that at all
19 times I was enthusiastic about the nomination and the position
20 of the presidency. There's no question about that.

21 MR. STOPHEL: I voted for this motion and will not
22 oppose the succeeding motion although I recognize that the
23 philosophy and activities of Mr. Bamberger in the Legal
24 Services area differ greatly from mine in many respects. And
25 I will vote in that way because of the commitment I made

1 by telephone at the time Mr. Ehrlich asked that this Board
2 agree that if he accepted our unanimous request that he
3 president, that he be permitted to appoint Mr. Bamberger as
4 executive vice president.

5 I agreed to that without knowledge of the request
6 that was to come to us from Mr. Bamberger. But I believe
7 that that request has now been tempered in such a way that I
8 will not oppose it at this point.

9 MR. EHRLICH: The important thing at this point is
10 to move forward to provide the best possible legal services
11 for the poor and that is why I believe you chose me as
12 president. That is why I accept with great pleasure and thanks
13 the position of presidency of the Legal Services Corporation.
14 That is our common goal. I hope there isn't any question of
15 complete good faith on all sides throughout all aspects of
16 the Board and from the staff proceedings. There should not be.

17 Your mandate to me was, as you said it at the
18 various meetings we had, to find ways to move forward to
19 provide the best possible legal services for the poor. In my
20 considered judgment, as I articulated at length, the way I
21 could best do that was as a first step in choosing an executive
22 vice president whom I could work closely with. My choice for
23 that position, as I explained, on the basis that I thought
24 I could best discharge the responsibilities as president
25 with him, is E. Clinton Bamberger, and I am pleased to present

1 the resolution to you, Resolution B, which I will read:

2 "Resolution Appointing Executive Vice President:

3 Whereas, Thomas Ehrlich, President of the Legal
4 Services Corporation, has recommended that E. Clinton
5 Bamberger, Jr. be named as Executive Vice President of the
6 Corporation;

7 Resolved, that pursuant to section 1005 of the
8 Legal Services Corporation Act, and pursuant to section 6.01
9 of the temporary By-Laws of the Corporation, the Board of
10 Directors hereby determines it to be advisable to name an
11 Executive Vice President as an officer of the Legal Services
12 Corporation, and hereby appoints E. Clinton Bamberger, Jr.
13 as Executive Vice President of the Corporation upon terms and
14 conditions substantially similar to those agreed to for
15 employment of the President of the Corporation; and

16 Resolved further, that the name of E. Clinton
17 Bamberger, Jr., Executive Vice President of the Legal Services
18 Corporation, is hereby added to the list of authorized signa-
19 tories for the Corporation's account in the Riggs National
20 Bank of Washington, D.C."

21 Is there support for this resolution?

22 MR. KUTAK: So moved.

23 MR. CRAMTON: Is there a second?

24 MR. MONTEJANO: Second.

25 MR. CRAMTON: Are you ready for the question?

1 MR. KUTAK: First of all, I believe the By-Laws
2 are permanent; they are not temporary.

3 MR. CRAMTON: We will amend the proposed resolu-
4 tions to eliminate the word quote "temporary" unquote.

5 Are there other comments?

6 MR. MONTEJANO: Mr. Chairman, I think it is im-
7 portant that we realize it is time to look forward. It is
8 time to have a sense of direction. It is time to put it
9 together. No question about it. We have now 10 members
10 of the Board with probably 10 different opinions from 10
11 different areas of the country. And we are going to get
12 together once ever so often and express our views, and we
13 have full assurance from Mr. Ehrlich and Mr. Bamberger that
14 our views will be heard and they will be taken into account.

15 And we have also made a commitment that the presi-
16 dent of this Corporation is going to have the full power and
17 responsibility a president should have to make this program
18 move. I see no objection whatsoever to the concept that
19 there will be full support of this staff and of the concept
20 of this program. And let's put it on a positive basis.
21 Whatever differences we have or have had, I think they are on
22 the table. And I think that is fine and healthy.

23 With that, let's move forward.

24 MR. BREGER: I subscribe to all of the views
25 expressed by Mr. Montejano and many of the views expressed

1 by Senator Cook. I feel, however, that any reservations I
2 may have had with regard to the proposed contract of the
3 executive vice president did nothing to the merits as
4 seen earlier and that is why I voted for his appointment. I
5 am impressed by many of the qualifications of Mr. Bamberger.
6 However, I have grave difficulty with the package deal with
7 which we were provided at short notice with little or no
8 opportunity to consider and contemplate the ultimatums
9 encompassed in the contract proposed to us yesterday afternoon.

10 I must, therefore, abstain. I will support and
11 work with the executive vice president, the president and
12 the staff.

13 MR. CRAMTON: Is there further discussion?

14 Mr. Ortique?

15 MR. ORTIQUE: It seems to me, Mr. Chairman, that
16 the legislation requires that this Board select a president.
17 And it appears that that president is the chief executive
18 officer, subject only to the wishes and desires of this
19 Board. And that once this Board selects the president,
20 then this Board must give to that president the tools that
21 he needs to be effective.

22 It would appear to me that when the Board feels
23 that that president no longer serves their purposes, that it
24 is up to this Board to select a new president. And in my
25 view, the important difference, and what Senator Cook felt

1 yesterday, and what certainly Mr. Broughton has expressed,
2 is that the resolution states unequivocally that the president
3 is in control of his staff and what his staff does. And I
4 think that is the proper posture for a president and that
5 is a proper posture for the staff and certainly that is a
6 proper posture for this Board.

7 As long as that understanding is unmistakably on
8 the part of the Board and the president, it seems to me that
9 we have moved forward in resolving the problems that may have
10 developed yesterday. And I would urge support for this resolu-
11 tion with those absolute, positive understandings.

12 MR. CRAMTON: Is there further discussion?

13 (No response.)

14 MR. CRAMTON: If I might add a brief personal
15 comment; while I subscribe to the ideas expressed by Mr.
16 Ortique, concerning the statutory role of the president of
17 the Corporation, I would like to state my personal view that
18 I do not think that Mr. Ehrlich could have located or found
19 or persuaded a more able or competent or experienced person
20 to serve as the number two official of the Legal Services
21 Corporation. Mr. Bamberger has extraordinary experience,
22 intelligence, commitment to Legal Services, good will. The
23 notion that he should be forever cast upon the pale because
24 of a 10-month involvement and some considerable knowledge
25 and interest in Legal Services, is a view to which I do not

1 subscribe.

2 I think that the task of the president -- and I
3 hope he carries it out, and I will be disappointed in him
4 if he does not -- is to find the most qualified people around
5 the country to serve in all of the positions which we hope
6 to fill; general counsel, research director, regional
7 directors and so on. And not staff with mediocrities who
8 are chosen in large part because they have never done any-
9 thing, expressed anything, or had any views or background
10 which would be useful to the Corporation.

11 MR. BREGER: Mr. Chairman, I would just like to
12 note that I agree with your remarks and to make clear that
13 my decision in this matter in no way results from Mr.
14 Bamberger's earlier association with the Office of Legal
15 Services.

16 MR. CRAMTON: I did not mean to suggest that
17 your view did.

18 Are we ready for the question?

19 All in favor of the motion please raise their hand.

20 (Show of hands.)

21 All those opposed?

22 (Show of hands.)

23 We have two abstentions. I would cast my vote
24 in favor of the motion. The motion will be recorded as such.

25 Congratulations, Mr. Bamberger.

1 MR. BAMBERGER: Thank you.

2 MR. CRAMTON: The next item on the agenda is a
3 Staff report on the transfer of the Office of Legal Services
4 personnel to the Corporation and some related matters having
5 to do with the officer structure, an organization of the
6 Corporation.

7 Mr. President?

8 MR. EHRLICH: I hope Mr. Oberdorfer will present
9 a report on the transfer of the Office of the Legal Services
10 personnel to the Corporation.

11 MR. OBERDORFER: The transition staff undertook,
12 at the direction of the Board, the responsibility for the
13 selection of the leadership and staff support personnel
14 formerly at the Office of Legal Services as part of the
15 beginning of a staffing process. The philosophy that we
16 followed was basically to keep the operations of the new
17 president as broad as possible, to make no more commitments
18 than were necessary to maintain momentum and to be humane.

19 Our task had two different meanings. The first
20 was to select the skeleton leadership complement of the
21 Corporation. That would basically be accomplished by the
22 selection of regional directors, acting regional directors
23 and in some cases assistant regional directors whom we
24 selected from amongst the regional directors at the Office
25 of Legal Services.

1 I say to the Board, and I say publically, that that
2 process of selection of middle management personnel was
3 carried out with exquisite care. There was elaborate fact-
4 finding, interviewing, performance of tasks designed as
5 tasks of the ability of the selected personnel to act quickly
6 in circumstances that would reflect their philosophy of
7 management, not the philosophy of Legal Services. And I
8 am very pleased with the results we have accomplished, and
9 I am very sorry about disappointments that resulted.

10 I want to say for myself and my colleagues that
11 it was done in absolute good faith, absolutely non-partisan,
12 politically or otherwise, and I think that we have served
13 Corporation well with the difficult decisions that we have
14 made.

15 Now, in addition to that, we had a responsibility
16 that was new to me; namely, the negotiations with the collec-
17 tive bargaining representatives that represented all of the
18 employees of the Office of Legal Services. We were fortunate
19 in the foresight of the Chairman who had incorporated, even
20 before the transition started, Messrs. Morgan and Lewis. We
21 were not artistic about this. We were not skillful about it.
22 I would say that we bungled into a good solution, not be-
23 cause of any lack of skill on the part of legal counsel,
24 but on a confusion of objective and a slow formation of
25 policy by us in that process.

1 We were greatly assisted by the advice and
2 direction of the Board with respect to how that task should
3 be performed. By gosh and by god and with Bob Smith, we
4 had long negotiations conducted by him with the assistance
5 of Tony Mondello and Sam Wolk. They have negotiated a
6 contract which governs only non-management personnel, non-
7 profession and clerical personnel. It establishes terms
8 and conditions which leave to you, Mr. President, all of the
9 prerogatives of management that anyone could want who has
10 a labor employment contract with a labor union. And again,
11 no credit to myself, but to Bob Smith and Tony Mondello and
12 Sam Wolk, and the labor contract you have in your file I think
13 will provide you with a useful guideline for your labor
14 relations.

15 The contract is for a year; and at the end of that
16 year you have, on the basis of our experience and your
17 experience, full opportunity to renegotiate that or to find
18 that you live well without it. I will say one thing about
19 that. We didn't know too well what were the norms. We
20 really didn't know what the norms for employment terms would
21 be for a corporation like this. We didn't want to follow
22 the government terms and didn't. And when you leave the
23 government bench mark you are pretty much at sea. And the
24 hard bargaining that occurred produced a division of the
25 marketplace, if you will, which I think reflects a certain

1 natural justice.

2 So, you now have in place the regional directors
3 or acting regional directors. They are supported in the
4 regions by the same staff that supported the regional directors
5 at OLS, and we have five employees from OLS who are inte-
6 grated into our transition staff and in the new staff that
7 is coming on. And I think, as the mix develop you will have
8 good results. And I am pleased to turn it over to you.

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1 MR. CRAMTON: Is it the appropriate time for
2 presentation of resolution C?

3 MR. OBERDORFER: Yes, please.

4 SENATOR COOK: I want to second it. And Bob and
5 Tony and Sam and Lou did absolutely a Herculean job in this
6 thing. I have read their contracts. Tony was pleased as
7 as he could be. I talked to him on several occasions. He
8 hustled my capacity to go through them. And I think that the
9 members of the board really and truly have no comprehension
10 on how hard particularly Bob and Tony and Sam worked and
11 what a tremendous job Lou did to hustle them into the
12 position that we're in now.

13 My second goes with all the praising I can give
14 to Lou and the staff and to Bob Smith for the job that they
15 have done in this instance. And so that I can emphasize my
16 second I want to second it again and hope that everybody
17 realizes the significance of the task accomplished.

18 MR. CRAMTON: I share that view. I know the
19 amount of work that had been involved. We have hired some
20 extremely qualified people and we have hired them under the
21 terms and conditions that will allow the managerial freedom
22 that the corporation thought it required. And the future
23 looks extremely good in that respect. And to Lou Oberdorfer,
24 Tony Mondello, Sam Wolk and Bob Smith of the firm of Lewis,
25 Morgan & Bockius the board does owe an enormous degree of

1 appreciation.

2 Resolved, that the Board of Directors of the
3 Legal Services Corporation hereby approves and ratifies the
4 action taken by its Counsel, Louis F. Oberdorfer, on October
5 28, 1975, in signing and accepting on behalf of the Corpor-
6 ation the two Transition Labor-Management Agreements (one
7 for professional personnel and one for non-professional
8 personnel) negotiated between the Corporation and the
9 American Federation of Government Employees.

10 I think that I have heard a second but I'm not
11 sure that anyone moved the resolution.

12 MR. STOEPHEL: I'll move it.

13 MR. CRAMTON: Is there discussion?

14 (No response.)

15 MR. CRAMTON: All those in favor of the motion
16 please say aye.

17 (Chorus of ayes.)

18 MR. CRAMTON: All opposed say no.

19 (No response.)

20 MR. CRAMTON: We have ratified the union contract.
21 There is a second resolution dealing with this matter which I
22 would also like to put before the board. This is a reso-
23 lution, Resolution D. We have received an enormous amount
24 of pro bono services from Washington Law firms. Mr.
25 Oberdorfer's firm, Tatel's firm and the firm of Morgan, Lewis

1 & Bockius. It did seem to us that at one point the night and
2 day and around the clock responsibilities in which Bob Smith was
3 engaged in negotiating the labor agreement, it clearly re-
4 flected a commitment of time in which some compensation other
5 than free services was appropriate once \$88 million had been
6 appropriated for us by the Congress.

7 Resolved, that the Chairman or his designee is
8 hereby authorized to retain and pay the law firm of Morgan,
9 Lewis and Bockius, Philadelphia, Pennsylvania, and Washington,
10 D.C., for services rendered to the Corporation as temporary
11 counsel in connection with the negotiation of collective
12 bargaining agreements with the American Federation of Government
13 Employees; and

14 Resolved further, that this resolution supersedes
15 that portion of the resolution regarding the law firm of
16 Morgan, Lewis and Bockius, which was adopted by the Board of
17 Directors at its meeting of August 4, 1975.

18 My designee is, of course, the new president of the
19 corporation, Mr. Ehrlich.

20 SENATOR COOK: Would it be fair to say that it
21 supersedes the previous resolution so there is a comment in
22 the minutes that that previous resolution said that they would
23 work at no charge to the corporation. And that under the
24 circumstances and in the time involved that it became obvious
25 to everybody concerned that this really could not be. And that

1 under those circumstances that is the superseding of the previous
2 resolution that you reference to.

3 MR. CRAMTON: And it supersedes it as of the time
4 only when the around the clock negotiations began. All the
5 efforts prior to that time continue to have been given on a
6 pro bono basis.

7 SENATOR COOK: That doesn't really worry me too much.

8 MR. CRAMTON: In other words it's not retroactive.

9 MR. OBERDORFER: Mr. Chairman, just for the record
10 so that the facts on this are developed -- that office Morgan,
11 Lewis & Bockius has relatively small staff and they were turning
12 themselves upside down for us beyond what I'm sure they con-
13 templated and certainly beyond what I contemplated when we
14 engaged them.

15 MR. CRAMTON: Are you ready for the question?

16 All those in favor please say aye.

17 (Chorus of ayes.)

18 MR. CRAMTON: Any opposed?

19 (No response.)

20 MR. CRAMTON: The motion is adopted. I would now
21 like to present a matter that's connected with it and connected
22 with the comments that Mr. Cook made in which it gives members
23 of the board an opportunity to thank Mr. Oberdorfer for the
24 extraordinary dedication and service that he has provided to
25 the board, to the corporation, and to the legal services program

1 and idea since the middle of the summer when he almost on
2 a day's notice responded to an invitation from the board to
3 devote nearly his entire time to shepherding the transition
4 staff of the legal services corporation.

5 With the appointment of the president of the
6 corporation effective as of the passage of this resolution some
7 few minutes ago, Mr. Oberdorfer's title as counsel to, as
8 sort of acting head of the transition staff ceases, he continues
9 to be the outside counsel of the corporation and I hope a
10 capacity that may develop and continue but which we'll mutually
11 explore.

12 But we want to look retrospectively now and we
13 want to thank him for the intelligence, dedication, humor, good
14 will and enormous good judgment. I couldn't have gotten along
15 without him and I don't think the corporation could have
16 survived it's birth pangs and this critical period without him.

17 Resolution I in your books reads as follows:

18 Whereas, Louis F. Oberdorfer was appointed Counsel
19 to the Legal Services Corporation to serve until a President of
20 the Corporation was named; and

21 Whereas, Louis F. Oberdorfer has served the
22 Corporation ably and with distinction as its Counsel; and

23 Whereas, a President of the Corporation has now
24 been named;

25 Resolved, that to Louis F. Oberdorfer, the Board of

1 Directors of the Legal Services Corporation expresses its
2 sincere thanks and appreciation for his wise counsel, his
3 sound judgment and his resolute determination in guiding the
4 Corporation through the sometimes difficult initial transition
5 period as the Corporation prepared to undertake its obligations
6 pursuant to the mandate of Congress, the Board hereby
7 acknowledging not so much the debt of gratitude owed by the
8 Corporation to Oberdorfer as the service which he has rendered
9 to all in this Nation who are in need of legal assistance but
10 without the resources to obtain it.

11 Is there support for the resolution?

12 SENATOR COOK: I move its adoption.

13 MR. CRAMTON: Is there discussion?

14 (No response.)

15 MR. CRAMTON: All those in favor please say aye.

16 (Chorus of ayes.)

17 MR. CRAMTON: All opposed say no.

18 (No response.)

19 MR. CRAMTON: The resolution is adopted.

20 This is part of what falls under the heading of
21 related matters dealing with staff matters. We now return to
22 the matters concerning --

23 MR. OBERDORFER: May I make a remark?

24 MR. CRAMTON: Please.

25 MR. OBERDORFER: I'm grateful for the resolution and

1 I'm grateful for the opportunity you have afforded me to
2 participate in the way I have.

3 Your remark about my preparing this resolution
4 requires me, if I wasn't going to do it anyway, to tell you that
5 the credit that you have given me for what we've done and
6 whatever we haven't done up to now is an incomplete statement
7 unless you recognize or you let me recognize and bring to your
8 attention again the extent to which what your transition staff
9 accomplished had been a product of the work of a very energetic
10 and effective team. You'll never know how hard and how well
11 David Tatel, and I hope I don't leave anybody out, Tony Mondello
12 and Sam Wolk and Bob Shay and Don Konick and Dick Carter,
13 because of all the work they have done.

14 SENATOR COOK: I move that an appropriate frame of
15 this resolution be made so that it may be signed by all members
16 of the board and framed so that we might give a copy of this to
17 Lou in appropriate form to do with it as he so desires.

18 MR. CRAMTON: Well, I would like to talk privately
19 to some members of the board about that and some other ideas
20 that I have and I think we can best do that in executive
21 session.

