

Problems have arisen, however, in the implementation of Indian projects. Because of the necessity to work out administrative details, the transfer of funds from the Office of Education to the Department of Interior was delayed until January 4, 1967. Thus, the Bureau of Indian Affairs became an active participant at an inconveniently late date.

Projects had to be developed in a short time which did not always meet the most urgent requirements of quality education.

Also, the 1966 amendments limited the Indian program to 1 year, ending June 30, 1967.

The time available for the implementation of projects, January 4 to June 30, 1967, does not permit the development of programs that will make a real difference in the achievement of Indian children.

These factors of time, the late start coupled with the cutoff date of June 30, 1967, have been severe handicaps.

Extension of the Indian amendment to June 30, 1968, as proposed in H.R. 6230 will permit:

1. The planning phase for projects proposed for the 1967-68 school year to begin immediately. This would allow—

- (a) intensive consultation and planning between the Indian community and the school to establish priorities.

- (b) consultant help from the Central Office Staff, Bureau of Indian Affairs; and Office of Education to help organize plans for projects.

- (c) recruitment now for personnel that will be needed for projects planned for 1967-68. Specifically, quality programs depend on quality personnel. These people are available in the early spring and summer for contractual agreements for the next school year. They are rarely available in September or January.

2. Successful projects now in operation could continue where appropriate.

3. Advantage could be taken of a "continuing resolution" type of legislation to allow continuity in program development.

4. Personnel hired for the 1967 project period would not have to be dismissed June 30, but could continue in service for the following year. They would be available in the summer months to assist in planning projects. This would be of particular importance where highly trained professionals with special skills have been hired.

While a start has been made, and we are pleased with our program as it has developed, we are aware of the limiting factors of traditional funding patterns. Extension of the Indian amendment to June 30, 1968, will provide additional funds enabling further progress in our program of enriching and upgrading Indian education.

Chairman PERKINS. I appreciate your statement but I think somewhere along the line if we are going to give the various school agencies and the local districts the opportunity to plan in the future we might as well throw out the limit on these 1-year extensions. Do you not think it would be much better and provide a much better planning base from your standpoint if we extended the program, say, to June 30, 1969, because next year you are going to be under the same gun that you are under right now?

Why not let us have a better opportunity to come in here and work on legislation when we are not under pressure and likewise you can

do much better planning. Do you agree with that statement that we ought to extend this program for Indians at least 2 years?

Mr. MARBURGER. I not only agree, but I am happy to amend my statement to that effect. Long range planning does take a commitment of more than just 1 single year.

Chairman PERKINS. We are just going to travel over the same ground if we continue to give these 1-year extensions and this is going to be a most discouraging thing to have on these good programs in the future. I certainly intend to offer that amendment before the committee and hope we can get it enacted.

We appreciate your statement. You mentioned you did not get your funds until January 7, 1967, or sometime in early January. You do not feel that situation will recur next year, do you? Since you have had an opportunity to consult and advise with the Office of Education, do you feel you have gotten over that hurdle and that you will get your funding?

Mr. MARBURGER. It was simply how the funds would be transferred and writing up the guidelines.

Chairman PERKINS. How would the June 30 cutoff period affect you? Mr. MARBURGER. It affects us very seriously because we cannot encumber funds beyond the June 30, 1967, deadline, so we cannot involve ourselves even in summer programs for Indian children in schools. Therefore, the hiring of personnel became a critical problem for us because we could only hire people from the point of the beginning of the project until June 30, 1967.

Chairman PERKINS. Mr. Ayres or Mr. Gibbons, any questions? Mr. MARBURGER. Mr. Chairman, may I just speak for a second to title III since it is part of the amendment as well. We had even more critical problems under title III because of the cutoff date. Our projects were submitted to the Office of Education by January 15. Approval has not yet come for any and the expectation is the projects will be approved sometime around the 15th of April and they must terminate as of June 30. So it gives us a very short time to do an exemplary model program.

Chairman PERKINS. You may go ahead. Mr. MARBURGER. I was simply indicating we had had unique problems here in trying to run a program from approximately April 30 to June 30 and with no opportunity to obligate funds beyond that date.

Mr. GIBBONS. No, sir. Chairman PERKINS. No questions. Mr. SCHERLE? Chairman PERKINS. Thank you very much.

Chairman PERKINS. I notice it is 9:45. Under the rules of the committee, today is reserved for an executive session of the full committee to begin at 9:45 a.m. At this point, since there are fewer than 17 members present we don't have a quorum for the executive session and therefore I will adjourn the regular meeting for the lack of a quorum and we will continue with these hearings just as we are continuing at the present time.

We next have several witnesses representing the American Association of School Administrators, Dr. Everett Keith, executive secretary, Missouri State Teachers Association; Dr. Warren Phillips, superintendent of schools, Valparaiso, Ind.; Dr. Harold Spears, superintendent of schools, San Francisco, Calif.; Dr. Forest Conner, executive secretary of the American Association of School Administrators, Washington, D.C.

You may proceed, Dr. Phillips.

STATEMENTS OF EVERETT KEITH, EXECUTIVE SECRETARY, MISSOURI STATE TEACHERS ASSOCIATION; WARREN PHILLIPS, SUPERINTENDENT OF SCHOOLS; HAROLD SPEARS, SUPERINTENDENT OF SCHOOLS; FOREST CONNER, EXECUTIVE SECRETARY, AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS

Mr. PHILLIPS. I am Warren Phillips, superintendent of schools, Valparaiso, Ind. On my immediate right is Mr. Eldon Stimbert, formerly chairman of this committee, superintendent of schools, Memphis, Tenn.

Next to Mr. Stimbert is Superintendent Harold Spears of San Francisco who has the unique experience this year of being president of the American Association of School Administrators and as such has visited and conferred with and spoken to school people and community groups all over this country. He has had a most unusual experience this year.

On my far right is Mr. Everett Keith executive secretary of the Missouri Teachers Association.

On my far right is Forest Conner, executive secretary, American Association of School Administrators.

We appreciate this opportunity to appear here today. For more than a century, the Association of School Administrators presently with a membership of over 17,000 school administrators from the 50 States has been firmly committed to the preservation and strengthening of free public education.

As you all understand, these men making up this association are devoting their entire lives and their energies to the daily and the lifetime task of providing better educational opportunities for all American youth.

We welcome the opportunity of joining hands with the Congress and agencies of the Federal Government in strengthening the educational programs throughout this country.

Since the membership of this association are in daily contact with all of the children, the entire school staff, all community groups, in other words, the forces of the entire community, we believe that we can be of help in bringing the resources made available by the Federal Government to a realization of the intent of Congress. We can pledge you full cooperation. We believe that through this background of experience, and training our associates represent the skill, competence, and training necessary for identifying the educational needs and translating programs into action in the classroom where education really takes place.

We hope that we may be permitted to suggest, to provide information, and to raise questions. We can assure you that our total commitment to quality educations, that education is a vital basic force in shaping the quality of American life and that what happens in the classroom ultimately happens in America.

Particularly since the passage of the Elementary-Secondary School Act of 1965 we have had the privilege of working with Members of Congress and with this committee in common purpose. The U.S. Office of Education has been most cooperative. We hope and we trust that this spirit of partnership may continue to grow. We believe it is possible to build this relationship and strengthen education without Federal control and without excessive loss of energy through duplication or redtape. We pledge our full cooperation to this end.

Already some of the problems have been introduced relative to the problems of the local agencies, with the Federal Government in common purpose and particularly timing.

Chairman PERKINS. Do you have copies of your statement with you today?

Mr. PHILLIPS. A limited number. I am just about to call on Mr. Eldon Stimbert at my immediate right who will make a statement. I believe he has presented copies to you. I think this would be a good time to call on him.

STATEMENT OF E. C. STIMBERT, SUPERINTENDENT, MEMPHIS CITY SCHOOLS AND MEMBER OF THE EXECUTIVE COMMITTEE OF THE AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS

Mr. STIMBERT. Mr. Chairman and members of the committee, first, of course, we do want to say how much your dedication to education has meant across the Nation. Probably never before has the news media and public in general raised education to such a high level, their concern and their involvement.

It is a privilege and honor to appear before you along with my colleagues of the American Association of School Administrators. I wish to compliment the chairman and members of the committee—and members of the committee staff for their wisdom, moral courage, dedication, and demonstrated leadership, which in combination have resulted in a contribution to the improvement of the quality of elementary and secondary education unparalleled in the history of our country.

The number of educational bills enacted by the 89th Congress is significant and their impact upon the educational community and the general public is indeed impressive.

The Memphis news media carry almost as many stories about educational activities in the Midsouth as they do about the war in South Vietnam. Generally speaking this is the situation across the Nation. Today education is front page news; 2 to 3 years ago this was not the situation. Education is riding the crest of favorable opinion of the vast majority of the people of this country. Our country is changing rapidly in all areas—science, agriculture, technology, medicine, electronics, communication, and transportation—to name but a few.

These changing conditions present new problems, and challenges to school administrators and teachers who must devise new concepts and teaching techniques if they are to satisfy the educational needs of schoolchildren and the demands of their parents. AASA strongly supports and urges continued Federal aid to education.

There is little question that education throughout the Nation has been considerably strengthened by the help we have received from Congress. We are particularly grateful to this committee and to its counterpart in the Senate. Without your dedication and hard work the educational legislation would have been far less workable than it has proved to be. Our schools are truly in your debt.

However, I would respectfully draw to your attention those aspects of continued or amended Federal legislation concerning education which are of particular importance to school systems across the land.

There is need for increased Federal aid. Dr. Bernard Donovan, superintendent of New York City school system, appearing before this same committee last week, stated at that time only 7 percent of his total funding was Federal dollars. We in Memphis receive even a smaller percentage of our total operating budget from Federal sources. However, again, without these funds we would have had to curtail many, if not all, of the special services we are giving, particularly to the children in our disadvantaged areas under title I of the Elementary and Secondary Act.

In order to permit the flexibility which is needed to attack the educational problems—problems which vary from State to State and region to region—we hope that Congress will look more and more to the provision of general Federal aid. There is no question but that the Federal Government has the right to set broad limits within which this Federal aid would operate. We merely wish to point out that the continuance of a large variety of categorical aids makes it most difficult for the school administrator and the board of education to carry out programs of education in priorities determined by local needs.

We realize that this committee is aware of the general versus categorical aid dichotomy. We further realize that it may be necessary for the Federal Government to continue the use of categorical aids temporarily for special purposes in order to achieve the certain desirable outcomes. However, the basic provisions for the schools would be more desirable in the form of general aid, supplemented by any necessary special aids.

During the period when categorical aids must be maintained until such time as general aid can be acceptable, it would be extremely helpful to the many school systems if the prescriptions on each of the categorical aids would not be so excessive as they are at present. We are speaking not only of legislation prescriptions but the guidelines followed by the administrative sections of the Government as they seek to carry out the legislative intent. As one superintendent recently reported, "We are trapped in the redtape syndrome." The paperwork involved in the application for funds and in the conduct of the program requires a disproportionate amount of staff time which would be put to more productive use.

Those of us represented here today, and the organization we speak for, are greatly concerned with several other aspects of the funding

of the Federal programs. I would be remiss then, if I did not, before proceeding further, say something about appropriations. There is a great need for Federal appropriations to match Federal authorizations. School systems build their planning and their hopes on authorizations adopted by Congress. They then find in the course of appropriations that the money forthcoming for these authorizations does not contemplate meeting the full program either in scope or in length of time.

We would also appeal to the Congress for earlier appropriations action. In the Memphis City school system, we have in the past 2 years started Federal programs under authorizations but the funding has come considerably after the beginning of the school year. It is not possible, or feasible, for any school system to gamble on funding nor is it desirable to start programs after the school year has begun because personnel are not available. This fact alone reinforces our position in another matter—namely this—it is difficult for a school system to predicate a program upon an annual appropriation without the knowledge that the appropriation will be continued into a succeeding year.

Almost every program involved in Federal legislation requires the appointment of personnel. It is impossible to employ personnel without a reasonable expectation of maintaining the appointment throughout more than the course of 1 year. Competent personnel are at a premium these days in school systems and it is impossible to attract such personnel for Federal programs if they feel that their employment is simply on a year-to-year basis.

Furthermore, the funding of Federal programs is tied inescapably to the funding of local programs. Good financial planning for school systems requires that sources of funds be known in advance so that effective planning can take place. This cannot be done adequately on an annual basis. We would appeal then to Congress to try to make its educational appropriations for the succeeding year known at least by early spring—more specifically by March 1.

School systems are organized on the basis of school years and, although we know that this is a new organization for the Members of Congress to consider in their appropriations procedure, we hope that through your committee, Congress will become aware of this appropriation timing need.

May we point out also that when appropriations come late they are generally not for the full year and very often they lead to unwise use of the funds, because there is an attempt to spend quickly what should be spent carefully over an entire school year.

We would also propose that Congress give consideration to a provision that would enable Federal moneys to be expended for capital outlay purposes—and also, that these funds be appropriated. School systems everywhere are faced with the perplexing problem of once identifying problem areas, and planning programs to meet the educational needs in these areas, of not being able to implement that program. The reason they cannot implement the program is because of present overcrowded conditions in the schools and, consequently, there is no available physical facility available to house the new programs.

If I may illustrate by mentioning a problem we have in Memphis. We are totally dedicated to the idea of preschool training being desirable, inasmuch as research shows us that there is a significant difference between the achievement levels of children in schools who have had preschool kindergarten experiences and those who have not. We have 25 kindergarten classes in the city of Memphis being operated with Federal funds. We would need in capital outlay money alone \$4.5 million to build classrooms to house the 10,000 kindergarten level children presently in the city. Other systems, both large and small, have similar problems in varying degrees of complexity.

We feel, then, that the Congress could make a great contribution to the improvement of education if they would provide for site acquisition and construction money. We do not suggest under which section of which act this should be done, but we do know that the many programs envisioned under the legislative intent of Congress and the many ideas which we are prepared to carry out for the betterment of children cannot be carried out if we do not have the facilities in which to place these programs.

We would like to briefly mention an aspect and problem of teacher training that we would hope Congress would be sympathetic to. The many programs being initiated into the many school systems of the Nation require skilled and competent personnel. As I mentioned earlier, the competence we need and seek is scarce. In light of this then, we are encouraging, and in some cases requiring, our teachers to go back to the university to acquire new skills and competencies. We would hope that Congress would provide legislation to insure the right of teachers to deduct from gross income their necessary educational expenses in submitting their Federal income tax returns.

We strongly feel that the success of any new educational program is a function of the type of teacher that works with boys and girls, will any program be successful. We feel that these teachers then, should receive this consideration from the Congress and have the opportunity to deduct their necessary educational expenses as they seek to improve their skills.

The benefits to school systems and schoolchildren gained with Federal funds provided under title III of the National Defense Education Act are monumental. Instructional materials and equipment for educational programs in mathematics, science, reading, foreign languages, geography, history, civics and economics purchased with NDEA and local matching funds have whetted the appetites of school boards for additional Federal dollars; stirred the imagination of the teachers privileged to utilize the materials and equipment and motivated pupils to achieve academically.

Just as it is important that our Nation meets its obligation to the development and training of children's intellectual capacities, it is also our obligation to assure their proper health and physical development. The more we learn about the interrelationship of mind and body, the more it becomes clear that the ability to learn depends a great deal upon physical well-being. We should concentrate on adequate health and physical education programs in our public schools.

The foregoing are excerpts from the remarks of Congressman Lloyd Meeks of the Second District of the State of Washington contained in Congressional Record of February 21, 1966, the day he introduced

a bill to amend title III and title XI of the National Defense Education Act. Such actions will help encourage health and physical education just as the National Defense Education Act has stimulated academic progress. We support the extension and expansion of NDEA to include school, health, education, and physical education.

Earlier in my statement, I attempted to make a case in support of an orderly transition from categorical aid to general aid. One condition, and there are several others, I believe, that this committee, the Congress and the Department of Health, Education, and Welfare will require to be met, prior to the adoption of a general aid to education philosophy and policy, is that all State Departments of Education achieve a level of competency which would assure that programs funded with Federal funds were properly planned and administered.

One functional capability which I believe all State departments of education would like to see strengthened is that of planning. State departments and the school systems in large metropolitan areas are faced with a multitude of complex problems that deserve the attention of highly qualified planning staffs. As Dr. Bernard Donovan, in his testimony before this committee on March 8, 1967, so aptly stated:

The cities of this Nation have been and are now the melting pots of America. They have drawn to them those who seek social improvement, economic opportunity, cultural uplift and social acceptance. This constant shift of population and the attendant delicate, complicated problems which it brings to the city reflect directly on the educational program of these school districts.

To identify, isolate, and help solve some of the critical problems which we are confronted, we recommend that substantial earmarked funds be provided through title V of the Elementary and Secondary Act of 1965 or some other appropriate channel to the State educational agencies for comprehensive planning for the provision of quality education in metropolitan areas including cities of 100,000 or more.

Title III of the Elementary and Secondary Education Act of 1965 is perhaps the most exciting title in the act for the simple reason that it is noncategorical in application. Under this title, school administrators, teachers, patrons of the system, civic groups, cultural and professional organizations, and many others are brought together in an atmosphere of unrestricted challenge and brainstorming to produce innovative, creative, imaginative educational programs for schoolchildren. This condition is a plus for local communities for reasons which are obvious.

The structure of the law and the provisions of the regulations and guidelines pertaining to title III, however, contravene traditional relationships between State departments of education and school districts by centering project approval authority and responsibility for administration of project grants in the Office of the U.S. Commissioner of Education. State commissioners of education are, by law, placed in the difficult, if not delicate position of being: (1) Responsible for reviewing, commenting upon, and forwarding a copy of a school district's application, within 30 days, to the U.S. Commissioner of Education, and (2) assuring that title III funds are equitably distributed among the various school districts within the State.

State departments of education are vitally interested in title III projects and the results obtained through their operation; however,

due to the unique role to which they are relegated by law they are, what might be termed, second-class passengers on a first-class luxury liner.

State departments could be strengthened and their traditional relationships with school districts restored if jurisdiction over supplementary educational centers and services under title III were placed with them in the same general pattern as title I. This is our recommendation.

No one thinks it unusual anymore that every child should attend school at public expense for grades 1 through 12, though around the turn of the century the idea of everyone going to high school was not in complete acceptance. Today there is a trend toward adding early childhood education programs for children aged 3, 4, and 5 and grades 13 and 14, commonly thought of as junior college, to the public school program. We are moving rapidly toward the point where education will be a cradle to the grave affair.

Project Headstart, funded under the Economic Opportunity Act, and administered by the Office of Economic Opportunity, has contributed a great deal to thousands of preschoolchildren and their parents from low-income families. Headstart has also opened the eyes of the general public to the benefits of early childhood education programs, particularly in communities whose school systems do not provide public kindergarten programs.

We view the general goals of early childhood education programs which are presently operated under the Economic Opportunity Act in the same general context as similar programs operated under the Elementary and Secondary Education Act. In order to avoid duplication of effort by two separate departments of the Federal Government engaged in operating similar programs; to simplify application and administrative procedures and to reduce cost, AASA recommends and strongly urges legislation which would transfer all elements of early childhood education programs which are presently a part of the Economic Opportunity Act to the Department of Health, Education, and Welfare.

We would like to mention at this time another proposal. This concerns the Manpower Development Training Act. Presently this program is sponsored and administered through the Labor Department. As you are well aware the MDTA provides for the training and retraining of people for occupational skills in industry. We would propose that the Department of Health, Education, and Welfare be assigned the responsibility of administering this program. There are several reasons why this would be a more desirable department to assume the responsibility of administering the program. Education is now geared to cope with and to satisfy the needs of individuals. This is the type of attention that must be given to the disadvantaged, adult as well as child, if they are to succeed.

We feel that schools, working with community advisory groups have a more direct relationship between potential employer and potential employee while in training. As it now stands, labor working with OEO activities, Neighborhood Youth Corps, and Job Corps, along with apprenticeship programs, has fostered much duplication of effort. Labor sponsored programs are designed, basically, to satisfy

immediate needs of employers and pressure groups, rather than giving emphasis to such factors as attitude development, basic and related education, as well as saleable skills. We feel that this comprehension, of related as well as specific job skills, is necessary for employee satisfaction which should result in better on-the-job performance.

Finally, education has proven that it can work effectively with industry to determine employer needs and can develop local training programs which satisfy these industrial needs. By transferring this responsibility to the Department of Health, Education, and Welfare we feel that duplication and overlapping effort will be eliminated, and another bureaucratic administrative channel will be eliminated.

I have attempted to be brief and pointed in my remarks. I thank the committee for inviting us to appear. The opportunity to be some part of the tremendous work that this committee has done and is doing is most gratifying.

It has been said that the Battle of Waterloo was actually won on the playing fields of Eton. I do not know whether this is true or not. But it is nearly an absolute truth—and one not fraught with great exaggeration—when we say that the great worldwide struggle in which we are now engaged may well be won or lost in the classrooms of America. The boys and girls that today occupy these classrooms are our immortality—they deserve our national attention.

Again, Mr. Chairman and members of the committee, I thank you for giving me this chance to be heard. I sincerely hope the views which I have expressed will be useful in your deliberations.

Thank you.

Chairman PERKINS. Thank you very much.

Mr. PUCINSKI. Mr. Stimbert, your testimony is extremely interesting and you have told us what your future needs are, but could you give us a very quick review of how effective your programs have been up to now. I have noticed that witness after witness comes before the committee here and tells us about what the programs are and how they should be expanded, what you fellows need, what amendments you support in the act; but I have not heard too many people coming before this committee to tell us what are the concrete results that we are getting out of this mass of Federal aid to local communities. I am sure it is there, but I would feel much more comfortable if you gentlemen would come before this committee and tell us specifically what has been accomplished with this massive help in compensatory education so we could then have some idea where to go in the future.

Mr. STIMBERT. I think your question, of course, is a very important one and what use we have been making of it.

Mr. PUCINSKI. I know what use you have been making of it, but I want to know if you are conducting any tests or studies or surveys to evaluate the products of these uses. I know it has been a short program. We have only been in this for a couple of short years. After all, when you get all through with this testimony your main drive is to help improve the students' learning ability and understanding.

Now what impact is all of this having on the student himself, and what results are we getting? Are we setting up vast programs that get all complicated but are not reaching the student? Is the student showing an improvement in reading ability and is he showing an im-

provement in this cultural enrichment and in math and science, and so on? I wish the witnesses coming before this committee would direct their attention to this aspect, because I want to know if this massive help is helping upgrade the student. This is what this whole program is all about in the final analysis.

I regret that I have not heard too many witnesses come before us and say this is what we have accomplished in 2 years. These are the levels of improvement that we have accomplished. If they are not there, tell us. This does not mean that the program is bad. Maybe it is too early to evaluate, but I would like to have some appraisal from you gentlemen as to what we are achieving with the student himself with this Federal aid. It would help us a great deal in selling this program.

Mr. STIMBERT. I think you have touched on a couple of points there that the committee might comment on. For each project that we set up, and of course some do have achievement factors and others may be health factors of achievement. For example, a breakfast program would have an impact on what is happening in the schools, and we do not have any project without evaluation before and after. I am sorry we did not bring some of those along. It is important that we do that.

In our own city system, we are spending a considerable amount of money to set up basic data on every pupil in the system so that as we move into any program, whether it is a lighted library program at night, or whether it is a breakfast program or a specialized reading program, whatever it might be, and these are multitudinous in their applications to different pupils—we will have the basic data on the pupils that enter that program. And then we can do the very thing you are talking about.

One of our difficulties is the fact that we have not had most of these programs a sufficiently long time to know what the effect is going to be and some of us are guessing that perhaps the things that we wanted to do for years we can now do in terms of equipment and materials and teacher aids and specialized programs. I think we have to run through some of these long enough to see what the effect on the pupil will be, but I don't think we ought to do it without evaluating and bringing back to this committee the results of such evaluation. I am sorry we do not have it today, but you are absolutely right. It should have an effect.

Mr. PUCINSKI. Would you know offhand how many youngsters in your public school system live in federally financed projects?

Mr. STIMBERT. I don't have that number.

Mr. PUCINSKI. Is it a substantial number?

Mr. STIMBERT. It is a substantial number.

Mr. PUCINSKI. I submitted a proposal to increase aid to impacted areas including federally financed public housing students. Would this be of substantial assistance to you?

Mr. STIMBERT. Yes, it would very definitely because of the number of housing projects we have in the city, and of course this is a general aid. It helps you do that which you need to do without having to tie it to a specific category.

Chairman PERKINS. Before leaving this point and the gentleman's question about evaluation, and about which he questioned you along

this line as to the effectiveness of this program, numerous witnesses who have testified along this line, think the county superintendent from Bell County, Ky., showed the conditions and the number of participants at the time the programs were inaugurated in the school system last year. In my judgment, they have made a very effective evaluation.

Mr. PUCINSKI. You have done such a great job in the schools in Kentucky I am afraid they almost stand apart by themselves.

Chairman PERKINS. We have had evaluations throughout the country and many of the greater citizens have evaluated some of the programs.

Mr. STIMBERT. I might add one thought along the same line. Some of our projects involve teacher training. If you consider the short length of time we have been in this to train the teacher, the effect of the pupils will not take place for perhaps another year or two, because these teachers who have been in a training program have not yet been assigned to some of the programs.

