Feeding the Poor

by Michael Walsh

Michael Walsh is an attorney for Defenders, Inc., in San Diego. He was a White House Fellow under former Secretary of Agriculture Orville Freeman.

I. Introduction

We know something today in America that many of us would have vehemently denied several years ago: a large number of Americans are hungry and malnourished. Furthermore, that number is far greater than the number of individuals presently receiving assistance under federal food distribution programs. We also know that closing the "gap" between those who need assistance and those who presently receive it is a difficult task. Even though public awareness of the problem has increased in the last two years, the number of Americans who benefit from Federal food programs has increased but slightly, from 4.8 million in 1966 to 6.4 million in February of 1969.

Hunger is not a self-contained problem but causes a complex of others. The hungry slum child does not learn and soon falls behind in his work. First a disciplinary problem and then perhaps a dropout, he may soon join the ranks of the chronically unemployed. Ultimately he may become a crime statistic or a permanent welfare dependent. The hungry father is no better off. If he has the initiative to find a job he may not have the energy to keep it. As his pride and vitality are sapped, it becomes less likely that he, or any member of his family, will escape the brutal cycle of poverty. Perhaps most frightening of all, a chronically malnourished family must face increased susceptibility to diseases and infirmities of every kind, including the possibility of permanent mental impairment stemming from severe protein deficiency at an early age. Former Secretary of Agriculture Orville Freeman has stated that,
A Brief Overview

In 1935, Congress established the first federal food distribution program as part of a comprehensive bill which the Department of Agriculture argues was designed primarily to stabilize the prices of agricultural products and maintain farm income. Section 32 of the bill authorized vast funding for the purchase of commodities “surplus” to the needs of the commercial market to be distributed free of charge to the poor. This was the origin of the Commodity Distribution program—a program which as of February 1969 served 3,660,547 needy persons in at least some areas of every state.

The Commodity Distribution program has, at best, provided limited assistance to the poor. The primary purpose of the authorizing legislation is agricultural; and the effectiveness of such legislation in meeting hunger and malnutrition has, predictably, been limited. Furthermore, under the present interpretation of the law, only those commodities which farmers happen to produce in excess are distributed to the poor. Needless to say, such an arbitrary selection process does not necessarily provide a well-balanced family diet. Commodities available under the program fluctuate widely, and while at present the list includes butter, cheese, canned chopped meat, and non-fat dry milk, the items consistently available are not nearly so appealing.

In 1964, after several temporary measures and pilot projects, Congress finally passed legislation establishing a permanent program designed primarily to help provide an adequate diet for poor families. The Food Stamp Act of 1964 was designed to help safeguard the health of the nation’s needy families. With food stamps, all foods are available—not just those which represent agricultural surplus—and the choice of foods is left largely to the discretion of the consumer. The general administrative procedure is simple: poor families purchase (with the amount of their normal food expenditures) coupons which have a greater market value than the purchase price. The coupons may be used to buy food at any participating retail store. The store is then reimbursed by the federal government at the face value of the coupon. In this manner, low-income families are given the opportunity to purchase a broader variety and better quality of food without extra expenditure of their scarce resources. As of December 31, 1968, there were 1,219 food stamp projects operating in 43 states with some 2,821,867 people participating.

A more detailed description of the actual operation of these two very different programs, as well as a review and evaluation of the criticisms frequently made of them, is necessary for a fuller understanding of the inadequacy of present federal efforts to alleviate hunger and malnutrition in the United States.

B. The Operation of the Food Stamp Program

The Food Stamp program operates on a request basis. To participate, a county or city must first apply to its state government, which after approving the request asks the Department of Agriculture to designate the area as a Food Stamp recipient. If a state wishes to initiate the program in several areas, it must submit them in order of priority. It is not unusual for a state to request the program for more areas than the Department of Agriculture is able to accommodate. The only guideline provided by the present law for selecting recipient areas states that “equitable” treatment is to be given all states in relation to...
their relative need and readiness to participate in the program. Some states have shown no interest at all in the program; others have shown token interest; and some have participated fully and enthusiastically.

Unfortunately, the law does not require the states to request the program first for those counties in which the highest percentage of needy families is concentrated; nor does it require the Department of Agriculture to designate such areas on a priority basis. Thus, unless the states and the Department of Agriculture show particular concern for high poverty areas, there is no assurance they will be reached except in the course of normal program expansion. As a result, neither the Food Stamp nor Commodity Distribution programs were operating until recently in many of the poorest counties in the country; but public pressure has changed that, and the Department of Agriculture now says that a food program of some sort is operating in each of the 1000 poorest counties in the United States.

Eligibility criteria for the Food Stamp program are spelled out in the statute itself, but the language of the statute here, as elsewhere, is confusing and somewhat contradictory. Provision is made for eligibility standards “consistent with the income standards used by the State Agency in the administration of its federally aided public assistance programs.” The statute also provides, however, that “the standards of eligibility . . . shall be subject to the approval of the Secretary.” The latter provision would arguably give the Secretary the power to demand a uniformly high standard in all states—a power which, of course, does not apply to federally aided public assistance programs.

If the Secretary does not have such power, the “subject to the approval” phrase would appear superfluous. Had the Congress necessarily wanted the same eligibility standard in the Food Stamp program as in the public assistance program, it could easily have said so and given the Secretary no discretion at all. In any event, the language of the statute will certainly bear the interpretation that eligibility standards must be at least as favorable as public assistance standards, and perhaps more favorable if the Secretary so designates. After all, the federal government is paying the full cost of the “bonus,” with the only cost to the State being the expense of certifying participants.

Of the many shortcomings in the certification procedures, perhaps the most damaging is the requirement that participation must be continuous; this means that if a family cannot afford to participate in the program during a given month because of abnormally high expenditures for heat or medical bills, they are dropped from the program. To be reinstated, they must go through the administrative inconvenience of being recertified. Even worse is the fact that everyone, whether a continuous participant or not, must be recertified when a Food Stamp program replaces a Commodity Distribution program, a fact which reportedly results in a serious participation gap. The Department of Agriculture argues that continuous participation is important because it encourages people to participate in a program designed for their benefit. Critics appropriately suggest that the requirement of continuous participation overlooks the uncertainty of the poor’s income stream and the unremitting pressure of basic budget demands, which may often leave little money for food stamps.

The most serious controversies in the Food Stamp program involve the formula used to establish the price recipients must pay for their stamps and the amount of the “bonus” which the stamps represent over and above the purchase price. Present procedures are easy to summarize, and the legislation itself, both in terms of the required purchase price and the amount of the federal bonus, is reasonably clear. But both the legislation and present Department of Agriculture procedure leave a number of very serious questions unanswered.

The Department of Agriculture bases its stamp prices on studies which it believes to show what an average poor family would spend on food. The studies include:

a) Department of Agriculture Food Consumption Survey, 1955; b) Bureau of Labor Statistics Consumer Price Index, 1961; c) Department of Agriculture surveys of counties participating in pilot Food Stamp programs in 1961; and d) a food consumption survey done in rural Oklahoma in 1962. Critics rightly point out that a formula based on information which is both so limited and so out of date seriously discriminates against the poor. They point out further that even these limited studies show that the amounts spent on food vary appreciably from one region of the country to another and from urban to rural areas. Yet, surprisingly enough, only a few schedules of stamp prices are now being used by the Department of Agriculture.

In field hearings held by the Subcommittee on Employment, Manpower, and Poverty of the Senate Committee on Labor and Public Welfare, recipients argued repeatedly that existing stamp prices are too high, that the “normal expenditure for food” just could not be as high as the Department of Agriculture formula suggests. The problem is well illustrated by an exchange between Mrs. Lupe Martinez of Denver, Colorado, and Senator Gaylord Nelson of Wisconsin in the hearings held Wednesday, May 29, 1968.