22 So, if you withdraw your motion, I'll guarantee
23 we'll discuss this subject in executive session.

24 SENATOR COOK: All right. I withdraw my motion.

25 MR. CRAMTON: Mr. President?

1 MR. EHRLICH: I think I know in some respects
2 even better than some on the board just how much we owe to the
3 entire transition staff for doing the extraordinary job that
4 they did. And we're forever in their debt and we'll continue
5 to utilize their counsel. Let me talk briefly about the
6 future and our plans for developing the staff of the corporation.

7 Over the past days and weeks in consultation with
8 the staff and with some members of the board and counsel and in
9 the days and weeks ahead we have developed a working plan of the
10 major structural arrangements for a corporation.

11 You have received a copy of it in schematic form in
12 your materials. It indicates that the president and
13 executive vice-president -- in addition to them we're fortunate
14 to have an office program plan headed by Alf Corbett who can
15 give insight from the past into operations for the future.

16 We're also fortunate in having a very able controller
17 dealing with problems of finance. We're seeking as a first step
18 in the search process that I'll describe in a minute the best
19 possible men and women to fill the positions indicated on that
20 chart of general counsel, one in charge of public affairs, one
21 in charge of what we've called management, research and
22 development, and what we've called legal services.

23 MR. KUTAK: Excuse me, where is that?

24 MR. CRAMTON: I don't think we have copies.

25 MR. EHRLICH: I have other copies with me. Let me
pass those out.

1 There are some working hypotheses that we have
2 developed with regard to this original structure. One of them
3 was to look to the president in terms of responsibility for
4 organizing the staff, that we needed the office of field
5 services to deal with matters listed there including technical
6 assistance, training, contract review, coordination of the
7 activities of the regional offices. We needed an office of
8 management to deal with personnel management, procurement.
9 Information systems, to work in collaboration with the
10 controller in matters of finance.

11 We needed an office of research and development
12 to deal with important problems of delivery system research as
13 well as substantive research to the extent that it's carried
14 on within the corporation. We needed an office of public affairs
15 that would be able to deal in terms of the day to day context
16 from Congress, the city branch, administrative agency, with
17 the media, certainly with state and local government officials
18 to work to build up support for what we want.

19 MR. STOPHEL: Will that office be the one in
20 response to information requests under our regulations?
21 Freedom of information?

22 MR. EHRLICH: The current conception is that in
23 terms of the routine requests for information it would be,
24 yes. And, of course, a general counsel office to give counsel
25 to help in the development of the regulations, the range of

1 activities that are called for. We describe the search process
2 that we expect to undertake for the offices of general counsel,
3 public affairs, research and development and management as the
4 first step in the overall process of staffing for the corpor-
5 ation with the view that those offices need to be filled and
6 filled first with the best possible people.

7 The first judgment is that we must have a full and
8 complete open search of all possible avenues and approaches to
9 find those best people. We're fortunate in having to work with
10 us Ernie Miller who had been a consultant to the transition
11 staff and has worked out a set of arrangements including a
12 letter from me to a wide range of people in legal services and
13 outside of legal services seeking names of the best possible
14 people, a series of ads and notices and newsletters and
15 journals and the like, seeking counsel from as broad a possible
16 range of avenues as we can to seek as many of the best
17 qualified names as we can find.

18 And we expect to have a screening process moved
19 forward as rapidly as it can and finally come down to choosing
20 those people. We'll move as fast as we possibly can and I
21 think it's a responsibility that you would want us to exercise
22 to do so only under the basis of the broadest possible search
23 we can.

24 Unfortunately, we can't instantly fill all these
25 positions and do so in the manner it must be done. But we'll

1 work as fast as we can. And I do urge particular the board
2 and all those here to give counsel in terms of structural
3 arrangements as well as, of course, particular names as they
4 occur with their backgrounds and qualifications.

5 MR. CRAMTON: Are there comments from members of
6 the board?

7 MR. STOPHEL: I would encourage the president in
8 seeking staff and I'm sure that these are also some of his
9 thoughts, although we're not wanting one from this view and one
10 from that view, but we're interested in a balance, I think.
11 I think that the worse thing we could do to ourselves as a
12 board is to have a sterile view coming to us. Perhaps we have
13 been accused of the same thing, of simply taking resolutions
14 as presented and adopting them and I trust that's not the case.

15 I hope this can be true within our staff, that
16 all the divergent viewpoints are represented and advocated
17 as well. I expect that within this board there is a diversity
18 of views and they'll be expressed and I hope the same thing will
19 be true coming to us in the form of recommendations where we
20 may have access to not only the agreed view of the staff but
21 perhaps those views that do not coincide with the majority.

22 And I don't have specific things in mind. I
23 simply want to express that as a philosophy.

24 MR. CRAMTON: I agree with that. And in fact, I
25 was gratified in the materials prepared for the meeting that the

1 staff responded so well to our prior request that the materials
2 that they provided us with not only present a recommendation
3 but also summarize the views of other interests and organi-
4 zations which have been complicated to them and state their
5 views on those as well. And that it seems to me is the only
6 way that a board which meets from time to time can effectively
7 focus on the policy issues which should be its concern.

8 Are there further comments?

9 SENATOR COOK: The only discussion I would like to
10 add to it, Mr. Chairman, is that I hope that in the marshaling
11 of this staff that we take into consideration who this
12 corporation really represents and that to that extent that we
13 not only look for what Glenn refers to as a philosophical
14 balance, but I hope we also look to the group's and the
15 organization's and the minority groups that, in fact, this
16 corporation represents and that we wish to represent well.

17 And I would hope that based on qualifications that
18 we would do our best to absolutely seek that kind of balance in
19 the hierarchy of this corporation and that to the best of
20 everybody's ability that we see to it that that end is accom-
21 plished.

22 MR. STOPHEL: Has the president formulated a
23 recommendation as to what level of this chart will be deemed
24 corporate officers?

25 MR. EHRLICH: No. I haven't.

1 I view this as a working hypothesis approach and
2 I mean that.

3 SENATOR COOK: You will make recommendations
4 at a later date?

5 MR. EHRLICH: Yes.

6 MR. CRAMTON: And you invite communications from
7 interested groups and organizations from members of the board,
8 from candidates both about the structural requests and about
9 specific people that ought to be considered?

10 MR. EHRLICH: Yes.

11 MR. CRAMTON: Is there unanimous consent for Mr.
12 Veney to speak briefly?

13 (No response.)

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NOTES

1 MR. VENEY: I would like to ask the Board to
2 instruct its president not to hire any further staff members
3 until such time as an affirmative action program is drawn up
4 which would insure the hiring of minorities and the hiring of
5 women.

6 I think, upon examination of your staff, you will
7 file out why I make that particular request for the Board's
8 consideration.

9 MR. BROUGHTON: Would you elaborate more.

10 MR. VENEY: I think if you look at the staffing
11 as currently -- as I understand it, there are no blacks, no
12 Chicanos, no native Americans, no Puerto Ricans, there are
13 no women in decision-making positions and I have some strong
14 feelings that --

15 MR. CRAMTON: Would you repeat. Mr. Oberdorfer
16 was distracted. I think he may think your statement is
17 incorrect.

18 MR. VENEY: May I just ask that the Board examine
19 the staff with you and that it instruct the president not to
20 hire any additional personnel until such time as there is such
21 an examination and there is assurance that there will be the
22 hiring of minorities and women.

23 MR. EHRLICH: Can I give the assurance given to
24 members of the Board yesterday that I concur completely in
25 your view that there ought to be minorities, women, a diversity

llw-2

1 of not only views, but of backgrounds and approaches, and
2 we'll carry that out.

3 MR. ORTIQUE: I think that this organization above
4 all ought to have an affirmative action program and ought to
5 develop it and know that it is in place. And I so move.

6 SENATOR COOK: I second that.

7 MR. BROUGHTON: Is that necessary? I think that
8 we've just gotten through a discussion as to the tremendous
9 pressures that are involved, as far as the transitional staff,
10 and we just paid our tribute to Mr. Oberdorfer for the way in
11 which he and his people have put this together.

12 And I think they have taken these factors into
13 account within the framework.

14 The president at the beginning of his statement a
15 moment ago -- For example, he said, "The best qualified men
16 and women." And I think that he has made his position clear
17 and I don't think the Board needs to pass a resolution on this.

18 MR. CRAMTON: The motion has been made and it's
19 seconded, the motion of Mr. Ortique, and I am not clear whether
20 it goes as far as Mr. Veney's statement. Was it that no
21 person could be hired until an affirmative action plan is
22 developed?

23 MR. ORTIQUE: I think an affirmative action program
24 should be drawn up and in the meantime the president will
25 decide himself accordingly.

llw-3

1 MR. CRAMTON: Is there discussion?

2 MR. SMITH: I am in full accord with the objectives
3 that the motion seeks to reach and with Mr. Veney's comments.
4 But I am also assured by the president's statement that he
5 has assured us that that will be the policy he follows.

6 I wouldn't have any objection to formalizing it
7 in a motion if I thought it wouldn't cause any delay in
8 hiring. In other words, if it went as far as Mr. Veney's
9 requirement that no hiring would be done until there is an
10 affirmative action program. But I would be willing to agree
11 with the president's intent that he will do that.

12 SENATOR COOK: I think there is a lot of difference
13 between transition and the fact that we're now forming a staff.
14 And I think in relation to that permanent staff that this
15 this should be paramount and that there shouldn't be any
16 question about it.

17 And therefore I would urge all of you to consider
18 it in the light of really the broad aspect that it covers.
19 And to the extent that it does not tie the president's hands
20 at all, but merely sees that he shall come up with an affirma-
21 tive action plan and that he shall be guided thereby and we'll
22 have an opportunity to review it.

23 MR. ORTIQUE: I merely wanted to stress two things.
24 One which Senator Cook has taken care of and also in the
25 meantime that the president will be guided by the principles

11w-4

1 involved in the affirmative action plan.

2 MR. OBERDORFER: Mr. Chairman, I want to say my
3 knee jerk reaction was to come to my own defense, but I don't
4 think we had as good a job as we should have in the affirmative
5 action plan in the transitional staff.

6 They should learn from our experience and improve
7 on what we've done.

8 MR. CRAMTON: Is there further discussion?

9 (No response.)

10 MR. CRAMTON: If not, all those in favor of Mr.
11 Ortique's motion, please say aye.

12 (Chorus of ayes.)

13 MR. CRAMTON: Opposed?

14 (No response.)

15 MR. CRAMTON: The motion is adopted.

16 SENATOR COOK: Why don't we take a short break now,
17 and give the reporter a chance to stretch.

18 MR. CRAMTON: All right. We'll take a five minute
19 recess.

20 (Recess.)

21 MR. CRAMTON: The report of the Committee on
22 Appropriations and Audit is the next item of business.

23 Mr. Stophel?

24 MR. STOPHEL: If you will look under tab 8 of your
25 materials, you will find what I trust you have read and

1 digested concerning the allocation of 1976 fiscal appropri-
2 tions.

3 Your Committee met on the dates of our last Board
4 meeting to consider these items.

5 It met subsequently on October 16 and at that time
6 asked the staff to break the proposed allocation of the '76
7 budget down by issue, because we felt that these issues need
8 to be highlighted for us and we need to understand the import
9 of the decisions we're making when we adopt a resolution
10 relative to the allocation of funds.

11 If you will look at the materials under tab 8, the
12 variables that are mentioned are the length of funding for
13 the programs, and we're talking about fiscal '76 appropriations,
14 the \$88 million which has been appropriated for fiscal '76 and
15 that is through June 30, '76, fiscal year.

16 Then there is a transition quarter which runs us to
17 September 30. So the length of funding for the programs is
18 one issue. The amount to be paid to the programs is really
19 the bottom line that we're talking about today. The level of
20 funding for all programs on an annualized basis, which will be
21 broken down for you a little bit more in detail, whether we
22 have a common or a staggered end to the grants and the treat-
23 ment of one time start-up costs having to do with whether
24 they are taken from fiscal '76 or from the transition quarter
25 or from the supplemental grant which your Committee will

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1 recommend that we pursue.

2 The first recommendation of the staff which was
3 adopted by your Committee is in the middle of page 1 and has
4 to do with the so-called shortfall or deficit of \$7.2 million
5 which we've discussed at length in previous meetings, and the
6 recommendation which comes to you from the staff and from the
7 Committee is that the full shortfall be absorbed in fiscal '76,
8 so that as of whatever date we go to in the grants which will
9 be made in the spring, that we'll be on a fiscally sound
10 basis, in our judgment.

11 I think we should take these issue-by-issue and,
12 therefore, Mr. Chairman, I move that the Board adopt the
13 recommendation of the staff and of the Audit and Appropriations
14 Committee, that as a matter of allocation of the fiscal '76
15 appropriation we absorb the entire shortfall in this fiscal
16 year.

17 MR. CRAMTON: You have heard the recommendation
18 of the Committee.

19 Is there a second?

20 MR. SMITH: Second.

21 MR. CRAMTON: Discussion?

22 (No response.)

23 MR. CRAMTON: Is it fair to say that we're going
24 to consider each of these particular policy items on a tentative
25 basis, vote on them, then because they are interrelated perhaps

llw-7

1 have an opportunity for consideration of the interrelationships
2 after we're done?

3 MR. STOPHEL: I think that's a fair statement.

4 MR. CRAMTON: All right. With that understanding
5 I think Mr. Stophel would like the agreement of the Board on
6 this kind of general principle --

7 MR. BROUGHTON: Would you mind repeating that?

8 MR. CRAMTON: I will ask the Chairman of the
9 Committee to repeat his recommendation.

10 MR. STOPHEL: The way we're suggesting the Board
11 approach this is that we vote on these issue-by-issue, but
12 that each vote, because they are so intertwined -- and that
13 is if the Board decided not to go for a supplemental appro-
14 priation after we adopted a resolution assuming that we'll
15 obviously have to go back and change.

16 So we're suggesting that each one be voted on
17 individually, but that the vote be a tentative vote depending
18 upon a succession of votes relative to this.

19 MR. BROUGHTON: All right.

20 MR. STOPHEL: The philosophy of taking up the
21 entire shortfall is that you get rid of the problem once and
22 for all; and we can do it in this fiscal year and still have
23 a good amount of funds to send to the programs now. Some
24 figures you have seen at previous Board meetings with a
25 maximum of 6 million, 7 million, to go to the programs now.

llw-8

1 That figure is now in accordance with the Committee
2 recommendations up to \$10.8 million to be sent to the programs
3 for increased funding during this fiscal year and with an
4 additional sum of money over that possibly for one time,
5 non-recurring costs.

6 MR. KUTAK: Mr. Chairman, it makes very good sense
7 to do this. The overhand would cast a difficult shadow, I
8 think, on foot effective budget planning.

9 And even though it is a hard bite to swallow, as
10 there are pressures to utilize the funds on other activities,
11 of course, particularly salary increases and blanketing areas
12 that are now uncovered for the longer, more effective operation
13 of our corporation, it seems to me we ought to catch up with
14 our debts and start out on a fiscally sound and balanced
15 basis.

16 And, therefore, I think that difficult as the
17 choice is, and I am sure for our budget and appropriations
18 Chairman, painful as it must be when there are so many other
19 priorities pressing on him, it is the wisest course for us
20 to take.

21 MR. SMITH: I agree, because there will be an
22 increase in the other pressures and it will be even more
23 difficult to do it later than now.

24 SENATOR COOK: May I say you had better do it every
25 year, because you will never reach the point of appropriations

1 in relation to authorizations. So it just seems to me that
2 it is the wisest thing to do, rather than to continue to carry
3 it, because you have got one item budget with which to work
4 and that's the amount of appropriations you get when you get
5 it.

6 Why we deal with shortfalls very frankly is
7 something I can't figure out, except maybe the auditing
8 department wants to do it because they look at authorizations
9 and then they look at appropriations.

10 But you had better do it and you had better do it
11 as fast as you can, because you have no alternative other
12 than to appropriate in relation to the amount of funds that
13 you have. If you continue to do it based on expectation, you
14 will just get deeper and deeper into shortfall position.

15 MR. CRAMTON: Is there further discussion on this
16 tentative motion?

17 (No response.)

18 MR. CRAMTON: If not, all those in favor, please
19 say aye.

20 (Chorus of ayes.)

21 MR. CRAMTON: Opposed?

22 (No response.)

23 MR. STOPHEL: The second issue deals with the
24 level of funding and Mr. Fisher and Mr. Corbett are sitting
25 behind me and I am sure will help me out as we get to this

11w-10

1 question.

2 There are several alternatives available. And if
3 you will look at page 2 of the materials under tab 8, you will
4 see expressed there three alternatives of the way in which
5 this program could fund for this fiscal year.

6 And what this basically relates to is that if you
7 fund at a higher level, you are locking yourself into that,
8 unless you are prepared in the event we get less than that
9 amount of funds for the succeeding year a reduction in funds
10 going to the program.

11 If you will look at those possible levels, the
12 first alternative A is based on \$88 million which would be
13 the amount for the first 4 quarters, not including the
14 transition quarter.

15 The second alternative is 98-1/2 million based on
16 taking the transition quarter and simply multiplying that by
17 4. And that would presume that Congress intended, when it
18 gave us funds for the transition quarter, that that was to
19 be our level of quarterly funding for the next year.

20 We're taking a middle view and would recommend
21 level C, which is also the staff recommendation, which is a
22 level of funding of 90.630 million based on using the last
23 4 quarters including the transition quarter.

24 In other words, our level of funding at 88 million
25 is 22 million a quarter, but taking into account that in the

11w-11

1 transition quarter Congress appropriated 24.630 and the
2 figure there, instead of 22.6, should be 24.630.

3 This level of funding which is, which includes
4 program costs and administration costs we feel is fiscally
5 sound and we would urge that this issue be resolved at that
6 level and I so move.

7 MR. KUTAK: Second.

8 MR. CRAMTON: Discussion?

9 (No response.)

10 MR. CRAMTON: For the record, I might add that the
11 Committee did give serious thought to this question at several
12 meetings and we have had some very useful information and
13 insights and positions from Mr. Ray of the Project Advisory
14 Group and other people. And we learned a lot in the process
15 and I share Mr. Stophel's support of it, of this recommendation.

16 Further discussion?

17 (No response.)

18 MR. CRAMTON: Are you prepared to again tentatively
19 support this position?

20 All those in favor, please say aye.

21 (Chorus of ayes.)

22 MR. CRAMTON: Those opposed, no.

23 (No response.)

24 MR. CRAMTON: The next issue of policy, Mr. Stophel?

25 MR. STOPHEL: We will next go to an issue discussed

11w-12

1 on page 3. Be careful. Your numbering starts over after the
2 chart of special start-up costs and then there are the
3 recommendations at the bottom of page 3.

4 On the opposite page are the alternatives having
5 to do with the length of funding.

6 Our grants are now made through March 31, 1976.

7 The alternatives available with the funds that are
8 deemed available for a program beginning with \$85.3 million,
9 which is the \$88 million less anticipated administration costs,
10 alternative 1 is to extend all grants through September 30 of
11 1976.

12 This would make available for program adjustment
13 14.757 million which is, as you will recall, substantially
14 higher than the figures we had discussed at earlier meetings.

