

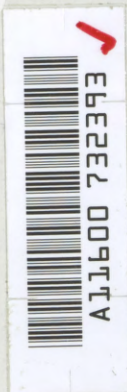
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PATRICIA ROBERTS HARRIS, TO BE SECRETARY OF  
HEALTH, EDUCATION, AND WELFARE—ADDITIONAL  
CONSIDERATION

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HEARING  
BEFORE THE  
COMMITTEE ON  
LABOR AND HUMAN RESOURCES  
NINETY-SIXTH CONGRESS

FIRST SESSION

ON

ADDITIONAL CONSIDERATION OF PATRICIA ROBERTS HARRIS,  
TO BE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

JULY 26, 1979

DOCUMENTS



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## PATRICIA ROBERTS HARRIS, TO BE SECRETARY OF HEALTH, EDUCATION, AND WELFARE—AD- DITIONAL CONSIDERATION

THURSDAY, JULY 26, 1979

U.S. SENATE,  
COMMITTEE ON LABOR AND HUMAN RESOURCES,  
*Washington, D.C.*

The committee met, pursuant to notice, at 10 a.m., in room 4232, Dirksen Senate Office Building, Senator Harrison A. Williams, Jr. (chairman) presiding.

Present: Senators Williams, Randolph, Pell, Kennedy, Riegle, Metzenbaum, Schweiker, Javits, and Stafford.

The CHAIRMAN. We will come to order. It is an honor to have Mrs. Harris appear before our committee this morning. Although she has not appeared before this committee in her capacity as Secretary for Housing and Urban Development, Mrs. Harris testified several times before the Banking, Housing, and Urban Affairs Committee which I serve upon. It was a pleasure to have her testify then and I welcome her today.

As Secretary of Housing and Urban Development, Mrs. Harris established a very impressive record. She was assigned to one of the most difficult jobs in the Government and arrived at a time when HUD was in the midst of a bureaucratic malaise. In a very short period, she grasped the complexity of many technical housing and urban issues. She operated the Department with a keen eye for cost-effectiveness which led the Department to cut the cost of many programs without limiting their effectiveness.

In her tenure as Secretary of HUD, she even made a believer out of Senator Proxmire who opposed her appointment in 1977. I believe Mrs. Harris' distinguished service as Secretary of HUD will be of immense value as the new Secretary of HEW.

HEW has been called the beneficent monster. One weekly national news magazine said that if one institution were to be singled out as having the most impact on American life today, it would not be the church, or school, private corporation or political party. It would be the U.S. Department of HEW.

HEW is as broad and varied as American life itself. It has the third largest budget in the world, outranked only by those of the U.S. Government and the Soviet Union. Its spending roughly equals that of all 50 States combined.

When HEW was created in 1953, its first budget was a mere \$5.4 billion, of which \$3.4 billion went for social security. HEW's budget for fiscal year 1979 was \$182 billion, which goes for a multitude of

social services, education, health, social security, and other income assistance programs.

In many ways, as Secretary of HEW, Mrs. Harris will be serving the same constituency she served as Secretary of HUD. Only now, she will be responsible for administering the vast array of health care, income maintenance, and social programs which directly or indirectly affect all Americans.

One great concern of Mrs. Harris during her tenure as Secretary of HUD was meeting the critical housing needs of many Americans who had not been particularly advantaged by birth or wealth. In welcoming Mrs. Harris before our committee, I would like to quote from her January 1977 confirmation hearing.

Mrs. Harris said.

I have been a defender of women, of minorities, of those who are the outcasts of this society, throughout my life and if my life has any meaning at all it is that those who start as outcasts may end up being part of the system. By being part of the system one does not forget what it meant to be outside it, because I assure you that while there may be others who forget what it meant to be excluded from the dining rooms of this very building, I shall never forget it.

I am happy to turn to Senator Schweiker, ranking minority member of the committee.

Senator SCHWEIKER. Thank you, Mr. Chairman.

I would like to welcome Secretary Harris in her first appearance before our committee and to congratulate her on her new appointment. The job of Secretary of Health, Education, and Welfare is a great responsibility; one of challenge, frustration, and complexity. Above all, it is important to the Government and to the people. Important because it touches so many people, old, young, sick, well, rich, and poor.

Because it is so important, I must state I have great concern about the present state of leadership at HEW. I am greatly troubled at the manner in which Secretary Califano was so summarily dismissed. I do not question the President's right to appoint and retain Cabinet officers of his choosing, but the process we have witnessed suggests an extreme lack of confidence in the operation at HEW. It can also suggest a lack of confidence in the programs and policies of HEW. At the very best, it suggests a vacuum exists in the leadership at HEW. The Secretary, and the Under Secretary, are effectively gone. I believe it is imperative that the leadership at the Department be restored as soon as possible.

We have a unique candidate in Secretary Harris because she is currently Secretary of HUD, and has a record which can be reviewed and evaluated. I have reviewed her record, and I must say it is impressive. The reports I have received indicate we have a candidate of keen intellect, high intelligence and superior administrative and managerial ability. I intend to vote for her confirmation and I will work with you, Mr. Chairman, and the leadership to secure an early confirmation. I believe early confirmation is in the best interest of the Department and the country. Since we have already subjected the Secretary to careful scrutiny on the occasion of her confirmation for the HUD position, I see no reason why her current confirmation should not be expedited.

In summary, I would like to repeat my welcome to you, Mrs. Secretary, and to congratulate you on your new assignment. We have much work to do, but I know you will dig right in.

The CHAIRMAN. Are there any observations you would like to offer at this time, Senator Randolph?

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

We welcome Patricia Harris as the nominee, and I will be relatively brief, but I do believe that there are certain questions that perhaps we should have answered.

The CHAIRMAN. We are just having introductory greetings at this point.

Senator RANDOLPH. Good morning.

The CHAIRMAN. Senator Kennedy.

Senator KENNEDY. Good morning, congratulations to you.

The CHAIRMAN. Senator Riegle.

Senator RIEGLE. Mr. Chairman, I might just briefly say that it has been my pleasure to work with the Secretary-designate on the Banking, Housing and Urban Affairs Committee. We have had an exceptionally good relationship. She has done a fine job at HUD under difficult circumstances, considering the problems she inherited there.

However, I must say frankly that I have great concern about maintaining continuity at HEW. When there is a change in leadership under the present circumstances, it creates special problems. I want to talk with you about your view of those problems and how you anticipate dealing with them, but I also want to offer my congratulations and say that I fully expect our new relationship to be every bit as positive and productive as the one we have experienced in the past.

The CHAIRMAN. Senator Stafford.

Senator STAFFORD. All I want to say is, good morning, welcome, and congratulations.

The CHAIRMAN. Senator Metzenbaum.

Senator METZENBAUM. I am particularly pleased to see Patricia Harris here in the capacity of Secretary designate of HEW. I think there is no other department of Government that can have more of an impact on the problems of some of the forgotten people of our society, minorities, women, handicapped. I know that from a lifetime of involvement you will not overlook your previous concerns in this area and reassert a stronger voice and more efficient capacity in this Department.

I am very pleased to see that the President saw fit to appoint you, I am looking forward to working with you, and I am happy to be here to congratulate you.

The CHAIRMAN. Mrs. Harris.

#### STATEMENT OF PATRICIA ROBERTS HARRIS, NOMINEE TO BE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Secretary HARRIS. Mr. Chairman, members of the Senate Labor and Human Resources Committee, it is an honor and a privilege to appear before you as the President's nominee for the position of Secretary of the Department of Health, Education, and Welfare. I am pleased to see old friends from the Banking Committee, including you, Mr. Chairman, and Senators Cranston, Riegle, and Armstrong. I hope that you and your colleagues in the Senate will find it possible to advise and consent to my nomination and thereby

provide me the opportunity to continue to serve the people of this Nation who most need the help of their Government.

No issues of our time are more important than those involving the way in which a rich, democratic society deals with the young, the poor, the handicapped, the infirm and the aged. No one in this country should lack the opportunity to realize his or her potential, or to live with dignity. That has been my concern during the last 30 months that I have served as the Secretary of Housing and Urban Development. That has been the major concern during all my life. And if confirmed, that will continue to be my concern as the Secretary of Health, Education, and Welfare.

Thank you.

The CHAIRMAN. Thank you.