Mrs. Martinez: *** I have had eleven children and today I am getting $200 a month. I have nine children at home, I am paying $80 a month rent. Besides in the wintertime $20 to $29 for gas and lights. I am on the food stamp program. I have to buy $94 a month of stamps, and they give me $140. (emphasis added)

Senator Nelson: How much do you spend for stamps a month?

Mrs. Martinez: I buy $94.

Senator Nelson: How much do they cost you? They cost you $94?

Mrs. Martinez: $94. Then I get $140. But this leaves me with no detergents and things I need to keep my home clean. I am poor but I do like to get down on my knees and live the clean way. It is kind of hard to do it when you don’t have money left over to buy detergents.
The Department of Agriculture estimates that Americans spend 18% of their income on food. Yet Mrs. Martinez and others like her are forced to pay 40-50% of their limited income for stamps. Needless to say, under such conditions many simply cannot afford to participate in the program—not continuously and perhaps not at all—since they are unable to meet clothing, housing, medical and incidental expenses with the money left after the purchase of their food stamps.

Incredible as it seems, no consideration was given in the Department of Agriculture formula to the many families who have literally no cash income. These families, although they were formerly served by the Commodity Distribution program, were effectively prevented from participating in the Food Stamp program because they did not have the cash to purchase even the lowest-priced coupons. It was not until the much-publicized visits of the Kennedy-Clark subcommittee to Mississippi in the spring and summer of 1967 that the Department of Agriculture recognized this problem. The Department subsequently reduced food stamp prices for those in the lowest income levels, so that a person earning from 0 to $19.99 per month paid $0.50 rather than $2 for stamps worth $12. A family of four at the same income level paid $2 rather than $8 for stamps worth $48. As an added inducement to participate in the program, the first month's stamps are presently sold at one-half the regular price for all income levels.

While the reduction of price of stamps for those at the lowest income level helped the problem, it did not solve it. Those families without any consistent cash income are still unable to participate. Former Secretary of Agriculture Orville Freeman, pointing to the precise language of Section 7(b) of the statute, argued repeatedly that the legislation assumed that people did have a normal cash expenditure for food and that he was powerless to change that legislative assumption.

This position makes no sense for several reasons. Most obviously, it is not consistent with the action Secretary Freeman took in reducing the minimum price of the stamps; but also a strong argument can be made that his stand does violence both to the language and the legislative history of the statute.

Perhaps the most unreasonable aspect of the present federal food distribution programs is that under no circumstances do they provide a nutritionally adequate diet. The "theory" of the Food Stamp program is that the amount paid for coupons is equal to the normal amount spent for food at that reduced income level; this, of course, means that there is no assumption of additional resources being available for food purchases. It is, therefore, extremely difficult to explain why the "bonus" is not sufficiently large to permit a nutritionally adequate diet at all levels of income.

According to Miss Isabel Kelly, former Director of the Food Stamp program, the value of the stamps is deliberately held below the amount necessary to secure a minimally adequate diet! This is for the participant's own good, as Miss Kelly sees it:

We take the cost of the low cost adequate diet and move the families as close to it as we can without setting up a situation where families might not comply.

[We do] as much [as we can] without distorting the relationship between food and nonfood needs that would encourage and almost force them to violate [the law].

The basis for this view, as with the certification procedures, is the belief that food stamp recipients are likely to be dishonest—that if recipients are given enough stamps to provide a fully adequate diet, they will be seriously tempted to sell their stamps, or the goods received for their stamps, in order to get money for other needs which are relatively less well met.

Former Secretary Freeman has taken conflicting positions on this matter. In hearings before the House Education and Labor Committee on May 22, 1968, he took a position similar to Miss Kelly's. In response, Dr. Leslie Dunbar, Executive Director of the Field Foundation and Co-chairman, Citizen's Board of Inquiry, testifying the next day before the Senate Subcommittee on Employment, Manpower and Poverty, had this to say about the Freeman-Kelly position:

Dr. Dunbar: If I could make one final comment: I was not here yesterday. I did not hear Secretary Freeman's testimony before the House Education and Labor Committee, but, as it has been reported to me or told to me by those who did hear it, including reporters, he was asked in his testimony yesterday to explain something of this same irrationality in the food stamp prices that Mr. Sparer referred to earlier, why it is that under the price table that you get the sort of situation where a person with only X number of dollars ends up with only X number of food stamps where a person with the same size family putting up a little more money comes out with much more in the way of food.

He was asked, does not this poorer family eat as much or need as much food as the better off family, and his reply was: "Yes, it does, but, if we gave them the extra food stamps, we are afraid they would bootleg them. They would not use them for the right purpose."

Let me say, in the most moderate tones, that I do not know any empirical evidence to rest that kind of fear upon, and, secondly, that I think we cannot make welfare programs including food programs work unless we trust the people.

Senator Yarborough: May I make a comment there, Mr. Chairman.

I just don't believe that they would bootleg those stamps. I think they would get more food and better food.

I think if you give them more food stamps they will go to the basic requirement first: food. They might bootleg some kinds of stamps, but I don't believe people will bootleg food stamps.

I have grown up and worked in the cotton fields, and I have worked in the wheat fields and in the oil fields and been around people with very little money. On the basis of my experience living and working with the poor, I don't think they are going to take their food money and bootleg it to somebody else.
Perhaps a drug addict or an alcoholic might bootleg food stamps to get drugs and liquor, but it is contrary to the whole human experience to suggest that poor and hungry people, raising hungry children, will bootleg stamps that can put food on their tables. Such a suggestion unjustly impugns the integrity of thousands of proud people. It is an improper suggestion to make and it should not be a consideration in the distribution of food stamps.

Apparently Freeman is now convinced of the error of his previous ways. In his final testimony as Secretary of Agriculture, given before the Senate Select Committee on Nutrition and Human Need, January 8, 1969, he stated:

In the future, the Food Stamp Program should be extended to all areas, replacing the Commodity Distribution Program. The cost of stamps should be reduced and the bonus levels should be increased to provide a food allowance fully adequate to meet the nutritional needs of those who are eligible. All it will take to do this are appropriations by the Congress. (Emphasis supplied)

While Freeman is certainly correct in saying that a more adequate food stamp program will require additional congressional appropriations, he is equally incorrect in saying that that is “all it will take.” Besides more money, an effective program will require abandoning the distrustful attitude of the early Freeman-Kelly position, which appears to have been more concerned with an unsubstantiated fear of “bootlegging” than with establishing a rational payment and “bonus” schedule. Because of such initial irrationality (and because of inadequate appropriations), the Food Stamp program is presently saddled with an arbitrary formula which, as Professor Sparer has suggested, means that under the Food Stamp program, the poorer you are the less you get to eat.29

Aside from these problems, there are numerous complaints that the program in practice does little to alleviate the general exploitation of the poor. Participants may use their coupons in any retail store authorized to accept coupons by the Department of Agriculture,30 and critics claim that participating food stores often charge higher prices to stamp recipients. However, while the existence of the charge suggests the practice is not unknown, no systematic documentation seems to be available on this point. Also, officials of the Department of Agriculture admit that there is a seasonal pattern of participation. This, they suggest, results from seasonal variations in employment opportunities. Thus, in rural areas, where the principal source of employment is in agriculture, the variation is more pronounced than in large urban areas where, presumably, there are more year-round employment opportunities in industry. Critics, however, are not so sanguine. They suggest that in some places the food distribution programs are controlled by farmers who restrict the programs during the harvest season to insure themselves a ready supply of cheap labor. They further suggest that such practices are tolerated by the Department of Agriculture since an attempt to eliminate them might result in a county’s pulling out of the program altogether. While there is no concrete evidence on these charges, they suggest the wisdom of instituting some kind of review procedure for those applicants and participants with grievances of this nature.31

C. The Operation of the Commodity Distribution Program

Any state may participate in commodity distribution upon the request of its governor.32 Available foods are donated to all states desiring them. The recipient states, in turn, have the responsibility of determining which of their citizens are eligible to receive commodities. In general, needy families are determined by the same criteria used in the state’s public welfare program, or by the use of income and resource standards related to these criteria and approved by the Department of Agriculture.