15 Alternative 2 would be to extend all grants for
16 one year irrespective of expiration date. And alternative 3
17 is to extend all grants through October 31, 1976, with fiscal
18 '76 funds, which when adding the transitional quarter would
19 run us through January 31, 1977, but reduces the adjustment
20 amount to 8.4 million.

21 After a great deal of discussion concerning these
22 alternatives, the Committee agreed with the staff recommenda-
23 tion that we adopt alternative 1, which is to fund the programs
24 through September 30, 1976. And I would like to have a
25 discussion concerning whether we want to permit ourselves at

11w-13

1 this time to funding all individual programs or whether we --
2 My view is that we simply say this is our funding level for
3 programs that would extend all programs at the increased
4 amount and let me explain that.

5 We've said that there is \$10.8 million available
6 to go to the programs now, which will increase their level of
7 expenditures.

8 This amount of money would extend those programs
9 at that increased level through September 30, not at the
10 present level.

11 And one caveat here -- if you will look at page 15,
12 which is a part of this, you will see the headquarters
13 programs amount is 14.807 million.

14 That's on page 2 that I just referred to. Keep
15 your finger at page 2 and then at page 15. The headquarters
16 amount is \$14.8 million. The related question is: What
17 should be the extent of increase?

18 On page 15 you see the issue labeled Roman V.
19 Basically, the staff has taken into account in making its
20 recommendations that no headquarter program area will receive
21 more than a 10 percent increase. And the items listed here
22 as headquarters programs are the Indian programs, the Reginald
23 Heber Smith program, the West Virginia plan, the support
24 programs.

25 The evaluation here is not an increase, because

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obviously it's a new item. The recommendation of the staff here is that we take \$800,000 from the present year's budget and allocate it to our beginning of the evaluation studies. And then in the transitional quarter take another 1.1 million and perhaps -- Well, this would make a total of \$1.9 million.

That is a part of this issue of extending grants through September 30, 1976, because it assumes an increase of not more than 10 percent in those headquarters programs.

24

1 MR. KUTAK: Mr. Chairman, I see the logic and, of
2 course, would be persuaded by the consensus because it is a
3 very delicately balanced choice of alternatives here. And I
4 could go either way without any real difficulty.

5 But I raise, so that the Polish could be considered
6 here, a very important fact. And that is the reality of
7 our appropriation timing, our phasing. If we extend grants
8 through September 30 we are counting on next year's appropria-
9 tion really being in place by September 31, or we again have
10 some anxieties as to what will happen, I assume.

11 MR. STOPHEL: The transition quarter --

12 MR. KUTAK: My question is whether it would be
13 better policy for us to face our grants as of a year end
14 like at 12/31 of each calendar year, knowing that we always
15 had some flexibility no matter when Congress financed the
16 appropriation process. I wonder whether or not our Chairman
17 thought of giving our program administrator and those out in
18 the field, not wanting or not needing to worry about the
19 mechanical process back here, but on a calendar process
20 being able to plan a year in advance, whether we should take
21 the vagaries out of it by saying; let's make our grants on a
22 December 31 basis and then play with vagaries of the appropria-
23 tion process internally.

24 I don't know if that makes sense or not.

25 MR. STOPHEL: From a fiscal viewpoint it is a

1 very good one. From a programmatic viewpoint here of having
2 every grant come to its termination at the same time creates a
3 real problem with making contracts for the ensuing year.
4 Everything comes in and is compacted within a very brief
5 time. This is one of the issues that we don't feel we have
6 to face right now of common year funding or staggered year
7 funding. But at the present time what we are saying is that
8 with the present level of funding for fiscal '76, plus the
9 transitional quarters we have sufficient funds given an in-
10 crease of \$10.8 in the level of analyzed of funding of all
11 the programs, that it will run through December 31, 1976.

12 Let me relate one other point.

13 A subissue and also dealing with the headquarter's
14 grants is on page 4, which is the first sentence on the page,
15 just following the one you considered. As a part of this
16 recommendation it is also proposed that funds be programed
17 in 1976 to extend grants under the Reginald Heber Smith Program
18 through July 31, '77. The thinking here being that it will
19 coincide with the school year and recruitment now going on
20 for the ensuing year, that this is the time at which those
21 grants are normally made. This does not get to the basic
22 issue which this Board has the power to deed at this time if
23 it chose to do so of a continuation or non-continuation of
24 that program.

25 We are saying here that there are funds available;

1 and the recommendation of the staff is that that be programed
2 into the '76 appropriation because of the shortness of time
3 that we have to evaluate the program and the fact that it is
4 time to begin the recruitment procedure if we are going to
5 use it.

6 MR. BREGER: Are we reaching the question discussed
7 on page 15 as to a possible increase in funds through the
8 program as well?

9 MR. STOPHEL: That is part of this same question of
10 how much do we allocate to headquarters in the alternative 1
11 on page 2.

12 MR. CRAMTON: For purposes of convenience in
13 discussion, why don't we address ourselves first to the
14 forward funding of Reginald Heber Smith through the '76-'77
15 year, a position that is based on the notion that we don't
16 have time to evaluate that program before our commitment has
17 to be made now so they can recruit for that time, that during
18 the next year the program, like other programs, will be
19 evaluated and the determination will be made as to its
20 expansion or contraction.

21 Do you have comments on that?

22 MR. STOPHEL: I believe that is the only extension
23 beyond '76 we are considering.

24 MR. CORBETT: In the past we have not funded the
25 full cost of the Reginald Heber Smith prior to making that

1 commitment. We have been in the position of making a small
2 amount of money available and then scraping to fulfill the
3 contract commitments. And the feeling is that it would be
4 sound policy if you make a contract to engage fellows who
5 serve in the field, that you have the money to cover their
6 salaries at the time you make the contracts.

7 MR. CRAMTON: Mr. Smith?

8 MR. SMITH: I don't want to go into the whole
9 area of the Reginald Heber Smith fellows, but I was just
10 wondering; are there approximately 378 of them as this would
11 indicate here?

12 MR. STOPHEL: That was represented to us by the
13 staff in this document.

14 MR. BREGER: I want to know what the present
15 fellowship is.

16 MR. STOPHEL: I believe it is --

17 MR. CORBETT: It is \$11,600 and \$12,200, depending
18 on whether first year or second year of the program. And
19 we have 136 first year and then you have to put a fringe
20 benefit of 10 percent on top of that. We have 136 first
21 year, and about 120 second year, and 20 third year.

22 MR. BROUGHTON: Are you talking about the salaries
23 of the individuals who go into the field?

24 MR. CORBETT: Yes.

25 MR. STOPHEL: This is not really a training program,

1 as I understand it. It is a recruitment program, and I
2 think that this is admitted. It is a recruitment, primarily
3 of minutes for the programs. It is not a training program.

4 MR. BROUGHTON: Is that a grant from OLS?

5 MR. STOPHEL. That is correct.

6 As I understand it, there are applicants who ask
7 for selection of this and we might have someone here --

8 MR. RAY: Usually third year law students apply,
9 and they are interviewed by the Reginald Heber Smith staff
10 and selections are made by the staff. The Reggie Legal
11 Services staff have detailed the number of Reggies that would
12 be assigned to the various programs in the country, and then
13 the Reginald Heber Smith staff makes the determination as to
14 which ones they have chosen will be assigned where.

15 MR. CORBETT: There is quite a wide spread of
16 applicants. The majority of fellows adopted are from minutes.
17 It is one of the best recruiting methods that we have in terms
18 of our ability to obtain Spanish speaking and Indian, for
19 example, in addition to black attorneys.

20 MR. SMITH: The awards aren't limited to minutes?

21 MR. CORBETT: No, sir, about 50/50.

22 MR. CRAMTON: The view is expressed by the com-
23 mittee that we are at the go, no-go point in terms of the
24 '76-'77 recruiting year for the program that we did not have
25 sufficient staff or time to make the detailed evaluation as

1 to the use of the money for this purpose against other uses
2 of the money. This program will be evaluated with all the
3 other programs and we are recognizing that it operates on a
4 different fiscal year. And then carrying it for another
5 year through that extended fiscal year and with the additions
6 to be made before about a year from now as to the value and
7 whether or not the program should be expanded, modified,
8 discontinued or whatnot.

9 MR. BREGER: I support the program 100 percent,
10 and the experience I have had and the people I know who
11 have worked with it and run it, is that it is a first-rate
12 operation. The only purpose of my question was to wonder
13 about the \$500 increase. And that purpose was solely because
14 at least in some parts of the country, \$11,000 is more than a
15 Legal Services attorney with one year's experience would be
16 making if he was hired through the regular process.

17 MR. CORBETT: That is correct, sir. And the
18 purpose in setting the salary -- we have not permitted
19 increases for two years, although we have been requested.
20 But you are recruiting in law school for the best possible
21 people and you are recruiting to go at places of our choice
22 rather than necessarily the choice of the individual, be-
23 cause the formula is heavily rated on where the poor are located.
24 So it is thought if you can keep these people in for
25 two years you should have a salary that gives them an

1 indication that it may not be as good as they could get at a
2 particular location, but it may in some instances be higher
3 than the local program.

4 MR. ORTIQUE: And I think that your point should
5 be underscored that you are recruiting in competition with
6 law firms and so forth who certainly would have the higher
7 level and also this shouldn't be reduced.

8 MR. BREGER: My only wonder was whether we should
9 immediately, given what we have, move to bring up salaries.

10 SENATOR COOK: Would you break it down for me?
11 What is administrative costs and what is employment costs
12 our of that amount?

13 MR. CORBETT: The administrative cost, I believe,
14 is around \$600,000 which would include some orientation money
15 and also it includes one or two people who are running an
16 employment bank.

17 SENATOR COOK: So you really have \$433,000 left
18 for salaries to Reggie successful applicants?

19 MR. CORBETT: I don't know. The money we are
20 proposing is merely additional money to make an additional
21 increment in the salary holding the administrative budget
22 contract.

23 SENATOR COOK: But there has to be some explanation
24 on page 8 because it shows the fund through 7/31/77, approxi-
25 mately costs \$1,033,000. Where is the balance of the cost

1 for the program? Where is it in this proposed recommendation
2 that you have before us?

3 MR. STOPHEL: It is not in that material. It is
4 in the material that you had previously.

5 SENATOR COOK: But we are here to approve alloca-
6 tions today. We are not just approving \$1,033,000 for this.
7 We are approving how much?

8 MR. CORBETT: It would be a total of \$4.4 million
9 plus \$1,033,000 to carry the additional four months.

10 MR. BROUGHTON: What is the total then?

11 MR. CORBETT: About \$6,400,000 in total. But this
12 is funding for almost two years.

13 SENATOR COOK: How many lawyers were selected last
14 year?

15 MR. CORBETT: 136 last year. That is a reduction.
16 There used to be 200.

17 SENATOR COOK: I thought these candidates were
18 picked at graduation.

19 MR. CRAMTON: It is a two year fellowship.

20 MR. BROUGHTON: Is the bulk of the money involved
21 in the training or in the salaries?

22 MR. CORBETT: Salaries.

23 MR. BOURGHTON: Could you break that down?

24 MR. CORBETT: The administrative cost is about
25 \$600,000 annually, and that includes some money for an

1 orientation session.

2 We have provided in the past that the first year
3 Reggies would be included in the first year training that is
4 provided for other lawyers in the program by Catholic
5 University.

6 MR. STOPHEL: Let me suggest that you look under
7 tab 9 and there is a chart there showing the proposed 1976
8 proposed transition quarters and the '77 estimate which is
9 purely that at this time.

10 MR. EHRLICH: My own view about the need for an
11 evaluation of this program -- there was not time for the staff
12 to do it, but I have no doubt that it will be done.

13 SENATOR COOK: So it is a two-year program. So if
14 you have 200 the first year, 200 the second year, and your
15 salary level is approximately \$12,000, then if you have an
16 administrative cost of \$600,000, and you are talking about
17 funding at a level of \$6,400,000.

18 MR. CORBETT: No, sir. The annual cost was \$4.2
19 million. If you make this slight addition for the salary
20 adjustments, it will come to 4.4.

21 SENATOR COOK: I figured everybody at \$12,000
22 and -- what is the cost of the orientation?

23 MR. CORBETT: I am not sure what that is now. But
24 it is not very great; \$30- or \$40,000.

25 SENATOR COOK: How often does it occur?

1 MR. CORBETT: Just once for the first year and
2 that would include bringing them in from wherever they are
3 and sending them back.

4 MR. STOPHEL: There are some problems with regard
5 to concepts of the program because sometimes they are sent
6 into states where they are not licensed to practice.

7 I have asked that there be a close evaluation of
8 this, and upon occasion I have asked project directors whether
9 they prefer to have their Reggies or \$22,000, and I don't
10 think there is any question about which they prefer to have.
11 But that doesn't omit the question of minutes, assuming
12 that is a good objective, sending them into areas that they
13 don't particularly care to go to.

14 MR. ORTIQUE: That is one of the aspects that will
15 have to be looked at. And I am sure the president is talking
16 about that when he talks about the evaluation.

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1 SENATOR COOK: First of all, the merits of the program
2 have got to be phenomenal. The merits of resolving a recruit-
3 ment program at a central agency rather than a recruitment
4 program on an individual basis throughout the entire field
5 operations has got to be the resolution, one whale of a
6 problem.

7 Those people that have been involved in it -- I am
8 wondering whether there is any input we can get today as to
9 how you resolve the problem or how you got into the situation
10 of committing yourself to the employment of lawyers on a
11 two-year fellowship but then found out that they were not
12 qualified to be practitioners in the locations where they
13 were sent.

14 MR. CORBETT: It is not. You are hired for one
15 year with the thought that if they are doing a good job,
16 they would be continued. If they would not take the Bar
17 exam, for example, they would not be continued.

18 So there is some discretion whether you continue
19 or not. And it depends also on what the project directors
20 feel about it.

21 SENATOR COOK: You have already resolved my pro-
22 blems. In other words, they do gear them to take the Bar
23 exam in the state in which they wish to practice?

24 MR. CORBETT: Right.

25 SENATOR COOK: Could we have some comments?

bwm 2

1 MR. CRAMTON: All right.

2 MR. SABLE: I graduated from law school in '68
3 and have applied for a Smith Fellowship earlier on. I was
4 assigned to Cleveland, and knowing that I was going to be
5 assigned to Cleveland, I signed up for the Ohio Bar, along
6 with other people who were hired directly by the Cleveland
7 program. There were about three or four of us in essentially
8 the same situation.

9 We received the orientation in the summer. I took
10 the Bar in the summer and was admitted in October. So there
11 was a period of about four months when I couldn't go into
12 court. And I stated as a Smith Fellow in that program for
13 two years, and as a member of that staff for six years, and I
14 think that is more typical than the occasional situation where
15 someone comes in and doesn't take a local Bar.

16 Ocassionally there are personal problems, but the
17 bulk of my classmates would take the Bar at the first
18 opportunity and would be attorneys then.

19 SENATOR COOK: Then what you are really saying
20 is that the possibility is negligible of not taking the Bar?

21 MR. SABLE: Yes.

22 MR. VENEY: In Mississippi the field offices are
23 staffed only with Reggies, and I realize that shouldn't be.
24 But the experience has been of the black attorneys, a great
25 deal of difficulty in passing the Mississippi Bar.

bwm 3

1 The same thing is true in Georgia. It is not that
2 they have not taken it. In fact, several private attorneys
3 have brought suit against the Bar because they alleged dis-
4 crimination, and we have had very real experiences of Reggies
5 taking the Bar exam in Mississippi and not being able to get
6 past that Bar exam.

7 MR. CRAMTON: Mr. Cook?

8 MR. WILLIE COOK: I was formerly a Reggie also, and
9 I was also formerly deputy director of the Reggie program,
10 and to address myself to some of the concerns you make --
11 Number One, first of all, the policy of the program is that
12 each Reggie take the examination in the state that he or she
13 is assigned, and that is the present policy of the program.

14 Some of the thinking about the Reggie program is
15 that I think most Reggies, or many of them, have had the
16 experience that I had. I went into the program upon gradua-
17 tion and have remained in Legal Services for the last six and
18 one-half years.

19 I think the Reggie program, particularly for
20 minorities, has been a very great, a very valuable recruiting
21 tool for Legal Services because the experience in Legal
22 Services naturally, I think -- in fact, at one time we had
23 figured out that roughly 80 percent of all minorities in
24 Legal Services either were Reggies or were formerly Reggies.

25 And also, in terms of recruiting, I don't think

1 that any of the local programs have the kind of capacity to
2 recruit like the Reggie program does.

3 We go to virtually all law schools throughout the
4 country, all accredited law schools, and the search for
5 talent in all the law schools is an exhaustive one. And I
6 think it also has a lot to do with the question of funding
7 through 1977 because the problem is we in the Reggie program
8 or those in the Reggie program now can't afford to wait until
9 after graduation. Since you are covering so many law schools,
10 it is essential that you start very early on in the year
11 because we have had applications in numbers anywhere from
12 1000 to 4000, and we make a policy of interviewing personally
13 all of those people who apply to the Reggie program from
14 schools all over the country.

15 SENATOR COOK: Thank you.

16 MR. BREGER: I would like to underscore the
17 comment about minority groups. I think the program is --
18 I think one of the real problems that Legal Services has,
19 generally, is that we are unable to recruit a sufficient
20 number of minorities. And I think the fact that the Reggie
21 program includes 80 percent of the minorities in Legal Services
22 is a very important factor and one we ought to weigh very
23 seriously in considering this.

24 MR. CRAMTON: Is there further discussion?

MR. BROUGHTON: I am not suprised by what

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1 Mr. Breger said.

2 I did, Mr. Chairman, try to get caught up on my
3 homework late last night. And the latest memorandum we have
4 in this area, and this is speaking with respect to the
5 section known as the Green Amendment, has this statement:
6 "Research training, technical assistance, and activities not
7 directly related to the provision of legal services can be
8 undertaken by the corporation itself but cannot be funded
9 by grant of contract."

10 Now, I support strongly an effective training
11 program.

12 MR. CORBETT: We had an inquiry from the Hill in
13 connection with this program at sometime back as to whether
14 this was caught by the Green Amendment, and after consulting
15 counsel, this was in CSA, we wrote back that this was not
16 covered since it was essentially a recruiting device, an
17 alternative means of furnishing staff members to programs, but
18 on a selective basis. So that it was not caught by the
19 "training, technical assistance."

20 Looking toward the future, the training of those
21 Reginald Heber Smith Fellows, and the training of other new
22 lawyers would have to be treated in a separate way, consistent
23 with the Green Amendment.

24 MR. BROUGHTON: As far as administrative cost is
25 concerned, you said \$600,000?

b wm 6

1 MR. CORBETT: I think so.

2 MR. BROUGHTON: Does that cost item go mainly into
3 the employment of those people who go out and visit the law
4 school and their travel expenses, and so forth?

5 MR. CORBETT: Yes, sir.

6 MR. BROUGHTON: How many people are involved in
7 the actual recruitment?

8 MR. WILLIE COOK: About five professionals
9 actually do the recruiting and fan out throughout the various
10 parts of the country.