Having had such a personally pleasurable and constructive experience serving on the Banking and Housing Committee with you as Secretary of HUD, I will limit my questions today. I think that your life, your background, and the way you have applied yourself to high office in Government demonstrates your sensitivity to the human needs that the Department of HEW directs itself to. I would like you to give the committee your impressions about those issues that will require the force of your immediate attention as the new Secretary of HEW? What are the highest priorities of human need that this Department should be addressing? What are its inadequacies?

Secretary HARRIS. The first thing I would want to do is reassure those who may have sense of discontinuity, some sense that policy is changing, and to say that we will do even better what we have set out in the past to do.

I want to reassure the good people at HEW that we will continue the march to improve the delivery of all the services that HEW is responsible for. It is very hard for me, quite frankly, to choose among equally important goals and programs and say this is the most important and this is the least important. For the people who receive the services, even to some of us who may think we are more objective, that that service is not important; for the people receiving the service it is very important. I want to be sure that the delivery meets the goals established by this body in enacting the authorizing legislation, that the funds are appropriately spent and not wasted, but most importantly that we do the full range of services as well as humanly possible.

The CHAIRMAN. I appreciate that. I am sure that during the balance of our discussions with you this morning, it will be made clear that certain issues have occupied a great deal of time within this committee. We have felt the urgent need to respond to certain problems by developing legislation. Some of our legislative efforts are not moving as rapidly as we would like. The hospital cost containment bill agreed to by this committee is languishing elsewhere. It would be my hope that in your position, with the total confidence of the President of the United States, this and other measures of great importance, can get a new and successful thrust.

Secretary HARRIS. Senator, the enactment of hospital cost containment as recommended by the President of the United States is at the highest priority for me in the immediate days after assuming my position, if this body should confirm me.

It seems to me that a number of other issues pending in this body are so closely related to hospital cost containment that we must move expeditiously to assure enactment of that legislation. That, plus one or two other major programs that the President has already proposed, will be areas in which I expect to be working immediately.

The CHAIRMAN. I turn to Senator Schweiker. Because of the multitude of activities before Secretary Harris and the fact that this Committee is the principal authorizing committee for the Department's activities, perhaps we should limit our questioning the first time around to 10 minutes.

Do you agree to that?

Senator SCHWEIKER. Fine.

Mr. Chairman, I find this a unique situation in terms of asking questions because we have a nominee who has obviously proved herself. We don't need to do a lot of probing about how effective she is going to be, we know the answer to this question. As to the issue of policy we also know the answer because the White House has a continuing policy. No probing is necessary.

The only real issue I see confronting the Secretary is one of continuity, and there is no question in my mind that she is going to pitch right in and do her utmost to solve that problem, as she did at HUD.

To expedite the confirmation process I will yield to my colleagues.

The CHAIRMAN. Senator Randolph.

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

Patricia Harris has given the shortest statement to any committee or subcommittee perhaps in the history of the Senate, less than 250 words. On all the committees I have served where nominees appeared, you have the record for briefness.

Now, that has challenged me to be brief, too. I recall, Mrs. Harris, in May 1977, when you and I were participants in the White House Conference on Handicapped Individuals, you made a very prophetic and important announcement. You said that you were establishing within the Department of Housing and Urban Development a new Office of Independent Living for the Disabled. You kept your promise. You created such an office. We continue to keep informed through our Subcommittee on the Handicapped, and, at this moment, I want to express very genuine appreciation to Senator Stafford, to Senator Schweiker and to Senator Eagleton and to Senator Riegle, the members of the Subcommittee on the Handicapped of this parent Committee on Labor and Human Resources.

At that White House conference I announced that the members of our Subcommittee on the Handicapped were going to develop a measure that we would sponsor which would call for the establishment and the operation of a National Institute for Handicapped Research. That was more than a gesture. We worked on it. It became law in November 1978.

There was a statement made by the Department of Health, Education, and Welfare in April 1979, with reference to that matter. I think it is the hope, not only of the members of our subcommittee, but the hope of Congress generally, that you will expedite the

Institute and bring the same successful implementation as you did with the Office of Independent Living for the Disabled at the Department of Housing and Urban Development.

Could you comment?

Secretary HARRIS. Senator not only did we establish the Office of Independent Living, but we moved to make everyone cognizant of the needs of the handicapped in every aspect of the administration of HUD. We have increased the amount of money available for construction and rental assistance for the nonelderly handicapped. I think that as I look back in later years on the things that I was responsible for at HUD, that I will get the greatest satisfaction from the movement toward implementation of real benefits for the handicapped.

I do understand that there is a good deal to be done to implement the program established by this committee. I assure you that I will do everything I can to deal with this problem and to try to make up for the gap between the authorization and the implementation.

I will look at that as soon as I can. I have not done more than ascertain the fact that there is much that must be done and as quickly as we can.

Senator RANDOLPH. Mrs. Harris, that is a positive statement you have made. I particularly like your work. I am very cognizant of your success and the assignments you have had, and the assignment that is now forthcoming.

I feel you meet problems head on, you do not skirt around them. It is my feeling that you will make a frontal attack on this problem, and that is very positive. I appreciate it.

A member of our subcommittee, Senator Eagleton, was unable to be here today, and he asked that I ask you this question.

Senator Eagleton says:

As you know, the prohibition on Federal funding of abortions will be at least as restrictive if not more so in fiscal year 1980 than under present law.

Do you intend to vigorously enforce the present restriction and whatever subsequent restrictions are enacted?

Secretary HARRIS. Senator, I was once criticized for believing that obedience to the law is very important. Believe it or not, someone once said to me that I am much too adamant on that. I can assure you that I will enforce whatever laws I am required to enforce. The decisions of this body with respect to the law are the law of the land, and I will enforce them whatever they may be, so long as I am in public office. At the point I cannot, I will leave public office.

Senator RANDOLPH. I believe if you could not do what you have said that you would not stay in any post.

Secretary HARRIS. That is correct, sir.

Senator RANDOLPH. I commend you. Thank you very much.

The CHAIRMAN. Senator Kennedy.

Senator KENNEDY. Mrs. Harris, we have a very important piece of legislation that will be before the Health Subcommittee tomorrow, the drug legislation, S. 1075. I know that you have been under important time constraints, but would I be correct in understanding that your position would be that you support the positions which have been taken by the previous Secretary and Commission-

er Kennedy on that legislation. The Health Subcommittee has been dealing with drug legislation for some 5 years. We have worked on a proposal which I think threads a rather narrow needle.

Would you make whatever comments you would on this important issue and policy?

Secretary HARRIS. With respect to this legislation, which I understand is in markup tomorrow, and other legislation, this Administration has made no policy changes. We hope that the legislative process will continue, that, in fact, in some areas may even be expedited, and there is no reason to change anything simply because my nomination is before this body.

Senator KENNEDY. We should gather from that that the basic policy positions that have been taken by the administration, as reflected through Secretary Califano, are in continuation then, should we?

Secretary HARRIS. Yes; you should assume that, Senator. This does not mean that when I become Secretary of Health, Education, and Welfare, that I will change in any way my role as a member of the Cabinet of advising the President of directions in which I think policy commended to me should go. But I make the assumption that the President's statements that he is changing no policy is binding on every Cabinet officer, including this one. I will proceed.

If there are changes, they would be changes that would have come had I not been Secretary. I am not aware of any, let me say.

Senator KENNEDY. We assume there are no different initiatives or priorities in the health area or in the areas involving education or welfare at this time?

Secretary HARRIS. May I say you can assume between now and shall we say Labor Day there would be none. I do not hold myself to a position that says if I come up with something imaginative and exactly what the Congress would want, that I would not try to persuade the President to go in that direction. I can say I have none in mind at this moment.

Senator KENNEDY. The administration took a strong position in opposition to catastrophic health insurance because it felt it would be highly inflationary because it did not have the kind of system changes and cost controls which the administration felt were important. I assume that is your position as well?

Secretary HARRIS. Senator, with respect to all matters before this body, there is no change in the administration's policy position, no change.

Senator KENNEDY. Is that true about—I think maybe the President answered it last night in his press conference—about the position that Secretary Califano had on smoking and the implications that smoking had on health.

Would you be prepared to support that position? No one could sit on the Health Committee over a period of years and not know of the enormous health implications that smoking and high tar, high nicotine content has in its relationship with cancer. No one could sit on the Health Committee over a period of years and not be impressed by the explosion of teenage smoking now. It is virtually an epidemic. The relationship between smoking for women, for example, and the use of estrogen and higher incidents of heart illness and attacks and sickness.

