

40 ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

In its main outlines, S. 1664 gives effect to the principal recommendations made to President Kennedy last December by the then disbanding Administrative Conference. Those recommendations and the accompanying explanatory report have of course been laid before your subcommittee for its information. My views are in accord with them, and I shall not burden you by repeating what has there been said. I reaffirm my belief however, that the Administrative Conference, led by a strong executive, can do much good. A chairman with the powers and duties prescribed by S. 1664 is an essential element.

In certain matters of detail, I think that S. 1664 can be advantageously clarified. As an addendum to this letter I have taken the liberty of setting forth several minor suggestions which I hope may be considered.

Respectfully yours,

WALTER GELLHORN.

SUGGESTIONS OF WALTER GELLHORN CONCERNING S. 1664

I. SECTION 3

1. The definition of "administrative program" in section 3(a) is unnecessarily constricted. It might very possibly be deemed to exclude from Administrative Conference consideration such matters as Government procurement procedures, selection and tensure of hearing officers, recruitment and training of Government attorneys, social security administration, land patents, grazing permits, steamship, locomotive, and aircraft inspection, proceedings involving determination of appropriate units for collective bargaining, and passport issuance, among other administrative activities important to persons outside the Government.

Bearing in mind that the Administrative Conference has absolutely no power other than to make procedural recommendations, I see no reason to define "administrative program" in the first place. The term is not used significantly elsewhere in the bill other than in the balance of section 3 itself. Its inclusion does no more, in my judgement, than place an artificial constriction upon the future play of commonsense. I recommend deletion of section 3(a).

2. Section 3(b) seems to me to be an unnecessary technicality. The membership of the Conference is to include persons employed in this or that "agency" designated by the President. Surely, the President can determine what is and what is not an "agency" that should be represented in the Conference.

The definition serves no purpose other than to tell the President what he would be able to deduce in any event.

3. If, as I believe should be done, both sections 3(a) and 3(b) were eliminated, section 3(c) could be improved by simply striking out the words "means procedure used in carrying out an administrative program and."

The subsection would then read as follows: "Administrative procedure shall be broadly construed to include any aspect of * * *."

II. SECTION 4

1. Section 4(b) insists that the Administrative Conference be composed "preponderantly" of Federal officials and personnel. This seems to be an unnecessarily provocative direction. In the very nature of things the Conference will—and, in my view, should—be a conference in which Federal personnel have the major role. But the emphatic statement of the obvious serves no purpose. I suggest instead: "(b) The Conference shall be composed of (1) a full-time Chairman * * *"

2. Section 4(b)(3) calls upon the President to designate the executive departments and other administrative agencies from which Conference members are to be drawn. This is a picayune task to impose upon the Chief Executive. I believe that the Council could well be entrusted with entire responsibility for determining the size of the Assembly and for identifying the agencies from which members should be named (though the selection of the members themselves, should of course, lie with the agencies, not with the Council).

3. Section 4(b)(4) contemplates the possibility of an additional appointee from each administrative body identified by the Council. This is a wise provision, since it authorizes a differentiation according to the range of the respective agencies' responsibilities. I suggest, however, that in some instances more than one additional appointee might be deemed desirable. The addition of