Mr. PUCINSKI. There is no question in my mind that this whole Federal aid program has been of tremendous help to local communities, but I think it will help this committee continue this program and convince the Nation that we have to have it continue. If we do have a reservoir of benevolence here showing what has been accomplished—that is the only point I am questioning. I am not questioning the value of the program, because I support it very strongly.

Mr. PHILLIPS. I think a great deal is being done and the measurement of a specific activity or program does take time, and sometimes it is very hard to isolate.

Mr. SPEARS. May I speak to that, Mr. Chairman and honorable members of the committee. I think I will take off from Congressman Pucinski's questioning. I will take one example. I won't carry it too far. When title I came in last year, San Francisco qualified for \$3,400,000 under title I. Those programs were not established until February. We happen to be on a semester plan. Many school programs are on the annual program. We were able to get off with our program in February, but many throughout the country could not do so. In our case, we operated that particular program for 1 year. Our concern is in extending it and keeping it going.

I want to emphasize again we operate two budgets in San Francisco. We operate the "sure" budget—the State and local money—and we operate the "maybe" budget—the Federal budget. We have as many as 200 or 300 teachers and they work along with the regular teachers and they are fully credentialed and employed, but these teachers have to wait to see if they are fully accepted as part of our school system.

Now, evaluating that program, we people who are in education know that you can't use a test to evaluate everything. The person who knows what is happening to a child in the classroom is the teacher. I can attest to you since I have traveled this country this year as president of our association, I can attest to you there is confidence in the work being done under title I. But for us to come up with test scores, we just cannot do it to give you the evidence that you might want or expect.

In our particular program, we have gotten great mileage out of it. We have taken children out of poverty areas and we have moved them

to classrooms in other parts of the city and the receiving schools receiving these children, received these children in good style and they are making a success along these lines.

I think the NDEA Act which has been in for some year is a better one to enable you to see what has been accomplished, rather than the present one which is a young act and our efforts are relatively new. I want to emphasize again what it means trying to get a group of teachers, 200 or 300 of them in this program, and hold them on the sidelines each year and tell them: "You are not quite a part of our organization." They are working side by side with other teachers, but we are not quite sure that we can rehire them. And if there is one point I would like to make, I think more important than any of the aspects of these changes in this bill, I think the most important thing that Congress can do is to appropriate money on a longer basis and let us work with what we have and not tie ourselves up too much with the revisions of it, and get off on that track and move along.

I would sacrifice changes in order to get the funding and the appropriations coming along, if we could do that.

We are concerned about the revision to a certain extent, and other things have been put in this act. All that we trust is that you will also realize this means more money unless we take something out that you already have, and you can't stop the program for these children. They are on their way, and you can't take it away from the children or the community; and we can't, because the local boards work with these citizens. If we try to take it away and can't, we have to try to find more local taxes somewhere to carry it on. We can't treat a child or a community that way.

When the Federal Government starts on funding of public education, you can't back up. You can't back up just as we can't back up on a local basis when we start something that is good for the people and they want it. We would like to get off of this two-budget system that we have in San Francisco, and you are the people who can get us off of it.

Mr. FORD. Mr. Chairman, I have noticed there is a lack, in the testimony coming to the committee thus far, of either subjective or objective opinions with regard to the equities or inequities of the program carried out under the act. The act as originally conceived had several features in it that we considered would cultivate or encourage greater support in some areas from State and local sources that the schools are now getting.

The so-called incentive grant provision that was in the act in 1965 and came out promptly in 1966 was entirely for that purpose. There are other features of the act that were intended to do this. We have stayed away completely from any kind of State or local matching in the programs under the Elementary and Secondary Education Act.

In going into matching, one of the things that we accomplish is that we stretch the Federal dollars farther and we get this partnership going where we have both partners or all three partners putting something in the pot. From the beginning of this hearing we have heard testimony indicating that the State departments of public instruction want to exercise more authority over ESEA funds than they now exercise, particularly title III; that the local officials

want to have more flexibility than they now have, particularly in title I. But we have not heard anybody give any indication that since the Federal Government began spending money in the Elementary and Secondary Act this has spurred local and State resources or people in charge of State and local resources to any greater efforts in the same areas that we have targeted this money toward.

Perhaps you gentlemen could speak to that.

Chairman PERKINS. Go ahead and comment on that briefly.

Mr. SPEARS. On the subject of compensatory education, when your act came along, we already put \$750,000 in our budget for compensatory education doing the same thing. When your act came along, we could not use the Federal money to replace local money, so we go beyond that. But the pump-priming principles you are talking about are working in the Vocational Education Act. We are putting in quite a bit of money now if we are to continue those programs.

I feel personally that this country needs more money for education and the local taxpayer cannot carry the burden. I would hate to see the Federal Government look at it as a stimulus for taking a property owner again, a small property owner, and taxing him more to support education because we get excited about what you have started.

What we want is additional funds from Congress generally. You don't know how many school systems might not be able to take advantage of the Federal funds just because they might have the State Vocational Education Act. The well-to-do States and communities will come up with extra money, but the poor ones will not.

Mr. FORD. That is all very well and I have been guilty of saying over and over again in my own area the local taxpayers can no longer afford to take the burden that they have, and the Federal Government ought to be relieving their burden. But that does not explain great disparity between the effort being made in one part of the country and the effort being made in another part of the country. We have one State that does not tax real estate one penny for schools, whereas in the State of New Jersey real estate is taxed so heavily that I don't understand how you can own real estate there. You can't say that everything is being done as long as this disparity exists, and I have heard no testimony thus far before the committee to indicate that there is any great ground swell of effort across this country to change the disparity between zero dollars to 80-percent support.

Mr. PHILLIPS. May I make a specific comment, if I understand the nature of the question, and give a specific illustration. I think that the Elementary and Secondary Education Act of 1965 has served to point up and stimulate interest in many, many areas.

Title II for libraries—in our own community, since the inception of that support, has increased its own support for libraries by over 50 percent in addition to title II.

The General Assembly of the State of Indiana, from which I come, closed last week. The State's appropriation for education for the new biennial, I think, increased in their effort 23 percent. So I think there has been in many instances a stimulation by virtue of this help, and by the emphasis that has been placed on special needs.

Mr. SPEARS. I think you might have somebody to make this study for you, to make a study of the local tax issues that have come in

school districts the last 2 years, and see how many of them are being defeated.

Mr. FORD. Eighty-six percent of the bond issues floated last year passed.

Mr. SPEARS. There are quite a number of them in the California area where you have nothing but homes to tax.

Mr. FORD. Not operating funds?

Mr. SPEARS. These are operating funds with which they are getting their tax base raised in order to put more money in the budget, and those are things you have to look at. I think definitely there are taxpayers in this country who feel that now that Federal money is coming along they may very well not have to spend so much. It is not that they should take that attitude, but there may very well be that type or reaction in certain communities. But this money you are giving us is not for all of the children. It is for a certain element of the children, and generally, as you know, the heavy load is in title I; and title III is somewhat different, of course, but again I would like to close my testimony by saying, give us funds for 2 or 3 more years, put them ahead that far and see what we have and then we will have something to evaluate.

Trying to evaluate a child's education in 1 year, I can't sit here and mislead you people as to what we can find out about it.

Chairman PERKINS. Did you have a statement you wanted to make?

Mr. KEITH. I might say the infusion of funds for the Elementary and Secondary Education Act has enabled us to do many things we have not been able to do before. If we could get the money a little earlier it would be helpful, and, too, if we could have some capital outlay funds in title I. Most of the suggestions have already been made. The teacher shortage situation that you hit on for the handicapped, I might mention we have an extreme teacher shortage everywhere—I guess as bad as it has been since World War II—and it is particularly true for this under the handicapped. I am sorry we can't give you this evaluation.

We had two projects in kindergarten. I can report as a result of Federal interest in education—the impetus that it gives—it looks like our general assembly for the first time will make State aid available for kindergarten. So it is having an impact on the things, you do maybe more than you know.

Chairman PERKINS. Mr. Ayers, any questions?

Mr. AYERS. No question.

Chairman PERKINS. Mr. Daniels?

Mr. DANIELS. There is a statement in the center of page 9 which recommends that the Manpower Development and Training Act program be transferred to HEW rather than maintaining it in the Labor Department where it is at the present time.

When that act was originally conceived and adopted, its purpose was to upgrade the skills of the workmen. It was subsequently amended primarily for the purpose of improving their reading and writing so they could read plans and sketches, but primarily it was upgrading their skills.

Why do you recommend that it be transferred to HEW?

Mr. STIMBERT. Speaking from our own situation there, as far as the Manpower Development and Training Act is concerned, I say in the statement here that education has been working with these particu-

lar employment groups, vocational groups, labor groups, business groups, industrial groups. And it would seem from the standpoint of these skills we are talking about there is a world of experience within the educational framework, in the educational society for performing these tasks in cooperation with the employment service. It just seems, since we are in our particular case and I think nationally doing the middle part of this sandwich, so to speak, where the employment survey is made and then the people are turned over to us for training in these areas, and then employment picks up to place them, we could be related to the U.S. Office of Education instead of another particular governmental subdivision.

There is a complexity here of administration that makes it difficult.

Mr. DANIELS. The program has worked out so well over the past few years and it has received commendation from all quarters—in fact when we amended the bill, we did it purposely to upgrade their literacy, but that is not the basic part of the act. The basic part of the act is to upgrade their technical skills.

Mr. STIMBERT. Of course, we have had these years of experience in vocational education, and I think what we are looking at as school administrators is the fact that we can be more efficient, the school system can spend its dollars better, as we make the statement here, if we don't get some overlapping and duplication. I would not want this to be construed as a criticism of the present program as it relates to a particular individual who has received the training, because there is nothing wrong with that aspect. This is an administrative device for the channeling of dollars, which I think is pretty fundamental when you begin to operate something here that involves millions of dollars.

Most of the systems now are large systems that we are talking about here in this connection. We are in urban areas and we are related to so many different sources of funds that I think some clarification administratively is really desirable. That is the angle that we are approaching it from, it seems to me. I don't know whether I have answered your question or not. I am not critical of the program at all.

Chairman PERKINS. Mr. Quie.

Mr. QUIE. What would have happened in training and retraining if we did not have MDTA over these years?

Mr. STIMBERT. "Ify" questions are difficult to answer. I don't know what would have happened. I think some type of training has been essential but I would remind the committee that back before we had MDTA there was much training in the skills that we are talking about in vocational education and in the adult programs which most city systems were offering.

I know in our own situation in Memphis we had supervisory training for foremen in industry. We were moving in on-the-job training with different groups in different industries.

Again, let me say I think this program has been tremendously effective because in our particular case we have worked well with the Employment Service and I want my comment to be labeled as an administrative reaction and not a criticism of the program. I don't know what would have happened if we didn't have it.

In answer to an "ify" question, it seems to me many people unmatched with jobs that were available. As I see it, this is one of the things we tried to do in MDTA, particularly to find what is the labor market here, that is the untrained labor market here, and here are jobs

available and to get the people and the jobs matched so that an individual can market his skill and go to work and earn his money and support his family and be taken off the relief rolls.

Mr. QUIE. We did a job but I do not believe you could say it was a great job, could you, of matching jobs with people? We still don't know the jobs that are available and the Department of Labor has not given us a list of jobs that are available and where these people are on a national basis.

Mr. STIMBERT. On a national basis, no, but on the local level it has been done to a fairly successful level.

Mr. QUIE. What if we upgraded education as we in the 1963 act did and put this money in vocational education rather than MDTA? That is another "iffy" question, but what do you think about that?

Mr. STIMBERT. I, personally, would have favored that approach. I still think it would call for a high level of cooperation with the Employment Service and you would certainly have to have the surveys of the labor market.

I do not see the school system with a wall built around it and not serving its communities. I would still have to have these communicative devices between the school system and business and industry to be served but I would favor the suggestion you just made.

Mr. QUIE. Under MDTA, a great amount of the training occurs with on-the-job training. Do you think the vocational education would have gotten along with no OJT program rather than under MDTA?

Mr. STIMBERT. My own personal opinion is it would have gotten along better. This is a certain local comment and perhaps it would not have national implications but I think it would have been more effective.

Mr. QUIE. Some now want to transfer Headstart to HEW.

Now, witnesses have come to us through the many days of hearings and said they wanted Headstart transferred to the Office of Education.

Is there some significant reason why you say HEW rather than OE?

Mr. STIMBERT. Probably many significant reasons, but No. 1, again, I think that in Headstart we have had, if I may be so bold as to say so, almost a parallel system of education setup which I think, if I am to reflect the attitude of our public at least, is not a desirable way to insure the effectiveness of public education in the days ahead and we see this running through some of my thinking.

Here is an educational program and it does not belong in a new organization. It does not belong in parallel personnel set up to do the job. It belongs in the U.S. Office of Education and a Headstart program is very definitely tied to the first grade or to kindergarten, depending on what you have previously in your school system.

Mr. QUIE. You meant the Office of Education when you said HEW?

Mr. STIMBERT. Yes.

Mr. QUIE. You might still favor a parallel education systems?

Mr. STIMBERT. What pages was that? We will make the correction. It should have been BUS Office of Education.

Mr. GIBBON. I know that 78 percent of the people enrolled in Headstart programs were enrolled in this type of program in private institutions and not in public educational systems. I wonder, with the public educational institutions as strapped as they are for classrooms

and facilities, how do you propose to make up that shortage and get the job done?

Mr. STIMBERT. Of course, again we are utilizing all of the facilities of our city, the parochial and the private, in setting up our Headstart programs. These people helped us plan the program and are on the committee, and I don't think that that would necessarily have to be changed; the involvement of them and their facilities would not at this point have to be changed.

Mr. SPEARS. May I make one comment here?

We feel that this is an extension downward of public education. We think those children need the help of a professional teacher. If they are going to come in at four instead of five and you are extending public education down, why would you not put it in the school system with the management that we have and the understanding that our primary people have of young people?

We think it is a chance operation if you let other parties come in, and I, personally, feel at times the employment factor comes into a Headstart program in which case somebody is concerned about employing somebody. That may very well come in with an outside agency in this. It wouldn't come in with the school people because we will say the person we are going to hire is trained for that job just as well as he is trained for the first grade or kindergarten. That is one reason why we are so selfish about it. We think you are extending public education downward so give it to the schools.

Mr. GIBBONS. There are 23 States that do not have any kindergarten. That is one-half of the States numerically that don't even have kindergarten and you say you can do this, it is in your domain, but what has happened in the past 100 years?

Mr. SCHEUER. Has there been a single State which has instituted kindergarten since the beginning of the Headstart program?

Mr. STIMBERT. I know systems have but I don't know about States.

Mr. QUIE. One of the things that OEO has brought about in funding Headstart through the community action agencies has been a greater involvement in the parents of poor kids and the community, itself. If we transfer Headstart to the Office of Education, how would you maintain or give it the assurance that this involvement will still play a dominant role?

Mr. SPEARS. You have in a modern school system great play back and forth at the kindergarten level between the parents of those young children and the school. That is not anything new to us.

Mr. QUIE. In the kindergarten with a middle class or upper class family you have an easy problem.

Mr. SPEARS. Kindergarten is for all people provided at public expense and it is not just provided for a certain group. As to the facilities, we run two programs. We run what we call preschool and we don't call it Headstart and we are running it out of title I funds but paralleling that also is in San Francisco your Headstart program through the other agencies, but they use our schools, also. We provide the public buildings for them.

So, we are trying to get maximum use of our public facilities in San Francisco, regardless of who has the money to provide the programs. I would not have realized that 75 percent of these programs—I think your point was—are in other than public school buildings.

Mr. GIBBONS. I am just quoting statistics that came from Sargent Shriver yesterday. He said 70 percent of the kids in Headstart are in private institutions. I have no way of checking those figures.

Mr. QUIE. If you had the responsibility for a Headstart program and you did not have the buildings, would you be able to contract with a church which had the facilities which they would probably only use on Sunday to run a year-round Headstart program?

Mr. SPEARS. If the facilities are proper, you can contract with any body so far as I know, a public institution can, for outside facilities. Of course, you have to be very careful that they meet the sanitation regulations, the number of toilets you need and all of the things that you require of a schoolbuilding. California is very strict about buildings, particularly because of earthquakes.

I don't say they don't meet the regulations, but if you have a school system you have someone who is already disciplined in the type of place for a child to go to school in and when you farm this out to some agencies you are taking a chance. Freedom schools may start somewhere, and the question is whether the requirements will meet the requirements of the schools.

Mr. GIBBONS. I am glad you brought up the subject of California. I visited there several years ago. I have forgotten the name of the town now, but the two finest buildings in the town were the school system and the sewer plant. I guess the sewer plant was used indiscriminately by everybody on a 24-hour basis, but the school system was sitting on this little green grassy knoll in the poverty program there, the tutorial program; they were having to work in some humble place. I asked why they did not use the school and they said they couldn't get cooperation from the school system. They were tutoring Spanish-American people going to that school but they could not use the building.

Is California changing its attitude toward things like that?

Mr. SPEARS. I don't know. You are making a case on one observation but I feel that that is not so generally in California.

Mr. GIBBONS. I could take you to the place.

Mr. SPEARS. Your example is fine and I am accepting your word on it, but that does not represent California as a whole. We push other agencies to use them.

In our last bond issue in San Francisco for buildings, we tried to get other departments to try to come in and build programs, maybe baby clinics and all of that. To try to get the agencies of a community together on something is a little difficult at times.

Mr. STIMBERT. May I just add to that that with some 722 schools they were used by community groups over 6,000 last year. We encouraged the recreation commission, the park commission, community groups and adult education from the universities to use our school buildings. We would like to have them open 24 hours a day, 7 days a week, if possible.

Getting back to Headstart, I think it is important, as Mr. Spears has said. Here is an educational program and it does not necessarily follow that some of these innovations such as parental involvement is not something that has been used or heard of by school people in years. This is what we are finding in Headstart—take my own case, for example. I came from Nebraska about 10 years ago to Tennessee. No preschool programs. The State program started at grade 1 and ran through grade 12.

Now, because of some pilot programs in the State which we were able to get, a couple of them, and that is not much for a large city system, and then utilizing Headstart and now title I for 25 kindergartens and this going out across the State in Knoxville and Nashville and other places, the State legislature this year is considering adding kindergarten and this gets back to a question raised by someone here—they are considering—I don't know whether they are in session now—but kindergarten could very well become a part of the State minimum program which would be just fine.

In other words, for years here is a schoolman who would like to have had kindergarten but when you went to local commissions and State legislatures, the money was not given. This push is good and we should take advantage of it.

We have some administrative details that we ought to clean up and put it in the educational program where it belongs.

Mr. FORB. The statistics Mr. Gibbons was giving you were that 70 percent of the programs by number and 90 percent of the children who are in Headstart are in programs operated by the public school system under community action programs.

What concerns us is what you mean to do when you make your recommendation with respect to the other 10 percent of the children and 30 percent of the programs.

There are two kinds of recommendations that have come to this committee from witnesses. Almost every witness says for some reason that something magical will happen when you transfer the program for funding purposes, and that is all OEO does. They do not administer them directly. The Office of Education supplies guidelines.

If you transfer the entire operation to the Office of Education or HEW, something magical will happen and this great educational program will work better than it has and it will be easier to administer by the public school systems.

The only complaint I have heard voiced thus far by the public school system is there is a double level of administration between them and the Government by having to go through community action but nobody wants to venture across the line and tell us what you have in mind for these other programs.

Mr. Fuller made it quite clear the other day that in his opinion nobody but public school people should be running aid-to-school programs and Headstart programs. If we accept the premise that Headstart is pure and simple education programming and if we do the same with it as we do with all other programs below higher education, only the public school agencies will be able to operate Headstart, because we have restricted every education bill for people below the higher education level to a public school agency.

Other witnesses when we have asked them about this have indicated they would like to deal with the Office of Education but allow the nonpublic agencies to stay in business.

Again, with Mr. Gibbon's example in California, in the Watts area, the two Headstart programs we visited out there were both housed in privately owned buildings, the rent for which was being paid by a group of businessmen in Watts who became concerned over the fact there was not a Headstart program and who started putting up the money on a subscription basis.

Do you want to put these people out of business? Do you think the public school system has done such a good job up to now that they have any standing to come before this committee now and ask that this program, one which has proven itself to be almost completely successful as a poverty program, should be turned over to them just because it is working?

MR. STIMBERT. I will be bold enough to make a statement. I wish you had visited our Headstart program, too, I think it would be bad to get into Government by exception. Shall we abandon 40 State departments maybe because 10 are weak?

I think we have across this country many Headstart programs. Ours started when there was no community action committee, and some 7,000 children were involved in it in cooperation with all levels of the community. I am talking now about the parochial schools and others.

It would seem to me that our surveys and thinking about this should be in terms of what the public schools of the Nation have done in other areas.

MR. FORD. That is the very point. Since we started Headstart, everybody says it is working; it is a good idea. Educators have been writing articles in education journals about them for as long as I can remember reading them.

Your legislature talks about the possibility of kindergarten in your State. Now I would like to ask you have any of the 26 States which had no kindergarten programs before Headstart was initiated started spending local money for a program like Headstart or over and above our money for Headstart since Headstart proved it will work? Aren't we facing the situation where we say if the program works we will only do it if we get the Federal dollar to spend on it?

MR. KETIL. It does not seem to me to be a matter of whether the program works or whether it can be made to work more effectively. I know by and large in our area Headstart has been done largely through the public schools. It seems to me what we are discussing here is the fundamental question of whether education should be channeled, generally speaking, through educational agencies to prevent duplication and prevent the tendency in all levels of government and all departments getting into the act and having an education program.

MR. FORD. I have before me the January 1967 Municipal Statistical Bulletin of the Investment Bankers Association showing for calendar year 1966 covering the sale of all bonds as a result of local elections across the country for school construction.

Table 6 of this publication shows State by State the total dollar amount of educational bonds asked for and passed for elementary and secondary education.

I would like to insert this in the record at this point because it demonstrates the communities receiving money under this program are approving money at the local level at an inverse rate. The more money you give them, the less tendency there is to approve bond issues.

The two States selling the most bonds for elementary and secondary education are California and Michigan. Pennsylvania is the third largest with \$184 million in elementary and secondary education bonds. California sold \$346 million worth of locally voted bonds last

year. The State of Alabama, one of the principal beneficiaries under this, sold \$7 million for the whole State.

California got a little less than 3 percent of its school budget, and Alabama is somewhere around 30 percent of their total budget, from ESEA funds.

Some of the States are doing much better in their higher education facilities by selling bonds because we have some matching type programs. Some are doing well for elementary and secondary education.

There are, surprisingly, a couple of places where they did not approve a single bond issue for the construction of schools.

(The table referred to follows:)

Table 6
[In millions of dollars]

State	Education			
	Elementary & secondary		Total	
	Quarter	Year to date	Quarter	Year to date
Alabama.....	1	7	37	99
Alaska.....				
Arizona.....	2	14	4	42
Arkansas.....	1	2	1	2
California.....	38	346	49	406
Colorado.....	7	20	9	31
Connecticut.....	2	23	2	28
Delaware.....	3	4	3	4
District of Columbia.....				
Florida.....	3	17	3	68
Georgia.....	11	65	42	100
Hawaii.....				
Idaho.....	2	5	2	6
Illinois.....	17	84	45	197
Indiana.....	33	83	40	101
Iowa.....	1	35	9	46
Kansas.....	5	24	7	34
Kentucky.....	4	31	9	50
Louisiana.....	20	45	20	53
Maine.....		2		15
Maryland.....	43	85	43	89
Massachusetts.....	37	86	50	100
Michigan.....	72	219	74	252
Minnesota.....	21	83	33	96
Mississippi.....	6	10	27	31
Missouri.....	1	42	11	74
Montana.....	4	19	4	19
Nebraska.....	2	4	2	33
Nevada.....	1	10	1	10
New Hampshire.....		12		12
New Jersey.....	6	48	6	48
New Mexico.....		19		41
New York.....	39	119	137	375
North Carolina.....	4	59	5	63
North Dakota.....	2	9	2	11
Ohio.....	25	102	30	119
Oklahoma.....	12	27	32	64
Oregon.....	12	33	25	50
Pennsylvania.....	41	184	43	200
Puerto Rico.....				
Rhode Island.....		6		9
South Carolina.....	1	19	1	21
South Dakota.....	3	9	3	9
Tennessee.....	2	20	2	35
Texas.....	48	147	63	223
Utah.....	4	8	4	9
Vermont.....	1	6	1	12
Virginia.....		52		52
Virgin Islands.....				
Washington.....	6	21	6	28
West Virginia.....		28		28
Wisconsin.....	12	59	12	6
Wyoming.....	1	5	1	10
Total:				
Current.....	556	2,358	897	3,469
Year ago.....	610	2,706	738	3,557

Mr. SCHEUER. Have any of you gentlemen read the three recent reports of the National Advisory Council for title I?

When Congress passed the title I program for ESEA in 1965, we set up a National Advisory Council to report back. They have issued three remarkably interesting reports. I would urge you to study them. They have some great lessons and the chief among these lessons is that the public school system, as an institution, has done far less than it should and, hopefully, will, in applying the lessons we have learned from title I and in changing its way of doing business.