What comment would you make about the smoking campaign of Mr. Califano?

Secretary HARRIS. Senator, it is not a recent matter that we know of the dangers of smoking. I believe that programs to reduce the dangers to the health of those who have not begun to smoke, and perhaps those who are smoking, were long overdue.

The Surgeons-General of the United States have pointed out this problem over the years.

I said yesterday before the Finance Committee that if these programs were not in existence now, I would feel compelled to establish them. Since they are there, I can only say I would improve them where they need improving, but certainly we have a duty as the Federal Government having adduced these data about the dangers of smoking, we have a duty to make clear to the public what the dangers are and to do what is necessary in the area of preventive medicine. This is what this program is.

I do not understand the assertion of opposition to the no smoking campaign; I do not think the opposition is as great as some would say, and I suspect that those who look with concern at what happens to people who smoke during pregnancy cannot want us to induce smaller babies and end a campaign which would protect the health of the newborn.

Senator KENNEDY. The area of national health insurance, the President's position has been for universal comprehensive program. We have differed, the President and I, on the implementation of that program and some other systems changes and delivery aspects and some aspects of cost control.

Can I assume correctly as well that you support universal comprehensive national health insurance program that would be prospectively budgeted?

Secretary HARRIS. As I have said, Senator, none of the policies of this administration related to these proposals has changed. Indeed, I hope vigorously to pursue the enactment of the President's proposals.

Senator KENNEDY. I know you have said it, I like to hear it from you on this as well. I just want to give you assurance that we would welcome the opportunity to work with you as I have expressed to the President and the White House trying to accommodate some different approaches on this. I think it is extremely important that we try to work that out. We are tireless in pursuing those efforts and look forward to working with you.

I believe faced with what other colleagues have expressed, you have shown a willingness to work on complicated difficult issues where there have been divisions. I want you to know I welcome the opportunity to work with you on national health insurance.

Can I ask just two or three other brief questions. One dealing with the Older Americans Act regulations. We passed legislation some 10 months ago and we still have not had the Older Americans Act regulations. I will just mention this to you today. I know you obviously have not had an opportunity to review these regulations. But they are, long overdue now. I gather you will work expeditiously to try to see that those regulations are put out as early as possible.

The Older Americans Act was reenacted 10 months ago and contains some significant changes in functions for local agencies, but we still have not got regulations. We have not gotten regulations on expediting the funding for national program for legal services for older people. There is a specific mandate in there for services for older Americans under the legal service programs, and they have not been published. And I would hope that we could get early action on this.

We have our Commission on the Protection of Human Subjects, and those names have been submitted by the Department over to the White House. I imagine 8 or 9 weeks ago. They consider extremely important ethical issues that reach a number of different agencies. The White House has not responded to the list that has been provided by HEW. I would hope that we could get some action on those matters. I just raise them today and draw them to your attention and your staff with the hope that we could get some action.

I gather that you will work to try to see that there will be action in those areas as quickly as possible.

Secretary HARRIS. Yes, sir.

Senator KENNEDY. The administration has sent up its welfare program. It is tied to a number of reforms. There are efforts in the Congress to alter and change and move to block grant system. I know what the administration's program is and I am a co-sponsor of its legislation. But could you just make a brief comment about whether you feel that the reforms are essential and necessary in bringing about reform in the welfare areas?

Secretary HARRIS. The President's welfare reform proposals are essential. The proposal that he has sent over in two parts to the Congress are very high priority to this administration. Three pieces of proposed legislation have been mentioned this morning, and I declined when Senator Williams asked for my statement of priorities to give them, but certainly these three pieces of legislation are at the highest level of priority—welfare reform, labor CETA legislation that has come over, hospital cost containment, and the national health insurance proposals. I see these as equal concern to this administration and I expect, as soon as I take up my responsibilities, should I be confirmed, to move expeditiously to work with you, with the other leaders of the Congress in finding ways to eliminate any roadblocks and any log jams, and to secure the enactment of the legislation that the President has proposed to the Congress.

Senator KENNEDY. You would oppose the block grant program?

Secretary HARRIS. I oppose any proposals that are contrary to the proposals of the President, and a block grant program is not the President's proposal.

Senator KENNEDY. If I can have a couple more minutes, Mr. Chairman.

Have you given thought about the reasons for the explosion of health care costs that we have seen over the past several years?

We have seen our percent of GNP, for example, that is devoted to health care costs increase from about 6.5 percent 10 years ago to being in excess of 9 percent this year, a higher rise than any other

industrial nation in the world. We have been less effective in getting a handle on those costs.

At the same time, many of lowest income people are being squeezed by the reduction of services in States, and by virtually instability of funding for number of programs that reach out to the elderly, and the neediest and the poorest people in this country.

Have you given some idea, given some thought for reasons for these explosions of costs, and generally again about how best to deal with them?

Secretary HARRIS. First of all, I can say that I have not looked at this in the company of experts who can check the judgments that I have as an informed and concerned citizen.

But it seems to me that there are a number of reasons, not all of them bad, that costs have gone up. One is more sophisticated equipment. I myself had some tests recently with a kind of Buck Rogers equipment that it never occurred to me even existed. This is certainly in terms of the costs of the very high technology and training one reason costs have gone up.

The fact that people have health insurance means undoubtedly that they do not question the costs of what they might do. The lack of competition in an essentially oligarchical industry. We probably have rather more competition in hospital beds, for example, than we need, but it is not reflected as competition ordinarily is reflected in reduction of costs because of the continuing fixed costs. It is a variety of circumstances that must be dealt with and that the hospital cost containment bill in many ways seek to deal with. It is because of the complexity of the forces that have led to increase in costs that we must have the intervention of a national client to control this increase in cost, which meets some health needs at some point and at others is a mere reflection of the lack of real market competition.

Senator KENNEDY. We have reported out the President's cost containment program and we look forward to working with you in trying to deal with the problems of cost.

Finally how do you think that your leadership in HEW will be different from Secretary Califano's?

Secretary HARRIS. Well, I am certain that in many ways our administrative approaches are different. Certainly I would want to take a look at the way in which the policy people are made accountable for the administration of the programs at the Department. I do not know the degree to which this is done, but certainly in the Department I presently head, it is clear that I hold the Presidential appointees accountable to me as Secretary for the implementation of programs. I do not believe in saying that the responsibility rests with people who are not politically accountable, and it is my expectation to move expeditiously to make certain that those who are supposed by law to run the programs, in fact run them and are accountable for them.

Now, in the degree that the former Secretary did that, we will not differ. But in the degree that I make this a central part of the way I believe government and all institutions ought to operate—

Senator KENNEDY. Just as it impacts people's lives, that would be the concern of people in my State as well as around the country, the difference Pat Harris is going to make in the Department, how

it is going to impact people's lives. I gather from what you have said here this morning there will not be—

Secretary HARRIS. I am not prepared to say that, Senator. I simply do not know at this moment. I have a belief that a process that makes everybody accountable from the ground up and from the top of the building down does have an impact on the way programs are delivered. I will be looking at the issue of accountability for the delivery of services to make certain that the Secretary's office has as much impact on delivery of services as is humanly possible given the size of that Department.

Senator KENNEDY. Thank you, Mr. Chairman. Thank you, Senator Javits.

The CHAIRMAN. Senator Javits.

Senator JAVITS. Mrs. Harris, nothing delights me more than to watch your progress. It is no derogation to Joe Califano—I found him an imminently fine Secretary—but having watched your progress, I guess for as much as 20 years now, it is just terribly thrilling to me that you have this tremendous responsibility. I do not know whether to congratulate or sympathize with you.

But anyhow I think you can count on a lot of help here.

I would like to read a paragraph from this morning's Washington Post and ask whether this is a fair statement of your position, and you repeat it because it is not in quotes, it is relating to abortion.

I do believe I would never have dreamed of asking you this question were it not for the fact that unfortunately impressions were created during Secretary Califano's very frankly expressed personal views, which were unjustified, as to him. I think we have to record this to make it very clear.

The article, I am sure you read it this morning, reads: "As for her views for Federal medicaid funding of abortions, she will carry out the law, which bars such funding in nearly all cases, but she agrees with a statement 2 years ago by Dr. Julius Richmond, the Surgeon General, that abortion sometimes can reduce hazards and that there shouldn't be discrimination against the poor in availability".