11 SENATOR COOK: That \$600,000 -- also, I would assume
12 you put out brochures, that you have brochures in law schools
13 all over the country and applications that go along with those
14 brochures, your printing expenses, and that sort of thing also?

15 MR. WILLIE COOK: It covers all of our travels,
16 all of our printing materials. everything that we do
17 administratively, and that runs about \$600,000 a year.

18 SENATOR COOK: Could you make available to us the
19 correspondence with the Congress on that, relative to the
20 recruitment?

21 MR. CORBETT: I think I can find it.

22 SENATOR COOK: We have got a meeting in December.
23 You can let us know than.

24 What you are saying is in the whole aspect, if
25 this constitutes recruitment, it is their opinion that it

bwm 7

1 doesn't come within the framework of the statute?

2 MR. CORBETT: We felt this was not covered, but
3 it was really a recruitment in an alternative means of pro-
4 viding staff.

5 SENATOR COOK: But you indicate there is some
6 problem in relation to the training aspect at Catholic
7 University?

8 MR. CORBETT: But that would be common to other
9 problems that would exist with the manner in which Catholic
10 University, their training is conducted, and that would be
11 part of this study being conducted.

12 MR. BROUGHTON: Is Catholic University primarily
13 in training, as opposed to recruitment?

14 MR. CORBETT: We created a training institute and
15 are trying to put all the training activities under that
16 institute.

17 MR. STOPHEL: Down in our state we have a law school,
18 and when we recruit from it, we check out their cockiness
19 scores, and I think that is what this is for. This orientation
20 kind of tells these fellows they are going out there and they
21 are a little bit different from the other staff, and I am
22 supporting this thing because I am not ready to say, let's
23 bring it all in-house at this time. I don't think we are
24 ready to do that, and we couldn't recruit for this year.

25 SENATOR COOK: The amount of money you are talking

bwm 8 1 about is direct recruitment under the Reggie program anyway.
2 Are the funds included in this for the orientation also?

3 MR. STOPHEL: Yes. They have a five-day orienta-
4 tion program to get them ready to go down there and get
5 really revved up and ready to go. Some of them come in so
6 revved up, they just keep on going.

7 MR. CRAMTON: Time is marching on. I don't want
8 to cut off a very useful discussion, but we do have other
9 things to consider, and this is only one item of those
10 considerations.

11 Is there any further discussion of the Reginald
12 Heber Smith item, or can we come back to the basic principle
13 which the committee was seeking support from the Board for?

14 MR. MONTEJANO: Just one question. I wonder if
15 you could give us the figure for the number of Chicano lawyers
16 in the program for the past five years?

17 MR. CORBETT: Yes.

18 SENATOR COOK: Mr. Chairman, I have no objection to
19 the funding of this program. I think that there ought to be an
20 evaluation made relative to any other training because as I
21 consider the Reggie program, it is not training at all. And if
22 there is any facet of it that is a training program, then, I
23 think we should be very careful in our evaluation of it, that
24 we don't run smack up against the statute.

25 MR. CRAMTON: And in our discussion of Item 6, as

1 we discuss the meaning of 10683 at various times, we have to
2 bear in mind whether other grants in addition to the 16 backup
3 centers do, in part, present similar problems, as we believe
4 that language has to be interpreted.

5 And I think that point is well taken, and our staff
6 and counsel and all of us should be conscious of it.

7 I am a little confused as to where we are.

8 MR. STOPHEL: We were discussing the issue relative
9 to the alternatives on Page 2, relative to the program
10 adjustment which, as I mentioned earlier, is the bottom
11 line we are looking at, which will relate to the immediacy,
12 the immediate sending of funds out. And in order to reach
13 that figure, we have to decide how much is going to be taken
14 out before you get there.

15 We have set enough funds aside in this budget to
16 fund that program through 1977, the headquarters program. My
17 motion went to accepting the staff recommendation about
18 Alternative 1, which provides for funding of all grants through
19 September 31, 1976, and with the transition funds through
20 December 31, 1976.

21 This is a funding, not a making of a grant. This is
22 providing funds for that purpose.

23 SENATOR COOK: This is allocation and not commit-
24 ment?

25 MR. STOPHEL: Right, for all the programs at the

bwm 10

1 levels here.

2 MR. MONTEJANO: Maybe this comes under Tab 8 or
3 Tab 9, migrant legal services. I understood that they would
4 be funded under the budget and they had received assurance
5 from the staff.

6 Are we including that under the present budget,
7 as I thought we had -- not "agreed." That is the wrong term,
8 as I thought it was going to be done?

9 MR. CRAMTON: Doesn't that relate to the next
10 major issue about the allocation within it, between the
11 field programs and supplemental?

12 MR. STOPHEL: Yes. This comes up in about two
13 issues.

14 MR. CRAMTON: Now, Alternative 1, and the head-
15 quarters actions that are proposed, with reference to the
16 headquarters program that is before you -- all those in
17 favor, please say Aye.

18 (Chorus of Ayes.)

19 MR. CRAMTON: Those opposed, say No.

20 (No response.)

21 MR. CRAMTON: It is now 12:30, when we are
22 scheduled to have lunch, and I propose that we break at this
23 point and that we return promptly at 2:00 o'clock and warrant
24 and swear that we will reconvene at precisely 2:00 o'clock.

25 Several members of the Board have asked me to

bwm 11 1 suggest that it might be appropriate that we meet in executive
2 session during our lunch.

3 Is there a motion to that effect?

4 MR. SMITH: I so move.

5 MR. CRAMTON: Do you wish to spell out any issues
6 for the public record that we might say are to be discussed at
7 that time?

8 MR. SMITH: I suppose the motion should spell
9 out personnel. If there is anything else to be added, I will
10 accept it. But that is the only thing I know of.

11 MR. CRAMTON: Personnel and related subjects.

12 Is there discussion?

13 (No response.)

14 MR. CRAMTON: All those in favor, please say Aye.

15 (Chorus of Ayes.)

16 MR. CRAMTON: Those opposed, No.

17 (No response.)

18 MR. CRAMTON: We will now recess, to reconvene at
19 2:00 o'clock.

20 (Whereupon, at 12:30 p.m., the meeting recessed for
21 lunch, to reconvene at 2:00 p.m. this same day.

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AFTERNOON SESSION

2:00 p.m.

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NOTES

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3 MR. CRAMTON: Will the members of the Board please
4 come to order. Meeting will come to order.

5 We're only ten minutes late, which I think sets a
6 record which we'll try to improve on.

7 Mr. Stophel, you were in the midst of the report
8 of the Committee on Appropriations and Audit.

9 MR. STOPHEL: Yes, it should be said that in that
10 last item which we considered is the support of backup center
11 item, which obviously we're not saying by including the funds
12 in this proposed '76 year that those are extended in any
13 period beyond the current grant period, but there is \$5,666,000
14 in the figures, as you will see from your chart.

15 That includes those 12 national centers and the
16 training and clearinghouse and technical assistance and the
17 paralegal institute, and I point that out for clarification
18 of the item we were discussing, the headquarters program items
19 which are listed in some detail in your chart.

20 We had also previously discussed the question
21 related to what commitment to individual program funding was
22 adopting this allocation and the general thinking being that
23 with an evaluation in progress or to be made of all the
24 programs and with other recommendations which will follow here
25 in the model of allocating this increase that is to go out,

11w-2

1 that any change in those programs would be expected to be a
2 result of that evaluation process made by our staff.

3 Now, that's about as firm as you can be, I think,
4 with individual programs, because we don't want to lock
5 ourselves in at this time to any particular program going at
6 a certain level through December 31, 1976.

7 The issue to which we address ourselves now is
8 discussed on pages 5, 6, and 7 of the material and is really
9 the issue that brings us to the \$10.8-million figure that
10 we've been talking about being the bottom line of getting an
11 increase to the programs currently from these funds.

12 And trusting that you have read the materials that
13 have been provided you, I'll simply say that the requirements
14 that the staff placed upon itself in doing this was to not go
15 beyond what it considered a safe level of funding, based on
16 current appropriations, that is, the current appropriations
17 we're dealing with. And in making what it believes to be the
18 optimum distribution of transition funds, it found that an
19 operating program level of \$90.6 million that we were talking
20 about earlier should be followed.

21 And this leaves out of that \$14,757,000 that we
22 arrived at by applying alternative 1, which is funding through
23 December 31, 1976, \$10.818 million for allocation to the
24 field programs in this fiscal year.

25 This is an allocation which will bring the operating

11w-3

1 level of those programs up to that and is an approximate
2 increase of 17.7 percent over their current level of funding.

3 The Committee asked the staff to recommend a mode
4 of allocating that 10.818 millions of dollars.

5 The staff did so and incidentally there was a good
6 bit of input on various and sundry levels and we've just been
7 handed a letter from the Dallas Legal Service Foundation in
8 Region 6 concerning the same issue we're now addressing,
9 relative to how these funds are to be allocated among the
10 programs. There were proposals for doing it all across the
11 board on a percentage basis. There was a lot of discussion
12 before the Committee concerning the fact that some programs
13 perhaps would lose outside funding if there was an increase
14 at the time by the corporation. That would be merely swapping
15 funds and perhaps we ought not do that with that particular
16 program. So we felt that some flexibility should be built in.

17 The Committee recommended -- The staff recommended
18 a three-fold mode of allocation. I will briefly discuss
19 those and let the president speak to it also.

20 The Committee actually voted on a two-level, but
21 I think you need both of these before you.

22 I will present the two-level, first. First is to
23 take an across-the-board increase of \$6.1 million approximately,
24 which I believe is approximately a 10 percent increase to the
25 programs of their current operating levels.

11w-4

1 This would be made retroactive to October 1, which
2 in simple terms means that it would be on a 12-month basis,
3 because we're talking about through September 30, 1976.

4 That would be made to assume programs, except for
5 those programs who would suffer a loss of other funds or who
6 could not, in the judgment of the staff, effectively use the
7 funds.

8 There may be programs out there with actual
9 surplusses of funds.

10 The staff would notify such programs, any program
11 that was not to receive this 10 percent -- would notify the
12 program of that by November 20. The programs would have the
13 opportunity to appeal that decision by December 1 and a final
14 decision would be made by the president on or before
15 December 12.

16 The second increment would be an increase not to
17 exceed a certain percentage, which is not set forth at this
18 time to any particular program, to be disputed or allocated on
19 a sliding-scale basis on a dollars-per-person-covered in that
20 area based on the BSSR report subject to the fact that we
21 would deal with the programs below the mean of the dollars-
22 per-poor-person being devoted now to legal services.

23 And let me back up a minute. The Committee's
24 recommendation would increase a greater-than-10-percent
25 increase. It was \$6.1 million, which is ten percent plus

11w-5

1 \$1,618,000 or a total of 7.718 million leaving 3.1 million
2 for this distribution on a sliding-scale basis.

3 Before making a motion to get the issue before us,
4 let me comment very briefly on the third element that was
5 proposed by the staff. Instead of putting the 1.618 in the
6 across-the-board increase, it was recommended that \$1,618,000
7 be left flexible to be distributed on a qualitative basis
8 and by request of the programs. Those requests to be recieved
9 by January 1, 1976, and to be evaluated and distributed on or
10 before January 15, 1976.

11 As I said, the Committee decided to go with the
12 two-factor formula and I think that was more -- From my view-
13 point at least it was in an effort to get it to the Board,
14 because we were at a point in stopping this morning at 9:30
15 when this Board was ready to convene and we had not discussed
16 at length what mode would be used. And I think it is entirely
17 appropriate for this Board to address itself to this issue at
18 some length.

19 We have had a great deal of input from outside
20 groups. There cannot really be a total agreement, I don't
21 believe, because there are pros and cons on each of the factors
22 that are discussed.

23 But, Mr. Chairman, I move that the recommendation
24 of the staff that the annual grant level be \$71.8 million,
25 which would free \$10,818,000 to increase field programs in

11w-6 1 this fiscal year and it would be approved by the Board and that
2 the allocation of those funds be by the two-factor formula
3 that I just described.

4 MR. CRAMTON: Is there discussion?

5 MR. KUTAK: Second.

6 MR. CRAMTON: All those in favor, please say aye.

7 (Chorus of ayes.)

8 MR. CRAMTON: All opposed?

9 (No response.)

10 MR. CRAMTON: Now we have the possibilities. One-
11 or two- or three-factor possibilities. Mr. President?

12 MR. ERLICH: I would urge for your consideration
13 in essence an approach that is two-part. One, an across-the-
14 board increase of 10 percent subject to the points that were
15 just made by Mr. Stophel.

16 The second part in the discretion of the staff, I
17 think you are all entitled to know how that discretion would
18 be exercised. It would be our plan to exercise it.

19 One part that was suggested would be in an effort
20 to meet to some small degree the serious disparities in the
21 availability for the poor in different parts of the country.
22 I think the materials that we have, as you mentioned previously,
23 support that disparity.

24 And it is a very real problem and indeed this whole
25 area is one full of tough problems. And that would be at a

11w-7

1 level of 3.1 million, a further increase in varying amounts
2 not to exceed a maximum percentage distributed on a sliding-
3 scale basis to those programs least well funded in terms of
4 dollars-per-poor-person, subject only to the program's ability
5 to utilize the funds fully and effectively.

6 And it would be our proposal in the exercise of
7 that discretion to follow basically with some inevitable
8 modifications the structure of the BSSR analysis.

9 A second element in the exercise of that discretion
10 which we would propose to use would be not on a quantitative
11 basis, but on a qualitative basis. And I would urge in terms
12 of a new approach, that also is important. We would not have
13 very much funds for it, only 1.618 million. But it did seem
14 to us that the effort should be made and we believe can be
15 made. We may be wrong and we may come in essence and say:
16 For the reasons that were articulated in the Committee meeting
17 this morning, it can't be done adequately without such serious
18 concerns that we would indeed go back and simply not follow
19 that course.

20 But I think the effort ought to be made on the
21 qualitative basis. We look to factors that demonstrate
22 extraordinary need and quality of performance and on that basis
23 we would propose the programs for proposed increases from this
24 1.618-million-dollar fund through the regional offices prior to
25 the first of next year, that the regional offices would

11w-8

1 evaluate and rank those proposals and we would try to reach
2 final decisions by the 15th of January.

3 That would give some element of qualitative
4 differentiation at first; but I think that's an important step
5 in that as well as the quantitative effort through the use
6 of the sliding scale based on the numbers of poor people
7 served.

8 MR. ORTIQUE: May I comment, Mr. Chairman?

9 MR. CRAMTON: Mr. Ortique.

10 MR. ORTIQUE: I ahve certainly been concerned about
11 some allocations being made to quality programs and I know
12 that. But I have equal concerns that frequently those
13 programs that have had the funds in the past are able to
14 demonstrate quality. Those programs that have not had funds
15 are not able to demonstrate, and what we would be doing is
16 merely making an additional contribution to those programs
17 to do some additional demonstration of their worth.

18 I can understand the need and I certainly feel
19 strongly that we should strive for quality and the staff
20 needs some discretion in saying: Look, you have done a good
21 job. I know that an extra \$50,000 will really strengthen
22 that program and that program is in need and I know that it
23 would be appropriate to criticize the staff, if you did not
24 have the opportunity to recognize that.

25 My great concern, and I guess the one that outweighs

11w-9

1 all of that is that these programs, that the programs are so
2 much in need that that should be weighed carefully.

3 I would therefore urge that if we were to adopt
4 the staff recommendation instead of the recommendation that
5 I urged this morning, that the Board would be invited to look
6 at that proposal for those allocations to have some input,
7 not for purposes of vetoing, but to have some inputs, to have
8 the opportunity at least to indicate that we feel that there
9 is a serious problem some place.

10 My great concern is that if when you divide up that
11 part of the second category the horror stories that are
12 coming out of the Dallas region, for example, have not been
13 rectified, I would certainly want to at least make an argument
14 that the improvement of quality in a program should not rank
15 as high as the operation to remove some of those horror
16 stories.

17 MR. ERLICH: I am very sensitive to the point and it
18 is a terribly important one. What you are talking about is
19 quality in terms of serving poor people, not rewarding lawyers.
20 No question. That's the goal. I quite agree and it is very
21 tempting to think of one and not the other, because it is
22 easier.

23 But we're talking about helping poor people. That
24 is what we mean in this context. We would strive and I am not
25 positive, in honesty, that it can be done.

11w-10

1 Several have suggested here that it can't be,
2 without such serious concerns that it is not worth it. But
3 I think it is very much worth the effort to try, given the
4 kind of concern you suggested. And we'll do our best to take
5 it into full and fair account.

6 MR. KUTAK: Mr. Chairman, I can well appreciate
7 the feelings and concerns that he has suggested, for he has
8 seen it firsthand and he knows it's impact. But I would hope
9 that as a matter of policy, that the Board does not become
10 incorporated in an advocacy program for one or another
11 geographical location.

12 If we did that, we would find ourselves, I think,
13 able to bring to this Board not only needs in one area, but
14 needs in all areas.

15 And we would find ourselves perhaps overlying
16 equally compelling areas. I think what this Board ought to
17 do is give our administration and our Budget Committee the
18 kind of strong directions with regard to principle and standard
19 and urge their full appreciation of it, and allow them
20 administratively to implement those guidelines.

21 I said facetiously, and it was facetiously,
22 yesterday when Revius spoke so eloquently with respect to
23 his impressions: "Well, gee, I have not done my homework yet
24 on district 6," or region 6, I guess it was, region 5. And
25 I said I had better get out on the road, because here is

11w-11

1 brother Mel, who has been up to Boston, and here is brother
2 Revius, who has been down to Dallas, and I haven't been out
3 to Ohio yet.

4 I don't mean to appear that I am treating your
5 concern without the seriousness it deserves. I think the
6 case has been made that we've a desperate need for legal
7 service supplements and support across the nation.

8 I would hope that what we could do is enunciate
9 principles and policies that leave to our people the
10 amplification of them, or otherwise I would feel that we would
11 become sectionalized on the Board, when we don't really mean
12 to.

13 MR. BROUGHTON: I didn't interpret his remarks
14 that way at all. And he has been talking about the Dallas
15 situation for many years. And I think if the regional liaison
16 concept is to be beneficial to the Board, not in an advocacy
17 situation, I think it is our duty to report to the Board what
18 we, as Board members, find in a particular situation which
19 we think the Board and its staff should consider.

20 MR. KUTAK: I am sorry if I misrepresented you,
21 Revius.

22 MR. ORTIQUE: I am talking about the broad needs
23 in the various areas as opposed to the reward to quality
24 programs.

25 I worry about quality programs getting better,

11w-12

1 because they have more money.

2 MR. BREGER: I think that's a very serious point,
3 and I think one has to be aware of the real difficulties that
4 a shortage of funds has created for all the programs there.
5 I have one question really, only as a point of information.

6 Has any thought been given to enunciating principles
7 of how the increase should be spent by local programs, or is
8 it clear that our intention is to make gree grants with these
9 increases?

10 MR. ERLICH: In terms of the three different
11 categories, assuming there are three, I hope that it will be
12 clear that what I call the qualitative factor, qualitative
13 in terms of poor people, would be based on proposals for
14 specific increases. For all of them we would expect the
15 projects to indicate how they expected to use the funds.