The programs have been scattered and fragmentary. The public school system as an institution has been very reluctant nationally to reach out to parents. I am sure many cities have done an excellent job, but as an actual institution the public school system has not reached out to parents and has not provided health care and nutrition; some have used virtually all of their title I funds in feeding and clothing children.

The Advisory Council reports are shocking and appalling. No member of this committee would deny a child coming to school for food and nutrition and if that can only come out of title I funds, I am sure we would say something about it but that was not the purpose of title I funds, to feed and clothe kids. This is a local welfare responsibility.

The same thing would go for the comprehensive social services that are so necessary. The same problem was found in the imaginative and creative use of school aides. It was found that school systems were apathetic to varying degrees and were hostile to the use of school aides to help fill a desperate need for staff.

Now, you folks want us to turn total control of these programs over to the state agencies; you want Headstart to go to OE; you want title III to be under the total control of the State agencies.

Frankly, I would like to see the day when the State and local agencies, education agencies, can handle these funds creatively and constructively.

What I would like to know from you is how can we engender some consciousness at the State and local levels that basic change in our educational system is indicated and that some of the lessons we have learned in Headstart ought to be applied?

I think it is shocking that not a single State legislature has received the germ of an idea from Headstart, and that preentry education is not healthy and constructive. Not a single State has instituted a state-wide kindergarten program as the result of the Headstart program.

What do you think the Congress and the National Association of School Administrators can do to engender some consciousness of the need for change, create some momentum for change in the public school system—actually, the kind of momentum that the Headstart program now provides?

Mr. PHILLIPS. Could I make a comment on that?

It is pretty hard to identify what causes what. Going back to your comments and the comments that were made previously, the State of Indiana passed a kindergarten support bill in February of 1965. That was just preceding Headstart. I don't know whether they are connected or not, but I know that our State and in our area there is a

tremendous interest in improvement of education. There is a tremendous interest in change.

The change is frequently so great that it almost leads to confusion, but the problems are not simple. This matter of kindergarten, I think we have had great interest in it and early elementary education interest.

In my own community, we have had kindergarten for over half a century. Neighboring schools lost theirs during the depression. They did not get them back until after World War II.

I would say that many of the programs that have been initiated in Headstart have stimulated further action but there has been this tremendous interest in early education and change.

Mr. SPEARS. When you speak of having to stimulate a change, one is the practice you are following something innovative, the other is taking an example and getting more support locally or statewide and I don't know where your emphasis is but I am inclined—taking the two together, you are perhaps interested in looking upon this Federal funding as a stimulation for more support on the State and local basis.

Mr. SCHETTER. More resources and more support for willingness to change.

Mr. SPEARS. Let's separate the two. Take the last one. This is just observation of one person who has moved around this year, but I doubt very much that this country, the school boards and the State legislatures in general over this country are looking upon this new support of education from Washington as something to cause them to spend more money. Maybe I am wrong but that is my personal observation that they are not. They are looking at it as money they wanted themselves and didn't get it.

Now, whether they could have gotten more or not—that varies all over the country. Activities certainly are stimulating to think in different ways as to how to handle children and do a better job with them. Definitely that is happening all over the country, maybe not fast enough for you to settle it yet but on the support angle I think there will be less local support here and there in some bond issues because somebody thinks Federal funds will do the job.

Mr. SCHETTER. I can assure you as far as I am concerned that was not my intent and although I hesitate to speak for my colleagues, this program was not meant to encourage diminishment at the local level.

Mr. SPEARS. From the standpoint of the legislatures in the States, I don't think it is diminishing their support. It is sort of slowing it down. They might have done more in this compensatory field.

In California, Senator McAtier had a bill in. We in San Francisco encouraged it. I think the funding would have been much larger if you had not come along.

Mr. SCHERLE. Frankly, I am inclined to agree with you to this extent, that as long as the Federal Government is going to hold the reins in a program such as Headstart, I doubt that this will initiate action on a State or local level because by shifting this program in areas where they do not have kindergarten, I am sure this will probably put them in the position of saying the Government, which in essence is the taxpayer, will sponsor this so why should we duplicate it? Other than that, Mr. Chairman, I will reserve the rest of my time for later questioning.

Chairman PERKINS. Mrs. Green.

Mrs. GREEN. I want to comment on Headstart for a moment.

In the schools that you gentlemen represent, do the schools now run the Headstart program?

Mr. SPEARS. Yes; we have two types of preschool programs in San Francisco. We run one part and someone else runs one. OEO has their own program and we supplemented it with title I funds.

Mrs. GREEN. But you do not actually implement the Headstart program.

Mr. SPEARS. We finance through title I the Headstart programs that we are operating in the school system. In our school buildings, there are other programs being operated under OEO.

Mrs. GREEN. Who runs those? Who carries them out?

Mr. SPEARS. The community agencies that are in those areas.

Mrs. GREEN. Did you say in your schools you wrote the ones for OEO, Dr. Stimbert?

Mr. STIMBERT. When we initiated our programs, there was no community action committee and this perhaps changed our initial planning because we had to go ahead if there was to be a Headstart program. There were some difficulties politically, locally, and this is the reason we went ahead.

When the community action committee came into the picture, they allowed us to continue operating so the Headstart program is operated solely by the Memphis Board of Education and the Shelby County Board of Education within that county unit, within the city and county; OEO funds, I am talking about exclusively.

Mrs. GREEN. In looking at the child, in terms of the education of the child, if one agency could look after him from the time he is 3 years old until he finished the 12th grade, would we get a better education for the child if it were all under one agency and if there were continuity in it?

Mr. STIMBERT. I would think so, very definitely.

Mrs. GREEN. What about administrative costs?

Mr. STIMBERT. I think they would be less, if I sense the reason for the question. I think there would be more efficiency in having one agency all the way through as far as the child is concerned—his records, his health, his academic achievement, home and home surroundings and community, the impact of various elements in the community, if this were all understood as a total part of the record on that single child, I think we could do better, a far better job.

Mrs. GREEN. Dr. Spears, were you about to comment on that?

Mr. SPEARS. I see it as a continuous ladder of education. I would not want one agency handling the second grade and one handling the third.

As I said a while ago, if this is an education program it is an extension of education downward. As I move around in our community, I encourage the parents or PTA's anywhere, I encourage the national PTA in Baltimore, all of the parents ought to have it.

Some children have age 4 education; let them all have it and they will put the pressure on their own legislatures and school boards to get it. I am not asking the Federal Government to spend it but I am saying let's extend education downward and let's take advantage of

what children can learn in a systematic way at age 4. I would rather have it starting with 4.

Since kindergarten is 5, start at 4 and see what you have rather than going down any further. That is the personal opinion I have about extending it downward, but I think it is part of the educational lag we have had in this country.

Mrs. GREEN. It might flatter my ego if we, here in Congress, could think we discovered Headstart and kindergarten and nobody in education thought this was good for all children before I have to admit in all honesty when I was teaching school more years ago than I care to remember, everybody agreed kindergartens were good for youngsters and if there were funds they would put them in every school, but there was debate as to when you could put some children in the school environment.

Many States and local school districts could do a lot of good for education and kids if they had the money.

Let me turn to one other point that was mentioned by one of you, that is educational expenses and the deductions for teachers, which I strongly favor.

It seems to me we have had such a shortage of teachers, it is tragic indeed, and most unwise for the Congress and the IRS to allow businessmen to deduct every expense under the sun and not to allow teachers to deduct expenses for advanced training.

In line with this, I know Representative Patsy Mink introduced an amendment for sabbatical leave. I would like to see a sabbatical for teachers. I think it would raise the quality of education.

The question I direct to you now: With the shortage of teachers, is this year we should look to Federal funds to help plan sabbaticals for teachers, or do we have to wait perhaps until the Vietnam situation is over?

Mr. SPEARS. I personally feel that more local school systems could give sabbaticals to teachers provided they would only do it. They are short on what they have done. You asked a direct question and I will give you a direct answer.

I would think that you could work in other fields better right now than to go and do that job that more of them ought to be doing through State and local funds. It is an important thing but I just think they are behind, many of them.

Mrs. GREEN. If I understand, you are saying as far as the shortage of teachers is concerned, this should not prevent plans for more sabbatical leaves for teachers but in terms of funds this should be a State and local and not a Federal concern; is that right?

Mr. SPEARS. When there are so many things to be done at the Federal level, I would just put that farther down the line than some other things.

Mrs. GREEN. Is there agreement on that?

Mr. PHILLIPS. I was going to the second part of your comments relative to expenditures for improvement.

The obsolescence of the professional training is as real as that of equipment in many schools, and my own school requires periodic additional training. A simple device would be to give tax credit on this and it would be of significant help.

Mr. KEITH. There has been some confusion in the deduction of education expense from the income tax and I think anything that could be done to clarify it would be quite helpful.

Mr. PHILLIPS. We have a problem on that each year.

Mrs. GREEN. What about sabbatical leave in terms of teacher availability and in terms of Federal funds?

Mr. STIMBERT. Perhaps I disagree with my other colleagues on this particular subject, but I don't think you want to emphasize quality. We do it in our own system and we have a general sabbatical leave policy and even if there is a shortage of teachers as maybe you put up with a little less in order that the quality eventually may be better, I agree with Dr. Spears that I don't think it is high on the list but I certainly favor the sabbatical idea and it is urgent that teachers need, and the other is a part of it, if they can teach and attend the local university and college and be deducted from their income tax, it can be used as a stimulus for improving the quality of the teacher in the classroom. This is where the whole education lies.

You can buy all of the equipment in the world but if the teacher does not know how to use it you are wasting your time. This is really going to tie into the quality of the teacher in the classroom. It seems to me we have to lift her mighty high.

Mrs. GREEN. Do all four of you agree on the moving from categorical to general aid?

Mr. SPEARS. Yes; that is general all over the country and definite among administrators.

Mr. DELLENBACK. We are limited by the time, so let me ask a series of rather short questions, hoping to get a series of short answers, recognizing that we could dwell on these points.

Do you have any figure in mind as to the percentage of the cost of supporting schools that you think should come from the Federal Government? You have all said that you want more Federal money. The figures that we have been given in prior testimony are that at the present time 5 to 8 percent of the cost of supporting schools comes from the Federal Government.

Mr. Keith, what about your attitude?

Mr. KEITH. I would like to see a third, a third, and a third.

Mr. DELLENBACK. Third local, third State, third Federal?

Mr. KEITH. Yes. I think the time will come if the Federal Government is going to be a partner it will really have to be a partner and it goes into a long discussion of the tax base.

Mr. DELLENBACK. This is a goal toward which you would reach?

Mr. KEITH. Yes.

Mr. DELLENBACK. Mr. Spears?

Mr. SPEARS. In San Francisco, we used to get two-thirds of our funds locally and one-third from the State but the State is now down to about 20 percent in our State. We would like to see that margin brought up by somebody.

If the State is not going to do it, maybe the Federal Government will, but the more the Federal Government puts in, I take it you are going to have to go a general funding.

Mr. DELLENBACK. You think that the local government should carry about two-thirds, then?

Mr. SPEARS. No; not necessarily. I am pointing out what happened to us.

Mr. DELLENBACK. Do you have any figure where you think the Federal Government should go?

Mr. SPEARS. I have never thought in terms of particular figures.

Mr. DELLENBACK. Mr. Stimbert?

Mr. STIMBERT. Not to belabor the point, but I think we would have to throw population figures into this pot. I don't know what local is any more.

Mr. DELLENBACK. I was thinking about local, State, and Federal sources of revenue. Generally speaking, local support comes from the real property tax.

Mr. STIMBERT. Ours is local sales tax of 1 percent.

Mr. DELLENBACK. Do you have any rough idea of a goal toward which the Federal contribution should reach?

Mr. STIMBERT. A percentage figure—10, 12, 15, I think it should constantly move up as we study the flexibility, the flow, the fluidity of our population, because people don't stay put and the Federal Government has to be involved because we have people on the move, crossing State and county lines.

Mr. DELLENBACK. Do you have any goals in mind, Mr. Phillips?

Mr. PHILLIPS. I would think it would vary from State to State with the degree of economic strength that each has, a formula that might be adopted. Also, there may be some change in the type of tax base used at the local, State, and Federal level; and it would seem to me that a major emphasis would have to be on the unit of Government having the major source of tax resource.

Mr. DELLENBACK. Would you think in terms of any figures close to Dr. Keith's figures?

Mr. PHILLIPS. I would think it should be substantially increased at the Federal level and possibly the suggested one-third, one-third, and one-third, roughly is not too bad.

Mr. DELLENBACK. You have all spoken in terms of wanting additional Federal money. You have all spoken in terms of wanting this to be by block grant rather than categorical aid.

If you do this, can you tell me offhand, each one of you, what the primary use is to which you would put this in areas over which you have control, these additional public funds? What is the great crying need to which, if it came to you in a block grant, you would apply these Federal moneys?

Mr. KEITH. So many under title I have gone beyond your existing programs. Many times you have taken money used for developing and administering programs, for teachers' salaries and so on—

Mr. DELLENBACK. Over and above everything that has been done, additional Federal money made available to your area, what would you use this for as the very top priority need of these funds that came to you without control?

Mr. KEITH. I would like to see a general Federal support.

As I recall the testimony, Mr. Spears answered between Keith and Stimbert and indicated that he would apply these funds to raising teacher salaries. His was only about a single sentence answer.

Mr. STIMBERT. We would like to reduce teacher-pupil ratio for one thing.

Some of the money could go for the kind of projects that reduce the number of pupils that a teacher must be related to.

Mr. DELLENBACK. You would put this at the top of the list?

Mr. STIMBERT. That will improve what will happen in the classroom.

Mr. DELLENBACK. Would you put it above increasing teachers' salaries?

Mr. STIMBERT. I don't think we would.

Mr. DELLENBACK. Any second priority besides hiring additional teachers that you put at the top of the list?

Mr. STIMBERT. We would have to go to construction because we need \$4½ million to put in a citywide kindergarten.

Mr. DELLENBACK. What would be the fourth answer?

Mr. PHILLIPS. That is a difficult question because you would have to take those steps which would improve the quality of education. In addition to some of the comments that have been made here, I think we would extend education downward. We would improve the teacher-pupil ratio. I think we would upgrade vocational training. I should call it noncollege bound education and we would probably extend—

Chairman PERKINS. The time of the gentleman has expired.

Mr. BELL. As I understand it you all generally agreed the money would be used for teacher salaries. Isn't it true if you increase the teacher-pupil ratio really your money is going for salary? You are hiring new teachers so it is going for teachers' salaries.

Mr. MEEDS. If I got your consensus, generally, most of you favor approximately one-third, one-third, one-third of Federal, State, and local. I would like to point out to you that under the Elementary and Secondary Education Act we had an arrangement last year which in effect curtailed any State in receiving more than 35 percent of its educational budget under the terms of this act and I think it was raised to 40 percent last year, if I am not incorrect.

At the same time we enacted legislation which would become effective in fiscal 1968. The amounts received would effect States spending less than the national average.

In other words, they could take the national average or they could take their State average whichever was higher, and this would increase substantially the funds to those States which prior to this time have been receiving on their State basis and mostly those States were in the South. As a matter of fact, the State of California would not benefit by this and many other States.

Now, if you gentlemen are suggesting that this should be on a one-third, one-third basis it seems we are headed in opposite directions.

Let me point out to you we presently have States which are at the maximum rate now of 40 percent. I think Alabama and Mississippi both are at the maximum. This would mean we should increase our Federal support to high-income States—in other words, just go the other direction from what we have done.

Now, may I have your comments on that?

Mr. KEITH. When I was suggesting a partnership I thought the gentleman was asking a question of overall responsibility on the part of each, a total figure. You would have equalization and you would have differences within the school district or the States. I would not

think you could just set up a system whereby everything would be done at every school district on a local, State, and National basis.

Mr. MEEDS. Mr. Spears, in California you are receiving approximately 3 percent of your total educational budget in California from Federal funds under this act and the State of Alabama is receiving the maximum 40 percent.

Now, how do you equalize between 3 and 40 percent?

Mr. SPEARS. You are trying to equalize among the States. In the California district, we don't get the support in our district because of the wealth that some other district gets. But I didn't give any figure here. All I can say, if Federal support goes up only a Federal percentage greater, we ought to have the right to spend it for what is needed just as we spend State and local funds. That is more my concern than what the amount is going to be.

When I mention teachers' salaries I do not mean to raise teachers' salaries, but I know the salary account goes up for two reasons, more teachers but increased cost of living where you have to compete with other districts to raise teacher salaries. If that money is coming locally, I would say more of the Federal money would go for the same thing we have to spend local money for.

Mr. MEEDS. If we were to increase in the State of California substantial Federal contributions, is it your feeling that this would all be utilized to supplement present programs or do you think there will be a reduction of State and local effort?

Mr. SPEARS. This discussion started over here.

Mr. MEEDS. I realize you didn't answer one-third, but at least two of the other gentlemen did.

Mr. SPEARS. The implication was if you give more of a percentage on the Federal load from Federal sources then what would you spend it for and the question became how much would that be. That would be a figure anybody could guess at. I would not make a guess, but I am saying the more of the Federal spent, if you are going to reduce State or local money we have to spend some of the same thing that we are spending State and local money for. I think our concern right now is funding of the present program you have rather than getting tangled up on differences, to move this act along and get it to the Appropriations Committee so we can make maximum use of what we are getting now. I would settle for what we get now and not argue about what is wrong or right by it.

Mr. MEEDS. I would like to comment on a related subject.

Dr. Stimbert, I appreciate your presentation of support for extension of MDTA to support physical health and recreation. I support that.

Then as a last question, I would like to point out to you that there is a provision against this again under the Elementary and Secondary Act as Mr. Ford pointed out.

Now, assume this money that we would authorize and appropriate were handled by the Department of Health, Education, and Welfare, but was passed to the State departments of education. Do any of you people see State constitutional problems with, for instance, your State department of education contracting with a local parochial school to run a Headstart program, use parochial facilities and perhaps even parochial teachers? Do you see problems?

Mr. PHILLIPS. The question was raised a moment ago whether you could use church facilities for public programs. We regularly do that.

Mr. MEEDS. We are doing that in the State of Washington but I am asking now, do you see a legal problem in your State with this question that I have raised?

Mr. PHILLIPS. I think there would be legal problems in running a program for a parochial school and I don't want to get this too involved. I don't think there is a conflict in giving a program in which parochial school children participate.

Mr. MEEDS. My question was being conducted in a parochial school.

I think we all realize we do not have enough educational facilities to run concurrently some of these programs so would the answer to the program be—

Mr. PHILLIPS. We have not used parochial school facilities. We have used church facilities and there is a slight difference.

Mr. MEEDS. You do not satisfy any proposals?

Mr. SPEARS. No.

Mr. GARDNER. In the testimony in the last several weeks I think we heard expressed several times the idea that Federal aid is absolutely necessary, but we have also heard expressed the idea that it possibly could be done better on a State level.

I would like to ask two questions. First of all, do you think if the funds were identical and the States had proper financing, could it be better handled by State agencies as opposed to Federal agencies?

Mr. PHILLIPS. My personal opinion would be that it could be.

Mr. GARDNER. It could be?

Mr. PHILLIPS. It could be.

It is most difficult for a staff or for a school corporation to operate under two sets of rules and that is what in many cases we are doing today. It is creating some confusion. There is some loss of power, loss of energy and I think someone has said we need to get a little closer to where the rubber meets the road.

Yes, I think it would be an improvement.

Mr. Stimbert, I have mentioned some of my administrative feelings before in this regard and even though our relationships with the U.S. Office of Education and other Washington groups that have educational programs operating in our schools, such as the Labor Department, Department of Agriculture, and others, I still think from the standpoint of just plain good business it ought to be canceled in a certain way, and that is why I would answer "Yes" to your question.

Mr. GARDNER. I am specifically referring to a tax-sharing plan which is being given some thought in Congress today and there are several proposals which would eventually phase out Federal programs and put the entire responsibility for it on the State level.

Mr. STIMBERT. I would like to subscribe to the title 5 which is the strengthening of State departments.

Mr. SPEARS. You are just going to get more overhead in the management. If you and your organization set up for it it stands to reason if they do their part there can be less money spent for the middleman.

Mr. GARDNER. This is what has bothered me about the testimony of Commissioner Howe.

Although he seems to talk in terms of strengthening State and local agencies, at the same time each of them are coming from Federal agencies and I see a great duplication of effort on their part.

Chairman PERKINS. Mr. Steiger.

Mr. STEIGER. Thank you, Mr. Chairman. Mr. Stimbert, you made an excellent statement. It was candid and provocative. I think you did a very nice job and I complement all of you for being willing to come and give us the benefit of your thinking.

Is there general agreement on the part of all four of you in support of the bill that we have before us in terms of the Teacher Corps?

Mr. STIMBERT. Yes, with those proposed amendments that you are including, is that what you have reference to?

Mr. STEIGER. Yes.

Mr. STIMBERT. Then the answer is "Yes."

Mr. STEIGER. How much use are each of you making of the Teacher Corps in your own areas and has it had any benefits?

Mr. SPEARS. The funds are limited and the program had to be limited until this time and I think it is one of those programs where school systems, that are short of teachers more than others, will get more mileage out of it and I think that would be proper. You could not expect all of them to use it equally because it is meeting a need and the need is greater in some spots.

Mr. STEIGER. Is there also a general agreement from all of you in terms of transferring the responsibility for title III to the State departments of education?

Mr. Stimbert, in your remarks you hit upon that specifically. Would that be true of all of you?

Mr. PHILLIPS. Yes.

Mr. STEIGER. This is in line with what Mr. Gardner asked.

In title III we are trying to strengthen the State departments. Is there also a general agreement on the part of all of you that this is an admirable goal, that we really should be devoting more time and attention to putting into State departments more resources, and more capability to handle the States' problems.

Mr. STIMBERT. I would give it a No. 1 priority.

Mr. PHILLIPS. It is very basic.

Mr. SPEARS. I would support that statement, too.

Mr. STEIGER. Do you share a concern that perhaps some of us do as to what the role is of the research centers and some of the quasi-public agencies that we have created under some of our legislators which are almost in competition with State departments, they get paid bigger salaries, they can perhaps function in certain ways outside of the State department.

Do you think there is any danger here toward strengthening these outside agencies rather than the State departments?

Mr. STIMBERT. You are referring to the regional laboratories?

Mr. STEIGER. Yes.

Mr. STIMBERT. I think there is a place for such if we continued to look at the label. It is supposed to be a laboratory and dedicated to R. & D. in education.

I think the danger you express is there. Anytime you set up such a device and you strengthen it unduely and do not have it come under

certain administrative organizational techniques, you are in danger of having it run contrary to the State department and regional laboratories covering State lines which could do this.

I think there is a study now that has been released on laboratories, and I would ask the committee to take a good look at that study. Perhaps the number of laboratories needs to be reduced, but there is a place for research and development in education.

Mr. STEIGER. With the caveat that we don't so strengthen them in the process and weaken State departments?

Mr. STIMBERT. That is my point, yes.

Mr. STEIGER. Let me ask just one further question.

I don't know that I was satisfied by the answer that was given Mr. Quie, in terms of Headstart, one of the beneficial parts of it has been a greater involvement of parents in education.

How do you propose, if we transfer Headstart to the Office of Education, that we try to maintain that same kind of parental involvement in this kind of program?

Mr. STIMBERT. May I be candid again?

Mr. STEIGER. Yes.

Mr. STIMBERT. It would seem to me that there is no greater involvement than we have had in first, second, third, and fourth grades. I think we have elevated something here which does not exist which is participation of the parents in the program.

I don't think we have taken the time to contrast it with parents' participation in other school programs. We have lifted this up as much as riding in elevators and riding in airplanes.

Headstart programs, kindergarten, first grade, trips in high school to industry and business in these many years, we would like to do 100 times more of it, but we are not able to do so because of lack of funds, so that is my answer.

So I think it is not difficult to involve parents given the right kind of principle, leadership, and the kind of teachers—and today in most school situations parents are involved, very much so. Education is quite an important topic of discussion around the American home today, and you get more suggestions from parents. People move into our city from Detroit, Cleveland, San Francisco, and Valparaiso and they come with other ideas about school systems and they just about last to reflect the national flavor of education. It can't be very local so I don't see any difficulty in involving parents and I don't think it is innovative to do it.

Mr. PHILLIPS. I am very complementary of Headstart. I think it is a great contribution and it has been the pointing up of the importance of early education in childhood and the placing of some money to experiment in an area where there was no money. I don't think the innovation is very significant.

I think much value has come out of them, but I think the things we have done in them are things we might have done had we had the resources for so doing.

Chairman PERKINS. Mr. Bell?

Mr. BELL. No questions.

Chairman PERKINS. Let me ask you gentlemen to stand aside subject to being recalled. I think I should give the National Educa-

tional Association an opportunity to make their general statement now.

STATEMENTS OF JOHN M. LUMLEY, DIRECTOR, DIVISION OF FEDERAL RELATIONS, NATIONAL EDUCATION ASSOCIATION; MRS. MARY C. GEREAU AND STANLEY J. McFARLAND, MEMBERS OF THE STAFF

Mr. LUMLEY. I have filed my statement. In the interest of time, Mr. Chairman, you may want to just file it.