Is that your position?

Secretary HARRIS. Yes; I would say that is a substantial rendition. Let me be more specific.

Yesterday I adopted the statement of Dr. Richmond when he was before this very committee for his nomination in June 1977 in which he made what I consider to be a statement based on his experience and on his concern for the health of children and their parents, a distinguished pediatrician and child psychiatrist, his opinion on these matters as one that all should listen to. I certainly adopt his words—indeed read from his statement—questioning whether rights which are guaranteed by law ought to be conditioned by the mere fact of economic status.

Senator JAVITS. Would you be kind enough then to offer for the record exactly what in his statement you agree with or disagree with?

Secretary HARRIS. The entire statement, beginning, Senator, on page 17 of the hearings dated June 24, 1977, and continuing over to page 18, the full statement and the dialog between him and Sena-

tor Kennedy on his views and terms of restricting funds or not restricting funds, putting in limitations or not putting in limitations on abortions, funding of abortions.

Senator JAVITS. Mr. Chairman, I ask unanimous consent that the whole provision as described by Mrs. Harris may be included in the record.

The CHAIRMAN. It will be.

[The material referred to follows:]

\* \* \* \* \*

[Excerpt from the nomination hearing of

JULIUS RICHMOND, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF HEALTH, EDUCATION, AND WELFARE; TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE; AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

\_\_\_\_\_  
JUNE 24, 1977 ]

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Senator KENNEDY. Let me ask you, what do you think can be achieved within the health care system today?

I mean within the health care system under health insurance program that we cannot really achieve without it. Certainly some of the points that you have mentioned here, people that are not getting the services, what kinds of leverage does that give you, do you think, to deal with some of the problems that we are facing today that you—that you might not be able to deal with unless you had a health insurance program?

Dr. RICHMOND. I think the issue, Senator Kennedy, of equity is a very difficult one to get at under our current systems. We are dealing with highly categorical systems now and not universal systems, and I think it is very difficult to really gain equal access to the system, as long as we have eligibility requirements which, in large measure, serve as an area of resistance.

I think what the national health insurance program needs is for the providers, the professionals in the field, the hospital service systems, the outpatient systems and all, to assume a greater role in working toward that equity. It seems to me that we ought to know where the responsibilities are, and I think we really can help all of these groups target their efforts more clearly to the areas of greatest need.

Again I would emphasize the low income population, minority group population. I do not mean by this to indicate that the more affluent population has no health problems, but I think they are in different order, borne largely in life styles, and have to do with patterns of living and health habits. And I think that, too, can be emphasized very appropriately in our national health insurance program.

Senator KENNEDY. I have some other questions but, before yielding to Senator Schweiker, we are going to be faced on Monday here on the abortion issue, and I would be just interested in what your own view in terms of restricting funds or not restricting funds, putting in limitations or not putting in limitations, where you come out on this issue?

Dr. RICHMOND. Well, I think that as a person who has studied human behavior over many years, Senator Kennedy, I would first comment on the obvious fact that this is a highly emotional issue. People take positions on this stemming from their own personal

backgrounds, and I can respect the many points of view that we are dealing with in relationship to this issue.

I think that I would also comment that I would certainly implement the provisions of law. Having said that, I think I would also indicate very personally, now that abortions have been legalized, I have seen so much conservation of life as a consequence. I lived professionally through an era in which so-called criminal abortions were common, loss of life was frequent, and I have a feeling that since—and also there are data to support this—that there has been considerable reduction in mortality and morbidity since abortions have been legalized.

So that I would hope that in the legislation, insofar as this is now a matter of a legal right, that there would not be economic discrimination against this segment of the population. In other words, making the same option available to low-income people, it seems to me, as more affluent people have would be an appropriate measure. But, as I have indicated, I would respect the actions of Congress in this context.

Senator KENNEDY. Your sense is that if you put some limiting language in terms of either the life of the mother or in terms of disabilities, multiple sclerosis, mental retardation, and even if you exclude from the provisions the popularly known, or considered family planning devices, that even with that, that the result will be that you would get a return to the kind of conditions which you describe?

Dr. RICHMOND. Yes.

I am afraid that that would be the case, Senator, because certainly there was—even in criminal acts, certainly there were self-induced efforts at abortions, and these were nothing short of tragic in every respect. So that I would hope we would not use economic sanctions to minimize the personal choice that people might want to exercise, since abortions are now a matter of legal right.

I would also, Senator, emphasize that I am interested in adolescent pregnancy, and this is where the high risk occurrences are, this is where so many of the abortions do take place. Certainly for young adolescents, pregnancies are really a high risk.

We have in this country at the present time annually about 13,000 pregnancies in girls under 15 years of age. There is no way that those could be considered wholesome pregnancies for the baby or for the mother.

It seems to me we have a very large scale effort to mount, and I have begun to look into this in relationship to augmenting the preventive efforts that are already underway.

I am not suggesting that we have not attended to them before, but I would hope that we could do much more in the realm of prevention. I think you know that this relates to how families rear their children. It relates to the morass of our communities, and I would hope that we could learn how to deal with these preventive efforts in a way that would be much more effective than they currently are.

Senator KENNEDY. What is it just generally?

I know general way, but what is the infant mortality, prematurity rate for girls under 15?

I know it is substantially higher in 15 to 19.

Dr. RICHMOND. It is at least three times higher than women over 20. So it is a very high risk category.

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Senator JAVITS. Mrs. Harris, two things about the place from which you are going. I would like to pay great tribute to you as to how you handled the whole situation at HUD, and how you responded to the demands from the field in a most extraordinary way. I think I know about that as well as anybody. Just great.

I hope it is possible to continue it in HEW. I must say I doubt it because of the personal attention that you gave to HUD problems would be just beyond your capacity, or that of anyone, at HEW. I know you will try.

But there are two things I hope you will put in the hands of your successor, which are really very important right now. One is that we are worried, as you leave, and you so know so much about it, that in the zeal to determine regulations for section 8 units, which changed the formula for determining fair market rents, that we should not be in a position of the Scotchman and his horse, who succeeded in feeding him so little that the horse died, and therefore that the section 8 regulations should not result in rents below what makes it useful or profitable for anybody to rent.

I hope that you will take a look at that with your experience, and pass that on to your successor, if you are not going to decide it yourself.

Secretary HARRIS. Senator, I have complete faith in the people who are at HUD, especially Larry Simons, whose particular responsibility this is. There are new regulations which look at the way in which we determined both cost and the fair market rents that are a result of those costs, and we have no intention ourselves of being responsible for starving these programs.

I am happy to say that the Congress had put us on a meager, but what I think is probably a life-sustaining diet with respect to the funds for section 8, and the problems will not come from the Department of Housing and Urban Development, whether I am there or not.

Senator JAVITS. The other thing which concerns us deeply are the mortgage ceilings on multifamily projects which I understand are being studied as to prototypes, and will be completed soon. Again I hope you will pass on your knowledge of expertise to your successor.

Now, as to HEW, we have an immediate problem, and I mention it only because it requires priority. That is the so-called Michel amendment to cut down on waste and fraud.

The only question is whether the amendment is of such a nature as to cause cuts before it is really humanly possible to realize the economies which are dictated. Therefore, the cuts will, as they threaten to do, come out of the hides of the people who cannot stand cuts.

We debated that on the floor. We are still, I think, in a position to affect what may or may not have to be done in other appropriation bills. I would strongly urge early attention, because it is a situation that will get locked in, and then you will have to live with it. I just call that to your attention because it is a very current issue.

Last, Mrs. Harris, there are some appointments urgently crying for attention. One is the Directorship of the National Center on Child Abuse and Neglect, especially of interest to Senator Cranston

and myself. The reason I suggest that is because it is the kind of thing which if you have got a good person, that is the end of it, you do not have to worry further about those important programs.

Last, I think you have to think very seriously about what to do about the whole Education Division, which is awaiting a resolution of whether there will or will not be a Department of Education. Personally, I would express the hope that you would make the appointments, as this may or may not happen. It looks now like it will. It may not be this year. It does leave that entity in a considerable state of disarray.

I express the hope, as one member, that you will make the appointments on this theory, that the way to resume is to resume. It is your duty to see that this functions and does not hang in suspension—

Secretary HARRIS. Senator, the best thing that can be done to remove any uncertainties would be expeditious decision by the Congress of the United States to establish the Department of Education recommended by the President, and I intend to work as soon as I undertake my new duties to make that process happen.