16 They have to be on the basis of interaction,
17 continuing bases. And we would expect to do just that. I
18 can't tell you now we can do an evaluation of those, any
19 more than we can do the evaluation of the projects themselves.
20 Basically it will go for salaries. No question about that.

21 Putting people in unfilled positions, unfilled
22 because of lack of money, and taking a tiny step toward
23 bringing up those grossly underpaid salaries that now exist.

24 MR. STOPHEL: However, I think that most of the
25 statements before the Committee were that this ought to be

11w-13

1 sent down to the projects at their discretion. They have
2 trimmed budgets in areas that they have established their
3 priorities. That's category 1, the basic increase not less
4 than 10 percent, and probably more on the theory that we
5 simply want to get these funds out. That's the number one
6 priority, and we don't want to delay it by having us look and
7 say" We ought not to increase that secretary or that project
8 director.

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1 MR. CRAMTON: Is there further discussion?

2 MR. MONTEJANO: Zeroing in on the comments by
3 Revius, I can assure you that the horror stories exist equally
4 as badly in California and Arizona as they do in Texas. I
5 fear that if we get into that kind of a situation there just
6 is not enough money at this time to take care of all of the
7 equally pressing problems and they are all immediate.

8 And I would feel very uneasy if we should go into
9 Dallas, for example, and take care of an immediate problem
10 there and not do anything at all about a similar problem in
11 North Dakota, Ohio, California or wherever else. It begins
12 to become a contest which I think we cannot win.

13 I would prefer that we come back with all of these
14 needs and express our case very strongly to Congress for
15 additional funding to supplement these funds or to the budget
16 next year.

17 I really feel that we would be treating some to the
18 detriment of many, many others. And I would rather try and
19 treat them as equally as possible.

20 I think the staff needs some discretion in the
21 qualitative area if nothing else. I think the corporation
22 should begin to show now that there is a new face, a new look
23 and things are changing for the better.

24 I think with a small amount of discretionary money
25 I think the staff can begin to get that message out rapidly.

1 The other pressing problems I think we have to
2 approach as a board together and make that point known well and
3 immediately to Congress as best we can.

4 MR. CRAMTON: Is there further discussion on this
5 question? You have several alternatives. And does the
6 committee move a particular alternative?

7 MR. STOPHEL: The committee motion came in the form
8 of the two factor formula. That was moving the \$1.618 million
9 of the staff recommendation which would be a qualitative
10 discretionary increase up to the across the board section.

11 MR. CRAMTON: I would suggest that if a board
12 member believes that the qualitative aspect should be included
13 and several people have argued in favor of that, the appropri-
14 ate step at this time would be a motion to amend which would
15 put that before us and then we can vote on that and if that
16 is the feeling, then we come back to Mr. Stophel's proposal.

17 Mr. Montejano, do you desire to make a comment?

18 MR. BREGER: I move to amend.

19 MR. MONTEJANO: I second

20 MR. CRAMTON: We now have a motion to amend before
21 us and seconded. That incorporates the proposal described
22 by Mr. Ehrlich.

23 MR. KUTAK: Question.

24 MR. CRAMTON: Mr. Ray has his hand up. I don't
25 know how well this was discussed.

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1 MR. STOPHEL: It was discussed and I would like
2 the board to give a few moments to others.

3 MR. CRAMTON: With unanimous consent, Mr. Ray?

4 MR. RAY: Thank you very much. I speak in support
5 of the committee's motion that is to have categories 1 and 2
6 but not category 3. Without question, the National Legal
7 Services program has got to begin affirmatively to recognize
8 both quality performance and creativity.

9 We also have complete confidence in the management
10 staff of this corporation exercising those judgments.

11 We think at this unique point in time it would be
12 a mistake, however, prematurely to do so. Let me illustrate.

13 Under the staff's proposal today, \$6.1 million
14 would be allocated for a 10 percent across the board increase.
15 In point of fact to make up for the inflationary increase
16 since the last new moneys were available, it would take
17 \$18,900,000.

18 Therefore, the staff proposal calls for less than
19 one-third of that.

20 Secondly, with respect to category No. 2, making
21 up for the discrepancies that exist in terms of the per
22 capita moneys, to do so on a national level simply trying to
23 arrive at the national average, \$3.64 per capita covered per
24 poor person would take \$8,147,000.

25 The staff's proposal would accomplish less than

1 half of that.

2 And therefore, before you ever get to the \$1.6
3 million for quality you are going to be sharply below what is
4 needed to accomplish either of the first two objectives.

5 What's more, you are going to be considering
6 proposals for this \$1.6 million response in a quality vacuum.

7 That is absent either the evaluations nationally
8 except in the most ad hoc and limited way that they have
9 occurred, absent the long-term funding objectives and standards
10 and methodology which we certainly urge strongly that you
11 develop. And what you're going to end up doing is not
12 enabling those programs that are in that crunch and that have
13 quality to be able to start to come back up to par anyway.

14 There are 87 programs in this country that are
15 funded below \$100,000. There are another 28 that are funded
16 between 100 and 125,000.

17 Now, the first two categories of funds are going
18 to leave those programs, simply because of their small size,
19 inherently still coming from behind anyway and, therefore, we
20 think that notwithstanding the highly desirable objective in
21 the staff's third category and the fact that the staff certainly
22 will be able, given the time, to develop the process and the
23 criteria for reaching such objectives now is just not the time
24 until you in fact are going to be able to come close to making
25 up for lost capacity and come close to establishing parity.

1 One other point. Glenn has deliberately talked about
2 a 10.8 figure which would provide the equivalent moneys through
3 December of 1976 for the existing programs but not to make any
4 commitments to fund existing programs beyond March.

5 And we realize that an evaluations process will be
6 going on simultaneously and we have no quarrel with the fact
7 that as programs begin to be evaluated if they look like real
8 losers and they can't be salvaged through technical assistance
9 or some other close-working relationship, that there would be
10 a good argument for not giving those programs new moneys.

11 That aside, however, we think that if you don't
12 communicate to the field programs that they are going to
13 receive moneys subject only to the evaluation process at this
14 new financial level through December, that you are going to
15 leave them in a complete state of uncertainty as to what is
16 meant by the fact that you are allocating the funds but you
17 are not making a commitment to fund the programs beyond
18 March.

19 Thank you.

20 MR. CRAMTON: Is there further discussion?

21 MR. DE MILLER: I am speaking on behalf of FPAG in
22 further amplification of the position Mr. Ray just mentioned.
23 One thing that particularly concerns us given the last 10
24 years', eight years' history of funding decisions is that if
25 a decision to fund a program to give a certain amount of money

1 is given on the basis of quality, that the signal, the
2 standards that go into that word and the meaning of that word
3 be very clear before the decision is made and that the pro-
4 grams have an opportunity to bring themselves into line with
5 those standards so that we not have a situation as has been
6 constantly talked of in recent years, of decisions being
7 made in a mystifying way.

8 They can't understand how some programs which
9 already were comparatively well off suddenly got beat off.
10 As was pointed out in the critique of the alternative pro-
11 posal of the Urban Institute, quality and a program's level
12 of achievement is a function of the goals that the program
13 sets at the outset.

14 We can program for certain results if we know
15 what the goals we are supposed to meet are.

16 We don't know now. We have been in a vacuum
17 for several years as to precisely what the goals are. There
18 is not unanimity as to what quality is. The thought that
19 decisions could be made as to what quality, what standards
20 are being followed and secondly that each program could be
21 measured against whatever those standards are and that all of
22 that could take place by January is absolutely incomprehen-
23 sible to me as a program administrator.

24 And I think it has a strong element of unfairness
25 as well because the programs really haven't had notice and an

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1 opportunity to respond in that way. And it really carries
2 an aura of something of the old politics of funding, something
3 of arbitrariness, something of perhaps favoritism, something
4 like that.

5 So once again we speak very strongly in favor of
6 even-handed treatment. We absolutely support and respect the
7 need and the ability of management in the long run to make
8 those decisions.

9 But we suggest that the timing is such that it
10 cannot be done in the space of two months. That is something
11 that can be decided now.

12 MR. CRAMTON: Only a few more brief comments. Our
13 time is getting very short.

14 MR. GAUTLIB: One thing I haven't heard discussed
15 in this concept and I don't know whether the staff has gone
16 through this one yet, but if you're going to be making
17 decisions on the question of quality, are those decisions as
18 you conceive them, going to be decisions which reallocate
19 among communities and regions, or are they going to be
20 decisions which reallocate between services providers to the
21 community?

22 MR. EHRLICH: I'm not sure I have the implications
23 of the question.

24 MR. GAUTLIB: If you make a decision about program
25 quality and you decide that program X is not as good as you

1 would like it to be, there are two things you could do, as I
2 see it.

3 You could take the money out of the community
4 served by program X and give it to somebody in California or
5 Texas or New York or whatever, or you could try to put some-
6 thing else into that community or get another program to
7 extend its services.

8 In other words, what I am trying to get at is: you
9 are going to have these funds. But how are you going to work
10 that decision out? Is it going to go across purposes with
11 other allocation decisions? Or if it's not, have you been
12 working on a way to measure that within the community?

13 MR. EHRLICH: Let me say exactly how far we are,
14 which isn't terribly far down that line. To some extent I am
15 afraid here quality sadly has become a buzz word for other
16 sets of concerns. What we are talking about is not rewarding
17 lawyers but helping poor people. What we mean in this
18 category is differentiating it from a more mechanical distri-
19 bution based on qualitative factors.

20 What will those qualitative as opposed to quanti-
21 tative factors be? How will we find the ways in which
22 particular proposals will have maximum wallop for funds?
23 \$1.6 million. We think, based upon general standards for
24 programs, that we can develop an approach that will give some
25 standards for how much wallop relatively small amounts can

1 have for serving poor people within the time frame. Others
2 have suggested concern that we can't except on a very arbitrary
3 basis. They may be right in which case we'll shift over. We
4 don't think so. We think it's worth the try. But I don't want
5 to portend to you we now have those standards.

6 MR. CRAMTON: Mr. Breger?

7 MR. BREGER: Am I correct in assuming that this
8 discretionary packet may be used in a case where a program has
9 an unexpected and short lived crisis and need for funds such
10 that if it did not have a short term injection its present
11 quality would go downhill?

12 MR. EHRLICH: That's certainly one example.

13 MR. CRAMTON: We have just had this one at length;
14 and our time is limited. Mr. Corbett?

15 MR. CORBETT: I think the discussion here points up
16 a dilemma and that is if you wish to have some discretion to
17 deal with particular problems and particular situations a small
18 program that might be improved in its quality, if you gave
19 additional funds to that program, then you have to give some
20 discretion to manage.

21 What the argument is saying is: we're fearful that
22 a wrong decision will be made and, therefore, we'll give manage-
23 ment absolutely no discretion, to make what might be a good
24 decision and one that is needed and would improve the quality of
25 the programs in the field. I know that you don't have standards

1 set out now. But I guess I come at it from a different
2 direction, that the regional people pushing us in headquarters
3 to make just a little bit of money available because that little
4 bit of money could help out the program and improve it. And
5 I think this decision to eliminate any discretion would
6 eliminate any ability on the part of the regional people to
7 assist in programing.

8 MR. KUTAK: I move the question.

9 MR. CRAMTON: Are there further comments by the
10 members of the board?

11 (No response.)

12 MR. BROUGHTON: This does take away the flexibility
13 to fund?

14 MR. CRAMTON: No. The proposal before us would
15 provide the staff with a very modest amount, \$1.618 million
16 for qualitative distribution and if those judgments can't be
17 made because we don't have sufficient staff or standards, that
18 it would be thrown back into a more general distribution.

19 Are we clear on what we're voting on. We're voting
20 on Mr. Montejano's amendment which includes the 3 factors,
21 the 3 items including the discretionary item.

22 All those in favor please say aye.

23 (Chorus of ayes.)

24 MR. CRAMTON: Those opposed say no.

25 (No response.)

1 MR. CRAMTON: The sub-statute has been adopted and
2 I don't think we need a vote on it as the main motion.

3 MR. SMITH: I think we do.

4 MR. CRAMTON: Now it's before us as the main --

5 MR. STOPHEL: I don't believe so because the amend-
6 ment changed the entire motion.

7 MR. CRAMTON: If we treat it as a sub-statute I
8 think we're all right. It's a sub-statute rather than an
9 amendment.

10 MR. STOPHEL: I only have two more issues to go
11 so bear with us. If you will turn to page 9 -- I mentioned that
12 we had 14.757 in funds over the 90.6 program level which leaves
13 available 3.939 million of dollars for additional allocation.
14 It was felt that as I mentioned earlier we shouldn't put
15 those into the program so they built their programs to that
16 level in the event we ran into a resolution problem.

17 So on page 9 you will find a chart which shows 4
18 possible ways suggested by the staff of allocating that
19 \$3,939,000 which again for your information is arrived at
20 by taking the overage of 14.7 million and subtracting the
21 10.818 million which we just allocated.

22 The staff recommended that the board choose between
23 alternatives A and B depending upon whether we wanted to commit
24 ourselves to go for a supplemental appropriation request.

25 The committee, and I think this problem -- well,

1 it has to tie together, but the committee decided that we
2 would like the staff to prepare a supplemental request for
3 submission to the board in the range of our 4 to 6 million
4 dollars. And based upon that addition it was decided that we
5 would propose alternative B for the allocation of the
6 \$3,939,000.

7 Alternative B includes \$1,033,000 for the funding
8 of Reginald Heber Smith through May 31 of '77 and an allocation
9 of 2.394 for one time adjustments which would go into the
10 field.

11 This leaves out as you can see in alternative B
12 the migrant programs, the section 221 cap programs and any
13 provisions for an alternative delivery systems study to begin.

14 Alternative A is based upon the fact that if there
15 is no supplemental request made the staff would recommend that
16 allocation be in that form which in effect provides funding for
17 the migrant, the section 221 and the alternative delivery
18 systems study.

19 It was the thought of the committee that the request
20 would be as shown on page 13 which includes those 3 items. It
21 was also discussed that a part of the start-up costs which are
22 not programmed for the transitional quarter usage as you can
23 observe on the charts be moved to the supplemental request.

24 However, it was the committee's thought that we
25 would assume that we'll make a supplemental request along the

1 lines hown on page 13 and that we allocate funds presently
2 as shown on page 9 in alternative B.

3 And I move that action by the board.

4 MR. CRAMTON: Is there discussion?

5 (No response.)

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1 MR. CRAMTON: Are you ready for the question?

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2 MR. MONTEJANO: I have a question. I have
3 been trying to follow this and mesh it to hang together.
4 I am asking primarily about the migrant legal services
5 program. You are recommending Item B?

6 MR. STOPHEL: Yes, which would mean that the
7 migrant would be included in a supplemental request, based
8 on the fact that the migrant programs have in the past been
9 funded by a different agency and that we would simply go
10 to Congress and say "This is a program which we have not,
11 which has not been funded. If you want us to pick it up,
12 we will. Give us the funds to do so."

13 MR. CRAMTON: The Committee was worried that if
14 this item were included explicitly as part of this reserve,
15 that the chances for inclusion of it in the supplemental
16 and, therefore, any chances of it being promptly included
17 in the base, so that our total base of operations would be
18 increased from 88 million to something above that, would be
19 lost.

20 We believe that there may a point in time
21 at the end of March, when the funding of some of those
22 programs would run out in which there may still be cash on
23 hand from the last item of 2.394 million, which could be
24 used to make interim grants to keep those going until
25 Congress has a chance to pass on both the supplemental

bw2 1 request and the Fiscal Year '77 request. But we propose
2 that those be explicitly sought from Congress, because they
3 have been funded from other sources. They are not part of
4 the Office of Legal Services budget program and that this is
5 an opportunity to increase the total base.

6 MR. MONTEJANO: If a supplement is not approved
7 by Congress for getting the request for '76-'77, if the
8 supplement is not approved or only partially approved, so
9 there wouldn't be sufficient funds for the program, what
10 happens to the migrant program?

11 MR. CRAMTON: Much would depend on what Congress
12 does. If the action that Congress took was a full
13 consideration of the migrant programs and a specific
14 determination by Congress that they didn't want them to
15 continue, and that is what they cut, then they would be
16 over. If what they did was saying: "We want them continued;
17 but you have to absorb them in a budget which we are
18 giving you," then they would be absorbed.

19 MR. MONTEJANO: But aren't we throwing the migrant
20 program then into the hands of Congress and saying, "It's
21 your choice, not ours"?

22 MR. CRAMTON: With our advocacy of it, that's right.

23 MR. BREGER: I have here a letter which I
24 think all of us have received from the Migrant Legal Action
25 Program, urging regularized funding for that program. They,

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1 however, make one further point. They request that they be
2 continued in the same light as the regular programs with
3 respect to budgetary percentage increases, and other
4 benefits that may be forthcoming.

5 Might I ask if in our -- this may be the improper
6 time, but may I ask if in our supplemental appropriation,
7 we adjust the base to take into account the increases which
8 we may provide to regular programs?

9 MR. STOPHEL: We were suggesting a 20 percent
10 increase. The supplemental request -- as I mentioned, the
11 Committee action was that the Board should ask the staff
12 to come up with a formal supplemental request.

13 It was the feeling, I think, and, as a matter of
14 fact, it is now too late to get into the Fall supplement
15 anyway. We are talking about the Spring supplement.

16 MR. CRAMTON: We are in somewhat of a dilemma.
17 If we commit ourself too firmly to the 221 programs and the
18 migrant programs, Congress will say: "Well, you got the
19 money already spent for that purpose and it is gone."
20 So we would like to be in the posture of saying: "We don't have
21 the money. The programs are important. We need to have
22 them funded."

23 We are short of a quorum, but under our bylaws,
24 we can continue unless the question is raised. Mr. Smith
25 has left and Mr. Ortigue has not left, but he is making

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1 phone calls. Are we prepared to pass on this question,
2 despite the absence of a quorum? I think we should move
3 ahead.

4 MR. STOPHEL: I am prepared to act on it. My
5 committee has recommended it.

6 MR. CRAMTON: The recommendation is before you.

7 MR. BREGER: I will second that. I will
8 second it as amended by the qualitative --

9 MR. CRAMTON: No, we're talking about Alternative
10 B. All those in favor, please say "Aye."

11 (Chorus of ayes.)

12 MR. CRAMTON: Those opposed, say "no."

13 (No response.)

14 MR. CRAMTON: That now brings us to the
15 supplemental request.

16 MR. MONTEJANO: I suggest that our programs
17 in existence which will not go out of existence, except
18 possibly this one, and I suggest maybe we hold some money
19 in reserve, in the event that it becomes necessary to continue
20 the existence of this program.

21 MR. CRAMTON: I think that the funding proposal
22 that is outlined here does give the Corporation sufficient
23 working capital so that in the period after March 31,
24 emergency or interim grants could be made for various
25 purposes. There may be other situations in which they will

1 be required.

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2 MR. MONTEJANO: I am satisfied.

3 MR. CRAMTON: The supplemental appropriation
4 request is the next item. And it seems to me there is
5 considerable -- they are really intertwined and it may be
6 already approved by the action we have just taken.