Chairman PERKINS. Your prepared statement will be inserted in the record at this point.

I hear no objection.

You can proceed in any manner you choose, Dr. Lumley.

(The statement referred to follows:)

TESTIMONY OF JOHN M. LUMLEY, DIRECTOR, DIVISION OF FEDERAL RELATIONS, NATIONAL EDUCATION ASSOCIATION

Mr. Chairman and Members of the Committee:

I am John M. Lumley, Director of the Division of Federal Relations of the National Education Association. Mrs. Mary C. Gereau and Stanley J. McFarland, members of our staff, are with me this morning.

I appreciate this opportunity to appear before your committee to discuss the Elementary and Secondary Education Amendments of 1967.

Passage of the Elementary and Secondary Education Act of 1965 has been one of the most important educational events of this generation. After only two years, there have already been major impacts on the scope and quality of American education. We believe that federal money alone will not solve the problems facing our schools but we also believe, that, under existing school financing arrangements, they cannot be solved without federal money. The ESEA, by providing comparatively substantial funds as an incentive to state and local education agencies for specific purposes and under specific conditions as determined by the Congress, has already achieved three important contributions to the ideal of meaningful education for all American children:

1. By focusing attention on the economically disadvantaged, the Congress has recognized the importance of education in overcoming the problem of the poverty cycle if each individual is to have an opportunity to achieve economic and social well-being. This recognition has activated public interest in an appreciation of the vital role of education. Although improved educational opportunities alone cannot solve all the problems faced by those who live in poverty, it is encouraging to note a national recognition of the fact that without improved educational programs none of the problems will be solved.

Unfortunately, the handicap of limited state and local financial resources has resulted in many school districts being unable to meet the special needs of the economically disadvantaged.

Title I of ESEA has given the school authorities who recognized these needs an opportunity to develop programs which they knew were needed. Title I has also served to awaken those who may have been unaware of these problems. And, finally, Title I has served as a federal incentive—to the school systems who ignored the needs of this special group. The degree of success of Title I programs is probably measurable in direct proportion to the attitude of the local school officials. Thus, since the programs have been overwhelmingly successful to date, we can conclude that local school boards are interested in providing good educational programs when possible.

2. The Elementary and Secondary Education Act has encouraged innovation—by providing the funds to state and local school systems to discover and utilize the creativity which has been financially undernourished in local districts. Under Title III, for example, we see the fundamental innovative philosophy of ESEA.

Increased cooperation between the teacher education and research programs of higher education institutions and the local and state school systems is proving

to be mutually beneficial. More involvement of state education agencies is essential in this picture, however, if the results of the school-college cooperation is to be disseminated widely beyond the local area in which the innovation takes place.

3. The provision in ESEA for the inclusion of all school children, including those not currently enrolled in any school, has been of great value—to both the educators and the children involved. A positive value of this congressional policy has been to bring the public and nonpublic school educators together to plan and execute programs to improve education for all children.

The ESEA has assisted educators in meeting their responsibility to all school-age children including those not currently enrolled. Programs designed to meet the challenge of these children are becoming more widespread.

Our recommendations for strengthening H.R. 6230 follow:

I. Full funding of the authorization provided in Title I of ESEA is essential. We are concerned, as surely this Committee must be, that the budget request for FY 1968 will not meet the Committee's intent that no state receive less than it received this school year, even though the income factor in the formula was changed for \$2,000 to \$3,000. The school districts have been planning on funding at not less than their allocation for this year. This will not be possible within the present budget request. We realize, of course, that the appropriation function is under the control of another Committee. We strongly recommend that you urge the Appropriations Committee to meet the stated intent that no district will receive less funds next year than it received this year. According to estimates given to this Committee last year, full operation of the amended Title I program would cost in excess of \$2.3 billion.

A major concern of state and local school systems is the problem of the timing of the appropriations. The story is one with which you are all very familiar. Present appropriation time and the fiscal school year are not compatible. This problem of appropriations being made too late is the most frequently voiced concern of school officials all over the country:

We recommend a five-year authorization to provide for long-range planning and most efficient use of funds.

II. The intent of Congress has always been to strengthen the state departments of education.

a. However, the establishment of Regional Education offices can, in our opinion, place an unnecessary additional level of bureaucracy between the state education departments and the Office of Education. It could be an avenue for direct involvement of local and federal officials without any relationship to the state education agency. USOE dealing directly with 50 state education agencies, without an elaborate regional organization strengthens both the federal and the state agencies.

b. We recommend that at least 75% of Title III funds should be transferred to the state education agency for distribution to such local district projects as the state education agency approves. For the present, the remaining 25 per cent should be reserved to the Commissioner for special demonstration projects designed to meet national objectives. These projects should be reviewed and a recommendation made by the state education agency or agencies within whose jurisdiction the pilot and demonstration projects will operate.

c. We recommend that Title V B as proposed be amended to provide that the state education agency be responsible for establishing the Comprehensive Educational Planning Agencies. All funds should be channeled through the state education agency in accordance with a state plan approved by the Commissioner.

d. We are aware that some state education departments are small and their financial resources are inadequate. We support the allocation formula change as provided in HR 6230 as a practical way to strengthen these state education agencies.

III. At several points in HR 6230 it is proposed to authorize direct contracts between the USOE and profit-making private agencies. We continue to believe that this is a questionable policy. (See attached letter dated May 3, 1966.)

We recognize the tremendous contribution industry is making to improve technology. We believe that industry has a vital role to play in education. We oppose only the direct contractual relationship between industry and the Office of Education. This education-industry relationship should be limited to the state or institutional level.

Specifically in HR 6230, Title II Amendments to the Vocational Education Act, it is proposed that \$30 million be allocated to the states for experimental

and pilot innovative programs in vocational education. This is commendable—except that the amendment would allow the U.S. Commissioner to award grants or to make contracts with the state education agency *or* local public or non-profit education agencies—*or* with private profit-making agencies from the state's allocation. He could completely by-pass the state agency.

We oppose placing this responsibility on the U.S. Commissioner of Education. The acceptable alternative would be to make the allocations to the state agencies for vocational education, under a state plan, with authority to contract with public or private agencies for services not possible within the normal vocational education program of the state. We find no justification for contracts between industry and the Office of Education.

IV. The proposal to extend the benefits of Title I for another year and the benefits of Titles II and III to both the Indian Schools and the DOD Schools presents us with a dilemma. These are federal schools and should be supported to the fullest extent by the respective Departments. Including them in the legislation providing funds for schools operated in local school districts reduces the funds available for local use. However, any legislation that benefits large numbers of American children cannot be opposed until the basic problem has been resolved.

We would repeat our suggestion of last year that the Congress appoint a committee to study the needs of the children enrolled in the B.I.A. schools—a study similar to the excellent one of the D.O.D. schools made by a sub-committee of this committee.

V. We have supported, and continue to support, the National Teacher Corps as an innovative experimental programs to provide teachers for urban and rural schools with large concentration of children from low-income families. We believe that the transfer of this program from the Higher Education Act to the Elementary and Secondary Education Act is a wise and constructive action. NEA's support of the program is based on the principle of assisting school districts with large numbers of disadvantaged children to secure highly qualified teachers. We believe that the amendments proposed in HR 6230 are sound.

1. The amendment concerning intern reimbursement is valid.
2. State agency approval is vital.
3. Clarifying the local control provision as provided in Sec. 115 is essential.
4. Authorizing the Teacher Corps to accept gifts is proper.
5. The inclusion of programs for migrant children are valid improvements—provided the appropriate state education agencies' approvals are secured.
6. We question the advisability of including the federally operated Indian schools in the Teacher Corps program. Improvement of the B.I.A. schools is a federal responsibility that should be met by direct appropriation. (See attached survey.)

VI. The amendments relating to education of the handicapped prompt a mixed reaction. The NEA is very much in favor of expanding federal incentives to the states for education of exceptional children.

However, these children should be served, with special supplementary services where necessary, within the aegis of the local public school systems in the states. There should be greatly increased appropriations to the states for assistance to local schools to supplement state and local funds for education services for exceptional children. These funds should be in addition to Title I ESEA funds and not transferred from the Title I appropriation. There should be additional Title VI funds provided—in substantial amounts—for the education of the handicapped.

In specific reference to the provisions in HR 6230 relating to the handicapped, we believe the proposal for Regional Resource Centers needs very careful consideration. If the purposes of Sec. 608 are carried out exclusively with institutions of higher education and state education departments, or combinations of such, and not arranged with profit-making agencies we believe they can be useful. Expansion of the Captioned Films for the Deaf Program into an Instructional Media Program to include all handicapped children is a sound proposal.

VII. With respect to the disaster relief amendments, we urge that they be extended as proposed in HR 6230. However, we believe there is need to consider some type of assistance for situations in which a local school or college facility is destroyed by a catastrophe which does not meet the definition of disaster.

VIII. The need for substantial financial assistance to the states for school construction is still increasing. This is caused by constantly expanding enroll-

ments, and the fact that the purposes of the Elementary and Secondary Education Act cannot be achieved unless space and facilities keep pace with the program. Good teachers will continue to migrate to modern facilities in the suburbs as long as the slum school buildings, are overcrowded, unsafe, dimly-lit, evil-smelling, obsolete structures without space or equipment for creative teaching.

We urge Congress to provide funds for school construction without further delay. We cannot subscribe to the premise that such a proposal is in conflict with the nation's defense needs. The cost of military defense, highway construction, exploration of outer space and stimulation of industrial development should not be borne by children of this nation.

In conclusion may I say that the objective of NEA is to assist the Congress in improving the educational opportunities for all of our nation's children. But to achieve this objective, we believe that local and state control of education must be strengthened.

Thank you.

NATIONAL EDUCATION ASSOCIATION,
Washington, D.C., May 3, 1966.

HON. CARL PERKINS,
Chairman, General Subcommittee on Education,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN PERKINS: We are concerned that the proposed amendments to Title II of P.L. 89-10, Sec. 203, although related to library resources would create serious administrative problems if made applicable to textbooks and instructional materials. Inclusion of these amendments tends to over-emphasize the library purpose of the Title. We continue to believe the textbook and instructional materials provision of this Title is of equal, if not more, value to children.

We support the increased funds for state and local administration of Title II. We see no reason, however, to amend the Act, other than for increased administration funds, because of problems not inherent in the Act itself, but rather created by faulty guidelines.

In his testimony before your subcommittee, speaking officially for the National Education Association Dr. Adron Doran voiced our opposition to the proposed amendment to the Cooperative Research Act which would include profit-making agencies under the benefits of the Act.

This proposal provides that profit-making agencies may contract with the U.S. Office of Education for the training of educational research personnel. As our official testimony states, we see no necessity to further break the pattern of confining federal grants and contracts between the Office of Education and the non-profit public and private institutions, organizations, and agencies. There is no evidence, as we see the situation, that the non-profit public and private institutions are not equal to the task of educating people in the field of research, if given the opportunity and necessary financing.

We supported the original cooperative research act, and subsequent amendments, primarily because it provided opportunity to strengthen the programs of higher educational institutions. We fear that including profit-making agencies in the Act for the purpose of training personnel will weaken the non-profit institutions in several ways.

First, the training of educational research personnel should properly be carried on in the same institution which trains other educational personnel, such as teachers, administrators, and other educational supporting services personnel. The interaction of the disciplines which comprise the educational effort should be strengthened, rather than dissipated through assigning the research training function to a completely separate agency.

The Cooperative Research Act was enacted for the purpose of strengthening the educational research function of higher education institutions. It was contemplated that educational research be done in the field, not be the USOE itself. If this premise still stands, as we insist it must, then it is not necessary for the USOE to train research personnel.

If the purpose of the amendment is merely to make it possible for USOE to contract for training of key punch operators, and other sub-professional computer specialists, then such provision should be made in the administrative budget of the USOE, not by an amendment to the cooperative research act.

Second, if the intent of the amendment is to bring the computer type of research training and resources into the educational picture, this can better be accomplished by contracts between the USOE and the non-profit institutions. These institutions can in turn, as the occasion warrants, purchase services from the commercial research firms. Such a system will keep non-profit educational institutions in control of the programs. Profit-making agencies, with the well-financed public relations and promotional services available to them, can, and we have reason to fear, will "merchandise" their programs, sound or not, in a way potentially dangerous to a balanced educational system.

Third, since these firms are in business to make a profit, we feel that the training program they may offer, must necessarily be more expensive to the taxpayer than that offered by the public and private non-profit institutions.

Fourth, we question the propriety of the U.S. Office of Education becoming directly involved in the training of research personnel. The USOE is an administrative agency, not an educational institution, nor should it be. It is reasonable to assume that many of the problems which have arisen with P.L. 89-10 are related to the lack of understanding on the part of some USOE personnel of the structure of the elementary and secondary school systems in the various states. Researchers can greatly influence the subject with which they are concerned. We do not believe that such influence should emanate from the Office of Education through personnel trained by non-education oriented, commercial profit-making agencies.

Finally, the profit-making agencies can and do lure away the most competent faculty members from the non-profit institutions—to the detriment of the whole educational process—by offering higher salaries. We have seen this happen in science and mathematics. We do not want it to happen to professional education.

The language in the present cooperative research act, provides for limiting the grants and contracts for training personnel to public and private non-profit institutions, agencies, organizations. For these reasons we urge the Committee to reject this amendment.

Sincerely yours,

JOHN M. LUMLEY, *Director, Division of Federal Relations.*

Chairman PERKINS. If the members have had the time to read it they may just want to ask questions.

Give us your evaluation of the present elementary and secondary education.

Mr. LUMLEY. Mr. Pucinski asked the question earlier, if there was any evaluation. We have to give the evaluation which is subjective—

Chairman PERKINS. Give us the results of your study.

Mr. LUMLEY. We say there the program has had a great impact on education, title 1, particularly.

Chairman PERKINS. Does your statement today spell that out?

Mr. LUMLEY. Yes. You see, this was necessary because of the fact that many districts with limited financial resources could enter into the things they knew they should do for the disadvantaged. This made it possible for them to move into programs that people had to meet with compensatory education. We had other groups that were stimulated to do things which possibly had not given enough thought to this. You will find in your statement we give you three categories.

Chairman PERKINS. From your organization studies have you been able to come up with any positive results that are obtained as a result of title 1?

Mr. LUMLEY. I would have to say to you, Mr. Chairman, at the moment that our research division is in the process of surveying districts and we will make this available to you as soon as it is complete.

Chairman PERKINS. I would like to have that information when it is available.

Mr. LUMLEY. We will certainly be glad to do that.

I know Mr. Scheuer mentioned the evaluation studies that have been made and the Office of Education also has material that I think should be included here that will show the success of the ESEA.

Chairman PERKINS. I know all of us support a general Federal aid program, but from your studies if we did not strive in the right direction when we came up with the categorical approach, insofar as zeroing in on the most disadvantaged areas that needed specialized educational programs the worst.

Mr. LUMLEY. The answer is yes, Mr. Chairman, because as you know the National Education Association has been an advocate of general Federal aid for many years, but at the same time to accomplish something for the districts we moved into support of this program and we believe, therefore, that H.R. 6230 as proposed generally should be continued. I think the main thing that I would like to say to you is that the program should be extended for 5 years, not for 1 year. Let's get authorization so that we don't have to come back each year and talk about this. We can talk about the improvements, but generally, let's extend Public Law 89-10 for a 5-year period.

Chairman PERKINS. I think if there is any one thing this committee should do, during the present session of Congress, it is to try to impress the Congress with the helter-skelter way that planning is being carried on at the local educational agencies throughout the Nation simply because we do not have any stability in a program of some duration. They just don't know how to plan and they cannot plan local educational programs.

I am hopeful we can follow your suggestions, maybe not for 5 years, but at least 2 years, in the future so that local educational agencies can plan and I am hopeful we can impress the Appropriations Committee this year on the floor of the necessity of an early appropriation and that the authorization will be there so that the appropriations can be made early.

I am most hopeful that during this present session that we can get that impression across on the floor of the House and let the Congress know just how many of the programs—the whole educational programs—are being handicapped throughout the Nation because of an authorization with some duration and because of the lack of early appropriations. I think that is most important and every witness who has appeared before this committee has just preached that point continuously.

Mr. LUMLEY. I think I should say that the Appropriations Committee of course, needs education just as we all need education because this is probably the first time that we had a piece of legislature that was tied so closely to the school district. This bill is tied tightly to the fiscal year and just as the men who preceded me, and the man from the Bureau of Indian Affairs, testified that they could not get started until February because of the appropriations.

Chairman PERKINS. Do your studies reveal or disclose that the effects of the program, the way it is being administered at the local educational areas, are reaching those areas of the greatest need as was originally contemplated by this act, particularly the title I?

Mr. LUMLEY. Yes, generally this is true. I am sure we will find some cases—

Chairman PERKINS. Would you make available for the record what studies you have on this point?

Mr. LUMLEY. There is one other thing I would mention when we are talking about appropriations and we believe it is important, that there be full funding of the authorizations, too.

Chairman PERKINS. You are recommending to this committee as a national organization that we extend the Elementary and Secondary Education Act for a period of 5 years, is that correct?

Mr. LUMLEY. That is right.

Chairman PERKINS. In its present form?

Mr. LUMLEY. That is right.

Chairman PERKINS. Mr. Bell.

Mr. BELL. It is a real pleasure to welcome you to the committee. I just have a couple of questions here.

First, what about teachers' salaries? Would improvement occur in teacher-pupil ratio or just what would you emphasize with the Teacher Corps? Where would be your emphasis?

Mr. LUMLEY. If you are going beyond Public Law 89-10 or amendments 6960 that we are talking about, then I would say, Mr. Bell, the category we find there is the greatest need is in school construction. You will find that this is in our testimony, where we say that this should receive the attention of the Congress at the earliest possible time.

Mr. BELL. You would place this above funds for increased teacher-student ratios?

Mr. LUMLEY. Are we talking about a general aid program, or what?

Mr. BELL. I am talking about a general aid program. In this category what would you emphasize?

Mr. LUMLEY. We need not only school construction, but we need funds for teacher salaries, and I am not talking about increased salaries.

Mr. BELL. If you had so much money, where would you place your emphasis?

Mr. LUMLEY. I am not trying to evade the question, but this would vary by school districts or by States.

Mr. BELL. I appreciate that, but in your studies of the problem where do you think the biggest problem exists throughout the Nation?

Mr. LUMLEY. A national problem. I would still say school construction comes first. And if you take school construction money and assist school districts, this makes money available for the increased needs of teachers' salaries. I am talking about the need to increase the number of teachers in addition to increasing the salaries of the individual teachers already employed.

Mr. BELL. One problem that has concerned us is that teachers have been leaving, when you place them into private areas, they have a tendency to leave.

I suppose there are several things that cause this problem, one of which being protection of the teachers and another could be construction, too. In view of this, getting back again to the general versus categorical, would you still favor general aid or categorical aid to deal with this situation? Do you still think the argument would be better for a general aid program than for a categorical for those conditions?

Mr. LUMLEY. We are taking the position, and have taken the position since Public Law 89-10 started, that the categorical aids should be increased and improved and you should add school construction to it. We will eventually get to a general aid bill. The Federal Government has to provide the funds to do these things that are of prime importance to the school districts.

I am in hearty agreement with the program that we have will eventually evolve into a general aid program where the Federal Government provides a reasonable share of the operating costs of the school districts to do the things that you normally do in the school. But the Federal Government has not moved into that position yet. Until then we have to continue these programs.

Mr. BELL. Still, right now you favor the categorical approach and a greater increase in the categorical approach: is that correct?

Mr. LUMLEY. I am just being realistic, Mr. Bell. I want to get all the programs we can get and the most money we can get.

Chairman PERKINS. Mr. Brademas.

Mr. BRADEMAS. I have just a few general questions and I will be very brief. I am glad to see you, Doctor, and your colleagues.

First of all, I take it a fair reading of the results of this very interesting questionnaire that you have undertaken on the Teacher Corps would be that there is very widespread support among local school principals and superintendents for the corps: is that correct?

Mr. LUMLEY. That is correct. I will ask Mr. McFarland to comment, because he is the man who has directed the study.

Mr. MCFARLAND. Yes, that is true, Congressman Brademas, from the results we have received.

Mr. BRADEMAS. I am struck especially by the absence of any very trenchant or widespread criticisms from the local level, although I guess probably half a dozen times during these hearings I have sought to hear any general criticism of the Teacher Corps from teachers or principals or superintendents. And I have been asking this question for about 2 or 3 weeks now, and I have yet to hear anything. I would like to turn to one other general area only, and that is with respect to your criticisms on page 5 of operation of title III.

I will be very frank, Dr. Lumley, to say it mystifies me that you should plump for 75 percent of title III funds being operated through the State departments of education and the rest through the Commissioner. And I will tell you why, and maybe you can respond. Where have the State departments of education been all these years, if these are such wonderful programs and if they are so good the State departments are anxious to take control of them, where have they been hiding?

Mr. LUMLEY. The money was not available to them at the State level.

Mr. BRADEMAS. There is always State money available. They can always put up State money. I don't recall any State department of education leaders lobbying with their State legislatures for State money to carry out supplemental services and centers of the kind title III authorizes.

Mr. LUMLEY. This kind of foundation program, I think, was done by New York State. That is the only State I can think of.

Mr. BRADEMAS. One out of 50?

Mr. LUMLEY. That is right. It was done by foundation operation.

Let me make this general comment, Congressman, and that is I believe that the Congress did the school people a big favor when they enacted 89-10, because it stimulated us to do the things that we knew we should do. I was a superintendent of schools. We knew we wanted to do these things, but we went on doing the same things and getting money from a State legislature which is not always the easiest thing to do. Here you are stimulated to do things, and we are saying title III is a good program, but we want to strengthen State departments, and therefore let's take a portion of title III, I won't quibble over 75 percent, and let the State department get the consultants and the readers and decide that they are good projects for Indiana or Illinois.

Mr. BRADEMAS. I am strongly in favor of support of State departments of education and I moved to double the administration's proposal for title V, so I am on your side. But if we adopted your 75-25 percent proposal, I can predict what would happen in my State and most of the States. You would have the most intense competition on the part of local school superintendents who are as profoundly suspicious of the States, as it is represented the States are of the Federal Government, wanting to get their hands on that 25 percent.

We on this committee would be made the targets of the most intolerable lobbying activity by local school superintendents who would be saying "We would much rather deal with the Office of Education rather than the State department of education, because they are not yet strong enough to give us the thoughtful, perceptive, innovative counsel that we think is important if these programs are not to become controlled by outmoded State bureaucrats."

I put that in the form of a rhetorical question. How do you respond to that?

Mr. LUMLEY. I think this 25 percent, and this is what we are saying there, 25 percent on the basis that there are national objectives that the Commissioner may have in mind but should not be related to one State against another.

Mr. BRADEMAS. You are aware at the present time the State departments provide recommendations on title III, are you not?

Mr. LUMLEY. Yes.

Mr. BRADEMAS. Are you familiar with the study Dr. Miller discussed with us last week that indicated State departments of education turned their backs and provided almost no leadership to title III projects?

Mr. LUMLEY. Yes. The defense that is given by the commissioners or State superintendents is that the decisions are made at Washington without relationship to their recommendations, so there was no point in it.

Mr. BRADEMAS. I don't know that that is accurate, Mr. Lumley. I base my observations on the facts as reported by the only significant survey of title III projects out in the field that I know of.

Mr. LUMLEY. That is right; it is the only one.

Mr. BRADEMAS. The facts show that for the most part, I think the figures show about 85 percent, if not more of the programs submitted by local school authorities have won the approval of State departments

of education and that there has been very little evidence of conflict between the local and State departments and U.S. Office of Education. Are you aware of that, Dr. Lumley?

Mr. LUMLEY. This is true, but where you said they had exercised leadership, the thing I am saying in some State departments the report—and I think the survey bears this out—the State departments have just approved everything and sent it on in.

Mr. BRADEMAS. They don't have to do that. Is there no leadership there?

Mr. LUMLEY. The decision made at the Federal level does not take into account the recommendation of the State department. In other words, the State recommendation is there.

Mr. BRADEMAS. I would beseech you to study Dr. Miller's voluminous report with very great care and, as Cromwell said, "Consider ye whether ye may not be mistaken."

Mr. LUMLEY. If the pressure is over the Congress to reduce the pressure, we still believe fundamentally this does provide a means for strengthening the State department by giving them a part, a decision part, in the title III program, not a recommendation part.

Mr. BRADEMAS. You still have a very significant role if you want to have in reviewing recommendations without a mandatory veto. What do we say when a local school superintendent comes along and says—I know the State department of education in New York, but we don't live in New York, we live in—and fill in the blank and you know what I am talking about.

I am almost reminded of Walter Lippmann's argument back in 1959 for electing a Republican President: namely, that the Republican Party was in such a state of disrepair that the only way to enable them to survive was to thrust the responsibility of the White House on them. I am a little dubious about the validity of that kind of argument.

Mr. BELL. I have one more question for you, Doctor. I am wondering. I didn't hear, perhaps you have been asked this question. Has your association taken any position on the transfer of Headstart to the Commissioner of Education?

Mr. LUMLEY. There is no official position taken by the NEA. This is done only by the delegate assembly. The Legislative Commission discussed it and it is the position of the commission and staff that Headstart is far more than an educational program and therefore we have to—

Chairman PERKINS. You have not taken any position?