But so long as the education function is with the Department of Health, Education, and Welfare, I shall seek to administer it as well as possible, to provide whatever leadership is necessary, to be sure that the foundation of the new Education Department is sound and functioning.

I think it is essential for those of us committed to a new Department of Education to be sure that its base is sound, but the Congress can make certain that we can move on this by enacting the bill that is before it.

Senator JAVITS. I thank you so much.

May I say just by way of conclusion that one of the great prides of this committee, and I was ranking member of the committee for years, and thanks to my own close relation now enjoyed by Senator Schweiker with Senator Williams, I think this committee was unusual in being able to arrive at agreements with the executive branch so that what often emerged was a finished product, which commends a consensus of the Senate. I think it is a very creative way to proceed. I know of no committee that is more receptive to that course.

I think that you will find that this committee does not play its cards close to its chest, but that it will tell you what it wants, and the way it thinks it can be attained. I think it will very considerably help you in what work your Department has that falls in this area, which although Finance confirms, most of your business will be with us.

I hope very much that you would study and see if possible to follow that excellent example, as in the intimacy of staffs, both minority and majority, with the staff at HEW. Many of our people have gone over there, and I hope very much that this highly creative course may be pursued under you.

Secretary HARRIS. I will do the best I can. That sounds very encouraging, by the way, Senator.

The CHAIRMAN. Senator Riegle.

Senator RIEGLE. Thank you, Mr. Chairman.

Secretary Harris, as you well know, and as I indicated in my earlier comments, I have great admiration for you, and I very strongly support your nomination. However, in replacing Joe Califano you have a very tough act to follow. It is a very different proposition than coming in on the record of George Romney and his successors, as you did at HUD.

I have a very good feeling about your appointment. Yet at the same time I have a very bad taste in my mouth about Joe Califano's removal.

I want to be frank to say so, and I want to have it on the record.

He did an excellent job under the circumstances, and I think he was treated very badly for his efforts. Had the President removed you at HUD, I would be making these same comments before the Banking, Housing, and Urban Affairs Committee.

The manner in which Secretary Califano was dismissed leaves me with an unsettled feeling. While I am delighted at your nomination, Secretary Califano, who we have been dealing with and regard very highly, suddenly disappears, in a sense without a trace. There is not an opportunity to say thank you, at least in this setting, nor is there an opportunity to acknowledge 2½ years of extraordinary work.

In addition to Secretary Califano's resignation, we had the resignation of Under Secretary Hale Champion several weeks ago and the resignation of several Assistant Secretaries, in addition to the General Counsel and other senior departmental officials in the last week and a half. There has been a great deal of turnover in a relatively short space of time. In addition, the Commissioner of the Social Security Administration and Administrator of the Health Care Financing Administration, although still on the job, have occupied their positions for less than a year. I have no way of knowing whether there may be further resignations at the Assistant Secretary level.

You know as well as anybody how difficult HEW is to manage. I think it is the toughest one to manage in the whole Government, in terms of its size, the range and complexities of the programs it administers, and the constituencies it serves.

The very substantial movement at the top management levels, including the Secretaryship, leaves me concerned about how we move forward through this period, consolidate the situation, and keep morale high.

I know you are very sensitive to that question. What plans do you have to assure continuity of policy under these rather extraordinary circumstances, both with respect to legislative initiatives—some of which have been talked about here already—and also in terms of ongoing program management?

Secretary HARRIS. I have already met with the top staff, primarily the Presidential appointees, but some who are not Presidential appointees, at the Department of Health, Education, and Welfare. I met with them in a group. I have also sent letters to them, reassuring them that I would hope to have their cooperation as I move into the Department.

I would expect, very early on, within days, early next week, to be sitting down with individual program managers, Assistant Secretaries, and others at that level to discuss with them first of all

where they see their programs at this moment, what they see their needs to be, and to discuss with them my concerns about their accountability and their participation with me and the administration of that Department. I think that that is exactly what anyone would do who was concerned about continuity.

I am reassured after my conversations with the people at HEW that while the fears you have expressed are reasonable ones, that the rumors of discontinuity are exactly that, and that the Department is continuing the administration of programs, and that we will be doing it together very shortly.

Senator RIEGLE. There has been a great deal of publicity about the "report card" episode. Have report cards been completed on people in HEW and sent over to the White House?

Secretary HARRIS. I quite frankly do not know. I have not even talked to, one-on-one, with people who are there, and I would not make any kind of evaluations of peoples' performance, because I have not been there. So I simply do not know. I have not received them, and would not expect to.

Senator RIEGLE. I pose this question as a friend and as someone who wants to strengthen your hand. You have many key jobs to fill and I am interested in you having as much independence in filling them as possible.

The clear impression left by the report card incident is that the White House wants to be involved in deciding who goes and who stays. Your reputation for independence is well known in this city, it appears that a new personnel system is being installed.

Has it been made clear to you, either in conversations you have had with the President or with White House staff, who will have final say in selecting people, in deciding who might be asked to leave? How much operating independence in personnel decisions are you going to have? Has this been clearly spelled out?

Secretary HARRIS. Yes, it has. I will have the same relationship to the President of the United States in personnel and other matters that I have had over the last 2½ years. The final authority for appointments with respect to Presidential appointees is in the President of the United States, has always been, and I do not expect the way in which I make recommendations to the President to change in any way.

I do not expect the process to be any different from the process that I have undergone as Secretary of Housing and Urban Development. I think if one is asking the President to approve someone, one tells the President who that person is. So I do not have any problems with this at all.

With respect to secretarial appointments, I would expect to make secretarial appointments at HEW as I have made them at the Department of Housing and Urban Development. I think the openness of this administration in telling people what we were doing in terms of evaluation, instead of being held as openness, it is being seen as somehow sinister.

I cannot imagine managing without doing evaluations. In the past I have at least, on one occasion, shared some evaluations with the White House, which were harder to do, because they were not in this form—at this time all I had to do was check off some numbers, in most instances.

Senator RIEGLE. I might say I have quite a different feeling about those forms as they were printed. I view the responsibility to evaluate subordinates as your responsibility. I feel very confident that you were carrying it out at HUD. I am sure you were monitoring and evaluating your people. You assembled a fine team there. The notion that you, or any other Cabinet officer, needs a second monitor does not make good sense to me.

We apparently differ on that point.

Secretary HARRIS. It may be there is a misunderstanding of what happened. The evaluations were asked of Cabinet officers. We made the evaluations, and we shared them. Nobody else is making those evaluations. The information has been shared with the White House, but the evaluations are ours.

Senator RIEGLE. But was it not initiated by the White House, the request that evaluations be done?

Secretary HARRIS. The request was that evaluations be shared. I must say I agree with you, that in good management you do this regularly as part of a process, but as I said earlier, I have no objection to sharing my judgment with the people who are responsible for these appointments.

Senator RIEGLE. The reason that I can strongly support your designation as HEW Secretary is that I have confidence in your judgment. I have seen it borne out time and time again.

I would feel very comfortable in the knowledge that you had the sole responsibility for selecting your immediate subordinates. I am frank to say I would not have the same degree of confidence if I knew that this responsibility was going to be shared with the senior staff at the White House. I have talked with quite a few HEW employees, as I know you have, and the events of the last week or two have left many very serious, dedicated people concerned over the prospect of senior White House playing a larger role in deciding in who will occupy key positions, who will be promoted, and who will be demoted.

I am looking for an indication from you that you have the sole responsibility to make these decisions in HEW, or that this responsibility will now be more broadly shared.

I am very interested, for example, in knowing the degree to which Hamilton Jordan is going to play some part in these staffing decisions, or whether you will have a free hand to run this operation, as I think you deserve to have, and need to have.

Secretary HARRIS. Senator, let me say there will be no difference in my authority, my responsibility, or my exercise of either in my incumbency at HEW than it was at the Department of Housing and Urban Development. It will be exactly the same.

I must say it may be one of the reasons the President has asked me to do this, is I think there are ways in which people are kept informed of what is going on, and are not surprised by decisions that are made.

But I am in an administration that ought to be operating in terms of everybody knowing what is going on, and I make a habit of not surprising anybody when I have appointments. I do not surprise them.