7 MR. STOPHEL: Let me summarize it. The idea
8 of a supplemental request in the Spring to include the
9 221 grants for a full twelve-month period, a funding of
10 the migrant programs for a full period and a beginning on the
11 delivery, alternative delivery systems study, as recommended
12 on page 13 by the staff.

13 Other items have been considered for inclusion
14 in the supplemental request. But the Committee action was
15 to ask the staff to prepare a supplemental request in the
16 range of four to six million dollars.

17 The one page 13 happens to be \$4.4. But we
18 were aware that some of the decisions of the Board today
19 might be contrary to those that were recommended and,
20 therefore, it was not firmed up. And the Committee felt
21 that we should leave some flexibility to the staff in
22 coming up with additional items, if we thought they could
23 be sustained or with a variation in these figures, if it
24 seemed necessary. But we do recommend that the staff prepare
25 a supplemental request which will be brought to the Board

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1 hopefully at its next meeting, so it can be presented.

2 MR. CRAMTON: The matter before us is that the
3 staff prepare a supplemental appropriation request to
4 include the three specific items mentioned on the top of
5 page 13 and any other items which the staff thinks ought to
6 be included in the supplemental request.

7 Is there discussion?

8 (No response.)

9 MR. CRAMTON: If not, are you ready for the
10 question?

11 All those in favor, please say "aye."

12 (Chorus of ayes.)

13 MR. CRAMTON: Those opposed, say "no."

14 (No response.)

15 MR. STOPHEL: One other small item which was
16 brought to my attention earlier concerning a proposal to
17 change the resolution regarding the reimbursement of
18 Board expenses and its per diem amount. And it relates --

19 MR. CRAMTON: Before we get to that, let me add
20 one matter that relates. I think we ought to approve the
21 whole package. I wondered as part of that -- I think there
22 is a problem about a grantee uncertainty. Doesn't the
23 action that has been proposed contemplate that with the kind
24 of exceptions that were indicated, where a program can't
25 use the funds or where the funds will merely go in

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1 substitution of state funds that will be taken away, that
2 the ten percent or where a program doesn't meet standards
3 and, therefore, won't be continued beyond March 31, that
4 program can't rely on the ten percent increase that is
5 effective as of October 1 being available through the whole
6 fiscal year?

7 MR. STOPHEL: I was not willing to make that
8 commitment subject to the President having the same feeling
9 about the program, after he came on board. I would not
10 object, however, to doing so in order to solidify the thinking
11 of the project directors.

12 MR. CRAMTON: I wonder whether we don't really
13 have to do so? Mr. Corbett?

14 MR. CORBETT: Mr. Chairman, the mechanism
15 contemplated for putting into effect the ten percent increase
16 across-the-board would be a letter going to the programs,
17 authorizing the programs to increase their rate of
18 expenditure by ten percent a month and would, in effect,
19 increase their analyzed base by ten percent. Programs could
20 then come into the corporation for refunding at that higher
21 level. So that if you had a program that originally had
22 \$100,000 analyzed level, they would come in and ask for
23 funding in March or prior to March for whatever time there
24 was at that higher analyzed level.

25 MR. CRAMTON: And, barring a refunding decision,

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1 their expectation is they are going to get \$100,000?

2 MR. EHRLICH: I would hope that would be the
3 case, yes.

4 MR. CRAMTON: Are we now prepared to consider the
5 package of proposals which have now been adopted and to accept
6 the report, as amended by our discussion, of the Committee
7 on Appropriations and Audit on the Fiscal Year '76
8 allocation and '76 supplemental?

9 MR. STOPHEL: I move the adoption, as amended.

10 MR. CRAMTON: All those in favor, please say "aye."

11 (Chorus of "ayes.")

12 MR. CRAMTON: All opposed?

13 (No response.)

14 MR. CRAMTON: That completes that item.

15 MR. STOPHEL: We adopted a resolution on August 4
16 and 5 relative to our per diem and expenses.

17 The motion is that we delete the words "in the
18 amount of \$100," simply making us subject to consultants;
19 and I so move.

20 MR. BREGER: Second.

21 MR. KUTAK: I wonder if there could be an
22 explanation?

23 MR. STOPHEL: Yes. Some of the individuals on the
24 Board who practice in smaller firms or perhaps have
25 additional expenses really feel that the imposition of time

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1 is enough and that out-of-pocket really ought not be
2 applicable. When you come to Washington and spend \$40 or
3 \$50 for a hotel, if you are in the downtown area and you
4 are on a \$50 per day expense reimbursement, then the per
5 diem simply makes up for some additional expenses. It was
6 felt that the per diem should be at the level of consultants
7 at least, which is what the corporation and other agencies
8 pay.

9 So we are simply placing ourselves under those
10 standards.

11 MR. CRAMTON: I gather that limit now is
12 \$145 a day?

13 MR. STOPHEL: Frankly, I don't know what the
14 present level is.

15 MR. CRAMTON: Staff tells me that is correct.

16 MR. KUTAK: I think what really has occurred
17 is that the reimbursement expense level is just insufficient
18 to cover expenses; and what is happening is that people are
19 going into a hole with respect to actually coming and
20 spending and living here in Washington. And so it is
21 important that at least, that we bring it up to a minimum level
22 which is just minimum.

23 MR. CRAMTON: Is there further discussion?

24 (No response.)

25 MR. CRAMTON: All those in favor of the motion, please

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1 say "aye."

2 (Chorus of "ayes.")

3 MR. CRAMTON: Those opposed say "no."

4 (No response.)

5 MR. CRAMTON: Motion is adopted.

6 MR. BROUGHTON: What is the effective date of

7 that?

8 MR. CRAMTON: Why don't we make it retroactive
9 as of yesterday, November 6?

10 MR. STOPHEL: If you look under Tab 9 in your
11 materials, you will find tables which the staff has prepared,
12 based upon assumption that the Board would act favorably
13 upon its recommendations which we have done with regard to the
14 '76 allocation of funds and the supplemental request.

15 The summary of the budget in dollars, if you will
16 look at the 1977 estimate then, there is a detail of those
17 estimates immediately following that material that you
18 will find also.

19 The 1977 estimate, as prepared and as you
20 are aware, went to OMB for comments in staff-recommended
21 form. But this Board has not acted on a 1977 Fiscal Year
22 request for justification.

23 The staff came up with a total budget request
24 of \$140,790,000, of which \$4.807 was allocated to administrative
25 expense and program costs of \$135,983,000.

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1 The last column is very descriptive in that it
2 tells you, given the ten percent increase or rather, excuse
3 me -- given the allocation of \$10.8 millions dollars to
4 the programs which raises their level of funding, the last
5 column on the forms given you the increase in the '77 budget
6 over the '76 budget, as increased.

7 And you will notice that field operations comes
8 in for the major share of that increase, \$46.972 million.

9 You received through the mail sometime ago,
10 a backup document by the staff explaining these increases.
11 But I will briefly review those for your edification.

12 The extension of service into unserved area
13 portion of that increase was estimated to be \$26.4 million.
14 The additional items which make up the major portion of that
15 was \$12.2 million in round figures to go to maintain and
16 improve existing programs and strengthen their professional
17 capability.

18 Now, within those broad headings, there is a
19 suggested breakdown by staff. The reason I bring this up
20 at this point is that OMB must go to press during the month
21 of December with the President's Budget. It would be well
22 for them to know the parameters of our budget request which
23 will go to Congress with comments from OMB.

24 In order to do that, of course, they need to know
25 that in advance of their printing date, which will be early

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1 in December.

2 Our staff has been in contact with them; and
3 I felt that it was appropriate to bring to the Board the
4 question of whether we want to say that this will be our
5 budget request from a total viewpoint, whether it should be
6 greater or lesser, and have a discussion about it today,
7 so that either your Committee or the staff, at your discretion,
8 will be able to present this for comments to the Office
9 of Managment and Budget.

10 MR. KUTAK: What is your recommendation?

11 MR. STOPHEL: I was trying to let you all decide
12 what you want to do with it. I guess my motion is that
13 a, that the Board authorize the Appropriations and Audit
14 Committee to submit a budget request not in excess of
15 \$140,790,000 for Fiscal Year '77.

16 MR. CRAMTON: The detailed request then to be
17 considered and hopefully ratified by the Board at its
18 next meeting?

19 MR. STOPHEL: Correct.

20 MR. BROUGHTON: You are suggesting that the
21 Committee, in the interest of time, and time being critical,
22 proceed to get together that material prior to the
23 December Board Meeting?

24 MR. STOPHEL: Correct.

25 And, incidentally, you are a member of that

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1 Committee.

2 MR. ORTIQUE: I second the motion.

3 MR. CRAMTON: Is there discussion?

4 MR. KUTAK: Mr. Chairman, I take it that you
5 have enough in documentation to feel comfortable and able
6 to support realistically a figure in the upper limit,
7 whether the Board ratifies your recommendation or not
8 down the line? Today you could support with the same degree
9 of confidence you have shown so far? You could, if asked?

10 MR. CRAMTON: We are confident the needs of the
11 program are far in excess of that amount; and we are confident
12 that we could wisely and adequately spend that amount of money
13 in Fiscal Year '77.

14 Is that it?

15 MR. STOPHEL: Right.

16 MR. KUTAK: What kind of documentation do you
17 need to submit?

18 MR. STOPHEL: The staff has done a good deal
19 of this already.

20 MR. CRAMTON: It was distributed in the packet for
21 the last meeting, which you don't have with you. That was one
22 reason for not discussing it in detail today, not only
23 because of lack of time, but because the mere tabular form
24 did not lend itself to a consideration of the policy issues
25 that are involved.

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1 And our attempts, as you recall, during the
2 lunch session to arrive at a special board meeting between
3 now and December 11 were unsuccessful, partly because of the
4 Thanksgiving break.

5 So we are faced with a feeling that we need
6 to go ahead.

7 Mr. Fisher?

8 MR. FISHER: What we will need to submit to OMB
9 will be data containing three sets of schedules and they will
10 show the total amount for administrative expense, the total
11 amount for program expense and the amounts by object class,
12 objective of expenditure. Then there will be supplementary
13 data.

14 But what we really are going to need for submission
15 is an approved figure in total and the breakdown between
16 administrative, unless the Board wants to leave that to the
17 judgment of the President.

18 MR. STOPHEL: The justification will actually
19 come before our presentation to Congress. That is, the
20 justification itself. And it will need to be in much detail
21 and will require a good deal of staff time, as well as a great
22 deal of deliberation on our part

23 MR. KUTAK: I think everybody is cognizant of the
24 fact that our credibility with OMB and with the Congress
25 is going to depend on our having done that quality of

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1 work that we certainly have done up to now and keep doing.

2 I think, even with the pressure of time, this is
3 a corner we can't cut.

4 It has to be professional and it builds
5 credibility and integrity in our system. And I don't
6 mean to treat it as if the question were light and casual.

7 But I am confident that if you feel that that
8 figure is supportable and timely, you have got my support.

9 MR. STOPHEL: There is no question that the needs
10 are there.

11 MR. CRAMTON: Is there further discussion?

12 (No response.)

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1 MR. CRAMTON: If not, all those in favor please
2 say "aye."

3 (Chorus of "ayes.")

4 MR. CRAMTON: Those opposed, no.

5 (No response.)

6 MR. CRAMTON: Does that complete the report of
7 the Committee?

8 MR. STOPHEL: Yes, sir.

9 MR. CRAMTON: Before we turn to the next item, I
10 would like to put into the record a brief statement which
11 I meant to put into the record immediately after our return
12 from lunch -- as follows:

13 At the executive session held during the luncheon
14 recess, the Board discussed several matters including, first,
15 the ground rules for public discussion of matters previously
16 discussed in executive session; second, certain proposals
17 of the chairman for revised committee structure and membership
18 matters which will be considered later this afternoon; and
19 third, future meeting dates of the Board, a matter also to
20 be considered later this afternoon.

21 No action was taken on any of these matters.

22 The next item is discussion of legal and policy
23 issues concerning support center activities.

24 Mr. President?

25 MR. EHRLICH: All members of the Board have devoted

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1 a good deal of time to reading and analysis. I suggest
2 as a first step in reviewing that we turn to our counsel
3 emeritus, Mr. Oberdorfer.

4 MR. OBERDORFER: Mr. President, I have discussed
5 informally, not in executive session, with some members of
6 the Board whether having had this matter before you every
7 time you have met, that is even beginning in August and
8 again in September, in October and again today, whether you
9 want the preacher to give the \$50 funeral or the \$500 funeral.

10 I have been advised that we can probably
11 accommodate all the family and the friends of the family and
12 the daddy with a \$50 funeral.

13 MR. ORTIQUE: Why don't you call this a wedding
14 or a festival.

15 (Laughter.)

16 MR. OBERDORFER: The reason I called it a funeral
17 is because I hope we have put an end to the discussion and
18 now we can proceed with action.

19 We have circulated a memorandum of mine that
20 summarizes the staff documents which were requested by the
21 Board at our last meeting.

22 The staff documents include a fresh, very careful,
23 well documented legal opinion by David Tatel on behalf of
24 himself and his associates, a resume and appraisal of the
25 documents furnished to us at the last Board meeting, and

1 documents added and obtained by us after the last Board
2 meeting which were the collections of the data that exist,
3 as I know it, and as my staff has determined, the data that
4 exists in the form of previous evaluations of backup centers
5 and an outline of a work program which is where we hope we
6 will get to design, to bring the matter to a point where it
7 really can be analyzed as a legal proposition, as an
8 operational proposition and as a policy matter by the Board
9 in time for action by March 31.

10 Now, I really am serious.

11 I don't know how much we want to go over old ground.
12 I can say from what I have revised and revised -- I don't
13 know whether any of you remember or knew about the old
14 Broadway musical "Hellzapoppin'." I remember going to it
15 as a child, and the thing I remember about it, the only
16 thing I remember about it is that very early in the proceeding
17 a fellow comes staggering across the stage in a straitjacket
18 and he is wrestling with the straitjacket. He mutters
19 something and goes on out. And at every inopportune moment
20 thereafter during this amusing musical, this guy comes
21 across the stage in a straitjacket. And when you leave
22 the theater, there he is out in the lobby, still wrestling
23 with the straitjacket.

24 Well, the entire time your transition staff has
25 been in office, we have had a lot of things to do, but every

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1 time we turned around there, we are with a backup center.

2 And I don't think it is all that complicated.

3 I think that it is a solvable problem, well suited
4 to well-trained, experienced solvers as an organizational
5 operation matter. And I will sum this up and then if we
6 want to supplement it I will call on David as the author
7 of his memorandum to extend my remarks.

8 But I have said this before: I don't think Congress
9 does silly things. I think they did a very -- I think that
10 at least they are sort of like us in bungling into a
11 solution of our labor management problems.

12 I think Congress by the chemistry of their process
13 presented us with a verbalization of a method of continuing
14 inside the corporation certain functions which they wanted
15 to have closely controlled by people like the members of
16 this Board and that they very clearly stated their continuing
17 commitment to the idea that the state should provide by
18 funds legal services to poor people, which would give them
19 better access to courts and to the administration of justice
20 to secure legal rights created in them by Congress, by acts
21 of Congress, by common law, by state law.

22 And the fact is that some of those rights are new
23 rights. They are creatures of statute, and in the welfare
24 area, food stamp area, they are legal rights.

25 And as Carl Erdley has said on paper, when you

1 embark on advising people and representing people about
2 complicated new laws which are designed generally to create
3 rights in some or all of them, and you have to pick that out
4 of the legislative history and the whole litigation process
5 has to proceed before you know what the law really means,
6 it isn't the kind of task that is well suited to the one-on-
7 one lawyer-client operation.

8 He knows, I know, I think all of us know that in
9 the 20th Century, you don't make automobiles with a saw and
10 a hammer. You make them with a machine. And it takes people
11 to run the machine. And if you have got good sense and good
12 management, you organize this thing so that you make the
13 cars at the cheapest price that you can, and deliver them in
14 the best way you can.

15 For this organization, I don't think I am emeritus.
16 I am here giving a valedictory. I don't think it is debatable
17 that when you are going to try to save the public money and
18 efficiently provide quality legal services to people who
19 don't know how to be a customer of lawyers, don't know how
20 to demand services, the services have to be provided in a
21 disciplined way by this organization.

22 And you are going to have to organize, you are
23 going to have to have specialists developing legal materials
24 useful to the lawyers on the line. And when I say that, I
25 don't think you need the countenance for one second, any kind

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1 of politicking, any kind of social revolutionary activity,
2 any kind of eccentric legal behavior.

3 I think what you have to do is to see to it that
4 you are getting lawyers' time and attention organized and
5 delivered to people who need that attention to identify and
6 enforce their rights in court or to identify and enforce
7 their rights in negotiations or to generally understand
8 what they are entitled to under the law and what they are not.

9 The statute says over and over again that the
10 function of the corporation is to provide quality service.
11 It doesn't say how to do it. It says that some of the things
12 have to be done in the corporation and the corporation can't
13 litigate.

14 And those restrictions can be honored and resolved.

15 So I say, as I have said over and over again, we
16 should have a study of what those 16 organizations are doing.
17 We should look at their corporate structure, the devices by
18 which they are controlled by whoever it is that chartered them.

19 Those organizations whose functions are identified
20 in the statute as proper functions and exclusive functions of
21 the corporation should be acquired by the corporation and
22 managed by the corporation.

23 Those functions which do not follow in those
24 categories having been identified which are, in the judgment
25 of the Board on the basis of the recommendations that you get

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1 from your Staff -- and you certainly ought to look behind
2 them and not just take them at face value -- those functions
3 which you think help lawyers on the line serve clients
4 efficiently, economically, should be continued by one
5 contract device or another.

6 There are out there functions that fall into
7 both categories. Some of those organizations are doing
8 things that if they are going to continue, they have to be
9 continued in the corporation. And the same grantee is doing
10 some things that the corporation can't legally do.

11 For those particular people, functions, tasks,
12 you will have to go in there with a management approach and
13 a corporate reorganization skill and peel off the things that
14 go one way or another and do away with the things you don't
15 want.

16 If there are things they are doing there that are
17 prohibited by that statute directly or indirectly, and you
18 don't want them to do those things, don't do it. You don't
19 have to.

20 And to accomplish that we have recommended, and
21 I think -- and again I say this with no axe to grind,
22 political, business, or otherwise -- I think that we have
23 identified a person uniquely equipped to give you the advice
24 and assist you in taking the action that is necessary to make
25 the law, as it is written, function, to enable you to function

1 under the law.

2 I am speaking of Alex Palika.

3 Again, reacting to the Board, I think the inter-
4 action between us, at least for me, has really sharpened
5 us and enabled us with additional time and additional challenge
6 to give you better answers and better advice.

7 Mr. Palika, in working with David Tatel and Tony
8 Mondello, has come up with a proposal. It is alert. It will
9 appeal to every fiscal conservative in this room.

10 What he has proposed, what this group has proposed
11 is a combination of -- I don't want to say this so it is
12 misunderstood -- an in-house and an out-house operation.