Mr. LUMLEY. In other words, we are not saying to you that we want to transfer Headstart to the Office of Education. We are saying that Headstart involves health and welfare in addition to education.

Mr. BELL. You did favor the transfer of adult education?

Mr. LUMLEY. Yes, sir; because this was a regular school program and part of the educational operation.

Headstart is far more than a kindergarten program.

Mr. BELL. Of course, Dr. Lumley, you know in the deprived area the Headstart has to be more—and so do first, second, and third grades—often more than strictly an educational program. There are a lot of things involved. I wanted to point out on the educational commission there have been additional programs under Headstart that came under the school system.

The Commissioner testified there were three primary programs under the prime educational system now than under Headstart; so I would like you to again give some thought to this.

Mr. LUMLEY. In answer to this, Mr. Bell, let me say it would be the belief, I am sure the belief, of the NEA and NEA Legislative Commission that eventually the Headstart program should be transferred to the Office of Education or HEW, whichever would be the logical place. But we do not believe at the present time, when we have the programs being operated in the disadvantaged areas by other than school systems that are making a contribution, that they should be interrupted. We have to provide for a transfer that will not interrupt this kind of an operation.

Mr. BELL. There are of course many reasons why I think it should be transferred, but if you keep it separate you could have a situation where the preschool and primary education of a child stops right there and you could go on living in the second third. I would like you to reconsider this position.

Mr. LUMLEY. The position I am reporting to you as of this time involves money, involves building, involves the construction, involves State laws, involves a lot of things. So to say to you today that you should transfer Headstart to HEW, we do not believe would be realistic. We do believe that eventually the Headstart program should be in the Office of Education.

Mr. BELL. For now, I guess, that will take care of it.

Chairman PERKINS. Mr. Ford.

Mr. FORD. I think your statement of the position of the National Education Association on Headstart is very interesting because Edward Fuller, without equivocation, put your organization on record in front of this committee as being not only for the immediate transfer of the program, but of the functions, to the public schools.

I hope that readers of this record will read your statement in conjunction with Dr. Fuller's, and I intend to call it to a number of people's attention. You and your organization long have been supporters of Federal aid to education, and participated in all of the steps that lead up to the ultimate success that Chairman Perkins had in the passage of the Elementary and Secondary Education Act of 1965. With your knowledge of the pressures that have emerged from time to time and apropos of our previous discussions of what might happen to Headstart if it becomes purely an educational program, do you believe we could have passed the Elementary and Secondary Education Act if we did not have the specific legislation that only public schools could administer programs? Could we have passed the bill without those restrictions?

Mr. LUMLEY. No.

Mr. FORD. You have recommended here authorizations for more than 1 year. Last year I must confess that I was reluctant to go along with the 3-year authorization, because I thought if we kept the authorizations down to 2 or 1 year we would maintain control of the program in this committee.

After hearing the Secretary of HEW and the Commissioner of Education testify this week, I discovered that this committee has lost control of this legislation. Even with a 2-year authorization. It is

presently their stated plan—it is on the record of this committee—to go before the Appropriations Committee handling our legislation and ask for an overall appropriation for this bill which represents 49 per cent of the funds that we authorized last year in the second year of the 2-year authorization.

For this reason, so long as the Budget Bureau is going to play games like this with us, and the administration is taking this weakened approach to the support of education this year, I think that other members might join me on this committee in resisting anything but year-to-year authorization. And I hope you will understand there are important reasons for resisting multiyear authorizations without disagreeing with the very cogent and good reasons you give for the long-term program.

We appreciate the great burden we have placed on local school people and State departments of education by not giving them enough leadtime to know what to expect. I really don't know what is going to happen when we have to go back and tell some school districts that not only are we not going to give them the authorization we passed last year—promised them—but we are going to give them less than they got last year.

We have already seen the tragic results on the poverty program of cutting back under the guise of holding the line after we have once kindled the spirit of the local district. I am fearful of the effect that this kind of funding might have and I would just like to ask you whether you have an indication in your organization of what the reaction might be of school people around the country, who have undertaken programs in reliance upon these authorizations, if we fail to fund at least enough money to meet the formula change that we have made.

Mr. LUMLEY. It is just beginning to happen, and they are just beginning to realize it and there is consternation among the schools that have these programs. They were looking forward to more and now they are finding in most instances they are having less money.

Let me say, Congressman, I realize that your idea of a 1-year authorization is to put the pressure on the Appropriations Committee. But I am not too sure that this is going to be successful.

It is our feeling that it should be longer, and let us, instead of coming now each year and saying to you that these are the things we need, just let us go to the Appropriations Committee and say it.

Mr. FORD. I want to make it clear that I am no longer enamored of a 1-year authorization. I am not sure it would make much difference, but I am convinced trying to have this committee, which spends so much time talking to educators across the country determine what our real needs are, determine what our real needs down the road 5 years, would be an exercise in futility. In good conscience I could not support your proposal for a 5-year authorization because I don't think it means anything.

Mr. McFARLAND. Several weeks ago, the U.S. office sent out final allocations for title I to counties and local school districts and we are getting feedback already that a number of school districts are actually receiving less money, as the result of the final allocations, than they had for the last year.

I think the reaction to this is going to, as Dr. Lumley stated, bring home the point that with less than half or about half of the money needed for next year being proposed in the budget will bring this point home even more.

Mr. FORD. My understanding is the final allocation works out to about 73 percent of the authorization last year and what we are now talking about is fully funded which nobody really thinks will happen, is 49 percent of the request from the Office of Education. They are, of course, responding to the pressures of the Budget Bureau in doing this.

One further question on title III. We have had testimony from a number of State school offices and local superintendents from large cities and smaller communities, the tenor of which is they would prefer to have the State office, as you have suggested, have greater say in the movement of title III but generally they would go to the point of letting a State office veto a program they did not feel should be funded.

At the same time, however, they have all, and I say "all," insisted that the local school districts and the State offices are presently co-operating beautifully, that they have heard there are problems but in their State it works fine.

That is not a very persuasive way to convince us that we ought to change the program when everybody tells us they want a change but it is working fine.

One of the things that was raised, however, by a couple of superintendents was the problem of the State office having absolute approval power, whether it is 75 percent or 25 percent or 50 percent you suggest in your testimony here that 75 percent be handled this way. At least one superintendent, I believe from San Diego, Calif., indicated that he felt even though they had marvelous cooperation in their State that once the authority resided in the State office of education, the pressure would then come from all over the State to consider applications on some sort of a formula to equalize the distribution of funds in northern California, southern California, big cities, small cities. We would thus start spreading the money out instead of considering whether individual title III programs were of sufficient size to really demonstrate the validity or lack of validity of any innovative approach to education.

The second point that was raised was the possibility that by giving approval the authority to States would lead to more duplication than when you have a central office that might recognize that there are several programs trying a particular thing in one State and therefore than another State ought to be concentrating on a different sort of approach.

Would you comment on these two points of view with respect actually to the disagreement with your suggestion?

Mr. LUMLEY. A copy of the project goes to the State department where it is reviewed and a recommendation is made but it then goes to the Office of Education where it is reviewed by the staff readers or consultants. A recommendation is made and then a decision made in Washington.

It is our feeling that innovation in California is not necessarily innovation in Alabama. This may be taken care of over here, but

you have different people reading different things so what we are saying is let's come back to the State department and give them a share of this and let them get the consultants and the readers and make the decisions.

The first part of your comment, Congressman, I would say is covered by the regulations or guidelines that the Commissioner would set up for the State to follow.

Mr. FORD. Is there evidence that there is any substantial number of title III projects being approved by the U.S. Office after they have been rejected or recommended against by the State office?

Mr. LUMLEY. A very small percentage.

Mr. FORD. Actually, there is not really too much difficulty in terms of numbers at this point.

Mr. LUMLEY. That is right.

Mr. FORD. There was a second point raised in 1965 when we held hearings on this bill originally, and one of the people who forcefully brought this before the committee was the president of MIT. He suggested if title III were permitted to become a State program directed by the State office of education, that some of our large private colleges and universities who had a very direct interest in becoming involved in partnership with school districts and otherwise in these title III programs would be in a less favorable position to obtain grants when they competed against, for example, a State owned and operated university. There was considerable testimony that supported him coming from institutions like MIT that they would rather compete with the State university at the Office of Education than at the State capital, State politics being what they are.

Do you think that would still be a valid reason for our changing title III?

Mrs. GEREAU. I just wanted to ask the question. I don't anticipate an answer.

I think it would be interesting if you could somehow find people who submitted title III projects and didn't get them approved and see what their reaction was.

I can tell you as a former chief State school officer, if I had no authority really except to read the thing, I wouldn't bother to make any discrimination. I would send them all in and let Mr. Howe take the heat. But if I had the responsibility which they all should have whether they want it or not. This makes them grow. They would have to make some decisions among the values and the purposes of the various title III applications submitted to them. They would have to make it and making the decision would make them stronger and better people.

As it is, you are just cutting them out. I frankly admit all I would do would be to sign every one that came in and let Mr. Howe take the heat.

Mr. LUMLEY. This is also the answer I would give you on MIT or the argument of the private college that they would not receive the same consideration at the State level. They would get consideration, I am sure in most States, but if they didn't, let me say I am sure they would come back here to make sure that you knew about it and that something would be done.

The point we are trying to make is this: We see a gradual movement toward a federalization of school systems. What we are trying to say is that the school systems of the country are controlled by the States.

The one thing that we have said is that the reason we have such a great educational system in the United States is that we have 50 systems. We don't have a commissioner of education like in France who can take out his watch and say every child in every schoolroom is doing this, this, and this at this minute and this hour. We recognize there are weak State departments.

As Mr. Brademas said, your committee provided funds to strengthen these departments. Now, you don't strengthen them if you don't let them do anything. You have to give the State agency the power to do something. This is what we are saying to you in one other section on 5(b) where you are proposing that you establish another agency. You already have enough agencies in the State now.

Mr. FORD. I have not heard any member of the committee speak up for 5(b).

Mr. LUMLEY. This just came to mind.

Mr. FORD. There is another consideration, however, and that is in the testimony in 1966. One of the most frequently articulated frustrations that we were getting from local superintendents was their inability to get clear-cut guidelines out of the title I offices in their States and their inability to get those applications processed expeditiously after they filed them.

In my own State, the conditions have been absolutely atrocious. We are going to pay for that in our State this year because we spent a little over 80 percent of the money we were allotted last year because the Federal Government was slow in appropriating the money, the State office was slow in getting its guidelines out and in processing the title I applications and all of these steps accumulated to make it difficult for the local school—

Chairman PERKINS. Would the gentleman yield to the gentleman from California?

Mr. BELL. Are you finished with that particular question?

Mr. FORD. Yes; I guess so.

Mr. BELL. My question goes to another problem, Dr. Lumley.

You are quite familiar with the goings-on in California. I am concerned about one thing in teacher training and things of this kind; I have heard the complaint made that a lot of these programs that come up, not necessarily Federal, but seem to go to the universities, the University of California and its nine divisions, whereas they seem to bypass the very area that is particularly a department in this particular field and that might be the State colleges.

Have you found this to be true in California?

There is this point to the effect that the universities seem to get the job, so to speak, in many fields that perhaps the State colleges are better qualified to do. Is this something you would find as a criticism?

Mr. LUMLEY. Yes; we have heard this criticism, Mr. Bell, about the teacher institute program. The State departments don't have anything to do with it, so in this instance what we are saying now could not be true because the school that has the desire to run an institute for reading teachers makes an application to the Federal office and gets approval for the operation of a summer program.

Mr. BELL. Why is that? Do you think it is the prestige of being a university?

Mr. LUMLEY. Why the universities get it over the State colleges?

Mr. BELL. Yes.

Mr. LUMLEY. I would assume this is true and would be the reason for it but, as I say, in the teacher institute program this would not be true. The teacher institute would not be true because in many instances it is the very small schools.

Mr. BELL. I am having difficulty hearing you.

As far as teacher institute programs, then you think it is not true.

Mr. LUMLEY. It is not true with teacher institute programs.

Mr. BELL. Thank you.

Chairman PERKINS. Mr. Ford.

Mr. FORD. I think the gentleman would agree with me that the competition is involved there and I would like to see what Stanford University would have if the University of California came in at the same time, recognizing that you have a State school board or State school officer responsible for deciding between the two of them.

I just shudder to think what would happen to the University of Detroit in competition with the University of Michigan.

I don't know any politicians in my close acquaintance who would dare favor a Jesuit school over the University of Michigan. As long as we are going to win football games, nobody is going to turn down applications.

Chairman PERKINS. The committee will recess until 1:15.

(Whereupon at 12:25 p.m., the committee recessed, to reconvene at 1:15 p.m. of the same day.)

AFTER RECESS

(The committee reconvened at 1:15 p.m., Representative Carl D. Perkins, chairman of the committee, presiding.)

Chairman PERKINS. The committee will come to order.

Mr. Eshleman, do you care to direct any questions to the National Education Association, Division of Federal Relations, represented by Mr. John Lumley in the center? Of course, you were not here. Any questions?

Mr. ESHLEMAN. Mr. Chairman, I have not had enough time to see his statement. I may have questions later on.

Mr. LUMLEY. We are fellow Pennsylvanians.

Chairman PERKINS. Mr. Erlenborn.

Mr. ERLBORN. I just came in, Mr. Chairman, and I have not had an opportunity to review Dr. Lumley's statement.

Chairman PERKINS. Have the effects and results obtained been as great as your organization anticipated from your best evaluations?

Mr. LUMLEY. The answer is yes, Mr. Chairman. As I said this morning, our evaluation has to be quite subjective at this time but on the basis of the reports that we have we believe that it has had a tremendous impact on education in the country. We believe it has done the thing that the committee wanted it to do when it was enacted and, of course, as you know, we congratulated this committee a number of times for taking this great forward step.

For the benefit of Mr. Erlenborn and Mr. Eshleman, let me say that the one thing that we pressed for this morning was longtime authorization so that the school districts can plan.

We also brought to the attention, which I assume every school superintendent is bringing to your attention, the fact that the appropriation system of the Federal Congress does not coincide with the fiscal school year, and this creates a problem for schools.

Therefore, you have to have two things: You have to have authorization so you can plan and we, as educators, now have to work on the Appropriations Committee to educate them to the fact that we have a new problem, 89-90 is the first time that we have ever really created the problem of having to appropriate money from the Congress to meet a fiscal school year. I think as the members of the Appropriations Committee become aware of this they in turn will be more sympathetic.

Mr. ERLBORN. Will the chairman yield?

Chairman PERKINS. Go ahead.

Mr. ERLBORN. I have a question or two. I notice on the first page of your statement, Mr. Lumley that you say after only 2 years there have already been major impacts on the scope and quality of American education.

Do you think that we presently have a yardstick by which we can measure this impact?

Mr. LUMLEY. No, sir. In title I, for instance, we believe that the impact has been different in different school districts.

There has been a tremendous impact in some school districts. It was brought out by some witness this morning that school districts title I funds have been used to a degree as welfare funds, not educational funds.

Mr. ERLBORN. Do you think in the near future we will be able to devise means of again making a subjective assessment of whether we are getting the value from this program that we should?

Mr. LUMLEY. I personally would hope the national assessment program that is being conducted will give us at least a base from which we can start and that we can move from that to a program which you are providing for in 6230 State evaluation which will set up some system of evaluation within the States. It is absolutely essential to give the State money and the opportunity to plan an evaluation program because unless we do this, I think the Congress can say this is not good enough.

Mr. ERLBORN. You recognize it is incumbent upon the educational community to come in with this assessment if you are to convince Congress to carry this program along.

Mr. LUMLEY. No question about it at all.

Mr. ERLBORN. One problem that relates to Headstart is, I understand, at least in my State of Illinois, there is no way of identifying in the public school system those children who have participated in Headstart. The State superintendent of public instruction tells me he cannot get this information.

How will it then be possible in the first, second, or third grade to tell whether these Headstart pupils have benefited from the Headstart program if you are not able to identify them?

Mr. LUMLEY. Obviously the answer is that you could not do anything that can't be identified. The law required the Office of Economic Opportunity or the Headstart program to be coordinating with the Office of Education so that these programs would be coordinated and information would be available.

If it is not, then it has fallen down somewhere along the line.

Mr. ERLBORN. I don't know if it is a matter of weakness in the law or the execution.

Mr. LUMLEY. I don't know either.

Mr. ERLBORN. I am given to understand that this information is not made available to the local school districts or the State superintendent as to which children participated in Headstart and which did not.

In another area I notice that you are not happy with the idea of decentralization of the Office of Education.

As I read this in your statement you would rather not have this carried on to its full implementation. If the local regional office of the Office of Education were given the power to make final decisions rather than be just another administrative layer between the school districts and the State departments and the Office of Education, would you still feel the same way?

Mr. LUMLEY. Yes, because title I projects are now approved by the State departments. You see, philosophically what we are saying is that we want to strengthen State departments of education and we believe that if the Office of Education is dealing directly they are only dealing with 50 State departments.

To set up nine regional offices, even though you give the regional office the power of decisionmaking, it is our contention that you develop an inflexible system because of the fact that the first year region A may do something and region B do something just slightly different under the same rules and regulations.

Therefore, the rules and regulations have to be tightened so that everybody makes the same decision. The result is that moving the decision from the Office of Education out here to regional offices will not continue innovations.

In other words, because the thing works in California does not mean it is going to work in Illinois. This is our contention. But we do say that the State department of education in Illinois has knowledge of Illinois and they will make decisions on this basis.

It is not going to help Illinois because the regional office is—I assume will be—in Chicago. Maybe Illinois is not a good illustration because you will be too close to it.

Take Michigan, it is not going to help Michigan any to have a regional office in Chicago. They might as well come to Washington is the point I am trying to make. It is our belief that the 50 States are responsible for the educational programs. The Federal Government is a partner. But the Federal Government should be the partner through the 50 States, not by setting up another layer here or not by going directly from Washington to the school district.

Mr. ERLBORN. To paraphrase what you say, the difficulties that the Office of Education now has in administering these categorical aid programs is that they are not structured to go through the State departments of education.

This is why decentralization might appear to be necessary. You would feel rather than to adapt the Office of Education to the categorical aid programs you should adapt or adopt the programs to—so that they can flow through these State departments?

Mr. LUMLEY. That is right. The categorical aid programs can go through the State departments without any change, without this regional organization.

Mr. ERLNBORN. Am I also right in assuming you would like to see the phasing out of the categorical aid programs and phasing out—phasing in of block grants or tax sharing, some general aid to education rather than categorical aid.

Mr. LUMLEY. Our feeling is that eventually the categorical aid going through the State departments does lead you to a general or block grant program. That is correct.

Mr. ERLNBORN. Along the same lines you are no doubt aware that there are some proposals to create a department of education separate from HEW, to raise the Office of Education to departmental status. It occurs to me that the apparent need for this gain is the fact that we have so many administrative details as a result of our categorical aid programs.

My own personal feeling is that if we change the structure of the Office of Education to raise it to Cabinet status, because of the immense burden put on the Office of Education with the categorical aid programs in the last 6 to 10 years, we are in a way admitting that we have locked in categorical aid for the future, we are not going to move in the direction of general aid to education.

Would you feel this might be a legitimate observation?

Mr. LUMLEY. I guess I have to answer that by saying that the NEA has a resolution, adopted by its representative assembly, favoring the establishment of a department of education.

Certainly I would also think you have some basis for your opinion.

Mr. ERLNBORN. My inclination was to say, yes, when you see that the Office of Education has had a tremendous growth in the last few years with the burdens we have put on it. It now is a large going concern but I think it is a result again of the categorical aid programs.

I think if we do create it as a separate department we are taking the tack that categorical aid is here to stay.

Mr. LUMLEY. Incidentally I was going to say that our resolution favoring the Department of Education was passed by the representative assembly before the Office of Education became as large as it is. It was passed basically on the fact that education should be an important function of the Federal Government.

Mrs. Gereau is a former State commissioner of education. I know she always likes to comment on operations of State departments.

Mrs. GEREAU. I was sitting here nodding agreement with many of the things you said, Mr. Erlenborn. The point of strengthening State departments of education is not going to be achieved only by putting more money in title V—I think we should have more money in title V—but will be achieved best by giving them the responsibility, and the opportunity to do the things that they are legally constituted to do, and seeing to it that they do them, and not setting up some other structure that can make it easy for them to say, all we do is just distribute State funds and put on a few consultants and that is all.

This makes them in effect sort of minions of the Federal Government and this is wrong.

Mr. ERLÉNBOEN. I like your observations along this line as to the effect of the regional educational labs. I will preface this by saying, in our study of the Office of Education we have found—and my experience is limited but in the few places we went—there was a divergence of opinion as to the mission or responsibility of what the regional educational labs might be.

They seemed to think that the principal mission was dissemination of information on a regional basis. These regions seemed to vary. In the State of Pennsylvania, for instance, there are three different regional labs involved in one State.

Is this in line with strengthening State departments of education or is this again breaking down the authority of the State departments of education, admitting we are moving toward a Federal system?

Am I wrong?

Mr. LUMLEY. I have to concur with you. I think the regional labs have to be tied to the State departments. Otherwise you are breaking down again. If Pennsylvania has the need, if there is need for three regional labs in Pennsylvania, they certainly should be tied to the Pennsylvania Department of Education so that the department of education has a hand in this dissemination.

Otherwise the dissemination may not be in accord with the policy of the State department.

Mr. ERLÉNBOEN. If the principal mission of the regional educational lab is the dissemination of information aren't they doing the job that the State department ought to be doing?

Mrs. Gereau?

Mrs. GEREAU. The answer is yes, sir.

Mr. LUMLEY. Yes. The answer is yes, no hesitation on this. I think that a part of this is research, with the research going on. Again, if this should go through, dissemination of research, even if this is done in another area, should go in my opinion through the channels set up by the State department of education, and I think philosophically what we are saying to you in all of our testimony is that we believe that the Federal Government has a major role to play in education because of the national needs and the fact that States and localities do not have access to the financial resources.

But we believe that the operation and the control of the school should be at the State level. This is actually what we are saying in every bit of testimony, in our comments on all of 6320.

Mr. ERLÉNBOEN. Along a little different line, I sometimes wonder where the optimum point is in our financial support of education. Let me just relate to you the experience in my area.

Our local governments in Illinois are financed principally, almost wholly, from the real estate tax, the property tax, real and personal property. In the county in which I reside, Du Page County, Ill., about 80 cents of every property tax dollar goes to education. This is the principal support of education in our area. Twenty-five years ago we started some State support of education and increasingly year after year a larger proportion of the obligation of support of education was placed on the State.

For instance, this year we will probably now increase our foundation level to \$400. When I first went into the State legislature some 10 or 12 years ago it was \$200 or less, \$180 I think.

Now in the meantime the Federal Government is beginning to devote more and more of these available tax dollars to education. Still the burden at the local level has not been reduced. We are still devoting about 80 cents out of every tax dollar to the support of our education system. Where is the proper mix, where is the optimum? How much can the tax system support? Do you have any simple answer to that?

MR. LUMLEY. I don't have a simple answer to it. Let me say that our finance committee, the NEA Finance Committee, would say that the main problem of the financing of schools is that we have depended primarily on the property tax at the local school level.

This has put an undue burden on property. It has also limited the financial resources for schools. As you say, not only has it happened in Illinois, it has happened in every other State, it has moved to the State level to provide for foundation programs but it did not relieve that local property level. Of course we have to hasten to say that this is not true of all school districts.

In some school districts certainly the property tax is not a heavy burden. It all depends on the kind of value there is. But generally, the increased enrollment, the increased need of education of boys and girls, the need to stay in school longer, has increased costs.

Not only the elementary and secondary but the junior college, the college, and university are being funded. This has increased the cost of education and the Federal Government has had to move in. As I am sure you are aware, for a long time the National Education Association argued that the best program was a general Federal aid program, a general support program where every boy and girl whether they lived in X district or Y district Y would have at least a basic education.

The Congress decided in its wisdom that there were certain needs that were national needs. This moved us to the categorical aid in 1958 when the National Defense Education Act came along.

As I say, this was a tremendous thing to school districts even though it was a matching program.

Then for quite a while we could not move from that, for various reasons, until we got 89-10. This committee went to work and put together 89-10 which, as we see it subjectively, has done a tremendous job.

As I said this morning I think it is one of the best things that happened to school people, 89-10. It shook us out of our lethargy too. As a superintendent of schools if you keep on doing the same thing over and over again your problems are great and you have in the back of your mind some of these things that you ought to do but you just don't get time or the State legislature does not have enough money to let you do it and it does not get done.

89-10 came along and here was a grand opportunity to take care of compensatory education for the people who are disadvantaged, the innovation in title III and title II with its textbook and instructional materials. Title V we think has strengthened State departments.

The complete answer is the thing that you and I are talking about. And that is to give the State department the right to make decisions.

This can be done and satisfy the control of the Congress because you can review this every year by the regulations and the guidelines that are set up by the Commissioner. You don't need nine regional offices or 385 more employees, or whatever the figure may be, to do this if you do this through the State departments.

Briefly that is our story.

Chairman PERKINS. Mr. Eshleman.