But it seems to me, even saying to them this is the person I think the President ought to recommend for advice and consent of the Senate—

Senator RIEGLE. So you understand it is your responsibility to initiate recommendations regarding HEW personnel and that you do not anticipate that you are going to have people pressed upon you from the White House staff?

Secretary HARRIS. It has not happened, and I do not anticipate it happening, Senator. As I say, all I can say to you is I have spent 30 months, I have staffed an entire department, and I do not anticipate any change, and I must say to you that I do not go to somebody and say what are you going to, are you going to do all these terrible things that the newspaper says that you are going to do, because I was told that we are continuing this administration, and I have been asked to take a different position with the full support of the President of the United States, and the full cooperation of the White House staff.

I think that my past relationships in a variety of places indicates that I do not see the need to be a figurehead anywhere.

Senator RIEGLE. The reason that I pursue this with you is that there has been ambiguity about this point as you well know. It has been widely, commented on in the press.

I have abundant confidence in your ability to administer a Cabinet agency but I do not have that same confidence if there is going to be an enlarged White House staff role. I have great concern about that. There is great concern about it in the agency you are about to take over.

In trying to pin this down, I am attempting to see that you have the operational latitude you need and that these assurances are clear and on the record.

Secretary HARRIS. The President has said there is no change in the relationship of Cabinet officers to him, if I can take press accounts as accurate, because that is what he has said to me, indicated to me. I do not see any basis for any concern.

I have operated a Cabinet office for 30 months. I am confident about going to another one, because I know what the dimensions of the task will be. I am not concerned at all on any of the issues that you have raised.

Senator RIEGLE. Your assurances give me increased confidence. Yet at the same time I am troubled by evaluation forms being sent to the White House from different agencies. There must be a reason why these forms were developed and sent for review to the White House staff.

I assume that is not just window dressing. I assume there is some purpose to it. I have great confidence in what I have seen you do at HUD and I think you are quite capable of carrying out that review without having somebody else looking over your shoulder.

I am still trying to comprehend exactly what this evaluation means, what its purpose is, and what its ultimate result is going to be. What you are saying to me is that you do not see it causing any change.

I am still left wondering what is the purpose behind it.

Secretary HARRIS. Senator, let me give you an example of—

Senator RIEGLE. Before you respond, Senator Pell has a time problem, and I will yield to him when you finish your response, but then I will have a few more things I would like to cover later.

Secretary HARRIS. Let us suppose a condition existed that I do not think existed at HUD, but could, in which, for a variety of reasons there was a person in place who really was not performing, and in an objective evaluation this person comes out with 1's all the way down. It is entirely possible, and I think quite valid for somebody who looks at the evaluation to say why are you keeping this nonproducer?

Let us suppose, say, well it just looks politically difficult to deal with this nonproducer. It is possible for the White House to say that should not be a consideration. If you have somebody who is not producing, do not keep this person for political reasons.

That could happen, Senator. You could put just as good a face on the other side of these evaluations as some people have put a bad face on them. It is what I would do if I were looking at an evaluation, if I found somebody came over with a "1" all the way down, I would say why are you keeping this person. It sometimes helps to have somebody else on the outside taking a look at what should be relatively objective evaluations.

Senator RIEGLE. I cannot imagine you keeping a nonperformer for political reasons.

Secretary HARRIS. As I say, it did not happen in HUD. In my introductory remarks, I said this is hypothetical, and those can be dangerous, and I started out by saying it was not the case at HUD, but it could be.

Senator RIEGLE. The concern many people have is the reverse, that people may be added, or kept on for political reasons, rather than for reasons of performance.

I yield to Senator Pell.

Senator PELL. Thank you very much, indeed.

Since I am under a time constraint, I will be as brief as possible. However, I do have some questions I want to ask and I look forward to supporting your nomination, and working with you.

As you probably know, there is a campaign on to encourage people to smoke all over the United States, by giving away free packs of cigarettes, visors, and tee shirts. This is going on in not only in Washington, but in every other major city across the country. To my mind that is a disgrace.

Do you have any thoughts as to how this program can be discouraged?

Secretary HARRIS. Now that you have mentioned it, I do remember people who were standing on street corners passing out cigarette packs, but I have not really thought about it before. I have not given any attention to that, but I am advised by your comment to look at it.

Senator PELL. Good. I look forward to working with you on that, and possibly devising some legislative or administrative remedy, if the tobacco companies continue in their selfish tactics in this regard.

Second, in connection with health, I am very concerned about malpractice premiums which are escalating fees charged by hospitals and physicians and I wonder if some reasonable device or ap-

proach could be made along the lines that people could waive some malpractice rights prior to treatment. That is certainly an arbitrary step, but it might reduce overall health care costs.

What would be your reaction to that?

Secretary HARRIS. Well, I am a former teacher of torts, Senator, and the suggestion of the waiver of the right to be free of negligent actions initially strikes me as being one that is disturbing. But I think that the whole question of insurance and insurance costs, which is really what we are talking about, how do we make whole the individual who has been subjected to less than the exercise of the standard of the reasonable and prudent physician operating under those circumstances, how do we make those costs such that they are equitably borne, I would be prepared to look at that.

But so draconian a decision as having a person who is ill waive his right, or her right to be treated with due care, is something that as I said, does give me some problem.

Senator PELL. It does, but as a former law professor, I am sure you would agree with me there is a whole new class of lawyers who have gone from the old automobile liability cases into medical malpractice. They are ambulance chasers, in the real sense of the word, and something should be done to discourage them.

I would look forward to working with you in that regard, because the frequency with which they file trivial claims severely impacts on patient health care costs.

Secretary HARRIS. I understand, Senator, but again I have not been able to study whether or not the court decisions which say that the physician has fallen below that standard of care which is set by law are improper.

The fact that there are lawyers who wish to insure the standard of care which the law guarantees us all does not, in my judgment, suggest that these are literally ambulance chasers. They may be people who simply are providing a right to people that the law has historically guaranteed them.

Senator PELL. I was working on a study of this problem with your predecessor, and would like to continue working with you, recognizing there may be some imminent solution to this problem which is increasing the frequency and cost of medical care. I understand that you will have to weigh all of these things together and make some decisions.

On another subject, Mrs. Harris, I sponsored legislation last year that created an Office of Physical Fitness and Sports Medicine, which has become part of HEW's Office of Health Promotion. Unfortunately, it was adopted too late in the year to be included in the President's budget.

Could you share with this committee your view on the importance of physical fitness as a form of preventive medicine, and whether you regarded its funding as a high priority?

Secretary HARRIS. Senator, I have not looked at that question in the context of my new responsibility. Obviously it is an area of significance, but I simply have not had opportunity to look at it.

Senator PELL. I understand but would ask you to keep this issue in mind. Now, the administration has sent to Congress legislation on cost containment, drug reform, mental health, higher education, and welfare reform. I see the whole range from my vantage point,

as chairman of the Education, Arts, and Humanities Subcommittee, and as a member of the Health Subcommittee. Obviously you cannot get on top of all of these issues in a matter of weeks, but is it your intention to retain many of the people who have been doing this work in order to insure consistency? Or are you going to try to bring in a whole new team?

Secretary HARRIS. I certainly am not going to try to bring in a whole new team. As I said yesterday, there was no "hit list" at HEW either of programs or people. I consider continuity of good programs and good people a virtue in and of itself.

Senator PELL. Right now, for example, Doctor Berry is Acting Commissioner of Education. Her acting term expires in a few days, August 1, I think. In my opinion, she is doing a very good job. I was wondering what your plans were for this position?

Secretary HARRIS. I am aware of that personnel problem. I obviously, first of all, have not been confirmed by this body, and second, probably will not be Secretary in time to make the decision, but I will discuss with Secretary Califano what I would consider once I have been able to look at this in the next day or two, an appropriate disposition of this issue.

Senator PELL. One of the major efforts that Secretary Califano made was cracking down on student loan defaults, and he did a pretty good job. He reduced defaults from \$370 million to \$200 million. But there still remains \$200 million in default.

One rather simple approach to this problem is to try to make the information on default available to credit card or credit rating groups. This would force those citizens who want a credit card to begin to repay their student loans before they could get a card. How would this approach strike you?

Secretary HARRIS. Given the plethora of credit legislation that has been enacted, I could not respond to that until I can see what the consequences are with respect to the rights of privacy, to the laws that this body has enacted, so I am not prepared to respond.