Commodity distribution foods are limited in variety and volume. Under the current interpretation of the law, a product must be “surplus” to the needs of the commercial market to be distributable, a fact which does not assure the nutritional quality of the available “market basket.”33

It appears, moreover, that these commodities go first to those areas which have participated in the past, so foods available for program expansion are limited to surpluses which are in excess of current program needs. The Department of Agriculture delivers the commodities involved free of charge to the individual states at points designated by the state distributing agencies. All costs after the initial delivery are borne by state and local governments and include the intrastate costs of storage, distribution, and certification of recipient households. Historically, the states of the South have distributed foods from car side to recipient agencies which arrange for storage (e.g. schools, charitable institutions or welfare agencies distributing to needy families) and the counties have arranged for transportation from the car side to the recipient’s warehouses. Counties with needy family programs usually distribute from one central county warehouse, but this procedure has several disadvantages. The commodities are often heavy and difficult to transport over distances,34 and the hours during which the commodities are distributed are often inconvenient. Also, even if the storage and distribution are spread throughout the county, the storage facilities are often inadequate, resulting in spoilage of the commodities. Department of Agriculture officials report that exceptions to central distribution are sometimes found in the mountain areas of the southern states where several distribution points may be maintained in a county, and in one or two of the counties of Mississippi where mobile units visit towns and communities on a prearranged schedule.

A more serious set of problems arises from the fact that the program is locally administered. As with the Food Stamp program, local prejudice against increasing "welfare" burdens, as well as serious racial prejudice, have their impact on participation in Commodity Distribution.35 In the South and in the urban areas of the rest of the country, blacks are the predominant members of the poverty group, and there may be little real desire to help in some of these areas. For example, the Board of Inquiry into Hunger and Malnutrition in the United States found evidence in Alabama that welfare officials discouraged Negroes by making application an unnecessarily difficult process,
requiring them to return a number of times before being certified, or even requiring a black to secure two white signatures on his application. The Board also found that in some areas different distribution days were set for blacks and whites, thus insuring a longer wait for blacks.

Because the programs have generally been thought to be voluntary, many areas have simply chosen not to participate. The reasons are obvious. Many states rely on the counties and cities to pay the local costs of storage, certification and distribution, but many of the areas which need the programs most are frequently without the resources to participate. For example, in mid-1966, of the 300 counties listed by the Office of Economic Opportunity as eligible for 100 percent financing of O.E.O. programs, 127 did not have food programs. At the same time, approximately one quarter of the 1,000 poorest American counties were without programs.

Today, on the other hand, all 300 O.E.O. counties and all 1,000 poorest American counties have food programs. What happened?

Until rather recently the official Department of Agriculture position appears to have been that unless counties first requested the commodities program, federal officials were powerless to help. Department of Agriculture spokesmen recoiled from the idea of direct federally-run programs (and showed little interest in "persuading" recalcitrant counties to apply), but in this case, unlike that of the Food Stamp program, U.S.D.A. officials could find nothing but tradition to prevent them from instituting direct federal distribution programs in counties which lacked either the resources or the desire to initiate a commodities program on their own.36

As pressure built up over the spring and summer of 1968, Secretary Freeman responded by moving in two directions: U.S.D.A. officials brought to bear considerable political pressure and succeeded in convincing many previously reluctant counties to begin programs;37 and in forty-nine "hard-core" counties, Secretary Freeman actually instituted direct federally-run programs, using federal funds to do so.

D. The "Section 32" Issue

There is no dispute that federal food programs have failed to meet the food needs of many of the poor. The conventional wisdom is that two primary factors limit the programs: lack of funds and federal submission to local opposition. The latter problem, at least in the case of Commodity Distribution, has been relieved by a recent federal willingness to "encourage" the establishment of programs in recalcitrant counties either by offers to offset administrative costs or by threats to establish direct federal programs. But what of the problem of lack of funds?

It is uncontested that more funds are needed to finance present federal food efforts adequately. The one issue which is perhaps more hotly (and superficially) debated than any other is whether the Secretary of Agriculture already has substantial funds available to combat hunger which he is not using!

Section 32 gives the Secretary of Agriculture control over a vast pool of funds each year. The section provides a continuing appropriation to U.S.D.A. equal to 30 percent of the import duties collected on all commodities entering the United States. Moreover, the Department retains control each year of unused balances of these moneys up to $300 million. The funds become available at the beginning of each fiscal year without further legislation. For example, the Department had over $700 million available under Section 32 for fiscal year 1966. Of this only about $200 million was expended, leaving a balance of over $500 million. Since only $300 million could be carried over into the next fiscal year, $200 million had to be turned back to the Treasury. If such moneys could have been expended in distributing nutritious commodities to the poor, the federal government would have taken a significant step toward solving the hunger problem.

Not unexpectedly, U.S.D.A. officials and critics of present federal feeding efforts make rather different assessments of the meaning of Section 32. The Department's position has been that an analysis of Section 32 and its legislative history indicates that distributable commodities are limited to those produced in excess of normal demand which must be diverted from the market in order to maintain agricultural prices.

The case for a broader interpretation of Section 32 lies largely in the language on the face of the statute. Nowhere does the statute specifically mention "surplus". The legislation contains three clauses authorizing certain types of programs: (1) To "encourage the exportation of agricultural commodities and products thereof..."; (2) To "encourage the domestic consumption of... commodities or products by diverting them... from the normal channels of trade and commerce by increasing their utilization... among persons in low-income groups..." (emphasis supplied); and (3) To reestablish farmers' purchasing power by making "payments in connection with... normal production...". It is not unreasonable to read the second clause as establishing food for the poor as one of the purposes of the Act. Once this purpose is established, the second paragraph in the statute allows funds to be expended for that purpose: "The sums appropriated under this section shall be expended for such one or more of the above-specified purposes... as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section."38 (emphasis supplied) Thus, it is not unreasonable to read Section 32 as empowering the Secretary to purchase whatever food would be most useful in providing a nutritionally adequate diet for the needy.

Although there is a good deal of law to the effect that a statute clear on its face means what it says, legislative history notwithstanding, the Department nevertheless takes the position that the history and practice under Section 32 suggest that any welfare purpose was meant to be subordinate to the dominant purpose of maintaining and stabilizing the prices of agricultural products. The full argument runs as follows: Section 32 was enacted in 1935 as a part of a comprehensive bill designed to deal with agricultural surpluses and depressed farm income. The
House Report stated that the bill was intended "to provide programs flexible enough to establish and maintain the rehabilitation of the country's agriculture." The Report stated that "since the farm population of the United States is roughly 30 per cent of the total population, this provision will make available for the benefit of the farmer a sum equivalent to his fair share of the tariff receipts." Though congressional discussion of Section 32 on the floor was limited, one Representative noted that the funds were "for the principal purpose of encouraging the exportation of the surplus major agricultural commodities and products or [for] diversion into relief." Thus, contemporary legislative history lends some support to the Department's claim that the bill was primarily intended to aid farmers and maintain farm income—and was only incidentally intended to provide relief for the needy.

The Department also argues that subsequent legislative history supports its interpretation of Section 32. According to the Department, the Comptroller General, in an Opinion dated November 15, 1935, concluded that Section 32 did not provide funds for relief purposes. The Secretary of Agriculture replied in a letter four days later that relief was authorized by the bill, but only as a means of encouraging and increasing domestic consumption of commodities produced in excess of market demand. Amendments to Section 32 (including the language in clause 2 about utilization by persons in low-income groups) were then added by the Congress in 1937 and 1939 to affirm the Secretary's position. Thereafter, the Department's practice of purchasing for distribution only foods in oversupply went without challenge for several years.