13 The idea is that Tony Mondello -- who we have been
14 most fortunate to have in the transition staff and who is
15 himself retired, as you know, as the general counsel of the
16 Civil Service Commission -- is available to be personally
17 responsible for the organization and supervision of a nucleus
18 of corporate employees, your employees, who will provide a
19 good deal of the grist of the mill work in this evaluation
20 of these 16 organizations.

21 Some of these people, as I understand it, will
22 be temporary. When this job is done, they will be terminated.
23 Others of them have indicated a desire to stay on in the
24 corporation to be the nucleus of whatever evaluation capability
25 we develop. So that in a way, this is for them, this exercise

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1 will be a training program to get a byproduct already, a
2 training program for the people who would become a part of
3 the long term evaluation of all the programs.

4 Tony would work with Alex who would be an independ-
5 ent contractor. They have recommended to me, and I am
6 recommending to the Board, the selection of a panel of
7 people outside the corporation publicly known, known to you,
8 and hopefully would include at least a couple of members of
9 the Board who would participate in an evaluation program
10 which Alex is designing to advise and to study each of these
11 backup centers with a view to looking at them in the light
12 of this statute as we interpreted it, and to identify the
13 research, to identify the training, to identify the thing
14 that the statute said should be in the corporation and to
15 come back with a recommendation about how those things can
16 be pulled into the corporation.

17 That doesn't mean that we necessarily have to be
18 physically picked up from Chicago or Los Angeles and imported
19 into Washington and stationed here. A lot of corporations
20 have branches that are very well controlled from a national
21 headquarters. And that is within the range of operations
22 that the reserve and clearing house in Chicago could stay in
23 Chicago as a subsidiary or a branch for the Legal Services
24 Corporation.

25 This panel, along with the staff panel, under the

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1 supervision ultimately of Alex and his associate, Marshall
2 Patton, would orchestrate these studies, produce a report.
3 They have to give you interim reports, and I believe for
4 the -- I believe that you have seen the outline of his plan
5 in here, and I think that he should be able well before
6 March 31 to put you in a position carefully to consider in
7 detail, reject what you don't like, accept what you do like
8 and go to work by April 1 with those aspects in the backup
9 centers that belong in a corporation; and those aspects of
10 the backup centers which on examination prove not to be
11 cost efficient, prove to be illegal, prove to be distasteful,
12 discontinue.

13 Now, the charges for this -- the thing was not
14 artfully presented in the paper I gave you in the sense that
15 we didn't -- we weren't very good advocates. But you notice
16 here that for Mr. Palika and his organization, he estimates
17 that the total cost to him for his services and the support
18 that he would get from his organization, which is all of
19 his logistics and secretary and that sort of thing, is
20 \$24,000.

21 I was thinking about this thing originally when
22 I looked at it from a distance as something that might cost
23 \$200- or \$300- or \$400,000. Most of this cost is for the
24 corporation's own staff people who, first of all, are
25 temporary. And part of it that would be permanent is a useful

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1 seedling for your long-term evaluation of the program.

2 And I am very seldom unequivocal about anything,
3 and I feel unequivocally that if you will accept this
4 recommendation, that you will not regret it.

5 MR. KUTAK: Mr. Chairman, if I could just interject
6 here.

7 If that statement was the \$50 funeral sermon, i
8 can't imagine what the \$500 sermon would be.

9 (Laughter.)

10 MR. EHRLICH: What I will say with some skepticism,
11 only in the sense -- in terms of what is really important
12 for this entity which is serving poor people -- I am sorry
13 it has required so much attention because there is so much
14 out there that has to be done.

15 I have spent some time looking at various backup
16 centers over the past weeks. And I entered the issue with
17 a skeptical view, but I have become very persuaded that as a
18 working hypothesis the approach outlined in the legal
19 memorandum, trying to find a sound purpose in this statute
20 with the intent of Congress, I think the memorandum by
21 Dave Tatel is a first-rate job in developing a working
22 hypothesis on which to proceed.

23 And I think the approach taken in terms of finding
24 out what the facts are on which to base judgments is one
25 that is sound and sensible and that ought to be followed.

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1 I am persuaded that this kind of an approach will
2 give us a reasonable basis on which to make judgments in
3 time, and it won't be a long time. It is going to be very
4 close, and we will have a basis for making some important
5 decisions, and we can do it soundly, and I hope we can
6 proceed on the basis that Lou has outlined in his memorandum.

7 MR. CRAMTON: What are your desires, gentlemen?
8 You have a report and recommendation before you for action.

9 The question of discussion and guidance to the
10 staff on the policy question raised by the legal memoranda
11 are also open to the extent you want to discuss them,
12 although we don't need to discuss them and resolve them at
13 this time.

14 But we do need to resolve the question of moving
15 ahead on the study, evaluation and report so that it can be
16 completed and combined with the legal and policy analysis in
17 time for recommendations at our meeting in February.

18 MR. KUTAK: Mr. Chairman, I hope that the Board
19 will follow the recommendation of Lou and the proposal that
20 was outlined to us, because it is both sound and necessary.

21 I think this is a problem, if not complex, at
22 least is confusing. And the kind of clarity -- and I think
23 as well as definitiveness that such an evaluation specifically
24 tailored to our legislation and specifically designed for
25 our corporation's study and evaluation, is essential.

1 There are some things that perhaps we could post-
2 pone. There are other things that perhaps we could forget.
3 But this is one I think we have got to face up to in a
4 hurry, and hopefully will. And I do think for that reason
5 it is a very sound investment in manpower, particularly, as
6 it has been designed, insofar as it has a carry-over value
7 to us and it brings to me a degree of high comfort with
8 respect to its independence and its professionalism.

9 No preconceptions are revealed by it or possessed
10 by it. And I think the kind of independent, specific study
11 and proposal of this kind would be not only appropriate, but
12 would be imperative.

10 13 I would like to ask if the Board would so support
14 that recommendation that its designers, its operatives might
15 keep an eye cast a little bit over to the side as to what
16 kinds of things that they could consider that would eventually
17 work themselves into a set of regulations.

18 Not that I am asking them to do it, but I am asking
19 them to rather have it in their background so that there would
20 be yet still another byproduct.

21 So with the assurance that I would not ask that it
22 be made a bylaw, I would move that we support, that we adopt
23 the proposal, that we go forward with the study.

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1 that evaluation study came about.

2 I would like to ask a couple of questions,
3 and this refers to David Tatel's most recent memorandum
4 and I referred to that this morning with reference to the
5 Reggie program. And that is your statement on page 3 --
6 if you go to page 3 it is dated October 31, 1975. At the
7 bottom of the page where he says: "Research, training,
8 technical assistance not directly related to the provision
9 of legal services to eligible clients can be undertaken
10 by the corporation itself but cannot be funded by grant
11 or contract."

12 Now, with that opinion by him as to those
13 activities, my question is: are there any such activities
14 that are under grant or contract or have been clearly
15 identifiable as falling within these categories; and,
16 if so, should the staff not be directed to begin a
17 consideration in the light of the opinion expressed by
18 Mr. Taylor as to how controversies can be taken under
19 the corporation wing, so-called?

20 MR. OBERDORFER: I was out of here this morning
21 having that very conversation with Alex. He does not
22 reeally appreciate it. But one of the reasons that I
23 wanted him to do this was because I knew him in another
24 incarnation when he was a corporate lawyer and I know
25 that -- I don't know what the corporate structure of

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1 the clearinghouse in Chicago is. I don't know who the
2 incorporators were or who the directors are. But I do
3 know -- and the thing I asked him this morning was to
4 include in his work a recommendation to us from him as
5 a lawyer and an Illinois lawyer, so it is appropriate
6 for that particular thing, as to what corporate trans-
7 actions are indicated with respect to that kind of entity
8 to bring it, to make its activities those undertaken and
9 directed by the corporation.

10 And I think that the how to do it -- I think
11 you are right. How to do what the statute tells us to
12 do with respect to those activities which must be done
13 by the corporation is a very essential part of his
14 task.

15 MR. BROUGHTON: As I understand it, I think
16 this contributes to a lot of the confusion, that apparently
17 some of them are engaged in different kinds of activities.
18 And you are saying it is therefore difficult to catalog
19 them.

20 MR. OBERDORFER: Some of them aren't.
21 Don't pin me to these facts. But I have the impression
22 that the clearinghouse in Chicago is a clearinghouse
23 within the meaning of that statute; and that as such its
24 activities will beginning April 1 either have to be
25 discontinued or continued in the corporation by some

1 corporate device.

2 MR. BROUGHTON: Apparently in prior years
3 there has been a vacuum that has existed for some time.
4 No one has seemed to be able to determine the extent
5 or the start of activity.

6 MR. OBERDORFER: I don't think it was a
7 relevant question before this statute was passed.

8 Another version of this statute was just the
9 opposite. If they could be undertaken directly or
10 by grant or contract. So it is irrelevant how they
11 were mixed up.

12 MR. BROUGHTON: The grant did not spell out the
13 extent of the service?

14 MR. OBERDORFER: It might have, but it didn't
15 distinguish between research and other things which were
16 not involved.

17 MR. CRAMTON: I think it is clear that this
18 memorandum seems to imply that there are several
19 centers, however, where at least some of their activities
20 would be prohibited.

21 Some of the research activities --

22 MR. BROUGHTON: Those types of activities could
23 not be the subject of a grant or contract between the
24 entity and this corporation?

25 MR. CRAMTON: That's right.

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1 MR. BROUGHTON: Is that correct?

2 MR. CRAMTON: Yes.

3 MR. BROUGHTON: I am fully cognizant of our
4 responsibility to provide these services.

5 MR. STOPHEL: Fitting within the statutory
6 thing, as I see it, there are two aspects of the
7 question. There are others, but these are the two
8 that strike me.

9 I think we must approach the statute. It
10 is the law and it is in many respects quite clear.

11 Interpreting what activities go under what
12 categories within the Act, that is us. We are the ones
13 who have to decide that based upon the factual information
14 being given us.

15 I am reminded of a critique description on
16 the translation of a particular section of the Bible
17 where it was pointed out that this was not a translation
18 but an interpretation. And we can have facts interpreted
19 depending on the viewpoint and the attitude of the writer.
20 And I am concerned that we get the facts. And as long as
21 this study is adapted to that with recommendations, I think
22 that it is appropriate and is necessary at this time; and
23 we will fully support proceeding with it.

24 I don't need another argument on what the
25 corporation can do and can't do. I am full up to hear with

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1 that. And now I want to know is: what are we doing now?
2 And then it is up to us to make the decision as to
3 whether we do it; and if we do, how do we do it.

4 MR. OBERDORFER: And let this colloquy be an
5 instruction to the team to present facts, who is doing
6 what.

7 MR. ORTIQUE: Mr. Chairman, I have for several
8 meetings carefully avoided making any comments with
9 reference to this subject. But I want to speak in
10 necessity of going ahead and doing this because I think
11 a part of the colloquy is the facts that will measure
12 both sides of the question and give us a basis for reaching
13 conclusions based on those facts that cover both sides.

14 As long as that is our objective, I have no
15 problem with being supportive of our moving ahead and
16 getting those done.

17 I reserve to myself the determination of
18 what my action will be at a subsequent time depending on
19 what happens.

20 I don't want you to question my prejudices
21 at this time. But I do feel that this Board has heard
22 enough.

23 I am convinced that all of us around this
24 table know what we are up against and what we are going
25 to have to decide at some time.

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1 I think we ought to quit debating and get
2 down to it, get this in and let's have it.

3 MR. CRAMTON: Is there further discussion?

4 (No response.)

5 Are you prepared for the question in support
6 of the staff proposal summarized by Mr. Oberdorfer?

7 MR. STOPHEL: Before we vote on it I want
8 to express my appreciation to Mr. Broughton who
9 explained this to us so completely and thoroughly at
10 our last meeting.

11 MR. OBERDORFER: I will join in that.

12 MR. CRAMTON: Are you ready for the question?

13 All those in favor of the motion please say aye.

14 (Chorus of ayes.)

15 MR. CRAMTON: Those opposed say no.

16 (No response.)

17 Before we leave this topic I want to tell you
18 that I had the pleasure of testifying before
19 Mr. Kastenmeier's Subcommittee. A copy of my testimony
20 has been made available to members of the Board and is
21 available for distribution to interested members of the
22 public.

23 Because the Board had not examined H.R. 705 and had
24 not taken a position on it, I told the Committee that the
25 corporation neither supported nor opposed the amendment of

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1 Section 1006(a)3, that we would not resist an effort by
2 the Congress to broaden our authority and to give us more
3 flexibility.

4 On the other hand, we were not in a situation
5 of saying at this time that an effective legal service
6 program could not be conducted under the statute as
7 written and until we had completed an evaluation and
8 study and not only completed it but concluded on the
9 basis of it that harm would be, that an effective
10 program could not be carried out under it, we would
11 not be supporting a change in the legislation.

12 I must say that the members of the Committee
13 inquired as to when the corporation might be in a position
14 to state something a little more definite as to the
15 position on legislation; and I suggested we would not
16 be in a position to do so until the study on which we
17 have embarked was completed.

18 But if members of the Board have a different
19 view on that, then I think that piece of legislation
20 should be addressed by the Board and that we should
21 state a more specific view on it in favor of it or
22 against it or suggest alternatives.

23 I just raise the matter and leave it open
24 for whatever is your desire.

25 MR. STOPHEL: I felt the Chairman acted

1 properly.

2 I am never in favor of sticking my head into
3 a noose until I have to.

4 MR. KUTAK: In that regard, as you know, this
5 matter was calendared for consideration yesterday in
6 the announcement that was circulated as to our agenda
7 and there was a person in the audience representing
8 the section on individual rights and responsibilities
9 of the American Bar, Ms. Landau, and she had prepared
10 a statement which she had hoped either to read or to
11 summarize or at least circulate. And since we were
12 not able to reach the item on the agenda yesterday,
13 copies of her statement were left with me today.

14 As the immediate past chairman of that
15 section I have a double obligation, I guess, to
16 circulate it if I may to the members of the Board.

17 This is her statement and I would like, as
18 well, if it would be in order, to have the Staff see
19 it and also include it in their deliberations.

20 MR. CRAMTON: We are delighted to receive it.
21 I also regret that Mr. Broughton had made arrangements
22 to have Mr. Loren McCarthy here yesterday to express
23 some views as part of a general public discussion of the
24 backup center position and that our involvement in other
25 matters interfered with that presentation as well.

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1 MR. BROUGHTON: He was here.

2 MR. CRAMTON: We both regret our inability
3 to hear him and hope that when we do get down to applying
4 law and policy in determining what it is to the facts,
5 that we will want a public discussion of the issues.

6 And both people that you two have mentioned
7 will be welcome then.

8 Does that complete the report on this item?

9 (No response.)

10 The next item is a report by the Chairman of
11 the Committee on Bylaws and Regulations.

12 Mr. Kutak?

13 MR. KUTAK: Mr. Chairman, I will be brief
14 because of both the hour and the abbreviated nature of
15 our report.

16 Let me say that --

17 MR. CRAMTON: May I direct you -- the members
18 of our staff are unanimous in thinking that we did not
19 vote formally on the matter that was before us.

20 There seems to be an uncertainty about it.

21 Would it be harmful to do it even if it is
22 a replication?

23 The motion was on the approval of the staff study
24 proposed by Mr. Oberdofer.

25 All those in favor please say aye.

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1. (Chorus of ayes.)

2. MR. CRAMTON: Those opposed say no.

3. (No response.)

4. Okay.

5. Mr. Kutak?

6. MR. KUTAK: There were three items on the
7. agenda of your Committee on Regulations. The first was
8. to review in its final form and submit to the Board for
9. its final approval the regulation that is found in
10. Tab 6, the regulation on freedom of information.

11. To summarize, the regulation that you have
12. before you is a regulation that has now gone through
13. all of the procedural steps which we have observed in
14. any consideration of a regulation to be submitted to
15. the Board and to be adopted by it, namely, the
16. development of it, the discussion of it, the printing
17. of it in a tentative form for public comment, the receipt
18. of comment thereon, the consideration of such comment,
19. the revision if necessary, which this regulation is,
20. then submission to the Board for its final adoption
21. and publication.

22. Very briefly, the regulation on procedures
23. for disclosure or production of information under the
24. Freedom of Information Act is a standard regulation.

25. There are no peculiarities in it, no particular

1 about it. It is probably the one and only boilerplate
2 regulation that we will consider.

3 As a matter of fact, I should say parenthetically
4 I hope it is the last boilerplate type regulation that we
5 bring to this Board.

6 But time, we felt, made it necessary to get
7 one out in its formal shape as soon as possible.

8 The regulation is in a form which we have
9 adopted. You will find in the beginning a prefatory
10 statement which is presently in five paragraphs.

11 Briefly and correctly it summarizes each and every
12 change which has occurred between the publication of
13 the regulations in its form available for public comment
14 and the form which is now before you for final adoption.

15 As you can see, glancing over those comments --
16 and there are five in nature -- they are fairly minor and
17 basically non-controversial.

18 I would like to suggest that first of all
19 that the Committee that met yesterday morning prior to
20 the meeting of the Board reviewed the entirety of the
21 regulation and made one final change.

22 It was not a change again of any substance, but
23 it was significant enough to warrant making.

24 Very briefly it relates to the subject of
25 stating that whenever there would be a denial of any

1 information, that denial ought not be made merely in
2 consultation with general counsel but by general counsel.

3 We feel the whole policy of the regulation and
4 the whole policy of the Board is, of course, to disclose
5 and to make available and that therefore even though
6 the categories of confidentiality are clear and narrow,
7 nonetheless they are significant enough that if any request
8 rises to the point of needing to be denied rather than
9 have any administrator or operative in the field make that
10 denial, it ought to be done with the express and specific
11 review of general counsel.

12 Therefore, I am going to circulate a substituted
13 page 20 which just simply has language which rather more
14 clearly puts into focus that one change.

15 To keep your introduction consistent, we have
16 given you a new page 3 which states that explanation.

17 But, briefly, the change is simply a change of
18 clarification, not a change of substance.

19 I move, Mr. Chairman, that the regulation on
20 freedom of information, which, as I say, is a fairly standard
21 regulation clearly emphasizing however the preference and,
22 in fact, policy of this corporation to make information
23 available and to produce it upon request is positive
24 and broad and that it lies consistent with the practices
25 not only of this Board but of the law in general that is

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1 moving in this direction.

2 MR. BREGER: I so second.

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MR. CRAMTON: You have heard the motion and the second.

Discussion?

(No response.)

MR. CRAMTON: All those in favor, please say Aye.

MR. BREGER: Let me point out that this text has been circulated to a number of persons involved in the Freedom of Information question. And the unanimous response was that it is among the more liberal attempts to interpret the Freedom of Information requirements that they have seen.

MR. CRAMTON: I can personally attest to that, having helped write the Freedom of Information Act regulations of the Department of Justice several years ago and having seen the regulations of many other agencies. It is a very well drafted, carefully drafted proposal that is before us, and it is indeed extremely liberal in terms of the availability of the information to the public.

MR. ORTIQUE: Question.

MR. CRAMTON: All those in favor, please say Aye.

(Chorus of Ayes.)

MR. CRAMTON: Those opposed, No.