Senator PELL. I would like to continue working with you and your Department on this because what we are all looking for is a simple way for doing things. I think this is a simple approach, and it would not take a lot of bureaucracy.

We are currently embroiled with your Department, and this is a very significant matter, in a controversy concerning funding the independent student provisions of the Middle Income Student Assistance Act.

We want that act to cover, and Congress meant it to cover, independent students, students who are emancipated, or on their own. The HEW interpretation of this act, by the General Counsel, is a very narrow one indeed, which will really adversely affect these independent students.

Have you any awareness of this problem?

Secretary HARRIS. No. This is the first time this has been brought to my attention, Senator. I will look at it.

Senator PELL. I wish you would, as a matter of urgent priority, as soon as you are confirmed, because it involves hundreds of thousands of youngsters.

Sometimes the way mail is answered is not all it might be. I am a great admirer of your predecessor, Secretary Califano, and he

tried to address the problem but it is a perennial problem. I have here an example of letters written on January 9, which received a reply on March 8; one written on March 14, with a reply May 22; and one written June 18, with a reply on July 19. I was hoping, as a matter of your administrative mechanism, that you would inaugurate some sort of procedure to try to get replies out within 2 weeks, or a month at the latest. I don't think that is too much to ask, and, for Members of Congress, mail could be answered hopefully within a matter of days.

Secretary HARRIS. Senator, if I were here in January of 1977, I might look at you and say I will do everything I can to give you a 3-day turnaround, or a 2-week turnaround. But even today, as hard as we work at HUD, every once in a while I deliver a lecture to the top staff at HUD about the failure to respond promptly to letters. This is probably the most trying problem of communication that any Cabinet officer has.

I can only tell you that I know what the problem is, and I suspect it will grow, not tenfold, when I reach HEW, but a thousandfold, because of the excessive number of concerns that people have. I will do the very best I can. I will only assure you that this has high priority as far as I am concerned both in my present position and in that position. But it is tough.

When you said a letter was received in May and responded to in June, that is not so bad.

Senator PELL. If it had been May 29 and June 1, it would be great. But it was not. Anyway, keep the script from your previous lectures, and keep repeating them.

There is some difference of opinion as to where the Institute of Museum Services should be located. I think there are those who would like to see it independent, and those who would like to see it in the new Department of Education, and some like myself, who think it ought to be under the Smithsonian Institution.

Do you have any thoughts in this regard?

Secretary HARRIS. No. I have not given any thought to it. I was very much aware of it, I must say, it meets one of my personal kinds of interests, and I am delighted to know that I may have some opportunity to relate to a program that will give me personal satisfaction. For that reason I suspect I will very early on be looking at that.

Senator PELL. My thought, incidentally, as to why it should be in the Smithsonian Institution is because it is basically a museum service function, and the Smithsonian Institution should be very much, in my mind, what the Library of Congress is. That is, the Library of Congress is the National Library's library, and the Smithsonian should be the National Museum's museum. It should be looked on as an ally and supporter of the Institute, and not as a competitor. I think the Institute would function very effectively in such a structure.

I look forward to talking about these ideas with you. There are so many areas of mutual interest here, and I am sure we can work together. I want to congratulate you on taking on a very tough assignment. I am sure you will do a good job. Good luck.

The CHAIRMAN. You know there is no lack of creativity here in making lives of people better.

I have prepared many questions, Secretary HARRIS, to introduce to you some of the areas of particular interest and concern to me. What I think I will do is submit to you what I have prepared. No written reply will be required. I think they will be useful to you in ascertaining the committee's priorities.

I do want to indicate one area of particular concern to me. It is an area that we have already done a great deal of work on together in your capacity as Secretary of HUD. I am sure you will recall that I have special interest in improving the quality of life to the elderly, and the physically and mentally handicapped through the concept of independent living.

You well understand the importance of housing programs to these individuals and the necessity of coordinating HUD programs with those of HEW. With your background I know that you will be in the best position to advance the concept of independent living.

I wonder if you could give me your thoughts on how we could achieve program coordination to foster this concept?

Secretary HARRIS. Senator, as you know, already the Department of Housing and Urban Development and Department of Health, Education, and Welfare are working together on the joint implementation of these programs. I would expect that with respect to that aspect of Health, Education, and Welfare, I may well become aware of ways to accelerate and increase that cooperation.

It seems to me that this is one of the major areas to be explored. I am very proud of the fact that during my incumbency at HUD we have established cooperative relationships, not only with the Department of HEW, but also with the Department of Labor, through CETA programs, to work together on some of these things, with Department of Justice and other departments.

I would expect, both with respect to HUD, and with respect to the other agencies, to look as creatively as I can at ways to do what I used to talk to the Banking Committee about, leverage, the effectiveness of Federal programs, by combining programs in one department with programs in the other, so that they become more effective through the use of both funding and the expertise that we share, but that for administrative reasons are placed in different departments.

The CHAIRMAN. I am encouraged. We will look forward to working toward these objectives with you.

Again, I will present other questions to you for your consideration and thoughtful analysis. In addition, I have had submitted to me questions from the American Association of Homes for the Aging and others. With respect to these questions I would like you to give a written reply that I can send to the people of these organizations.

I believe Senator Cranston also has questions. If I could submit that question for a written response from you to our committee, I would appreciate it.

Secretary HARRIS. What is the time period? I would prefer not to respond to substantive questions until I have had a chance to look at these programs with the experts at the Department.

The CHAIRMAN. It can be on your own time table. I am sure they just want to assure that your attention is directed to their areas of special concern.

Senator Cranston's question deals with the regulations on day care and the regulatory process itself. Last month HEW published new regulations, and has begun a series of public hearings throughout the 10 regions of HEW, to solicit the public comments and input on the new proposals.

Apparently, the timetable called for 120-day public comment process, with final regulations to be published by the end of this year. There is concern that this process might be delayed by the appointment of a new Secretary. Quite simply, the question is whether you will direct your attention to assuring that the timetable for promulgating final regulations will be maintained?

Secretary HARRIS. With respect to all of the hearings, and the solicitation of comments, the time schedule most clearly will be, can, and will be met. I have always learned to be leery of a commitment when there are comments to come in on regulations, to publish as of a certain date, because if the comments are to be as effective as they are supposed to be, if there must be substantial redraft, then one cannot do the redrafting on a time schedule.

I would anticipate, however, and would hope that the original drafting was such that the comments are improving, and there is not a need for substantial redrafting as a result of the comments, in which case I would expect to meet the schedule.

The CHAIRMAN. These regulations could be promulgated by the end of the year?

Secretary HARRIS. Again, I have not seen the area. All I want to assure Senator Cranston and this committee of is we will maintain the schedule insofar as humanly possible. I am very much opposed to artificial deadlines that cannot be met.

I assume that when that schedule was made that the expectation was that there would be no requirement for extensive rewriting based on the comment period. Since I have not seen these regulations, I feel I must enter that caveat. If I say they will be published as of a certain date, I am saying the comment period is of no importance, and that the comments are of no significance, which is something that I think would be a mistake.

I would assume that the Administrators who had promulgated these regulations did so after ascertaining that there was substantial agreement with those who were likely to have comments on the regulations.

The CHAIRMAN. It seems that the complexity of this process is compounded by the Federal Interagency Day Care regulations. It has been most difficult to get clear governmental response to our Nation's day care needs. Your close attention to the many aspects of this problem would be greatly appreciated.

Having submitted these comments to you for consideration, I will turn back to Senator Riegle.

Senator RIEGLE. Thank you, Mr. Chairman.

Before I yield to Senator Pell, we were discussing evaluation forms. I want to nail down again exactly where this stands right now.

Do you know if these forms have been filled out at HEW?

Secretary HARRIS. I do not know. It is my understanding they have not. But I really have not discussed that with Mr. Califano and I have not discussed it with the White House.

Senator RIEGLE. If they have not been, do you think there will be a need to do that?

Secretary HARRIS. Let me say I cannot fill out forms on people at HEW because I have not worked for the people at HEW. I will be making some judgments about the people and their willingness to work with me, but that will not be evaluation. I am going to be talking to everybody who is a program manager at HEW. It is my hope that they will not find what I discussed with them on Tuesday, that the color of my dress makes them bilious and that they will be able to work with me.

Senator RIEGLE. Insofar as you know, no forms were filled out at HEW?