During the war, dwindling surpluses threatened the existence of the School Lunch and School Milk programs. (The Department had been using Section 32 funds to support these activities.) In 1944, the Senate Appropriations Committee expressed concern in its Report at the possibility of using Section 32 for "welfare" purposes independent of agricultural price maintenance policy: The school lunch and school milk programs now being conducted by the expenditure of section 32 funds came into being as a result of the disposal of surplus agricultural commodities acquired in accordance with the provisions of this section. There is now practically no surplus of any agricultural commodity... The committee has always supported the school lunch and school milk program, but it feels that the further expansion of this program exclusively out of section 32 funds is under the present conditions a perversion of the intention of that law and is likely to result in denying relief to farmers in future emergencies.

To avoid this problem the Committee inserted into the appropriation bill a provision authorizing the Secretary to use out of Section 32 funds a sum not to exceed $50,000,000 for the maintenance and operation of a school lunch and school milk program "without regard to the requirement therein relating to the encouragement of domestic consumption." In the next year work was begun on legislation to effect a permanent independent school lunch program. The result was the National School Lunch Act of 1946.

The Special Milk program for school children has a somewhat similar history. It was instituted in 1954 as a means of price support pursuant to a directive contained in temporary legislation. This legislation was renewed periodically and at the 1958 renewal, when the need for such a program as a means of price support became questionable, Congress inserted a provision in the act declaring that funds expended for the purpose of that program "shall not be considered as amounts expended for the purpose of carrying out the price support program." In an amendment to the Food Stamp Act in 1968, Congress again took a restrictive view of Section 32. In seeking appropriations for 1969, the Department of Agriculture sought to hold down its budget by financing $195,000,000 of the cost of the Food Stamp program from Section 32 funds. The Congress reacted negatively. Senator Holland, floor manager of the bill, presented the Appropriation Committee's position: The budget for fiscal 1968 proposes that the act be carried out with funds appropriated under section 32... The committee felt that the use for this purpose of funds appropriated for another purpose is not advisable. Funds are appropriated by section 32 to be available when necessary for carrying out that section. Its purpose is to protect markets for perishable agricultural commodities and to protect the producers of those commodities.

Congress, at Holland's request, passed an amendment providing that Section 32 funds were not to be used in support of the Food Stamp program. As Holland put it: "This action is consistent with the provision of the basic legislation which characterizes the [Food Stamp] program as a welfare or social program to be carried out with welfare funds, rather than an agricultural program to be carried out with agricultural funds." The argument may be summarized as follows: A good case for the further use of Section 32 funds to purchase commodities to distribute to the poor can be made on the face of the statute itself, although Congress has admittedly given a restrictive gloss to the statute in regard to financing such programs as the Food Stamp Act. It may be asserted that the Act is intended to apply only to surplus commodities, but the answer here is that surplus is not mentioned in the statute, and even if it is assumed as a limitation, it is nowhere defined in the legislation. The Agricultural Act of 1949 provides a working definition of "surplus" for price support activities engaged in by the U.S.D.A. Under that
Act, a commodity may not be supported after its price has reached 90% of parity. Using this definition of surplus, the Department could enter the market to purchase and distribute a host of additional commodities needed by the poor. Nor can the Department argue that Section 32 applies only to "perishable" commodities: first, the legislation reads "primarily" perishables—and second, the Department has been purchasing non-perishables for a long time with Section 32 funds.

Finally, it should be noted that the present practice of the Department of Agriculture argues against a restrictive interpretation of Section 32. It was mentioned earlier that federal funds were being used to administer the Commodity Distribution program in areas that refused to institute their own programs; and that federal assistance is being financed by Section 32 funds. The use of Section 32 funds for this purpose is commendable. Also it is consistent only with the broad interpretation of Section 32 that many critics argue for.

E. Extent and Effectiveness of The Food Stamp and Commodity Distribution Programs: How Large Is the "Gap" and What Can Be Done About It?

Food Stamp and Commodity Distribution are the backbone of the federal government's food relief efforts. Together they serve about 6.5 million needy persons in the U.S. (6.0 million excluding the 250,000 persons receiving food under the Commodity Distribution program in Puerto Rico). This compares with some 26 million persons in families with annual incomes of less than $3600.

These figures clearly show a substantial gap between the number of persons in need and the number receiving assistance. The "gap" is a result of two factors. First, the programs are not available in many counties. Second, and more important, even where programs are available, only a small portion of the poor participate. As Dr. Leslie Dunbar puts it:

*I think focusing attention on getting food programs into recalcitrant counties, although that is important, is to mislead the public. Because in Mississippi, which you gentlemen yourselves have studied, every single county has a Federal food program and in Mississippi you have the highest percentage of participation by the poor in Federal food programs of any State in the country and yet you found, and every other observer has found, what the conditions there are. It is important that Federal food programs go into a county, but that is not enough. Because we know that the food programs themselves never reach or hardly ever reach more than a minor fraction of the poor in a given county. Beyond that, we know that, when they do, the persons whom they do reach are not beneficially fed.*

It is obvious, then, that serious program deficiencies exist both in poverty areas where no program is available and in areas where participation is low relative to the need as indicated by income figures.

The total gap, as indicated by income figures, does not spell hunger or malnutrition in every instance. As government officials point out, all those individuals who are income-poor are not necessarily food-poor—and some people are food-poor although not necessarily income-poor. The net effect of these considerations, some Department of Agriculture officials suggest, is to scale down the total "need" for food programs considerably. The observation that not all families who are income-poor are food-poor, while correct, is irrelevant. It is absolutely essential to note that Food Stamp and Commodity Distribution presently operate and in all likelihood will continue to operate on a basis of income determination. Nobody has seriously argued for an eligibility standard based on the nutritional inadequacy of an applicant's diet. Thus all those whose incomes are below whatever income level is established will be eligible for the program without regard to whether their diets are adequate by nutritional standards. It appears, therefore, that a program large enough to meet the needs of all those with incomes under the minimum level would be required. Most discussion of "poverty" today accepts a $3600 annual income level for a family of four as indicative of poverty; by this standard, a program for some 26 million people is indicated. This is a four-fold increase over the present program level.

In fact, a four-fold increase would suffice only to bring into the program those poor people not presently benefiting from it. It must be remembered, however, that neither the Commodity Distribution program nor the Food Stamp program as presently operated provides participants with a nutritionally adequate diet. The program must be improved qualitatively as well as quantitatively so that all individuals participating may receive a fully adequate diet.

This analysis suggests a number of changes that need to be made to move the existing programs toward this goal. The Commodity Distribution program should eventually be replaced by the Food Stamp program because the Food Stamp program is not limited by market conditions and allows the participant more responsibility and choice in planning his own diet. In the meantime, however, there are several administrative changes that would make Commodity Distribution far more effective.

The greatest weakness of the program is the often poor quality of available foods. The Secretary should do everything in his power to improve the selection of commodities and this can be done most readily through increased use of Section 32 funds. The Secretary should continue to pressure those counties with no food programs to institute at the least a Commodity Distribution program. He should also continue the practice of offering to offset administrative costs in the hope that this will persuade the counties to participate. If the counties continue to be recalcitrant, however, he should not hesitate to set up direct federally-run programs, as was recently done in 49 counties. Finally, funds should be provided to improve the local distribution of commodities. The appeal of the program would be enormously enhanced if neighborhood distribution centers were established and more frequent times for distribution were set up.
For the longer run, however, it is clear that the Food Stamp program offers a more viable means for feeding the hungry, particularly if some changes are made. The most important changes center around the initial price of the stamps and the “bonus” that the stamps themselves represent. The food stamp price schedules should be lowered so that participants do not have to pay 40% of their income for the stamps. No participant should be required to pay more than 25% of his income for this purpose, and stamps should definitely be given without charge to those who have no income. Regardless of how much is paid, the “bonus” should be increased so that all recipients are brought up to the standard of a nutritionally adequate diet.