(No response.)

MR. CRAMTON: We have adopted the regulation, then.

MR. KUTAK: In that regard, I would like the record to reflect that my colleague, Marshall, and myself feel

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1 particularly indebted to Mr. Burt Fore, who, as another
2 volunteer working for the Legal Services Corporation in a
3 pro bono status, has made a tremendous contribution to our
4 committee. It is, again, service of that kind in this
5 transitional period that has enabled us to come up with such
6 a professional type regulation.

7 I know I express Marshall's feeling as well as my
8 own when I state we, as a committee, owe him a debt of
9 gratitude, and I believe so does the Board.

10 The second regulation that I was prepared to bring
11 to the Board, but now simply wish to lay over, is the
12 regulation on state advisory councils. We hoped to have
13 reached that regulation at a time and in a state that could
14 be brought to the Board for general discussion and circulation
15 and publication for comment. But we got into a very signi-
16 ficant and worthwhile discussion at the committee meeting
17 yesterday that necessitated a wholesale redrafting. And although
18 our second pro bono counsel, Tom Reston, did a magnificent
19 job in redrafting whole sections of it in order to reflect
20 our thinking, it has not been thoroughly digested by myself
21 and the other members of the committee.

22 I think I would rather pull back and not bring to
23 the Board at this time our work. I am just advising that
24 consistent with our discussions we had earlier in the day, I
25 will review that myself, get it out to the committee members,

bwm 3 1 and also to the Board members so that they have a chance to
2 reflect on it, at which time I think we will be ready at the
3 next Board meeting to come up with a proposed regulation that
4 is ready for your consideration and publication for comment.

5 But I think it would be premature to do so now.

6 MR. CRAMTON: Because of the timing question, it
7 is my understanding that we should tell, give the notice to
8 the governors of the states no later than January 14th. If
9 these regulations or guidelines are going to be improved after
10 notice and comment, don't we have to publish them for notice
11 and comment right away, prior to our next meeting?

12 I wonder whether the committee isn't far enough
13 down the road on this, where we could publish tentative
14 regulations for notice and comment, or authorize the committee
15 to publish them for notice and comment, and then consider
16 the questions in the light of the comments that come in. We
17 will have to do that in any event.

18 MR. BREGER: Mr. Chairman, I think that we need not
19 have in place a great deal of framework, a regulatory frame-
20 work, for the council at the time at which we send the formal
21 triggering letter to the governors.

22 What we must do is know what we want to say to the
23 governors so that we can put that information in your letter
24 to them. If that is the case, it seems to me we do have
25 somewhat more time than had been originally intimated, in

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1 that we have through Janaury 14th to make up our mind what we
2 want to have these councils do, and then for you to encompass
3 that, or at least encompass minimally the direction that
4 the governors should go in seeking staffing for these councils
5 when you write them.

6 If that is true, it would seem to me it is still
7 possible to lay over this matter until the December 11th
8 meeting. At that time, or between now and that time, we
9 can circulate the advised draft for Board consideration and
10 comment to the committee and bring forward on December 11th
11 a draft which will then be tentatively published in the notice
12 and comment. But yet, go ahead after that time, between then
13 and January 14th, to write your communication to the governors.

14 MR. CRAMTON: I guess I am still a little troubled
15 because it means we are writing to the governors at the time
16 when we haven't gotten public comment. I worry a little bit
17 that this process of writing regulations -- and you people
18 on the committee are experts on this -- but the more rounds
19 you have of drafts and comments, the more burdensome it makes
20 it.

21 This is not a terribly complex set of regulations.
22 You have got a draft. They are tentative in form. We need
23 public comment on them. Why not publish them in the tentative
24 form immediately and then try to pass on them at the December
25 11th meeting because the next meeting after that will be at

bwm 5

1 the end of January, after the January 14th deadline, and we
2 will not have considered public comment and had Board action
3 at the time when we have to make a communication to the
4 governors.

5 MR. BREGER: My sole difficulty with that proposal
6 would be the psychological tendency, which all of us have,
7 including myself, to fix in our minds in concrete, materials
8 which are published in print.

9 MR. CRAMTON: The regulations committee has showed
10 such flexibility in terms of responding to comments and
11 views of members of the Board and others. I am just not
12 worried about that. I think we would be benefited by the
13 public comment, and then the Board could consider the advisory
14 council regulations in the light of the public comment.

15 I don't think you are going to feel bound by
16 particular language.

17 MR. KUTAK: Mr. Chairman, I am perfectly willing, if
18 the Board would want to indulge me in that regard -- I would
19 like to do the following: I would be willing to accept
20 responsibility for scrubbing this into draft, submitting it
21 to our president and staff, getting some quick interchange of
22 comments, and getting it out for publication.

23 There is nothing ominous about this regulation. It
24 is quite clear. There are no time bombs in it. It doesn't
25 have any profound policy involved in it.

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1 MR. CRAMTON: And to the extent there is, we might
2 be fired by public comment on them.

3 MR. KUTAK: And we would have time to do it. I
4 wanted to be sure that in this one regulation, which is peculi-
5 ar to all of the regulations we will consider, this will be
6 the one regulation that has an out-of-corporation impact,
7 and therefore, I wanted to be certain, since 50 governors
8 and many Bar associations, and a lot of interested individuals
9 are going to be more directly affected by that, that we are
10 certain as to our footings, and that is why I would prefer
11 to have more time to polish it.

12 And if you would like to delegate that responsibili-
13 ty, we would accept that.

14 MR. BROUGHTON: I move that we delegate that.

15 MR. CRAMTON: Than we have a revised resolution.
16 We will say: Resolved, that the Chairman of the Committee on
17 Bylaws and Regulations is authorized to revise the draft
18 of the propped regulations implementing Section 104 (f) of
19 Legal Services Corporation Act.

20 Then the public comment would be back and the
21 committee would have a chance to consider the draft regulations
22 in light on public comment and to present some views to the
23 Board at the December 11th and 12th meeting.

24 MR. BROUGHTON: This was discussed at the meeting,
25 and I intended to mention that this point was expressed, that

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1 this is an area where we shouldn't over-regulate, that we try
2 at least to make this area as minimal as possible.

3 There was a further suggestion in that connection
4 that a memorandum be prepared and that could be somehow
5 delivered to the respective governors, perhaps by Board
6 members in their respective states, along with leaders of
7 the Bar, and we could accomplish two or three things.

8 One would be not to get a governor concerned
9 about -- this is another recommendation coming out of
10 Washington, and I don't want to have anything to do with that.
11 But they would have an opportunity to bring them more fully
12 into the program and perhaps pick up support of the program
13 we might not otherwise have.

14 MR. CRAMTON: I gather these are some of the
15 things to be considered in December along with the regulations
16 and comments on them.

17 MR. BROUGHTON: Yes, and as to how we get it to the
18 respective states.

19 MR. EHRLICH: I gather this resolution doesn't pre-
20 clude publication in other forms outside the Federal Register?

21 MR. KUTAK: Not at all.

22 MR. EHRLICH: I hope we can come up with some
23 sense of the range of possible costs.

24 MR. KUTAK: I hope to have that by the next Board
25 meeting.

bwm 8

1 MR. EHRLICH: Part of that will depend, of course,
2 on structure and organization.

3 MR. KUTAK: To give you some sense of timing,
4 Mr. Chairman, I will try to check with Tom before the end of
5 today and be in phone contact with him by Monday. I know that
6 Tom can deliver to Tom Ehrlich a copy that he might take back
7 with him this weekend, and we could get together by telephone
8 conference midweek and, perhaps, get them in.

9 We have also had very fine support from those who
10 have wanted to respond by recognizing our problems and
11 responding early; and I invite that again.

12 MR. CRAMTON: Is there further discussion on the
13 pending resolution?

14 (No response.)

15 MR. CRAMTON: All those in favor, say Aye.)

16 (Chorus of Ayes.)

17 MR. CRAMTON: Those opposed, say No.)

18 (No response.)

19 MR. CRAMTON: The motion is adopted.

20 The next item is Item 9 on the agenda, and I have
21 several draft resolutions which I would like to present.

22 I might preface my comments with the statement that
23 with the ratification of the appointment of the president this
24 morning, one of our committees, the Committee on Presidential
25 Search, is automatically self-destructed because the resolution

1 which created it stated that the life of the committee ended
2 when a president was in office.

3 A second committee which we have had during the
4 transition period was contemplated to be a temporary committee
5 to help deal with the myriad of administrative problems of the
6 start-up of the corporation. I am referring to the Committee
7 on Administration. The functions and duties of that committee
8 have terminated, and proposed Resolution G would read as
9 follows:

10 WHEREAS, the Committee on Administration appointed
11 by the Chairman of the Board pursuant to the resolution
12 passed by the Board of Directors on July 14, 1975, has con-
13 cluded the functions for which it was organized;

14 RESOLVED, that the Committee on Administration of
15 the Board of Directors of the Legal Services Corporation is
16 hereby terminated and dissolved.

17 MR. BREGER: I so move.

18 MR. STOPHEL: Second.

19 MR. CRAMTON: The motion is before you for dis-
20 cussion.

21 MR. STOPHEL: I move the question.

22 MR. CRAMTON: All those in favor of the motion,
23 please say Aye.

24 (Chorus of Ayes.)

25 MR. CRAMTON: Those opposed, No.

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1 (No response.)

2 MR. CRAMTON: The motion is carried.

3 There are two committees which -- two current
4 committees which have ongoing activities, and the proposal
5 now is that these two committees be continued as standing
6 committees of the corporation.

7 The two committees of which I speak are the
8 Committee on Appropriations and Audit, to be composed of
9 three members and to perform the functions spelled out in the
10 earlier resolution creating it, in general, to deal with
11 finances, the corporation's budget, and audit matters, and to,
12 on recommendation of the staff, advise the Board and report
13 to the Board on those matters which need a great deal of
14 technical preparation if they are going to be discussed
15 intelligently by the Board.

16 The second committee already in existence is now
17 denominated the Committee on Bylaws and Regulations. And the
18 purport of this motion is to change its title to eliminate
19 the word, "Bylaws," and so that it reads The Committee on
20 Regulations, since the bylaws are behind us and we need no
21 longer embody in this standing committee, for what is going to
22 be a continuing problem for at least some time, a reference
23 to the bylaws.

24 So I would ask, I would move that you adopt a
25 resolution converting the Committee on Appropriations and

own 11 1 Audit to permanent status and changing the name of the
2 Committee on Bylaws and Regulations to the Committee on
3 Regulations, and continuing it as a standing committee until
4 at least the process of issuing regulations has been completed.

5 Before we consider that, I would like to lay
6 before you another resolution, a revision of Resolution H,
7 which would create a new standing committee, leaving us, if
8 both of these resolutions were accepted, with three standing
9 committees, each with three Board members as members, a tenth
10 member to be appointed to one of the committees when the
11 President feels and the Senate confirms and takes care of the
12 existing vacancy.

13 Resolution H deals with the appointment of a
14 Committee on Provision of Legal Services, and it reads as
15 follows:

16 WHEREAS, Section 1007 (g) of the Legal Services
17 Corporation Act requires the Corporation to conduct a com-
18 prehensive, independent study of the existing staff-attorney
19 program and of alternative and supplemental methods of
20 delivery of legal services to eligible clients, including
21 judicare, vouchers, prepaid legal insurance, and contracts
22 with law firms, and to make recommendations to the President
23 and the Congress not later than two years after the first
24 meeting of the Board, concerning improvements, changes, or
25 alternative methods for the economical and effective

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delivery of such services; and

WHEREAS, the Corporation has an obligation under its legislative mandate to work to improve the provision of legal services to the poor,

RESOLVED, that the Chairman shall appoint a Committee on Provision of Legal Services to assist the Board in implementing Section 1007 (g) of the Act and in developing proposals for improvements in the provision of legal services to the poor. The Committee shall be composed of three members of the Board. The Committee shall report on its activities and progress at each meeting of the Board. Unless otherwise directed by the Board, the Committee shall terminate when the report required by Section 1007 (g) is filed with the President of the United States and the Congress.

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These 2 resolutions are now before you. Why don't we consider them one at a time. First the resolution dealing with the continuance of appropriations and audit as a standing committee and the retitling of the committee on bylaws and regulations.

MR. BROUGHTON: I move the adoption.

MR. MONTEJANO: Second.

MR. CRAMTON: Is there discussion?

(No response.)

MR. CRAMTON: Prior to a vote on this matter I would like to inform the members of the Board how I would plan to exercise the authority that would be given to me in terms of the appointment of Board members to these 3 committees. The Committee on Appropriations and Audit: Glenn Stophel, Chairman, Marlow Cook, Vice Chairman, Melville Broughton.

Committee on Regulations: Robert Kutak, Chairman, Rudolfo Montejano, and Glee Smith as Vice Chairman.

Committee on Provisions of Legal Services: Samuel Thurman, Chairman of the Committee on Legal Services, Marshall Breger, Vice Chairman and Revius Ortigue.)

Are you ready for the question of the first resolution dealing with the standing committee aspect of the appropriations and audit and the retitling of regulations?

All those in favor please say "Aye."

lb 13-2

1 (Chorus of "ayes.")

2 MR. CRAMTON: Those opposed, no.

3 (No response.)

4 MR. CRAMTON: The motion is adopted. Now for the
5 resolution dealing with the appointment of a committee on
6 provisions of Legal Services. Do I have a motion?

7 MR. BROUGHTON: I move that way, that such a
8 committee be appointed.

9 MR. MONTEJANO: Second.

10 MR. CRAMTON: All those in favor of the motion
11 please say "aye."

12 (Chorus of "ayes.")

13 MR. CRAMTON: Opposed?

14 (No response.)

15 MR. CRAMTON: The resolution is adopted.

16 MR. STOPHEL: Mr. Chairman, I assume we're getting
17 ready to go to a discussion of future meeting dates, but it
18 just dawned on me that we don't have our accounting people
19 here but we had to backtrack at one point and we authorized
20 Mr. Oberdorfer to commit our funds and I don't think we have
21 adopted it with regard to the president and vice president.
22 I don't want him signing checks here during the interim with-
23 out a proper resolution.

24 MR. KUTAK: It was in the resolution of appointment.

25 MR. STOPHEL: But not to --

lb 13-3

1 MR. CRAMTON: I think it would be appropriate to
2 have a general resolution stating that all powers
3 which the Board has in past resolutions delegated to Mr.
4 Oberdorfer as acting counsel of the Corporation are hereby
5 vested in the president or in his designee or something
6 of that nature.

7 MR. TATEL: I don't think we need it. The reason
8 is that by virtue of being president of the Corporation, the
9 chief executive officer has all the authority.

10 MR. KUTAK: Why don't we adopt a resolution and make
11 sure?

12 MR. BREGER: Can I move the language which you use
13 recited?

14 MR. CRAMTON: What is your motion?

15 MR. STOPHEL: The motion is that we authorize the
16 president to exercise all those duties and responsibilities
17 formerly designated to -- conferred upon the counsel to the
18 Corporation.

19 MR. MONTEJANO: Second the motion.

20 MR. CRAMTON: Is there discussion?

21 (No response.)

22 MR. CRAMTON: All those in favor please say "aye."

23 (Chorus of "ayes.")

24 MR. CRAMTON: All opposed say "no."

25 (No response.)

MR. CRAMTON: Resolution is adopted.

2 We now come to item 10, discussion of future meeting
3 schedule. We have planned for sometime to have the next
4 meeting of the Board on Thursday and Friday, December 11 and
5 12, and those continue to be the dates that the Board has in
6 mind.

7 During our executive session we discussed the
8 possibility of holding a meeting in late January in Austin,
9 Texas, on January 23 and 24. And I would ask that we -- if
10 these dates are acceptable that we plan the next two meetings
11 of the Board on Thursday and Friday, December 11 and 12, in
12 Washington, D.C.; and Friday and Saturday, January 23 and 24,
13 in Austin, Texas.

14 Do I have support?

15 MR. BREGER: I so move.

16 MR. CRAMTON: Without objection let's take those
17 dates as being set subject, of course, to the possibility that
18 they might be changed.

19 It has been assumed that there will be a meeting in
20 late February at which the report being prepared in connection
21 with the backup center study will be the major item of
22 business. The date for that has not been set. But the
23 staff is going to circulate to the members of the Board
24 possibly selecting several dates and seeing which dates are
25 most convenient for most members of the Board. Because the

1 report is expected in the middle of February, it seems to me
2 at sometime it will be necessary for its circulation to mem-
3 bers of the Board and to outsiders, the meeting has got to
4 be in late February, but still giving the staff time to try
5 to implement whatever the Board decides before the end of
6 March.

7 MR. KUTAK: Mr. Chairman, as you know the by-laws
8 under section 4.01(a) specify the regular meeting of the
9 Board be the first Friday in March and the same date in June,
10 October and December.

11 MR. BROUGHTON: Why do we make that so rigid?

12 MR. KUTAK: Or any other time we want.

13 MR. CRAMTON: That might not be a bad date. That
14 is March 5. It is about two weeks or less than two weeks,
15 a little over two weeks after the date on which it is pro-
16 posed that the backup center report be submitted.

17 MR. KUTAK: In answer to your question, it was
18 just plain arbitrary.

19 MR. CRAMTON: And it is always subject to change.

20 What about the possibility of Friday, March 5?
21 Should we plan a two-day meeting and, in general, does the
22 Board prefer Thursday and Friday against Friday and Saturday,
23 or the latter?

24 MR. ORTIQUE: I would suggest that we just follow
25 our plans for the immediate dates. But anything that you

1 set for March, it seems to me that is too far in advance.

2 MR. EHRLICH: We do propose to try to come up
3 with a tentative schedule because so many of you are so busy
4 that even though some of them may have to be changed, that at
5 least we will have a starting place.

6 MR. KUTAK: It is extremely helpful to me if I
7 can have the year laid out.

8 MR. CRAMTON: Why don't we think about Friday
9 and Saturday, either in late February or early March.

10 MR. STOPHEL: Let's see how that report comes in.
11 If it comes in well in advance of that date --

12 MR. CRAMTON: I don't think we will know -- it will
13 have to be completed by whatever date we set for the committee
14 meeting. I think it has to be either Friday and Saturday,
15 the 28th and 29th of ^{February} ~~March~~, or March 5th and 6th, and I am
16 inclined to think we may need that extra time to digest that
17 report and that we ought to pick March 5th and 6th.

18 MR. EHRLICH: I would like to talk a little bit
19 to the staff only to find out the implementation problems;
20 and that only gives three weeks between that date and the
21 end of March to cover a lot of things. I will make a recom-
22 mendation and then the Board members can save one or the
23 other of those two days.

24 I gather that Friday and Saturday is generally
25 better than Thursday and Friday?

1 MR. CRAMTON: I prefer to be home with my family
2 on Saturday. Let's have some of both. We will try to
3 satisfy both groups by having some of both.

4 Is there any new business?

5 (No response.)

6 If not, I would entertain a motion to adjourn.

7 MR. KUTAK: I so move.

8 MR. BREGER: Second.

9 MR. CRAMTON: We are adjourned.

10 (Whereupon, at 5:00 p.m., this meeting adjourned.)

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