Mr. ESHLEMAN. Yes, I would like to ask Mr. Lumley one question if I may. Last week we heard testimony here that there should be more direct relations between the Office of Education and large school districts such as our larger cities and so on. Using our State as an example but there are other States whose State constitutions read similar to ours, when a State constitution gives education in that State solely to the State, as our does, does this raise in your mind not only in terms whether it is a wise thing to do educationally but is there not some doubt as to the constitutionality of the Office of Education dealing directly with the school district in the State of Pennsylvania and any other State whose constitution reads the same as ours?

Mr. LUMLEY. This is our feeling. It would be our feeling also that the relationship between the Office of Education whether it is Philadelphia or Pittsburgh should be through the departments.

Mr. ESHLEMAN. The size in your mind has nothing to do with it?

Mr. LUMLEY. Has nothing to do with it. We believe that if the departments are made strong and they have to make these decisions, that the problems of Philadelphia and the problems of Pittsburgh will get the same consideration as the problems of Lancaster. I am firmly convinced that there is no magic for Philadelphia to come to Washington; the decision can be made in Harrisburg.

Mr. ESHLEMAN. That is the only question I have.

Chairman PERKINS. Thank you very much, Mr. Eshleman.

Mr. Meeds?

Mr. MEEDS. Thank you, Mr. Chairman.

Dr. Lumley and Mrs. Gereau and Mr. McFarland, I am sorry I was not here to hear your testimony. I have had an opportunity to read your testimony, Dr. Lumley. I am particularly interested and concerned about those sections of titles I, II, and III dealing with Indians and migrants.

I noticed you touched on them in your testimony. I would just like to ask you some general questions first. It has been my observation and we were told before this committee last year or a subcommittee of this committee, that every effort would be made by the Department of the Interior and Bureau of Indian Affairs to work toward that day when education of Indian children would be carried on as much as possible by school districts which abutted Indian reservations. I do not see that any gigantic strides have been made in this direction by the Department of the Interior and the Bureau of Indian Affairs.

Would you like to comment on that, sir?

Mr. LUMLEY. Let me say to you, as you said you read our section—

Mr. MEEDS. Right.

Mr. LUMLEY. And this was soul searching because last year we came up here and said that the Bureau of Indian Affairs ought to do

certain things, but we have said to you here—well, the answer to your question is “No,” we can’t see that anything has been done.

Let me say to you, as you know, Mrs. Gereau is our expert on Indians and I am sure she will have more comment. This is the reason why we are saying to you that the Congress should have a committee to study this as they did the DOD.

Mr. MEEDS. You suggested last year as I recall that a special, either a subcommittee of this committee or some special committee of Congress look into the problem of Indian education. In keeping with this, and perhaps I should direct my question to you, Mrs. Gereau, it has been my observation that in those schools systems and in those Indian reservations, all those Indian reservations in States such as my own where all the education is public education, that there is a great lack of resources from the Bureau of Indian Affairs to those Indians who are still on reservations and attending public schools.

If I may I will give you an example. I have six Indian tribes, I have more than six Indian tribes but I have six full-fledged reservations in my congressional district. There is one person from the Bureau of Indian affairs, who serves as a liaison with all of those tribes and all of the public institutions’ agencies to go and talk with the Indian people, get them to attend school, talk to the parents, the students. This is wholly inadequate as I see it.

Yet under the bill as it is presently written no money could be made available to that purpose unless it went directly to a Bureau of Indian Affairs school. Then is that your understanding and interpretation?

Mr. LUMLEY. The bill provides for money to go to the Federal schools. That is right.

Mr. MEEDS. I certainly intend to propose at least an amendment which will allow money under this title to be used by Indian tribes, or by the Bureau of Indian affairs, in the aid of students who are attending public schools in the States or abutting on reservations. Do you think that would be at least a step in the right direction?

Mrs. GEREAU. Most of the States that have a fairly large percentage of Indian children have been for many years assisted through an old bill we call the Johnson-O’Malley Act. This was the provision that provided assistance to the States and through the States to the public school systems who made a special effort to get Indian children into the public school.

Then later on Public Laws 814 and 874 were amended and made it very attractive to the public school to go out and seek the Indian children.

As a matter of fact in your State and mine and many others there were literally thousands of Indian children who for centuries should have been the responsibility of the Indian service whom they completely ignored, they were wandering around on the prairies. It was not until they got the Public Law 874 and 815 that the public school went out and got the children.

The Indian service schools, the number of them, was reduced rapidly at first when the Indians came under 815 and 874. All through the northwest area that you and I are familiar with, and Wisconsin, Florida, and Oklahoma and most of the States these children have now become part of the public schools.

A most interesting byproduct has been that the adult Indians are serving on school boards, they are even becoming active in the community. They are beginning to understand taxes, tax structure, and budgeting.

This has been inadvertently a citizen education program for an adult but this was not the main purpose. In recent years the Indian service has not provided adequate funds or not even asked for adequate funds under the Johnson-O'Malley Act which would take care of the kinds of things you mentioned.

It is a wide open act, you can do almost anything under it if you propose it. Instead they have been building up the Indian schools and now they are coming in and asking for more money out of elementary and secondary education, which is based on a formula of counting all children in the community, and then they are going to take another piece out of that and hand it over to the Bureau of Indian Affairs to give them special funds to operate with when they ought to get it out of the Interior budget.

Mr. MEEDS. So certainly members of this committee are aware of the situation in regard to counting of the Indian children. It seems to me that their being counted in this instance should certainly enable them to make moneys available to consultants, counselors, and people who would in fact aid the Indian children in those States like my own who are not receiving very much benefit from this entire \$8 million which we put into the title I last year for the education of Indian children unless they are going to a BIA school and not receiving any benefits.

Mrs. GEREAU. If they are economically disadvantaged children like all the rest of the children in the community.

Mr. MEEDS. Those that are going to be in BIA schools are being dealt with.

Mrs. GEREAU. That is right. In other words, your building into the bill incentives to keep the BIA in business when it should be getting out of business because it is operating segregated school systems, setting them apart.

Mr. MEEDS. We talk about segregation and we know we have enough segregation which we are trying to prevent, but it seems to me that efforts to improve the BIA school, while it should be in those special areas in which they serve special education and not in the over-all field of—in effect promoting segregation.

While it is true we ask for a beneficial effect, I doubt that it has this effect in the long run. Would you care to comment on that?

Mrs. GEREAU. I would just say yes to what you have said. I think separating the Indian children out from the regular curriculum the other children follow in the State, which is what BIA does, of setting them apart, of making a premium of their Indianness rather than their disadvantaged state or the fact that they are an American citizen, the primary determinant is philosophically contrary to our principles in this country.

One argument is that the people, the Indian people want it. There are a lot of non-Indian people that would prefer to go to school with one group or another but that is beside the point.

Mr. MEEDS. On the other hand I am sure you will recognize as I do, that there are some special points that the Bureau of Indian Affairs

schools serve, particularly those residential schools in which there have been family problems and where it has been necessary to separate the people from the parental control, parental atmosphere.

Mr. LUMLEY. We agree that there are special problems and they must be met. As Mary has said, we would concur with you that there should be something that takes care of the Indians that are in the public school operation and pull more of these out of the BIA school.

Mr. MEEDS. Along the same lines, while it was not included in the statement, I must state that I am very much concerned about the situation that occurs with regard to migrant education. You will recall we had grandiose plans under which—I have even forgotten the amount—somewhere around \$10 million was put in title I for migrant education, and while this committee wrote that provision in and the House and Senate both passed it, the Appropriations Committee did such an act with it that the State of Washington, for instance, under our authorization which was to receive over a million dollars, ended up receiving \$175,000 to cover the migrant education program which has not measured up anywhere near our expectations.

Now in addition migrant programs under the Office of Economic Opportunity have been functioning but it is my understanding that the education portion of these is to be taken out from the Office of Education—excuse me, the Office of Economic Opportunity in the budget of 1968 and put in the Office of Education, but I have been unable to find where there has been a corresponding amount of money requested by the Office of Education for that.

Have you people looked into that at all?

Mr. LUMLEY. I think your observation is correct. I think we are going to be up against the same thing we were when we transferred adult education to the Office of Education. We transferred the program but we did not transfer the money.

Mr. MEEDS. It seems to me this is sheer hypocrisy to talk about a program that needs to be talked about, like migrant education does and something done about it, and then to shift—well, I think the Department of Education is the proper place for this. Just to give them authority without the money does not do a thing.

Mrs. GEREAT. It makes it worse.

Mr. MEEDS. It does cause concern that money is planned for programs and there is aid reduction in the Office of Economic Opportunity budget this year and we are told some of these very fine migrant education programs—that have been started—the Office of Economic Opportunity will not be able to fund the educational portion of them this year.

Mrs. GEREAT. And neither will anybody else.

Mr. MEEDS. No, because there is no money available for it.

I assume you join me in urging full funding not only of this bill but certainly of all those portions of any legislation touching on migrant education.

Mr. LUMLEY. Yes, full funding of all, full funding of handicapped and I would say because you have mentioned the Office of Economic Opportunity we believe there should be funding of the Office of Economic Opportunity programs, too. There is no reason when you have good schools for the migrants that are operating under the Office of

Economic Opportunity that you should close them down just to transfer them over to another agency.

Eventually we should get everything in the right organization but let us work for the benefit of the boys and girls.

Mr. MEEDS. One other area, Dr. Lumley and then I will stop. I notice in your testimony that you favor the purposes of subtitle B of title V but strongly urge that this function be placed in the State education agency. Would you care to expand on that, the reasoning behind that? Unless someone else has covered this in my absence I think the record should show exactly why you feel this way.

Mr. LUMLEY. We believe there should be planning and evaluation and basically this is sound. It is going to be necessary if we come back to the Congress for the State of Washington to say to you, "Well, here is what has happened in the State of Washington." But we do not believe it is necessary to create a new agency to do it, to set up a whole new operation.

Mr. MEEDS. As a matter of fact, Dr. Lumley, don't you think it would be a little inimical in many situations if the planning feature, the particular comprehensive planning feature, of education were to be done by an agency other than the one that is to execute the plan when it is made?

Mr. LUMLEY. I think I was a little gentle but we feel very seriously about this because there should be the planning done by the educational agency.

Mr. MEEDS. We have had testimony before this committee and there is a little problem in this because then in some States, as you can well realize, the Governors want this as it has been set up under the bill incidentally so that they can have the power to appoint that agency, and somebody testified here that they thought there would be more continuity if the Governor were to do it.

Without saying too much about my impressions of this I will just say that I feel it is exactly the opposite. How do you feel?

Mr. LUMLEY. I would concur.

Mr. MEEDS. You are an excellent witness.

Mrs. GEREAU. You are an excellent questioner.

Mr. LUMLEY. You are asking the right questions.

Mr. MEEDS. As I understand, you have no objection that if this were carried through the State education agency and the total planning function were carried out that that State agency would then have the right to contract with private people.

Mr. LUMLEY. That is right. That should be. They should have that right. They have had that right under present law. Our objection, as you have found here on the expansion of this contracting of private industry, was one that we brought to the attention of the committee last year because we do not believe that this should be done at the Federal level.

Mr. MEEDS. The bills as presently written would allow a State government to contract with the Battelle Institution to draw up a comprehensive plan for education in the State of Washington.

Mr. LUMLEY. That is right.

Mrs. GEREAU. It would do further. It would take 75 percent of the money to give to the Governor and let the Governor do it and the other

25 percent the Commissioner of Education could contract with that agency to study Washington.

That is the problem.

Mr. MEEDS. I am sorry that I was not here and I am sure you have been asked about this and I hate to take the committee's time to do this for my own benefit, but your position with regard to Headstart and the Office of Education, I am sure you have been over this but would you mind reiterating your position in regard to this matter for me?

Mr. LUMLEY. I will be very happy to reiterate. I am smiling only because of the fact that this created a little flak this morning. I said in answer to the question this morning that the NEA Legislative Commission does not recommend that the Headstart program be transferred immediately to the Office of Education or HEW.

Someone reminded me, I think it was Mr. Ford, that Mr. Fuller had presented a statement from the six national organizations which have these—this is true, these six organizations got together and debated this but they had no time limit.

You see, for a number of reasons, there are certain places right now where Headstart is being operated by the school system and they are doing a tremendously fine job. There are other places where it is being done by private agencies or by private schools. If you transferred at the present time with no change as it is, you would wipe out I think they said 30 percent if you put them under the public school program.

We don't think this is right. Then on the other hand if you would say, if you put through a law that would provide aid for Headstart programs for all children you would open up immediately the issue of aid for private sectarian schools.

Mr. MEEDS. Without going any further then may I compliment you people and the National Education Association on taking more than just a knee-jerk reaction to this question on whether Headstart should be somewhere else, and you and I agree it is primarily an education program, and eventually when it can all be worked out so that we are not cutting out 10 percent of the students and 30 percent of the programs, that this ought to be done.

But in our haste to do this we can't overlook the fact that there are some excellent programs and there are some students right now being reached by Headstart in which vast differences are going to be made in their educational potential that would not have this if we were to make this wholesale transfer.

As far as I can determine we would not only have problems, certainly we would be barred under ESEA right now unless we changed the law. We might have trouble passing the law which would allow this. As a matter of fact, people have been fighting this battle with the Congress for about 30 years now.

I have asked our committee to write to the attorney general of each State and present to them a situation which exists today in which the contracts are made with private agencies under the Office of Economic Opportunity to determine whether this should be done by State educational agencies. I submit there are probably a number of State educational agencies that could not do this either.

So we would find ourselves with some States totally and wholly outside—without Headstart programs at all. Even if we did it by putting it through the HEW directly to the State school agencies we still would have a problem. At least that is my present observation.

Mr. LUMLEY. I would agree. I would say, Congressman, there is too much of a tendency to generalize that a Headstart program is a kindergarten program. A Headstart program in our minds is a program that is down in the disadvantaged area. Here it is not only education, it is health, it is welfare, it is the involvement of the family.

If you put this into school you immediately start talking about certification of teachers and you talk about teacher's salaries. When you are running under OEO you have volunteers. You have good people that are doing good jobs and you are involving the parents.

Mr. MEEDS. And you are involving the parents.

Mr. LUMLEY. That is right. It has to be done. All schools are not ready to do this.

Mr. MEEDS. I heard testimony here this morning, and probably this is not fair because these people are not here to defend themselves, but I heard testimony by one of these gentlemen that the schools had always been involved with the parents and students. You were here, you heard this.

Mr. LUMLEY. Yes, I heard it.

Mr. MEEDS. I am sure this is true. We have PTA's and things like that. But I mean real, rocky ribbed work including parents in these programs. I never have seen it, as I have seen it in the Headstart program, and I have been interested in education for a number of years.

Mr. LUMLEY. I would agree with you.

Mr. MEEDS. I think that is all.

Chairman PERKINS. Thank you very much, Mr. Meeds, for bringing out some good points. And I thank you Dr. Lumley, and Mrs. Gereau, who has done such an excellent job here, who has been one of your representatives for many years.

I understand she was a great school superintendent in the State of Montana.

Mr. LUMLEY. Before you close may I ask Mr. McFarland to give you briefly a report on the National Teacher Corps, which is attached to our testimony, because we believe that this is another innovation and a very important program even though it only involves 1,200 people now in a very few districts.

Chairman PERKINS. Your report will be inserted in the record in full. I will be happy to have you summarize it briefly if you care to.

Mr. LUMLEY. I will call your attention to a couple of points here.

Chairman PERKINS. All right.

(The document referred to follows:)

NEA QUESTIONNAIRE ON TEACHER CORPS

(Questionnaires were mailed to the 111 school districts participating in the National Teacher Corps program. We received a response from 79 percent of the superintendents and 50 percent of the principals. A copy of the tabulated results is attached.)

1. How do you rate the preservice (summer) training program of the Teacher Corpsmen assigned to your school or school system?

	<i>Superintendents</i>	<i>Principals</i>
Check one:		
Excellent.....	31	59
Adequate.....	44	73
Inadequate.....	6	12
Uncertain.....	7	46

2. How do you rate the inservice (follow-up) training that the Teacher Corpsmen are receiving at the cooperating college or university?

	<i>Superintendents</i>	<i>Principals</i>
Check one:		
Excellent.....	39	73
Adequate.....	39	82
Inadequate.....	5	15
Uncertain.....	5	33

3. What do you see as the greatest benefit from the Teacher Corps program?

	<i>Superintendents</i>	<i>Principals</i>
Check one:		
A source of personnel available now for work in school serving the poverty areas.....	42	84
A future source of qualified teachers for work in schools serving the poverty areas.....	41	97
Other (please explain).....	5	19

4. How do you rate the motivation of Teacher Corpsmen compared with other beginning teachers in the schools serving the poverty areas?

	<i>Superintendents</i>	<i>Principals</i>
Check one:		
Corpsmen are more highly motivated.....	60	111
No difference is observed between corpsmen and other beginning teachers.....	20	56
Corpsmen are not as highly motivated.....	4	21
Uncertain.....	4	8

5. In general, how would you describe the cooperation of Corpsmen with your regular school staff?

	<i>Superintendents</i>	<i>Principals</i>
Check one:		
Corpsmen are working well with the regular staff.....	79	176
Corpsmen are not working well with the regular staff.....	3	10
Other (please explain).....	6	12

6. What is your impression of the attitude of your regular staff toward the Corpsmen?

	<i>Superintendents</i>	<i>Principals</i>
Check one:		
Very enthusiastic.....	30	54
Favorable.....	50	117
Unfavorable.....	3	7
Neutral.....	5	18

7. Please explain briefly your answer in Question 6 above: (The following statements are indicative of the responses of the superintendents and principals.)

(a) "There have been many requests by regular teachers to have NTC members work with them in their classrooms."

(b) "Regular teaching staff is grateful for additional assistance, however, some teachers are envious of the fact that corpsmen are released two days a week to attend classes at the university while making the same salary."

(c) "The regular staff and the community are very enthusiastic."

(d) "Our teachers are pleased with the teacher corps and are real proud of the help the corps has given them. We would like to see the program continued."

(e) "At first there was distrust and suspicion. Most of it is gone. Still there is envy and it is based on the payment received to go to school."

(f) "At first they did not understand the purpose of teacher corps. This is understandable in view of all the delays involved. Congress could improve this for the future years by passing appropriations sooner."

(g) "Our staff is highly pleased with the enthusiasm and progress in two schools now using the NTC program. Both pupils and teachers are happy in the unusual accomplishments of this enriching approach to learning."

(h) "The interest of the corpsmen not as great as was anticipated. The cooperating college did not send us the team that we requested; therefore, we had to make numerous changes when they arrived in our system."

8. What are your plans for next year?

Check one:

	<i>Superintendents</i>	<i>Principals</i>
I plan to ask for additional Corpsmen-----	49	67
I plan to keep the present Corpsmen for the second year and then to ask for replacements-----	26	74
I plan to keep the present Corpsmen for the second year, but I do not think I will ask for replacements-----	5	14
I plan to dismiss the present Corpsmen at the end of the first year--	2	3
Other (please explain)-----	5	33

NOTE: If you are a principal, please answer Questions 9 and 10, skip Questions 11, 12, and 13, and continue with Question 14.

If you are a superintendent, please skip Questions 9 and 10 and continue with Question 11.

9. How many Corpsmen are now assigned to your school?

_____ Number of Corpsmen.

10. Including the Corpsmen now in your school how many Corpsmen could you use efficiently to supplement the services of your regular staff?

_____ Minimum number.

_____ Maximum number.

11. How many schools in your system now have Corpsmen?

_____ Number of schools.

12. How many Corpsmen are now working in your system?

_____ Number of Corpsmen.

13. What are your additional needs for Corpsmen?

_____ Estimated number of additional schools.

_____ Estimated number of additional Corpsmen.

14. Please give your evaluation and any other comments you care to make about the effectiveness of the Teacher Corps as a program for training teachers to work in poverty areas. (The following statements are indicative of the responses of the superintendents and principals.)

(a) "We believe the NTC can help us to do a better job in preparing children for productive learning. We think the school must do more than offer the students the traditional curriculum during the regular school day. Corpsmen can introduce these pupils to the world outside the routine and provide learning situations during the school day that are appropriate for the individual and small groups."

(b) "The National Teacher Corps members are highly motivated, concerned with the individual child, demonstrate concern. Good model for traditional teachers. Establish rapport with students."

(c) "The Teacher Corps members are much more highly motivated to work in poverty areas than the average teachers."

(d) "It is a very good program for training teachers to work in poverty areas."

(e) "Unlike teachers who are hired directly from teacher colleges of other teacher training institutions, Teacher Corps personnel have been prepared for some difficult situations which they are likely to find in the inner-city schools. Because they treat the children with more understanding, they are more likely to reach the children and to do a more effective job than the teacher trained in a traditional manner."

15. Please give any additional comments about the usefulness of the work the Corpsmen are doing now. Include here your comments about any new services or programs that have been possible this year because of the help of the Corps-

men. (The following statements are indicative of the responses of the superintendents and principals.)

(a) "Our Corps members have served our area well in the short time we have had them. The interns have performed invaluable services in remedial programs for individuals and small groups. The contact with the community and its problems have been useful both to the community and to the Corps members themselves."

(b) "Such activities as home visits, creative writing, tutorial services, remedial reading instruction, and 4-H Club work are some of the services being performed by the Corpsmen. We find the members most willing to accept responsibility and to have a good attitude toward the children."

(c) "The Corpsmen on the whole are doing community work and have been able to greatly enrich and assist in our Title I work."

(d) "Use of NTC has enabled us to reduce the pupil-teacher ratio."

(e) "The shortage of teachers has been such that we had five classrooms without teachers from September to Christmas. We integrated the Corpsmen with a language arts remedial program under Title I. They have introduced new methods into teaching. They work both with the parents and with the children. They are very devoted and conscientious with the children. I only wish we had 25 instead of 5 that I might put them in all our schools. We have not had a single incident or problem with the Corpsmen. Please help to get more adequate funds so we can have more."

(f) "Because the interns and the team leader are not required to teach a full load of classes, they can offer individual help to some children. They are planning also to offer a new type of seminar in order to help some of our under-achieving students who might benefit from small group work. The preservice and inservice training stresses the use of innovative material and the Teacher Corps team is planning to experiment with the use of some new materials which might be valuable in this school and which might be valuable in similar schools."

Mr. McFARLAND. The questionnaire in the testimony indicates we surveyed the 111 school districts that have Teacher Corps programs. We received a response from 79 percent of the districts and 50 percent of the 400 some odd principals who are operating programs in the 111 school districts.

I think from the response we received to questions that the overwhelming response was favorable for the total Teacher Corps program. I would like to point out that one major item, question No. 3: What do you see as the greatest benefit from the Teacher Corps program? The overwhelming majority talked about its being a service, an available source of personnel in these disadvantaged districts, and also a future source of personnel.

Chairman PERKINS. What did the returns there disclose on the Teacher Corps by numbers?

Mr. McFARLAND. Actually in terms of the superintendents, 42 superintendents replied that this would be a source of personnel available for work in the district serving the poverty areas at the present time. Forty-one indicated it would be a future source of recruiting teachers that would probably remain in this type of teaching. Five indicated other reasons.

And in analyzing the other five, basically wanted to state their feelings in a little different way.

Chairman PERKINS. Are there any further questions?

Mr. MEEDS. Mr. Chairman.

Chairman PERKINS. Yes.

Mr. MEEDS. If I may, is this report in any condition to be put in the record?

Mr. McFARLAND. It is attached to the testimony, the last part.

Mr. LUMLEY. I just wanted him to call attention to the major feature there.

Mr. MEEDS. Thank you.

Chairman PERKINS. Again I want to thank you, Dr. Lumley. Your testimony has been most beneficial and we appreciate your appearance.

The committee will recess until 9:30 a.m. tomorrow morning.

(Whereupon, at 2:40 p.m., the subcommittee recessed, to reconvene at 9:30 a.m., Wednesday, March 15, 1967.)

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1967

WEDNESDAY, MARCH 15, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The committee met at 9:30 a.m., pursuant to recess, in room 2175, Rayburn House Office Building, Hon. Carl D. Perkins (chairman of the committee) presiding.

Present: Representatives Perkins, Green, Daniels, Brademas, O'Hara, Carey, Mink, Scheuer, Meeds, Ayres, Bell, Erlenborn, Scherle, Dellenback, Gardner, and Steiger.

Staff members present: Robert E. McCord, senior specialist; H. D. Reed, Jr., general counsel; William D. Gaul, associate general counsel; Louise M. Dargans, research assistant; and Charles W. Radcliffe, special education counsel for minority.

Chairman PERKINS. The committee will come to order. A quorum is present.

Our first witnesses this morning are Dr. Mattheis, commissioner of education, State board of education, St. Paul, Minn. and Dr. J. A. Byrne, director, division of education, College of St. Thomas, St. Paul, Minn. I call on a distinguished member who has perhaps contributed as much in this field as anyone on this committee to introduce Dr. Mattheis and Dr. Byrne, my colleague, Congressman Al Quie.

Mr. QUIE. Thank you, Congressman Perkins.

It is really a pleasure to introduce to the committee Dr. Duane Mattheis the commissioner of education for Minnesota. I look to Duane Mattheis as one of the great men in education. He is doing an outstanding job in Minneapolis as the commissioner of education and I am extremely proud of him.