The eligibility standards should also be altered in several ways. The requirement of continuous participation should be abandoned because it serves no legitimate purpose, and the initial certification procedure should be greatly simplified. A uniform eligibility standard consistent with the present definition of “poverty” should be set up (except in those states where the state definition of poverty is above the national line), and surely those who are already receiving public assistance should qualify automatically for food program participation.

As a check on the abuse of eligibility standards as well as on other possible unfair practices, all states should be required to establish grievance and appeal procedures embodying the traditional elements of due process. (Such procedures are, interestingly enough, already provided to participating stores under the present statute.)

Finally, the requirement that a minimum number of stamps must be purchased each month should be abolished. For the poor, having to pay a large sum of money at the start of a month to cover the entire month’s food supply is simply beyond their financial capacity. This situation could be remedied in at least two ways: either by doing away with the required amount of purchase altogether and letting the participant buy the quantity he feels he can afford, or by offering the minimum stamp requirement on a semi-monthly basis, which would cut in half the required lump sum outlay at any one time.

III. National School Lunch Program

Bernard Bard in his recent book on hunger among school children writes that:

_The nation’s capital was shocked a few years ago to find, on the front page of the Washington Post, a photograph of school children foraging in a garbage can for scraps of food._

The children were from an elementary school in the Randall-Jefferson area in southwest Washington, one of 82 schools in the District of Columbia without any lunchroom facilities.

The Scandal reverberated through Congress... extra funds were swiftly voted to deal with the crisis. (Emphasis supplied) It is clear, however, that more “reverberations” are needed to deal with the crisis of the millions of similarly situated youngsters who, though not pictured on the front page of a national newspaper, nevertheless go hungry each day because there is no school lunch program at their school.

As is true of the Food Stamp and Commodity Distribution programs, an impressive case for the School Lunch program can be made if attention is focused on outputs alone. At present the School Lunch program is available in schools serving over 36 million children, or more than two-thirds of the nation’s total enrollment. Nineteen million of these children participate on a daily basis, and among the participants more than two million are given free or reduced-price lunches. Under the Child Nutrition Act limited funds have been made available for assisting schools in low-income areas in purchasing the equipment necessary for food storage, preparation and service; and an experimental school breakfast program was begun in 752 schools during fiscal year 1967. But while these figures indicate good intentions partially realized, they should not obscure the fact that the present School Lunch program has failed to reach millions of needy youngsters all over this land.

The National School Lunch program currently operates under legislation passed in 1946 and amended in 1962 (referred to hereinafter as the School Lunch Act). The initial Act grew out of various federal programs which had provided schools with surplus commodities and cash during the late Depression years. Under the School Lunch Act today, federal assistance is made available to participating schools in three forms: cash grants, donated foods, and administrative and technical aid. In terms of federal cash assistance, appropriated funds are apportioned among the states by a formula which includes two factors: the relationship between the per capita income in the United States as a whole and the per capita income in each individual State, and participation in the program as indicated by the number of lunches served in each State in the previous year.

Under the School Lunch program, the state is responsible for apportioning funds among participating schools. In practice, the states approve virtually all schools which apply. Consumer and Marketing Service officials report that many school authorities believe the primary objective of the program is to provide a nutritious lunch to all children. Therefore, in an attempt to establish programs in as many schools as possible, federal funds are divided evenly among all participating schools. Only a handful of states make any significant attempt to give a larger share of the funds to the neediest schools. In 1968, federal cash assistance averaged $.04% per lunch, and the value of federally donated commodities averaged about $.10 per lunch. The average lunch price to the child in a school participating in the program was $.29 on the elementary level, and $.34 on the secondary level.

State matching funds are required in a ratio of $3 to $1 except for states with per capita income below the national average. (In these cases the ratio required is decreased by the percentage which the state per capita income is below the per capita income of the United States.) It is crucial to
note that children's payments for the lunches are included as part of the state's matching funds. Since such payments make up about two-thirds of the cash amount of the program, no state has ever had any difficulty putting up its share.

Surplus food is also donated to schools under this program. It is apportioned among the states on the basis of past participation in the lunch program. Once food is distributed to the state, each state is responsible for distributing it to participating schools. The distribution is usually divided evenly among all schools. The state is not required to match the value of commodities donated by the federal government.

The Act requires that all schools wishing to participate in the program sign an agreement with the state educational agency that they will operate a non-profit school lunch program which a) meets minimum nutritional standards for a type A lunch a specified amount of protein-rich foods, vegetables and fruit, bread, butter or margarine or milk; b) complies with state and local health and sanitation standards; and c) supplies lunches free or at reduced price and without discrimination to all children who are determined by local school authorities to be unable to pay the full price.

Within each participating school, a certain percentage of the lunches are given away free or sold at reduced prices. (No figures are available to distinguish between free and reduced-price lunches. All will hereinafter be referred to as "free."). Nationally, about twelve percent of the lunches are made available in this manner. The determination as to which students receive free lunches is made at the local level by the officials of the individual school. Department of Agriculture officials report that a variety of approaches is used including the recommendation of home room teachers, school nurses, school principals, or local welfare departments.5 6

Until recently, there were no federal guidelines available to help local officials determine who should receive a free lunch. Local officials were faced with a dilemma. The statute directed that all "needy" children were to receive free or reduced-price lunches, and yet it was obvious that many children were not participating because their parents did not believe they could "afford it." But were all these children to be given free lunches? School lunch administrators hesitated to be so generous, not because they wished to discriminate against the poor, but because their primary concern was to run a viable lunch program. They know that as the number of free lunches increases, the amount of federal money available to reduce the average price of lunch served to all children decreases, and this, in turn, causes the general lunch price to rise. They also know that participation tends to fall off as the average lunch price increases. Because of these economic facts of life 5 7 many federal officials privately admit that most schools have an informal limit of 10% free lunches, and beyond that do not look very hard for additional "needy" children.

A graphic illustration of this problem is Mrs. X, cafeteria director at a 700-pupil elementary school in central Georgia ("Now look, don't mention my name. We don't want to get in dutch with our Board of Education.")., who finds a shortage of funds her biggest problem. Many of her children can't afford the 20 cent charge for lunch. She has 32 on free lunches, knows "at least 100 more who need it," but is held back because "our board insists we stay out of the red."5 8

On October 18, 1968, Secretary Freeman announced national procedures and standards to guide in providing free or reduced-price lunches and breakfasts to needy children.5 9 In general, these standards and procedures—and the revised regulations under the National School Lunch and Child Nutrition Acts to implement them—call upon each state to provide policy guidance and assistance to local school boards in developing their standards, while at the same time operating within national guidelines. (For example, children from families eligible for food assistance under the Commodity Distribution or Food Stamp programs and from families receiving public assistance are generally to be considered eligible for the free or reduced-price lunches.) Local boards were instructed to make a public announcement by February 1, 1969, of the standards they were applying to judge need in light of local conditions, cost of living, income levels, and other economic factors.