Secretary HARRIS. Let me say I have not discussed this with anyone, and since in my own case, initial press reports were untrue about what I had or had not done with the forms, I have no independent knowledge of whether those forms have been filled out. I have discussed them with no one.

Now, as I recall, on Sunday on "Issues and Answers," which you will see how we get our official information, Secretary Califano said he did not fill out the forms. I do not think anyone asked whether anybody else did. I did not and I will not because I did not have the information to do it.

Senator RIEGLE. Senators have the same difficulty. We have to watch "Meet The Press" to get some sense of what's happening.

Insofar as you know, you are not aware one way or the other as to whether forms have been done at HEW, and based on what you have heard Secretary Califano say, presumably they have not been done?

Secretary HARRIS. As I say, I only know what I have just indicated to you.

Senator RIEGLE. Were they done at HUD?

Secretary HARRIS. Yes. I sent mine in.

Senator RIEGLE. Who did they go to?

Secretary HARRIS. I think they went to—I really do not know whether the address was the President through Hamilton, or to Hamilton for the President because I literally did not look at the envelope.

Senator RIEGLE. Can you tell us what happens next? Was there any feedback on that?

Secretary HARRIS. Let me go back to 1 year ago when obviously nobody worried about the fact that we advised the President of our judgment of his appointees. All of my staff knew that I made these judgments. I sent a letter evaluating in narrative form the people who worked for me, worked with me at HUD, and that was it. As you suggested, I try not to have people with me whom I did not wish to continue to work with, and so I had no expectation of any feedback, and I still have not any at this time.

Senator RIEGLE. I gather then that the letter you sent regarding personnel who were your immediate subordinates, was in narrative form as opposed to these report cards. Were report cards done on the next level down or levels below that?

Secretary HARRIS. No; I do not think so. I happen to be one of the people who think that dealing with Deputy Assistant Secretaries is very important, too, if you are going to evaluate, you do that.

Senator RIEGLE. Assuming that this has not been done at HEW and that you are asked to do it at HEW, or asked to have somebody there to do it for HEW, I as one member of the committee would like to be so informed, and I would ask that you let us know if that does take place.

Secretary HARRIS. I see no reason why you should not know if it takes place, Senator.

Senator RIEGLE. Fine. I appreciate your willingness to let us know if that request does come over.

Secretary HARRIS. That is not what I said. The request might come and I do not know whether I would agree to notify you that the request had come. That is exactly why I responded as I did. I would certainly notify you if such an evaluation were done. I think that is something that would be in the public domain. But if the request were to come, I would not promise to notify you.

Senator RIEGLE. My understanding is that if you were to respond to such a request, we would know about it?

Secretary HARRIS. If I do evaluate some people at HEW on the forms that were presented, I will feel free to let you know as I let other people know with respect to HUD, if I do so, I will.

Senator RIEGLE. Fine.

That is entirely reasonable. I appreciate that assurance.

Sitting on the Budget Committee as I do, I am keenly aware of the stresses and strains that the Federal budget is under. You and I have been through budget fights before on the same side of the issues. Looking ahead to fiscal 1981, I would suspect that there is great pressure on the programs that fall within the domain of HEW. We saw that in fiscal year 1980. The President's budget request for the Older Americans Act for fiscal year 1980 would have required a cut in service levels, even though we are nowhere near reaching all our senior citizens. We have had to struggle to prevent such cuts.

I am sure you saw reports in the morning paper that Senator Nunn has apparently told the President that in order to be able to support the SALT agreement, he would have to see a very substantial dollar increase in defense spending. It does not take a genius to see that if that kind of tactic were to succeed, the money, or a large part of it, is obviously going to have to come out of the HEW budget.

When I look at HEW's budget, I am very hard pressed to find an area where we can afford to make any further cuts. I think our problem now is fighting for some additions, particularly given current rates of inflation. Can you give us any sense for what you think might take place with respect to HEW's fiscal year 1981 budget?

Secretary HARRIS. Senator, I have reluctantly canceled a vacation that I was looking forward to in order to deal with HEW budget problems. Because I have set aside that time in the future, somewhat less pleasant than 1 week on Cape Cod, I have not so much looked at even the OMB budget level. So I can say to you that I have formed no judgments with respect to any of the issues you have raised.

I do intend to form judgments about them and to participate in the budget process at HEW. But I am unable to answer any questions about the budget or the budget process at HEW.

Senator RIEGLE. There is enormous pressure to increase defense spending in absolute terms, to adjust for inflation and have additional add ons. The statement by Senator Nunn yesterday has profound meaning for our ability to respond to the domestic agenda, whether we are talking about HUD programs or HEW programs.

The most we can do today is to recognize that as tough as the pressures have been on HEW and as much as sliding backward as we have been doing with respect to our ability to respond adequately to domestic needs, it looks as if there is going to be very aggressive political tactics used in behalf of the SALT Treaty which will even further increase those pressures. I would hope that as a defender of this agency you would not only be your normal aggressive and strong self, but also recognize that you do have friends here who want to help.

I am afraid if we cut further in human service programs, we are not going to be able to hold things together in this country. It is all well and good to keep adding money for foreign policy initiatives and national defense, but the war at home to combat poverty and disease must also press forward.

I would hope that you would be in a position to tackle OMB on these issues I am concerned that the administration may feel that if the belt has to be taken in a few more notches, that domestic programs are the place where it will have to be done. I would hope that you and I and others would resist that with every resource at our command.

Let me just cover one other item and then I will submit the balance of my questions for the record if I may, Mr. Chairman.

That item has to do with some of the major initiatives that were announced by Secretary Califano in May of this year concerning alcoholism and related problems. I happen to head the Alcoholism and Drug Abuse Subcommittee here on the Labor and Human Resources Committee. We have just started to make some sustained progress with alcoholism problems. It is a terribly debilitating and costly problem. The best estimates of the cost to society are something on the order of \$43 million annual from abuse of alcohol.

Secretary Califano was the first HEW Secretary who really took a leading position on alcoholism issues. He had indicated support for the targeting of funds to meet the needs of young people, to meet the needs of women and underserved groups, for prevention efforts, and for occupational alcoholism programs. He also planned special emphasis on the fetal alcohol syndrome, which he identified as being the third leading cause of birth defects in the United States. He indicated that he also planned to target money to train medical students in the identification and treatment of alcoholism. He directed HCFA to review its policies regarding medicare and medicaid coverage of alcoholism services. He instructed the Surgeon General to issue a special advisory to all physicians warning of the dangers of alcohol and certain drugs in combination, and he had instructed FDA to develop a list of commonly prescribed drugs

that may present health hazards when used with alcohol and for which new warning labels may be needed.

So there had been a whole burst of initiatives here in the area that has really been lying dormant for quite sometime. I was very encouraged about that, as were our constituency groups that are involved in trying to deal with alcoholism and drug abuse problem in the country.

It is fair to say that this committee very strongly supports these initiatives. I know the chairman does. He has been a leader in this area for many years. I know you cannot possibly be familiar with the program yet, but would it be your general desire and feeling that these problems deserve upgraded and expedited emphasis?

Secretary HARRIS. It seems to me that is one of the major problems in American life—tends to be much too accepted—alcoholism and alcohol abuse. While I have not looked at the specifics of the program, I applaud the fact that there is attention being given to it, and I would not want to be responsible for any setback. I certainly cannot commit to any specific program details before having examined the program, but I would reassure you that I would wish to improve, not to set back activities to deal with alcohol abuse and alcoholism.

Senator RIEGLE. I appreciate that response because we really started to make some headway in this area. I think it is long overdue. As a matter of fact, Secretary Califano's willingness to break new ground, had been one of the most hopeful developments.

I appreciate what you have said.

I want to work with you and assist you and the Department in trying to keep the ball rolling and perhaps at greater speed.

Mr. Chairman, I thank you for your patience. As you say, I have some additional questions and I would like to have responses for the record.

The CHAIRMAN. No patience was required. I think everything that was discussed was very important.

Again we are in the position where so much of our activity will be the activity that you administer, yet we are not the confirming committee. We have probably taken more time with you, Secretary Harris, than the Finance Committee. We could do a lot more and it would be productive.

We wish you well. I know the country will be beautifully and ably served.

Secretary HARRIS. Thank you very much, Senator. It has been a pleasure to be here.

The CHAIRMAN. The committee is adjourned.

[Whereupon, at 11:50 a.m., the committee adjourned, subject to the call of the Chair.]