He was the superintendent of schools when I first met him. Some of my colleagues remember my reaction generally to the elementary and secondary schools in previous years. It was not exactly the most favorable.

I also remember Duane Mattheis kind of chiding me in my opposition, so he comes to you as a person who has long supported the Federal Government's involvement in elementary and secondary schools.

I was extremely impressed with his testimony to Mrs. Green's subcommittee that traveled across the country when we studied the Office of Education and were in Minnesota. I felt, Mr. Chairman, his testimony would be extremely worthwhile to us now that we are considering H.R. 6230 and also looking at the total of ESEA.

Perhaps the way we ought to proceed is to have Dr. Mattheis speak first and then afterwards get to Dr. Byrne because I would like to talk to Dr. Byrne and I imagine you would, too, specifically about the Teacher Corps.

Chairman PERKINS. You may proceed Dr. Mattheis.

STATEMENT OF DR. DUANE MATTHEIS, COMMISSIONER OF EDUCATION, STATE BOARD OF EDUCATION, ST. PAUL, MINN.

Mr. MATTHEIS. Thank you very much, Mr. Chairman, members of the committee, and Congressman Quie, in particular. I appreciate very much the kind introduction from the gentleman from Minnesota. I did have the opportunity as superintendent of schools of Minnesota of voting for the Congressman. I am not in his District anymore so I appreciate the kind comments you have put my way.

I am Duane Mattheis, commissioner of education for the State of Minnesota. I am very pleased to have this opportunity to present testimony to you today regarding the Elementary and Secondary Education Act Amendments for 1967. Although the testimony will relate primarily to the amendments, I will also be commenting on those portions of the act not involved with amendments.

At the outset, lest my criticism and suggestion convey something to the contrary, let me say that I have long been a strong advocate of Federal aid to public elementary and secondary education.

I would also have to say that I have been, and am becoming increasingly so, a strong advocate of general Federal aid for public elementary and secondary education rather than categorical aid.

Categorical aids tend to treat all districts and States the same, distort balanced educational programs, develop unnecessary and undesirable administrative bureaucracies and generally—especially with portions of ESEA 1965 and some of the 1967 amendments—retain too much control and direction for local school district and State educational agency decisions in the U.S. Office of Education.

Another general comment might even be appropriate at this time. It deals with the matter of amendments as well as the President's message on education and health and the concern of most of us in education at a time when Federal financial participation in public elementary and secondary education is increasing rapidly.

That matter is the timing of renewal of acts along with authorization and appropriation of funds. Much has been said about the schedule of funding and appropriations by the Congress. I only wish to add my request to the many I am sure you have received in recent months that this matter receive your most careful attention and consideration.

It is impossible for the school districts of our State to effectively and efficiently expend available Federal educational dollars if they continue to be appropriated just prior to or, as has been the case in the last 2 years, after the opening of a school year.

I realize there are some problems regarding the possibility of the Congress making any kind of a funding decision in the spring of the year, which would be the most desirable and effective situation as far as the school districts and State departments of education are con-

cerned, but all I am saying is that I hope it can receive the congressional, executive, and educational consideration that it deserves.

There are amendments dealing with evaluation and long range planning for education; the timing of Federal funding would be an excellent place to start both of these studies.

Now I would like to direct my comments to each of the specific titles of the act. Title I—Education of Children of Low-Income Families, has worked out relatively well. I can support the amendments being recommended for this title, including the change in amount of funds available for State agency administration and inclusion of the teacher corps as a new section.

I am pleased to see the amendment to the Teacher Corps section providing for authority of State departments of education but cannot support the retention by the U.S. Commissioner of Education of authority "to provide members of the Teacher Corps with such training as the Commissioner may deem appropriate."

It seems to me this is a serious breach of relationships regarding teacher preparation programs and ought to be corrected immediately. "Appropriate training" for teachers is a State function and responsibility and should remain so.

My support of the amendments regarding the Teacher Corps should be qualified by a statement that I am opposed to the way the entire proposal has been developed out of the U.S. Office of Education. Such a program could be implemented by appropriation to the State educational agency under a State plan arrangement with considerably greater authority and flexibility vested in the State.

I am disappointed to note that the executive branch of the Federal Government has not recommended the development of a "State plan" philosophy for title I of ESEA. This procedure has been used with much success in other Federal educational aid programs, notably vocational education and NDEA and could in my opinion do a great deal to help each State meet specific and unique needs of the respective State under the broad guidelines of the law.

It would also provide the opportunity to eliminate considerable red tape for school districts, State education departments and the U.S. Office of Education. State departments now have authority for approval of title I project application by local school districts; it would only be a short, but important step to provide for a State plan method of operation for the title.

The most disturbing matter relating to the title I, I have saved for the last. It relates to the method of funding used for this fiscal year. At the outset I might say that I am well aware of the fact that the inclusion of more eligible children without the corresponding increase in appropriation added to the distribution problem for this title. However, the fundamental situation is still there with all of its resultant problems and issues.

For fiscal year 1966, Minnesota was allocated approximately \$24.5 million for title I. Late funding, late receipt of Federal guidelines and a large number of school districts in our State contributed to our inability to develop sound programs to expend all of the funds allocated.

More important than these reasons, however, was the fact that our State department of education in particular, and the school districts

in general, accepted the philosophy that considerable good judgment and discretion should be used in developing the best possible programs under this title; rather than simply spending the money because it was available.

As a result of our exercise of educational judgment and restraint, Minnesota school districts ended up spending about \$18.2 million of the \$24.5 million available under this title. In my judgment the funds were well spent on worthy educational projects and I am not overly concerned about the fact that we were not able to spend all of the allocated amount.

I am concerned, however, about the fact that Minnesota is being penalized in allocation for 1967 because of the fact that we did not spend all that was allocated in 1966. I think this procedure is both unwise and dangerous. On any future program it is going to be difficult indeed to prevent spending for the sake of spending in order to keep from being penalized in a subsequent year.

Title II—School Library Resources, Textbooks, and Other Resource Material, does not come in for much discussion and/or change. I think there are two reasons for this.

First, title II provides for a State plan which makes it easily administered by the State, and school districts and therefore not much comment or difficulty.

Second, title II is unquestionably the title of this act which most specifically gets entangled in the church-state issue. In my judgment, its administration within the many school districts across my State and the Nation will have many instances of clear cut, legal violation of the separation of church and state.

It is also my opinion that, within reason, it is impossible to administer this particular title in many of the States without a breach of the church-state separation. In this regard, as well as with all Federal education legislation, I would strongly support the establishment of a workable judicial review procedure.

Title III—Supplementary Educational Centers and Services has been the focal point of my concern about ESEA 1965 from the day it was introduced in Congress 2 years ago. I am extremely disappointed about the fact that the executive branch of Government has not deemed it wise or necessary to introduce amendments regarding this title.

I strongly oppose the present from of this title, and the new amendment for the Vocational Education Act of 1963 resembles this one to a shocking degree, whereby the U.S. Office of Education, for all intents and purposes, completely bypasses the legally constituted State agency in dealing directly with local school districts within each State.

When I make such a statement I am well aware of the "review and recommendation" provision for State departments and the fact that in the President's message he indicated that "the recommendations of the State have been sought and followed in more than 95 percent of the projects" under this title.

It does not take an unusual amount of insight or intelligence to see how the percentage can get that high so easily when one realizes that the U.S. Office of Education has the sole decision making authority and the States can't possibly do anything about the situation no matter how strongly they might differ with the judgment of those in USOE.

I would be the first to admit and indicate that all State departments of education are not staffed to do as good a job in educational leadership as they desire. They are all working diligently, within the environment of problems associated with State government and local school districts on one hand and rapidly expanding Federal education legislation on the other. A significant amount of assistance is being provided by the best and most easily implemented title of ESEA 1965, title V, and I will address myself to it in more detail later.

It has been said that State departments do not have the quality of staff to make proper judgment where new ideas and educational innovations are concerned.

From what I have experienced, all ideas and innovations relating to education—good ones, that is, don't originate in the U.S. Office of education and they never will. State departments of education need a chance to exert educational leadership.

Title III, under the responsibility of the State, would be a wonderful and unique opportunity for the State department of education to flex its muscle and exert initiative in meeting the exciting possibilities of the title. On the other hand, the present administrative arrangement could thwart and curtail actually much leadership development opportunity.

It is not difficult for me to envision, in view of the present freedom and flexibility of the title and the rapid increase of funds now in the title for, over a short period of years, a federally operated system of educational institutions to be operating in each State with little, if any, control or direction of it from the State department of education or any other State agency.

Some have said that inasmuch as State departments are not of the desired stature, whatever that is, to handle the responsibilities of this exciting title, that the U.S. Office of Education could best operate it as is for a few years and then consider turning over part or all of the responsibility to the State departments of education.

It is inconceivable that on the one hand our department of education is sufficiently wise to make decisions for the expenditure of \$20 million for exciting and innovative educational programs for the educationally disadvantaged under title I and then not be of the quality and stature to make decisions regarding \$1.6 million under title III. I cannot envision any better way to encourage educational chaos in the States than to postpone action on this matter beyond the first session of the 90th Congress.

The States are ready and sufficiently able to administer this title now. A State plan arrangement would provide for sufficient control and direction by the U.S. Office of Education.

No one is saying that State departments will implement this title to perfection. I don't believe the U.S. Office of Education has or will either. By having the opportunity to exercise authority State departments could grow and improve.

Two of the finest methods of learning are by trial and error and to be given responsibility. Departments of education can grow to become more responsible State agencies by being assigned more responsible tasks. It would be far better for 50 State departments of education to in various ways and degrees work through trial and error of title

III than for the U.S. Office of Education to force the same trial and error on all of the states each time direction is changed.

I am not overly concerned about individual States making errors—to guarantee against making errors is the easiest way to stifle progress that I know. I simply ask that you give us a chance, under a state plan, to administer title III.

Title IV with its regional educational laboratories is relatively well organized in implementation at this point and fundamentally the only need here is for a clear indication, by appropriation, as to their future, and I don't know that I can react with sufficient knowledge about the proposed amendment to title VI at this time or not but it is at least conceivable to me that the functions of these new regional centers to appraise the special education needs of referred handicapped children and to provide services to assist in meeting such needs in so far as they pertain to any multistate responsibility might be carried out by the presently organized regional laboratories of title IV. I would hope that we might be able to eliminate the possibility of another organizational unit.

Title V—Strengthening State Departments of Education, has been by far the most acceptable, as you can readily imagine, and easily administered titles of ESEA 1965. The past has been excellent. Minnesota has used some of its funds to employ staff but the prime use of money has been for a long range statewide educational planning.

The proposed amendment of V-B looks like it came out of our program of the past 2 years. Which in and of itself causes me to wonder about the necessity of V-B when this is already a possibility under the present title.

It is true that there are a few things—a few new things in the amendment and they give rise to some serious concerns on my part.

First and foremost might be the question of, "If title V is to strengthen State departments of education, why can't funds under the new amendment be allocated directly to State departments of education similar to the original Title?"

Is it because of the inclusion of provision for the higher education option? Why not assign any funds for such study automatically to that State agency that is now required to administer the Higher Education Facilities Act and the Higher Education Act of 1965?

Why the designation by the Governor, when, quite clearly, in each State there is a specific, established state agency responsible for public elementary and secondary education?

I do not question the necessity of planning. I have indicated the importance that we gave to this area in the first and second years of the present act. Nationwide attention to statewide planning under title V can easily be implemented by encouragement of U.S. Office of Education personnel under the present act.

I am concerned about the 25 percent of title V-B which would be at the discretion of the U.S. Commissioner for project or contract to anyone and everyone. As the Commissioner has stated, a number of excellent projects have been initiated by State departments of education, working cooperatively and jointly, with funds under the 15-percent provision of the present title.

I would strongly recommend that if statewide planning is to be emphasized, and I think this would be excellent, that it be done within

the present title with the simple addition of more funds and that special planning projects in this area continue to even be arranged for in the same manner as is presently used in title V.

There is also the possibility that any funds and/or regional planning contemplated under the Commissioner's 25 percent of V-B could go directly and more properly, in my judgment, to the established Regional Educational Laboratories under title IV of this act.

Title V is the best title. I am disappointed that someone has seen fit to meddle it up with what looks like a mixture of politics, bureaucracy and increased control and direction from the U.S. Office of Education. It is a good title now; necessary changes and expansion could best be taken care of by making additional funds available.

The U.S. Office of Education staff working in this area are the most experienced and understanding. They are the first to agree that the problems and needs of the various states are different and should be recognized. Many of them have had experience in State departments of education. They know the situation first hand.

I am disappointed with the fact that the one title of ESEA 1965 that has received almost complete and unanimous support from every segment did not warrant a recommendation for an increase in its basic appropriation.

I will only make a brief comment or two regarding the proposed amendment to the Vocational Education Act of 1963. This sounds like title III of ESEA 1965 all over again, and I won't repeat my feelings about the title but suffice it to say that I strongly oppose this amendment. The stated objective of the amendment can be accomplished within the present act very simply by the U.S. Office of Education requiring that each state plan provide for the development of "exemplary and innovative programs or projects in vocational education."

And if the answer is that it can and should have been taken care of under the present act then I would say people at the State and Federal level have not been doing their job.

But just as one cylinder of an engine not functioning properly is no reason to throw out the engine so a minor problem with an excellent piece of legislation is no reason to alter it so severely as this amendment would cause to happen. The engine like the act might just need a little tuning, not a complete overhaul or discard.

Minnesota has a State board for vocational education that is responsible for Federal vocational program administration at all levels. I am proud to say that I think we have one of the finest vocational education programs in the Nation—and we are constantly seeking ways to improve it.

In my judgment the amendment to the Vocational Education Act of 1963 could have a negative if not ruinous effect on our State program. I would strongly encourage the philosophy of the amendment to be provided for in the State plan provision of the act in its present form.

I would also like to comment on something noticeably absent from the list of amendments proposed for ESEA 1965. I would like to add my strong recommendation to the many you have undoubtedly heard for the transfer of the Headstart program and the Headstart followthrough to the U.S. Office of Education and their inclusion as an integral part of title I, ESEA.

The worth of the programs is unquestioned. The procedures for implementation could either strengthen the finest educational system in the world or take the chance of seriously weakening it with the establishment of a quasi-Federal system of education for this particular group of children.

Many new projects and ideas can very easily, and in most cases much better, be implemented through existing agencies with only the addition of funds. Too many times it is thought to be necessary to establish a new agency for each new program or idea. And then the next thing of course is to create a third agency to coordinate the old and the new.

In conclusion and summary I would like to make the following points: I strongly support Federal aid to public elementary and secondary education. I long for the day when we will have general rather than categorical educational aids.

There is a need for significant additional State responsibility and authority with regard to the administration of Federal education legislation. I have a general concern about new Federal education legislation providing too much discretion for the U.S. Commissioner of Education in using agencies other than the legally constituted State and local governmental units to carry out the intent of the acts.

Of paramount importance is the necessity to take action relating to a funding schedule that will give the States and school districts a chance to carry out the intent of the legislation.

Title I needs provision for a State plan and the inclusion of Headstart and Headstart followthrough. The inclusion of the Teacher Corps and the amendments relating to it are improvements but are far from the desired position of State involvement and direction of this program.

Concern for title II is church-state related. Title III is most in need of change. A State plan with resulting State responsibility and authority is a must. Title IV needs an indication of continued funding. Title V should be left as is and expanded to meet desire of amendment by simple change in title name and increase of funds.

Title VI—Regional Resource Centers for Improvement of Education of Handicapped Children needs to be studied in greater detail before a judgment can be made. There is a possibility for such a service. It could best be served by an allocation to the State agency having responsibility for this area of education.

The amendment to the Vocational Education Act should be changed drastically to provide for the intent of the amendment within the present State plan arrangement.

Thank you very much, Mr. Chairman and members of the committee, for the opportunity to present this testimony to you today. I would be most happy to attempt to answer any questions relating to my statement or other areas that might have been inadvertently omitted.

(Dr. Mattheis presented the following newspaper article:)

[From the Minneapolis Star, Mar. 3, 1967]

TEACHER LOSS UP IN CITY SCHOOLS

(By Deborah Howell)

More teachers are resigning this year and fewer teachers are applying for positions next year in the Minneapolis School District, Loren Cahlander, school personnel director, said today.

Cahlander said "it looks worse than last year" when the district began school in September with more than 150 vacancies, the highest in the Twin Cities area.

Leaders in two major teachers' organizations back up Cahlander and say more teachers are trying to leave Minneapolis than ever before.

The main reasons appear to be money and morale. Higher take-home salaries are paid in most suburban districts and morale is low since the defeat of the 16-mill tax increase in November which forced budget cutbacks felt in the classrooms, teacher representatives say.

Statistics from the past 10 years show that more teachers have left the system in the past two years than ever before. The highest numbers have left to accept other jobs or teaching positions in or out of the state, statistics show.

Other reasons given for the exodus are wives leaving the city to be with their husbands, retirement, marriage and maternity.

Applications are running about 20 per cent lighter than last year at this time, Cahlander said. One hundred and one teachers have resigned as of June 1 this year, compared to 87 last year.

Most resignations come later in the year, however.

The largest jump in resignations comes from elementary teachers. Sixty have resigned this year as compared to 35 at this time last year.

And one of the district's main problems comes in hiring elementary teachers. School started this year with 112 teacher vacancies in elementary schools which were filled by substitute teachers. About 50 of the substitutes are still on the job.

The Minneapolis turnover rate is about 11 per cent a year. Out of about 3,400 professional personnel—3,000 of them classroom teachers—435 left the system last year and 382 the year before.

The highest number previously to have resigned was 379 in 1962-63. Turnover figures remained fairly stable, otherwise, until the past two years.

The Minneapolis turnover figure compares favorably with the state turnover figure of 10 to 12 per cent, however the drop in applications figures more prominently in Minneapolis than in suburban areas, Cahlander said.

The big fear is that Minneapolis will not have enough applications from competent teachers to replace the ones who leave, Cahlander said.

He said that suburban districts have a higher ratio of applications to vacancies than does Minneapolis. The main reasons are higher salaries in the suburbs and the fact that teachers usually know in what school and what kind of children they will be teaching in the suburbs.

Chairman PERKINS. Thank you. Mr. Quie will introduce the other gentleman from his State.

Mr. QUIE. I would like to introduce Dr. Byrne, division of education of the College of St. Thomas of St. Paul, Minn. I had a conversation with Dr. Byrne last year sometime after the Teacher Corps had just begun to be implemented. I was impressed by the knowledge he had of the same type of training—bringing people under the teaching profession who did not have an interest in it when they were getting their baccalaureate degree. They have been engaged in St. Thomas with this type of training.

The people on this committee know my attitude toward the Teacher Corps when it was implemented at that time. While Dr. Byrne had reservations about it he did not have the same objections that I did. So again we have a person who is not completely in agreement with me who is here to testify this morning but I was impressed with his knowledge of the Teacher Corps and the way in which it has operated in the past year and with his knowledge of the internship program.

Dr. Byrne does not have prepared testimony but I think the testimony that he will give us will be extremely worthwhile for this committee.

Chairman PERKINS. Go ahead, Dr. Byrne.

**STATEMENT OF DR. J. A. BYRNE, DIRECTOR, DIVISION OF
EDUCATION, COLLEGE OF ST. THOMAS, ST. PAUL, MINN.**

Dr. BYRNE. Thank you, Mr. Chairman, and thank you, Mr. Quie. I would like to say first of all I do support the idea of including the Teacher Corps materials now under title I.

I think they are probably quite appropriate to that point. Generally speaking I am sympathetic to the amendments as they pertain to the Teacher Corps.

What I did feel, Mr. Quie, last summer, I think refers to the experience as we had initially with the Corps. St. Thomas has never operated a Teacher Corps program but we were asked as one of the first institutions to take a look at it. I might point out on a Friday afternoon we were told a team from HEW would visit us on Monday morning and we were asked to make a decision with regard to our accepting the Corps by that afternoon.

It developed that when the representatives came from the HEW office that they were not prepared to discuss the program with us. They pointed out that they had been briefed for about one-half hour before they arrived on our campus. We had to sit down together with Mr. Heineman who is the director of the teacher certification in the State of Minnesota. We also sat down with the local superintendents of schools and I think in a period of about half a day we had pretty much described what the Corps might be like to the people who had come to explain it to us.

After we had made a careful investigation of the advantages and disadvantages we chose not to involve ourselves with the Corps at that time not because of any strong feeling about it but simply because we did not feel we had the adequate personnel at that particular moment to take on the Corps responsibility.

I would like to point out, too, that I am not inclined to follow the arguments which suggest that the Corps is an incursion on the part of the Federal Government into local school systems. The people with whom I have spoken, administrators for example, in Philadelphia, in Detroit, in Chicago, in Pittsburgh have indicated that they can see some real good coming.

They don't worry about this particular point particularly. What has disturbed them and I think has disturbed all of us once announced the Corps got off to a very slow start and we are told, for example, that the funds were reduced, that appropriations were late particularly because a Senator was ill and was not able to be present for these appropriations and the like.

At any rate, as of the end of the summer, the first working period of the Corps, there had been no Federal funding. As a result of this, 15 percent of those who were involved in the Corps in the initial summer experience were lost to the Corps.

As of October there was still no funding. I think there has been some discouragement as a result. I would like to point out that discouragement comes not only to those interested in the Corps in view of the experience they might have in participating.

I think part of the ill feeling that one might have toward some of these programs on the part of the collegiate institution that trains

these people is that one goes through a good deal of work to prepare a program, to prepare a proposal, for example, such as the Teacher Corps proposal would be only to find that either it is not going to be financed or as I said before the people who come from Washington are not as informed as we are in the district.

So these have been some of our concerns particularly. Mr. Quie has also mentioned the fact that we operate an internship program now in teacher education. The only point I would like to make here is the fact that we do accomplish pretty much of what is accomplished in the Corps.

We do this without any Federal funding of any kind. There is no inference to be taken from this. It is certainly not intended. But we do provide our people with the basic training for teacher education. We do insist that our people, for example, have a good background in the field of sociology; for example, let me say our courses in sociology of the community, courses in juvenile delinquency, courses in race and minority problems, and the like.

Our people do go out very well prepared for this and we tried to provide as much experience as we can to give the people some notion of the climate or the clientele with which they are going to work.

In the State of Minnesota, and I think Mr. Mattheis will probably agree with me, we don't have the same degree of disadvantage that we know of in other States, but nevertheless we feel our people are going to many States to teach and they should be prepared to teach in this fashion.

This raises one question I do have about the amendment pertaining to the Corps and that is section 156 which deals with local control. It specifies that there shall be local control to retain authority to first assign such members within their systems, secondly make transfers within their systems and third determine the subject matter to be taught; fourth, determine the terms and continuance of the assignment of such members within their system.

The only thing that I should like to ask those concerned with this bill to keep in mind is that there is a possibility that in an interest in trying to give local autonomy as far as possible to this program, we may let ourselves open to some possible discrimination.

I think that this is a matter of some concern, because if the local agency has as much right in this respect, I think the local agency could be motivated by motives that might be quite crass, motives which might be illogical.

Chairman PERKINS. Are you saying there is too much local autonomy?

Dr. BYRNE. I would say only in this respect. If the local authority or agency can say yes or no with regard to the assignment of Corps members there is a possibility that they could certainly inject a notion of discrimination.

Chairman PERKINS. You are suggesting a Federal guideline of some kind to prevent anything of that nature happening?

Dr. BYRNE. That is right, Mr. Perkins.

Chairman PERKINS. Go ahead.

Dr. BYRNE. This would probably be my only point of criticism. Generally speaking I feel the program is good.

We have to be concerned with the disadvantaged or otherwise we shall all be disadvantaged. I do feel that this is a form of an attack on poverty. I am somewhat concerned as Congressman Green indicated along the line in her remarks that there is a possibility that we are moving into a local salary schedule.

We are moving into a question of teacher morale. But there is not enough support, I don't think, from the people with whom I talked, to actually consider this serious. There is a feeling there is so much good to be gained in this program that it should be encouraged as far as possible.

This would be the last point I would like to make on this.

Chairman PERKINS. Let me say Dr. Byrne, and also Dr. Mattheis, I think you have brought to the committee some most outstanding testimony and outstanding suggestions for the committee to consider.

I am deeply impressed with your statement, Dr. Byrne, that you are sympathetic with the Teacher Corps and from your conversations with the people in the greater cities that there seems to be a feeling that it got off to a slow start and that the chief handicap has been from the lack of funding which has brought about much discouragement in the areas where the Corps is now operating.

Is that your view—your true feeling about the analysis of the situation?

Dr. BYRNE. I think it does worry the collegiate institutions which have been invited to participate in programs of this type because there is a feeling that things may not have been thought out well enough.

I think there is a problem of communication. This would be a better way of describing it. From the time an amendment is prepared and leaves Congress, I think it takes a long time for the proper line of communications to reach us.

Chairman PERKINS. Perhaps I should have asked Dr. Mattheis, Has the city of St. Paul taken advantage of the Teacher Corps?

Mr. MATTHEIS. Not the Teacher Corps. Minneapolis has had a participating program.

Chairman PERKINS. But you do not have in St. Paul?

Mr. MATTHEIS. We have one in the State but it is in Minneapolis.