In the same October 18 release, the Secretary noted that the added funds available in fiscal 1969—some $45 million more than the year before—were a significant factor in allowing implementation of uniform standards because they were earmarked to help needy-area schools meet the cost of providing high percentages of free or reduced-price meals. This significant attempt to concentrate school lunch aid where it is needed most was undertaken under Section 11 of the National School Lunch Act, which authorizes an appropriation of funds for schools drawing from very poor economic areas. Although passed in 1962, Section 11 was funded for the first time (for $2 million) in 1966, so experience under this provision is limited. Six million dollars was requested in 1967, but only $2 million was authorized.5 0

The Department of Agriculture and the Congress have recently come to realize that Section 11 must become a vital part of the School Lunch program if, in actual operation, the program is not to discriminate radically against the poor. Of the 5.5 million children from families whose annual income is less than $2000, only 2.2 million—or about 40 per cent—are receiving free or reduced-price lunches.5 1 This figure has been substantially increased as a result of the additional $45 million provided by Congress in fiscal 1969 to enable more children to receive free and reduced-price lunches and breakfasts. In his final testimony before the Senate Select Committee, former Secretary Freeman indicated that these funds would provide an additional 1.8 million school children with free or reduced-price lunches for the remainder of the school year, so that a total of 4 million children received free or reduced-price lunches in fiscal 1969. As Freeman put it: 43
While this effort goes far to close the gap, there are still more than 2.5 million children who should be receiving free or reduced price lunches, but who will not. Hopefully, next year, additional funding will make it possible to bring these children into the program.62

Section 11 provides us with the means for eliminating the gap, and Congress should waste no time in utilizing it.

An entirely separate problem facing those who wish to improve the present School Lunch program is the question of how to meet the needs of children who attend schools not participating in the National School Lunch program. Most of these schools are located in the downtown neighborhoods of our larger cities; a few are in impoverished rural areas throughout the country. In the ghettos of our cities, schools are neglected and inadequate in almost every way, and many of them lack the facilities to provide lunch for the children who need it. For example, an internal Department of Agriculture document indicates that as recently as mid-1966 there was no National School Lunch program in Birmingham, Los Angeles, San Diego, Indianapolis, Akron, Pittsburgh, Dallas, Fort Worth, Houston, or San Antonio.63

To help schools without the requisite lunch facilities, funds can be and have been requested under Title V of the Child Nutrition Act to give assistance in purchasing needed equipment for schools serving low-income areas.64 Requested on a matching basis (75 percent from the federal government and 25 percent from state and local sources), $750,000 was appropriated in fiscal year 1968, $7.2 million in fiscal year 1969, and the final Johnson budget requested $15.0 million.

IV. Conclusion

This article does not offer the activist specific suggestions on ways to improve the federal food distribution program. Its aim is simply to point out the broad areas in which strategies for change could or should be devised. While the most direct way of effecting such change is through broad-based political power, there is still room for the work of the local activist. For example, pressure can be put on local officials to sign their constituencies up for federal aid just by publicizing their recalcitrance. In addition, certain types of litigation might force the Department of Agriculture to set up sorely needed grievance procedures. Without the pressure, the Department might not be inclined to right the arbitrary excesses of the food programs. The hungry, in short, will not be hungry any longer if we make it our business to see that they are fed.

1. Until recently, neither the extent nor the effects of hunger and malnutrition in the United States were widely recognized. Most observers shared the assumption of Michael Harrington, stated in the opening page of his classic, The Other America:

   “To be sure, the other America is not impoverished in the same sense as those poor nations where millions cling to hunger as a defense against starvation. This country has escaped such extremes.”

In the last two years, however, a number of medical groups and concerned citizens have sought to determine the extent of hunger and malnutrition in the U.S. Their findings are shocking—evidence indicates that millions of Americans do not have enough to eat. See “Hunger U.S.A.” A Report by the Citizens Board of Inquiry into Hunger and Malnutrition in the United States; Chapter Two (New Community Press, Washington, D.C., 1968). [Hereinafter cited only as “Hunger U.S.A.”] See also Robert Sherill, “It Isn’t True That Nobody Starves in America,” New York Times Magazine, June 4, 1967; “Hunger in America”—five part article by Homer Bigart, New York Times, beginning February 9, 1969.

2. Recent figures indicate that there are approximately 26,000,000 persons in families with annual incomes less than $3600. Slightly more than 6,000,000 persons are served by the present federal food distribution programs.


4. In the Rockefeller Foundation Quarterly, 1967, George Harrar writes: “... There is accumulating evidence to show that an inadequate and unbalanced diet, occurring at a highly crucial and prolonged period in the development of an infant or young child, may affect its mental capacities to a degree where its ability to learn is seriously impaired. The visible effects of malnutrition may be corrected and may disappear, and the child may seem to be restored to full health and vigor. But the effects on mental development may not be readily apparent and often may be perceived only when the child manifests difficulty in competing with normal children.”

Researchers assisting the Citizens Board of Inquiry (“Hunger U.S.A.”) discovered these disturbing facts:

-That the children of the poor die after the first six months at a rate difficult to attribute to factors other than malnutrition in combination with unsanitary conditions.

-That doctors report having seen case after case of premature death, infant mortality, Kwashiorkor, bone deformity, pigmentation deficiency, and vulnerability to secondary infection, all resulting from various degrees of hunger and malnutrition.

-That between a third and two thirds of the children of the poor suffer nutritional anemia.

-That protein deficiency in the early stages of life may cause irreversible brain damage.

-That teachers tell of children who come to school without breakfast are too hungry to learn and must be taken home.

5. Statement by Secretary Freeman before The House Agriculture Committee, June 1, 1966.

6. The Special Milk program is not discussed in this article because it is the least important of the four programs and thus the most expendable in light of space limitations. Known as the Dairy Industry Subsidy, it has resisted the efforts of Presidents Johnson and Nixon to kill it only because of the dairy industry lobby.

7. 7 U.S.C. 612(c).

8. For a list of commodities presently available, see footnote 33, supra.
9. It should be noted at the outset that in spite of the present inadequacies which it will be the purpose of the article to discuss, the food distribution programs have come a long way in the last eight years. In 1961, five commodities worth $2.20 were distributed to Commodity Distribution participants. In 1968, twenty-two commodities worth $12.70 per person monthly were offered. The Food Stamp Program began with eight pilot projects in July 1961. Permanent legislation was enacted in 1964, at which time forty-three projects were in operation. The number of projects grew to 324 in 1966, 838 in 1967, and 1179 in operation or under development as of January 8, 1969. (Testimony of Orville Freeman, Senate Select Committee on Nutrition and Human Need, January 8, 1969.)


11. See Section 8 (a), (b), (c), Food Stamp Act.

12. Sec. 4 (a) of the Food Stamp Act provides: "The Secretary is authorized to formulate and administer a food stamp program under which, at the request of an appropriate state agency, eligible households within the State shall be provided with an opportunity more nearly to obtain a nutritionally adequate diet ..." (emphasis supplied).

The negative implication of this language seems clear: Where it is not specifically requested, no program is authorized. Both the House and Senate Report explications are to this effect.

13. Section 10 (c), in pertinent part, provides: "The State agency of each State desiring to participate in the food stamp program shall submit for approval a plan of operation specifying the manner in which such program will be conducted within the State ... In approving the participation of the subdivisions requested by each State in its plan of operation, the Secretary shall provide for an equitable and orderly expansion among the several states in accordance with their relative need and readiness to meet their requested effective dates of participation." (emphasis supplied)

14. As of early 1969, there were no food stamp projects in some states (Arizona, Delaware, Florida, Idaho, Massachusetts, Nevada, New Hampshire, Oklahoma), very small programs in others (Alaska, Kansas, Maine, Missouri, and South Dakota) and large programs (100,000 participants or more) in Mississippi, Kentucky, West Virginia, Michigan, South Carolina, Tennessee, Washington, Illinois, New Hampshire, Virginia, and Pennsylvania. (The latter four are the largest food stamp recipients in the United States.)

