

I think we are in complete agreement on the two theories that you have expressed. One, stated in this language at the beginning of the appendix to your testimony this morning, is the recommendation No. 3, to transfer Headstart to the Office of Education. But by enumerating in that recommendation some things you want to retain, you seem to eliminate or maybe omit others.

You have stated that, whether or not you wanted Headstart to become a part of the Office of Education, you wanted it to be administered directly to a public or public school agency as distinguished from the flexibility in the Office of Economic Opportunity which finances some programs through public agencies and some through quasi-public or in fact private agencies.

The entire Headstart program in Mississippi, for example, was financed outside of the public school agency. There is some doubt in some people's mind that there would be any Headstart at all in Mississippi if it had to be financed exclusively through a public school agency.

Now are you recommending that in the shiftover that this legislation ought to spell out language that would allow the funding outside of public school agencies?

Mr. FULLER. Do you mean the agency immediately below the Office of Education which would be dealt with by the Office of Education?

Mr. FORD. Perhaps I did not make it clear.

It is my understanding that in every piece of legislation that we have passed authorizing the Office of Education to disburse funds for elementary and secondary school programs or for anybody below higher education level, let us put it that way, there is a very specific restriction requiring that the funds must go to a public agency.

Do you recall in 1965 you gave special testimony and were one of those people who urged that this was an essential part of the Elementary and Secondary Education Act. Now if, we as an amendment to the Elementary and Secondary Education Act of this year, add to the duties of the Office of Education under that act the administration of Headstart I want to know whether you want that restraint that is placed on the other funds in that act, the restraint being that only public school agencies will receive grants, to apply as well to Headstart funds.

Do you want the nonpublic schools to be eligible and other nonpublic agencies other than schools to be eligible for grants for Headstart programs after this transfer or not?

Mr. FULLER. I think those would be unconstitutional and I would not want them.

Mr. FORD. No one has said they are unconstitutional now before we transfer.

Mr. FULLER. I know—

Mr. FORD. You say the transfer would make them unconstitutional?

Mr. FULLER. No one has said that they are unconstitutional now? What difference is there in the constitutionality when it comes from one Federal agency than from another Federal agency?

Mr. FORD. I don't see any constitutional problem but I see a statutory problem because we specifically in order to avoid having a