

Senator LONG. I don't believe you were here this morning, so I will mention it to you now, that Senator Bayh sent a note stating that he regretted that he could not be here. I believe he was a former student of yours.

Professor FUCHS. Yes; he is, I am proud to say.

Senator LONG. He expressed regret not being able to be here, but hopes to be here before we recess.

Professor FUCHS. Thank you very much.

**STATEMENT OF PROF. RALPH F. FUCHS, SCHOOL OF LAW,
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Professor FUCHS. I, too, appreciate greatly the opportunity to come and offer such testimony as I can with regard to the pending S. 1664 on the basis of what knowledge and experience I have. These include membership in the Administrative Conference, which recently sat and has reported, and I wish to confirm the points that have been made by Dean Landis and Professor Nathanson, and no doubt also by Judge Prettyman, whom I didn't have the chance to hear this morning, with regard to the way in which that Conference functioned.

I have made some of the same points in a summary of the work of the Conference which was published in the last issue of the Administrative Law Review; and I think they are very important, indeed. The excellence, as I see it, of the pending bill as a whole, results from the kind of agency it sets up to perform the particular functions that would be performed. These are, of course, research into the operations of the administrative agencies, the application of a critical judgment to those operations, and proposing improvements in the operations. These functions are obvious, but worth mentioning, because there has been expressed at times some feeling that a conference is not the ideal device to carry on these functions because whatever agency does perform them ought to be tied to the Executive somewhat more closely than, perhaps, the Conference would be.

I think that view overlooks the collateral nature of these three functions, which are not in the main line of the performance by the executive branch of its duties, although, of course, they bear very closely on the work of the Executive, and are linked to the Executive. The Conference device, which I think is the best device that has been proposed for performing these functions, operates by bringing a professional judgment to bear from both within and without the Government, calling for a different kind of relationship to the Chief Executive from that which other agencies of Government have. It is for this reason that I think it would be desirable to have the members of the Conference designated by the agencies rather than consist in considerable part of agency heads, because those designated would doubtless be selected with reference to their qualifications to perform this kind of collateral duty. The permanence of the Conference would secure the performance of its functions continuously on a planned basis, and this obviously is what is needed if we are going to bring about the improvements in agency operations which all are interested in achieving.

The Conference device, it seems to me, has several characteristics that are important. One of them is its representativeness of the