15. Sections 4 (a) (footnote 12) and 10 (e) (footnote 13) are, to a certain extent, inconsistent. Because of the "State initiative" requirement of § 4 (a), the Secretary is powerless to implement the mandate of "orderly expansion ... in accordance with ... relative need" of § 10 (e) unless the neediest counties first choose to request the program from their state government, and then the state governments choose to request the program for their neediest counties on a priority basis. Furthermore the Act does not define how "relative need" should be determined, so presumably the Secretary's judgment is conclusive. By contrast, in other feeding programs (e.g., School Lunch) and in such legislation as the Elementary & Secondary Education Act, a formula for allocating available funds is included in the act itself.

16. Testimony of Former Secretary of Agriculture Orville Freeman, Senate Select Committee on Nutrition and Human Need, January 8, 1969.

17. Section 2, "Eligible Households," provides:

"(a) Participation in the food stamp program shall be limited to those households whose income is determined to be a substantial limiting factor in the attainment of a nutritionally adequate diet.

(b) In complying with the limitation on participation set forth in Subsection (a) above, each state agency shall establish standards to determine the eligibility of applicant households. Such standards shall include maximum income limitations consistent with the income standards used by the State Agency in the administration of its federally aided public assistance programs. Such standards shall also place a limitation on the resources to be allowed eligible households. The standards of eligibility to be used by each State for the food stamp program shall be subject to the approval of the Secretary." (emphasis supplied)

18. Former Secretary Freeman, a proponent of a narrow construction of the powers given him under the food distribution legislation, is a recent advocate of uniform federal eligibility standards. See Testimony before the Senate Select Committee on Nutrition and Human Need, January 8, 1969. It does not appear that he has ever taken the position that the Secretary already has the power to demand uniform federal standards under Section 5 (b) of the Food Stamp Act, as argued in the text, supra.

19. This requirement is a prime example of the distrust which underlies the administration of these programs. The only way to explain the recertification process is to assume dishonesty on the part of recipients. One suspects the administrative cost and the administrative inconvenience of such procedures exceed whatever minor abuse might be engaged in by a few unscrupulous recipients.

20. As the ensuing discussion indicates, stamp prices are often prohibitively high (approaching 50% of income) so it is easy to understand how recipients would find it impossible to participate every month. Purchases of partial stamp allotments are not permitted.

21. Under the Food Stamp Act participants are to pay for the food coupons they receive in an amount equivalent to their normal expenditures for those foods which can be purchased with food coupons. (See footnote 22.) They then receive a coupon allotment of greater monetary value than their purchase requirement. (See footnote 23.) The difference between the value of the coupons received and the amount actually paid— or the bonus coupons —represents the Federal contribution. Currently, participants pay an average of $6.00 for every $10.00 worth of coupons issued to them. However, the amount a family pays and the value of the bonus coupons which it receives, varies by family size and income. Given a particular family size, as income declines, the purchase price required for the coupons is reduced, the amount of the bonus is increased. Bonus coupon rates vary within a range of 26 to 62 percent of the coupons issued.

22. Section 7 (b) provides: "Households shall be charged such portion of the face value of the coupon allotment issued to them as is determined to be equivalent to their normal expenditure for food."

23. Section 7 (e) provides: "The face value of the coupon allotment which the State agencies shall be authorized to issue to households certified as eligible to participate in the food stamp program shall be in such amount as will provide such households with an opportunity more nearly to obtain a low cost nutritionally adequate diet."


25. In reducing the average stamp prices at lower income levels, the Department of Agriculture set a minimum purchase requirement of $5.50 per person per month. However, a maximum of $3.00 per family was established regardless of the number of people in the family. As Senator Nelson pointed out in the June 14 hearings referred to in footnote 24, this means that in families at the bottom of the income ladder with more than six persons in the family, the additional persons are receiving free stamps under the Department of Agriculture's own policy! If free stamps are given here why not in other needy circumstances? The interchange between Nelson and Freeman is instructive as to the insubstantiality of the Department of Agriculture's position:

"Senator Nelson. Aren't you, in effect, giving away free food stamps now? As I understand it, if you have a family with no income, you charge 50 cents a person for a maximum of $3 for a family of any size in order to get the food stamps, don't you?"
Mr. Sparer is absolutely correct. Consider the following example which is typical. Under the schedule published in December, 1968, a family of four with an income of $40.00-$49.00 must pay $12 for stamps worth $60.00 (bonus: $48). A family of four with an income of $90.00-$109.00 must pay $30 to receive $70 in stamps (bonus $40). Under the old schedule, the discrepancy was even more pronounced. The family of four at the $30.00-$49.00 income level received $60.00 in stamps, while the family of four at the $90.00 level received $76.00 in stamps. The new schedule, while somewhat less arbitrary than the old, still results in a situation which, as Mr. Sparer says, "The more poor you are the less you get to eat!"

30. Approval of Retail Food Stores and Wholesale Food Concerns is governed by §8 (a), (b), (c) of the Act.

31. It should be noted that while the Food Stamp Act is quite clear in setting forth a series of remedies for the store or for the wholesaler who is denied certification or who is disqualified under the program (including not only an administrative hearing but the right to a trial de novo in Federal District Court), there is no remedy whatsoever for the poor people who may be arbitrarily denied certification or disqualified. As Professor Sparer, op. cit, footnote 29, says:

"I think one could raise a very proper question of constitutional due process by denying such people an administrative hearing to review, but it seems to me that, aside from constitutional issues which have to be litigated in test cases over a long period of time, we ought to and the Congress ought to put right into the legislation a set of clear, effective remedies for a poor person who has a claim that he is aggrieved by the application of the program to him. The Secretary of Agriculture has the power to do this right now, of course, under the regulation, but he does not."

32. The great majority of activities under the Commodity Distribution program are carried on pursuant to U.S.D.A. regulations of one sort or another. The commodities used are acquired under authority of §32, or price support legislation of various kinds, and are then distributed to the poor. The program is largely a creature of the Executive Branch which has grown up around the broad directive in §32 that the Secretary may purchase and distribute surplus products to needy persons.

33. It should be noted that the U.S.D.A. has recently increased both the quantity and the quality of foods available under the Commodity Distribution Program. Former Secretary Freeman testified before the Senate Subcommittee on Employment, Manpower and Poverty, June 14, 1968, that "in April [1968] we were making available 16 commodities: . . . Dry beans, Bulgur, Butter, Cheese, Corn grits, Corn meal, Flour, Canned chopped meat, Nonfat dry milk, Peanut butter, Dry split peas, Instant mashed potatoes, Raisins, Rice, Shortening/jard, Rolled oats/wheat. We will be adding at least six more. . . . and these are: Canned vegetables, Instant milk drink (chocolate), Fruit juice, Canned chicken, Scrambled egg mix, Evaporated milk."

"The significance of this action is not in the increased variety or increased quantity alone. While the amount being made available will increase from about 25 pounds per person per month to about 36 pounds, the quality of the diet that will be made available will be far superior to any thing yet offered in a national food assistance program."

34. See footnote 33, supra. According to Secretary Freeman, the average weight per person per month of the 22 commodities presently available is 35 pounds. For a family of four this would amount to 140 pounds! A mother without both a car and physical assistance would be hard-pressed to transport such a load.
35. Consider, for example, the following exchange from C.B.S.'s "Hunger in America", Broadcast May 21, 1968:

"Charles Kuralt: San Antonio has four County Commissioners, and their opinions vary. A. J. Ploch is the Senior Commissioner. He has served five successive terms—for the last 18 years. David Culhane asked Commissioner Ploch about the children in San Antonio who are not getting enough food.

Ploch: Well, why are they not getting enough food? Because the father won't work and I mean won't work. If they won't work, do you expect the taxpayer to raise all the kids! First let's do something with their daddies, and then, yes, take care of the kids. Culhane: I wonder whether these children who are not getting a proper diet are going to be able to learn properly in school?

Ploch: Well, what do you mean "learn properly in school?" Do you really need school? Other than, say, an eighth grade education? That's another thing people keep talking about—this education—college education. It's not necessary.

Culhane: What do you do about the children who are not getting enough to eat?

Ploch: Well, I don't know about that, because that's really the problem of the father. Now, what to do about the man, I don't know, but you'll always have that condition, because if you don't have that condition, then you'll never have Indians and chiefs and you've got to have Indians and chiefs.

Culhane: I'm not sure I understand what you mean. You mean that you'll always have hunger?

Ploch: Not necessarily—yes, you'll always have it, because some men just ain't worth a dime. You'll always have hunger, yes."

36. The county initiative of commodity distribution system results from administrative tradition rather than statutory mandate. In the early years the Department of Agriculture gave the states funds to conduct their own statewide distribution. But when the states began to turn administrative responsibilities over to county officials, the cost of storing, transporting, and distributing the food was left to them. Department of Agriculture officials then concluded that the counties shouldn't be forced to accept a program, a portion of the costs of which they were required to pay. So the Department issued a regulation, 6 C.F.R. Sec. 503.6(i) that the decision as to whether a county would have a program should be left to the governing body of that county.

37. As Secretary Freeman describes the effort in his January 8, 1969 testimony before the Senate Select Committee on Nutrition and Human Need:

"Recognizing that Congress had authorized the Food Stamp Program as a joint Federal-State effort—and that the Commodity Distribution Program had always been operated on this basis, I went to the Governors first, and then sent my people to talk with their State counterparts to enlist their support. We told them we would, if necessary, assist these counties to meet the administrative cost of the Commodity Distribution Program. Then, together, the USDA and State staffs went to local government boards, councils, and commissions to get their support and cooperation.

It was . . . a hard, leather burning, often frustrating business . . . . over 180 counties accepted the offer of help . . . .”

38. 7 U.S.C. 612 (c).


40. Id. at 6.


43. Sec. 204 (b), Agriculture Act of 1954.

44. Act of July 1, 1958, 72 Stat. 276.


46. Ibid.

47. These are not "Special Section 32 Funds" recently made available under the Department of Agriculture Appropriation Act, P.L. 90-463, August 8, 1968.

48. According to former Secretary Freeman, a family food assistance program "is in operation or soon will be in 2,646 counties where over 83% of the American people live." This leaves only "480 counties and independent cities" without programs. January 8, 1969 Testimony before Senate Select Committee on Nutrition and Human Need.


50. The argument runs as follows:

(a) Not all people from families falling below the $3,000 income line are in need of food assistance. U.S.D.A. Household Food Consumption studies show that, in general, a family's need for food is relatively better met than the other components of its standard of living.

(b) Many persons do not place a high priority on improving their diets. Having lived on restricted diets for a long time, their food habits are hard to change. This is particularly true of low income aging households.

(c) Some consideration must be given to families who are "intransit"—people who live in extremely remote areas and thus do not have easy access to the programs—and for people who refuse a means test and thus cannot be certified.

51. See footnote 31, supra.


54. Testimony of Mrs. Florence Robin, Director, Committee on School Lunch Participation, New York City before Senate Subcommittee on Employment, Manpower and Poverty, June 12, 1968.

It should be noted that the amount of the federal cash contribution has fallen in recent years. As Bard puts it (at p. 82):

"The National School Lunch Program, which started out strong, has, in the opinion of even its most fervent supporters, slipped badly. Financially, it failed to keep pace with soaring participation rates. The program began in 1946 with an average nationwide cash reimbursement rate of 9 cents a meal. By 1967 this dropped to 5 cents a meal. To compare buying power of 1946 to 1963 is to belabor the obvious."

55. "Type A" lunches are designed to offer at least 1/3 of a student's daily nutritional requirements. In some "especially needy areas" (where the number of free lunches exceeds 25%), the U.S.D.A. supplies extra assistance to make possible a lunch offering ½ daily nutritional requirements. The type-A lunch must contain as a minimum: a ½ pint of fluid whole milk; two ounces of protein, either as lean meat, poultry, fish or cheese; or one egg; or ¼ cup cooked dry beans or peas; or four table spoons of peanut butter; or an equivalent combination of these foods. To be counted as meeting the protein requirement, these foods must be served in a main dish, or a main dish and one other menu item. The lunch must contain a 3/4 cup serving consisting of two or more vegetables or fruits or both. Also required is a slice of whole grain or enriched bread, or a serving of cornbread, biscuits, rolls, muffins, etc. made of whole-grain or enriched meal or flour, along with two teaspoons of butter or fortified margarine. (See Bard, pp. 103–04)
56. Recently the matter of identifying needy children has been
recognized as a very ticklish problem. Observers report that many
youngersters, particularly teenagers, would rather go without lunch
than be identified as the recipient of a “free” lunch. Both the
School Lunch Act and the U.S.D.A. Regulations make it a condition
of participation that there be no discrimination of any kind,
including a means of administration which identifies a needy child
to his schoolmates. State School Lunch Directors have issued
directives to the same effect. But as Florence Robin, Their Daily
Bread (at p. 33) reports:
"... where teachers who collect school lunch money are over-
worked, where the principal regards the School Lunch Program as
an unnecessary burden, where the community in general is hostile to
welfare recipients in any form, those suggestions are ignored and
those instructions are violated with monotonous regularity."
Mrs. Robin, testifying before the Senate Subcommittee on
Employment, Manpower and Poverty, June 12, 1968 made much
the same point, but gave an example of a satisfactory method of
"anonymous" identification:
"Senator Nelson. We had testimony a week or two ago that some
children in the Denver area were given a red, blue, or pink card or
something which identified them.
Mrs. Robin. I would say that is a very common practice. We found
that in many, many schools.
Senator Nelson. What is the reason for that? Is it a question of
mechanics?
Mrs. Robin. School principals are insensitive on this. They say the
kids don’t know but they do notice it. It is a bookkeeping thing.
They separate the ones that are free so they can report at the end of
the lunch how many school lunches were given free and this is really
the easiest way of doing it but it is not the most compassionate
method of doing it.
Senator Nelson. What method would you suggest?
Mrs. Robin. We did find in Great Falls, Montana . . . at the
beginning of the year the school principal conferred with the
cafeteria person and identified those for her who were getting free
lunches. She was given a free list and told ‘You have to recognize
the kid and each kid will be given the exact same ticket. When this
child shows his ticket, you just wave him through.’
It is a very private transaction but this can be
done."

57. See Robin, Their Daily Bread, McNelley-Rudd Printing Service,
Inc. Chap. 6.
59. The complete procedures and amendments to the school lunch
and child nutrition regulations, were published in the Federal
Register on Wednesday, October 23, 1968.
60. In fiscal year 1967 the $2 million available was insufficient to
continue all the partial year projects started in fiscal year 1966;
thus, only 416 of the 906 schools which operated under Section 11
in fiscal ’66 continued to get assistance in fiscal ’67.
61. Office of Education figures indicate there are 5.5 million
"poor" children. Former Secretary Freeman, in his final testimony
before the Senate Select Committee on Nutrition and Human Need,
Jan. 8, 1969, however, talked about 6.5 million children being in
need of free or reduced price lunches.
62. Ibid.
63. Some schools in these cities do have their own lunch programs,
however. Florence Robin in her study, Their Daily Bread, supra,
found much the same thing in many of the communities she
studied. For example, she found that 60% of Cleveland’s children
attend schools without lunch facilities; only 79 of Detroit’s 224
elementary schools participate; 1/3 of all elementary schools in
Springfield, Mass., are unable to participate because they have no
facilities; in Philadelphia “not a single one of the 12 slum schools we
surveyed had facilities for a program;” in Minneapolis, “51% of the
children in the city are excluded because they go to schools with no
facilities;” and in Washington, D.C. “only 24 out of 138 elementary
schools . . . have lunchroom facilities.”