Chairman PERKINS. How is it working there?

Mr. MATTHEIS. I would say they would say it has worked out relatively satisfactorily, with the same concerns that Dr. Byrne has related to the timing of it and the difficulties of getting it underway; I think these are the prime problems that they have identified.

Chairman PERKINS. From your personal knowledge are the local boards of education there anxious to see the Teacher Corps continue and prosper?

Mr. MATTHEIS. It would be my judgment, Mr. Chairman, that they do have this feeling. Some of it might be motivated and I see this at the State level. The problems of the great cities are enormous and I think that they see an opportunity to grasp at anything almost that would help them get out of some of the problems that they have with perhaps some compromises and some of the problems associated with them.

If I may, Mr. Chairman, I would interject at this point that I would take strong difference with the opinion of my colleague over here from

Minnesota with regard to the local authority of the designation of who shall be employed.

I think this would have disastrous and ruinous effects if the Federal Government and any of its agencies could in fact place them, place people in local school districts without their approval.

Chairman PERKINS. I am in accord with your remarks on that point. I noticed the approach of the other great educator on that point but we never could have enacted the legislation originally and we have broadened it more so now, if we undertook to strip the local boards of education of authority.

I think there then would have been some grounds for Federal interference. I think you have gotten over that bridge so that there is not any Federal interference.

Since you gentlemen come from the great State of Minnesota, I am going to ask Dr. Byrne, since you did not agree with one of his statements that he agrees with one of your statements. All of us in this great democracy have a right to agree and disagree and that is what a committee is for to resolve some of those differences.

On page 2 near the bottom of the page, Dr. Mattheis states that he cannot support the retention by the U.S. Commissioner of Education of authority to provide members of the Teacher Corps with such training as the Commissioner may deem appropriate.

Do you feel that we infringe upon the rights of the State by letting or permitting the Commissioner of Education to contract for training, Doctor?

Dr. BYRNE. No; I do not see this point but I do see the point that Mr. Mattheis makes and that is the formula for teacher education I think is the basic right of the State. I think that a Corps member must be prepared to respect this and he must follow whatever the procedure is coursewise, experiencewise for education within a given State.

Chairman PERKINS. Do you feel we have now infringed upon that right anywhere here because a teacher cannot go into a local school district unless the local education board under the State department employs that teacher and gives that teacher a contract and they would have to abide by the State laws? Do you see any infringement there?

Dr. BYRNE. No; I don't see the infringement there. As you say they must abide by State law and State regulations. I would add a point at this time if I might, Mr. Perkins, and that is one other problem that arose with the Corps and it is a problem that I do not think has been straightened out yet is a fact that a person may receive his summer experience in one community and then be assigned to another community totally different for his year or 2 years of experience.

This is what bothers me, I think, in part that a person for example might be trained let us say in Minnesota at one of our institutions where he has perhaps certain advantages but certain disadvantages in terms of the clients that he might get to know, the experience he might have, and then at any rate he has prepared himself for, say, our Minneapolis schools and then at the end of the summer he is assigned to another district foreign to his experience and the like.

It seems to me the program would be strengthened if the local communities certainly within the State would take people who had been trained within the State.

Chairman PERKINS. Mrs. Green.

Mrs. GREEN. Yes. Thank you, Mr. Chairman.

I am well aware of the tremendous shortage of teachers and the urgent need to attract more teachers to the profession and also, that something must be done to see that they are retained in the profession, to make it attractive enough so that they will want to stay.

My question would be on alternatives to a National Teachers Corps. What if you were given the choice of having the same amount of money given to the universities to expand their teacher training programs which they are already engaged in and which involves the placement of teachers in schools or if we could give the same amount of money to a city school system and the State department of education to do the same job either in special institutes or inservice training programs, would your preference then be for a National Teacher Corps and, if so, why? What is it that the Commissioner of Education can do in the recruitment, and training, and placement of teachers that cannot be done by a State department or a university if they have the same amount of money?

I would make one footnote if I may. I think the one thing we must do in the Teachers Corps is to concentrate or focus attention on the critical shortage of teachers and we had better get to the job.

Dr. BYRNE. I would second your late note but I would see the same advantages with perhaps a greater degree of support if one were able to channel the same money to the central state agency which would be your department of education within the State and let that agency work out the arrangements with the local colleges, universities, and with the local agencies and the schools themselves.

I feel one could accomplish as much good. I do feel that the footnote that you have mentioned has been most helpful in that this has called attention to the crisis in education and particularly not just to the shortage of teachers but the shortage of teachers who are willing to work with the disadvantaged because there are not really that many people who are interested in these people.

Mrs. GREEN. Would you care to comment, Dr. Mattheis?

Dr. MATTHEIS. I think the doctor from St. Thomas has stated my position quite well. An outright grant to either of these institutions or a State plan arrangement for this particular area of teacher preparation I would concur that the attention given to teachers for these particular children is long overdue and we could properly place emphasis there and at the same time serve to meet some of the needs of the shortage of teachers generally.

I would feel it could be implemented at the State and local level very easily if in fact not better.

Mrs. GREEN. Which would you prefer if you had the choice?

Dr. MATTHEIS. I would prefer the latter, the State or college level. We have had many programs of training teachers who have been handled directly by the colleges and universities.

I think they have done exceptional work. Local schools are doing through title I great inservice work. It would be one short step away from additional responsibility and preparation of teachers. I would not really prefer. I guess at this point, I think it could be handled very well by either of these three local agencies.

Mrs. GREEN. Do either of you gentlemen know or do you feel educators in the country know why teachers are not staying in the profession? And why they are leaving the schools where there is a high concentration of the disadvantaged?

Dr. MATTHEIS. I think the headlines greeting us this morning from New York are one reason. The teaching of children has and always will be a very difficult task. I think that teachers need the support of parents and citizens like they never needed it before and where they don't get it many of them see other occasions that they may enter and not have the problems they do in teaching.

There is of course the financial aspect that has been dwelled upon at length. I think it is still a problem with us and a very great one. Those two items to me are significant problems that we have to be confronted with in keeping teachers in teaching.

There are too many of them who prepare for teaching who do not go into it or stay in it. I think there are no solutions to that problem.

Mrs. GREEN. I have the same clipping you have about teachers quitting because of unruly children.

Chairman PERKINS. Without objection it will be inserted in the record.

Mrs. GREEN. I think we have created an image that we are doing something about the teacher shortage and yet we are only creating an image, rather than doing something substantive about a very serious problem. If we have 5,000 in the Teacher Corps and many more leave teaching because we have done nothing about the classroom and the teachers' safety then I think we are pretending that we are reaching a solution but we are not doing the real indepth job that we should be doing.

Chairman PERKINS. Mr. Quie?

Mr. QUIE. I would like to ask, Dr. Byrne, the length of time that your students spend in the internship period of their training.

Dr. BYRNE. Perhaps I can just briefly tell you something about the program which will answer your question. Our students spend a summer with us in which they take courses in educational psychology, courses that are concerned with the skills in teaching. They have an opportunity to observe students in various projects in the summer.

As of September they enter a contractual relationship with a local school district in which they teach part of the day at a reduced salary. The balance of the day they return to our campus for additional courses because part of the program is based on the thesis of a work-study approach in the sense that as you go along your instruction is more meaningful if you have a chance to experience some of the points that you have been talking about.

People work in this program for the year. They return to the campus for another full summer so that in the span of two summers and the fractional school year they earn their master's degree and they have had the experiences that we described as an internship.

Mr. QUIE. Do they receive any stipends for the work that they perform in the public school?

Dr. BYRNE. Yes; ordinarily they teach three periods a day and for each of these periods there is a pro rata compensation.

Mr. QUIE. Who pays that?

Dr. BYRNE. That is paid by the local school district.

Mr. QUIE. Have you any difficulty placing these interns?

Dr. BYRNE. This program is just getting off to a point. I really can't answer that. I don't anticipate any difficulty at all. In fact I would look at it the other way around and say there would probably be a considerable clamor for these people.

Mr. QUIE. If that is the case, do you think a similar arrangement could be worked out for a federally funded program to train teachers to reach the culturally and socially deprived children and perform internship duties?

Dr. BYRNE. Yes; I think this could be worked out in this direction. I think this is something of the approach of the corps where it is a combination of experience in social agencies including the schools and playgrounds and the like together with courses on a campus. I think you could fund either type of program, either directly through your State to this kind of institution or you could use the present National Teacher Corps approach.

Mr. QUIE. Of course, the difference presently in the Teacher Corps is the local school does not have to pay 1 cent for these interns and I think this always can be considered as coloring their judgment. I find people are always quite happy about free gifts and don't like to look a gift horse in the mouth.

I am glad that you are running a program which has some similarity to the Teacher Corps so we can judge what a school is willing to do when that would be required to pay a portion of the cost themselves. What do you think of the need of having a national recruitment?

Mr. BYRNE. Apparently there is a need for a national recruitment because we are not accomplishing as much as we would like to do, as individuals, as local agencies, as States. We certainly go after teachers. There is a considerable migration of teachers from one State to another. As Mr. Mattheis pointed out this morning, teachers leave the profession very often just at the time that they are starting it.

They leave for reasons that Mrs. Green asked about, reasons for example pertaining to salary, reasons pertaining to the problems reported, for example, in this morning's paper or they leave also because there is too much competition from industry.

For instance we lose our best physicists, chemists, and scientists. We find these people are signed on by industry at considerably higher salaries than schools could pay.

Mr. QUIE. How would the internship program affect this going out of the teaching field?

Mr. BYRNE. I am more concerned about it calling attention in a loud voice for the need.

Mr. QUIE. What would your reaction be, Mr. Mattheis?

Mr. MATTHEIS. I think this kind of situation was exemplified by the application of title I in Minneapolis and St. Paul. There was great need for implementation of programs and these cities put out a call for additional people, some professionally prepared and some nonprofessionally prepared in the teaching profession and they were overwhelmed with numbers.

I think the people are there. This can be taken care of I think in the cities and colleges, the recruiting of and the selection of people.

I saw an overwhelming feeling among people to participate in these kinds of programs. I think all it really needs is some of the funding to be made available to implement the program. I think they are there locally and are waiting for the call. I don't think it would take a national recruitment program to even get them to come out.

Mr. QUIE. Dr. Byrne, the students which you will be training will not have a label on them "Teachers Corps." Do you think this is going to hurt their esprit de corps and their willingness to stay in the school and their teaching of the culturally deprived?

Dr. BYRNE. I don't think it will hurt it at all. I think perhaps there is a certain veneer, a certain prestige that is associated with any kind of title and some people will say this is big and interesting and I would like to have my name identified with it.

In fact many students have approached me with this point, with the feeling this has opened up some vista that they have never dreamed of themselves and I don't think they will profit from either having or not having the title.

Mr. QUIE. So you would not encourage us to expand the idea of corps then to give your student that label, too, so they would not feel inferior?

Dr. BYRNE. No; our people don't feel inferior at all.

Mr. GARDNER. If the gentleman would yield, I would like to pick up on this subject. We have heard a number of witnesses in the past few weeks who feel this would be carried out better on the State level. Could you be more specific? Why do you think it could be better on the local level than on a Federal scale?

Dr. BYRNE. My reasons—my response to that would be we are seeing it done. We have moved pretty much on our own in this direction and it is working. We feel our cooperation with the State makes this quite possible. I am not certain for example that we would attract any more people if we had the corps than we now have.

I think Mr. Mattheis has pointed this out. I see the major advantage of the corps as one of calling attention to the need for teachers. I am not certain that the program itself provides better teaching arrangements or teaching experiences or arrangements. I just have the feeling that we have been able to handle this pretty well on our own.

Chairman PERKINS. Mr. Daniels.

Mr. DANIELS. I have not had the opportunity of listening fully to the gentleman's statement. If the Chairman please, I will yield my time to Mr. Brademas.

Chairman PERKINS. Is there objection to the gentleman from New Jersey yielding his time to the gentleman from New York, Mr. Brademas?

Mr. BRADEMAS. I thank my colleague and I want to express my appreciation to both of our distinguished witnesses for their very thoughtful observations. I was struck particularly by what you said in the light of an article I got hold of this week that was sent around to us in a roundup of press clippings on education because it comes from a Minnesota newspaper.

I might say although he is on the other side of the aisle and we don't always find ourselves in agreement, that you in Minnesota should be glad you have such an able man as Mr. Quie for education

on our committee. The clipping to which I refer is March 3, Minneapolis Star and it is called "Teachers Loss Up In City Schools."

More teachers are resigning this year and fewer teachers are applying for positions next year in the Minneapolis School District, Loren Cahlander, school personnel director, said today.

Cahlander said, it looks worse than last year when the district began school in September with more than 150 vacancies, the highest in the Twin Cities area.

Leaders in the two major teachers organizations back up Cahlander and say more teachers are trying to leave Minneapolis than ever before.

The main reasons appear to be money and morale. Higher take home salaries are paid in most suburban districts and morale is low since the defeat of the 16 mill tax increase in November which forced budget cutbacks in the classrooms, teachers representatives say.

I thought of this article when I heard what you two gentlemen were saying because it seems to me that although most of us have assumed that Minnesota is a great leader in education, as I know it is, and that you have a lot more money for education than the poorer States, even you have trouble, apparently, in keeping teachers in your big city school systems.

I was especially struck, Mr. Byrne, by your observation that the Teacher Corps has opened up some vistas to young people that would otherwise not be the case. I want to be sure I understand the attitudes of both of you toward the hiring and firing of Teacher Corps members.

Do I understand there is a difference of opinion between you with respect to the autonomy of the local school district in this respect?

Dr. BYRNE. I rather doubt there is any real difference. I think my major concern is that there be no opportunity provided for any discrimination in the employment. There is the possibility, I think, through the present wording for this sort of discrimination.

I think that we have to have the proper safeguards. I certainly would favor the autonomy of the local school district in that respect.

Dr. MATTHEIS. I feel very strongly about this and I feel there is always the possibility of the infallibility of the implementation of laws, there are adequate laws now, State and Federal, to prevent discrimination needs. Now, whether it is going to be picked up and enforced I can't say. We were particularly referring to the hiring. On the hiring I can concur also.

Mr. BRADEMAS. I noted some of the statements you made, Dr. Byrne. You said, generally speaking, you feel the program is good and it ought to be encouraged as much as possible, and you said the Teacher Corps has called attention to the education of the disadvantaged because there are not enough people willing to work with these children. Why do you think that?

Dr. BYRNE. I think, first of all, let me say, many of our teachers come from an environment in which they have little contact with the disadvantaged, number one.

Second, they are prepared in institutions which give little attention to the disadvantaged. I know that it is a rather shocking experience for many people who are trained in our colleges and universities when they go out and find they are not dealing with the people they thought they might have in class which, in effect, would be the sons and daughters of their neighbors.

Mr. BRADEMAS. Dr. Mattheis, I noticed in looking at your testimony that it was a very ringing plea for more State role in operating

all of these programs but I also noted in your statement you said that the attention given these disadvantaged children, teaching these disadvantaged children is long overdue.

Where have the States been hiding?

Dr. MATTHEIS. I think, Mr. Congressman, they have been hiding behind two cloaks perhaps and I alluded to this before also—lack of leadership in many cases, lack of finances in others. At this point, if I might insert, there are some things that are going on in States and communities and I would point out in particular with the disadvantaged program in St. Paul, Minn., which was headed by Dr. Forrest Conner, the president of the American Association for School Administrators, long before this program was implemented he and the St. Paul School Board saw fit to work in these areas and did significant things.

It took additional staff and additional money. Some of these schools in the very disadvantaged areas are the pride of St. Paul in Minnesota. It can be done and it is being done where there is the leadership and dedication to do it. It has not been done in enough areas.

Mr. BRADEMAs. You realize the thrust of my question; fellows like me are somewhat skeptical when State leaders in education come along and complain that Uncle Sam is running roughshod over them and they can do it better, and you look around and suddenly you see all those opportunities to exercise State responsibility when the flag of States rights has been raised somehow have not been exercised, at least to the fullest. I don't think you will disagree with what I just said.

Dr. MATTHEIS. I don't, I would say one other thing. There is a very important new additional ingredient—money.

Mr. BRADEMAs. Of course, and as long as we authorize and appropriate it you want to be sure you control its spending. Is that a fair assumption?

Dr. MATTHEIS. That is right; and I think we have exhibited we can do a really relatively good job of it.

Mr. BRADEMAs. I don't have any profound objection to seeing a far greater State role, indeed, as I have said in here a number of times, I am strongly in favor of greatly strengthened State departments of education but I would be more impressed by your arguments if I had seen the greater evidence of the willingness on the part of the State government to put up the money and to put up the leadership instead of just putting up conversation and dialogue.

I hope that is not an unfair position. I am much more concerned about what people do than what they say in these matters. Do you have a constitutional prohibition against a progressive income tax in your State?

Dr. MATTHEIS. No, sir; we do have a progressive income tax in Minnesota as the Congressman from Minnesota can well testify.

Mr. QUtE. If the gentleman will yield, it is the highest in the Union as well.

Mr. BRADEMAs. That is solid evidence to me that you really want to do something about education and are doing something about it.

Mr. QUtE. We earmarked the income tax for education and we are now looking at ways for providing more money for education in Min-

nesota because the income tax has not been able to fulfill all of our needs in the State and realizing the property taxes would not do it.

Dr. MATTHEIS. Minnesota consistently ranks higher than our others. We do dedicate a considerable amount to education. You can appreciate the position of a commissioner of education who on the one hand works with the State legislature that you are referring to here as the State body governing these things day in and day out and pleading the case and working hard to get it and it is not an easy task. I think improvements are being made and we appreciate the assistance coming from the Federal level.

Mr. BRADEMAS. In title III you call for a far greater role of the States also and it would seem to me that it would be of interest then if you would compare what you said with the reports of the survey conducted by Dr. Richard Miller which were given to us the other day because they are not really on all fours. At least judging from Dr. Miller's survey, the only one I know on how the title III program is operating today, there is a strong case—a strong indication that States have not generally speaking, only a handful have, paid much serious attention to or invested much of their resources and top people in helping shape title III programs.

Do you have any comment on that?

Dr. MATTHEIS. Yes, sir; I would. This is indicative of the degree of authority that the law in the U.S. Office of Education has given to the States. They have not given us any authority.

Mr. BRADEMAS. That is not accurate.

Dr. MATTHEIS. I think the record would speak to the contrary.

Mr. BRADEMAS. You do not have a statutory veto power but, as I recall Dr. Miller's statement, a number of States—California and New York among others—there has been an effort to give real leadership which has had a very constructive impact on the shaping and operation of title III programs under the authority given to the State departments of education to review and make recommendations.

I am not yet impressed that the State departments have made enough of an effort to give the leadership that they could give if they were really serious about these programs.

Dr. MATTHEIS. I would only respond by saying I speak from the personal experience of one State, Minnesota, and I would say from the first proposal that we submitted, and I think we saw a clear indication that we were not going to have this kind of authority and judgment being accepted by the U.S. Office of Education.

Mr. BRADEMAS. In my last second I would be glad, too, if you would give us maybe not now but maybe some time when there is more time some evidence for your observations.

Dr. MATTHEIS. I would be happy to.

Chairman PERKINS. Mr. Erlenborn.

Mr. ERLBORN. Dr. Mattheis, as I note you are strongly in favor of title V, to strengthen State departments of education, but in your prepared statement which I have had a chance to read—I was not here when you delivered it—I notice that you are not in favor of the amendments to title V; is that right?

Dr. MATTHEIS. That is right.

Mr. ERLBORN. In particular, is it correct that you do not care for the 25-percent holdback from the funds and the ability of the

Office of Education to contract with organizations other than the State department of education with comprehensive planning?

Dr. MATTHEIS. That is right.

Mr. ERLBORN. Would it be fair to say you think this is the job of the State departments and not some outside organization?

Dr. MATTHEIS. I would, sir.

Mr. ERLBORN. Relating to title IV, regional labs, with your feeling about State departments of education, do you think it is wholly consistent to support the regional lab concept and also be in favor of strengthening State departments of education?

Let me just give you this one example. The State of Pennsylvania, for example, is served by three different regional labs. Do you think this is maintaining the strength much less improving the strength of the department of education in the State of Pennsylvania?

Dr. MATTHEIS. I could not speak to the State of Pennsylvania, but I could speak generally with regard to title IV. I had some experience about it originally and I think I accepted ultimately the philosophy that there was going to be in existence title IV and regional labs and therefore I had better get involved in them on behalf of the State to protect our interests and I think many of us have done this.

I see some great problems in title IV and its relationships to State departments of education in particular and perhaps ultimately even local school districts.

So far, they have been organized with great participation by State departments and I think we look at this as an opportunity then to direct it so that this does not weaken State departments but I still have concern about it and I think you have identified them very well.

Mr. ERLBORN. If I get the impression from your prepared statement that you are in wholehearted support of the regional lab concept, that impression is wrong. You do have some reservations?

Dr. MATTHEIS. Yes, sir.

Mr. ERLBORN. Do you see any conflict in the fact that the regional labs are established as nonprofit organizations free from tax limitations, spending limitations, of the State and Federal Government?

Do you see any conflict there with your State departments of education and let me also add to this question the salary structure within the regional labs?

Dr. MATTHEIS. I would not see any conflict, Mr. Congressman, with the first question. We have seen a few problems in the second one and this relates to a comment Congresswoman Green made earlier in regard to the professional personnel in the school districts, leaving and so on.

One of the situations certainly that has caused frustration and problems for school districts and State departments of education has been the new Federal programs and the fact that they have hired many of our programs away.

Regional labs are in the same position where they have hired many of our very fine people away from the public school districts and State departments have to staff them and salaries have not been the problem with them that it has been with us.

Mr. ERLNBORN. I know across the country generally probably without exception, the director of the regional lab is paid far more than the head of the State department of education or for that matter the director of the regional office of education or for that matter Mr. Howe himself, the Commissioner of Education.

Is that true in your area, as well?

Dr. MATTHEIS. I think it would be true in most areas. In ours I think it is nearly a 2-to-1 ratio. The school district in Minneapolis has a 2-to-1 ratio with the State commissioner of education. This goes back to some of the problems we worked with in a State alluded to earlier by Congressman Brademas.

Mr. ERLNBORN. Is the most important man in education the director of the regional lab and should we pay him more than anyone else?

Dr. MATTHEIS. I think some of these things get a little out of kilter when they are getting underway and the difficulty of getting a new program started has many difficulties. I worked with the regional lab for I—in recruiting a director. I also worked within the State in recruiting a director for the Higher Education Facilities Act, and the problems of recruiting people for these new programs are very great. As a result, very often they pay more than the going market in other areas of responsibility.

We just are not able to even get them otherwise. It is a supply and demand situation, and I think they just have to pay that if the programs are going to be established at all.

Mr. ERLNBORN. One last question on title IV. I find there seems to be a great divergence of the mission of the regional labs.

Is the regional lab in a better position to disseminate information than the State departments of education? Are they really doing the State's job when they do this?

Dr. MATTHEIS. I think I could concur with your assumption. I really do not see that they would be able to do a much better job than State departments could or should.

Again it boils down to the availability of funds in many instances where the State departments of education have not had funds available from the State resources to disseminate information. As a matter of fact Minnesota used a portion of their funds under title V to establish a unit in our department of education for the dissemination of public information.

I think we could do an excellent job if we had the resources to do it.

Chairman PERKINS. Mr. O'Hara.

Mr. O'HARA. Dr. Mattheis, you advocate a State plan for title I ESEA. Given the remarkable variances between the different kinds of school districts and different kinds of title I problems encountered by school districts: for instance, in your State, one located in the inner city area of Minneapolis-St. Paul as compared to one located up in the Mesabi range as compared to one located in the southwestern part of the State, I wonder what advantages the State plan would have over permitting local school officials to attempt to develop on their own a program that seems to be best suited for the particular needs of the children in their own schools.

Dr. MATTHEIS. I think as I indicated, the prime advantage to this; because title I is working relatively well now that we are underway;

would be the opportunity to eliminate some of the extraordinarily large, I feel, amount of paperwork and redtape that is involved now with the various application forms. I am convinced that with the State plans we presently have in operation we would be able to eliminate a significant portion of this if a State plan were developed.

It does not have to be specific in many cases of requiring the information from one application to another that we presently have, No. 1, and we would also be able to control the timing of changes in the various forms that are used. This has caused us a problem particularly this year. I think it just could be simplified if we have a State plan where we can work with the local school districts on the direction of the project in the State.

Mr. O'HARA. Then you would not envision this State plan would involve any different distribution or any different activities than are presently carried on, is that right?

Dr. MATTHEIS. That is just about correct in its entirety. I think there would be some things where we had a difficulty in the first year where we would have provided for in a State plan and that would have been the redistribution of funds.

I would think under any State plan we would want to provide for the distribution of funds not used by the school districts within the States.

As I understand it this will not be completely cleared up and taken up in this fiscal year either where the distribution of funds that are not used in a State are not made immediately available to other districts in the State.

I think this could be very easily provided for in a State plan but basically the mission of the act would not change it as I see it.

Mr. O'HARA. Nor the kinds of activities carried on or the redistribution of funds accepted.

Dr. MATTHEIS. I think this is a basically correct idea; yes, sir.

Mr. O'HARA. We could take care of that objection by putting a redistribution formula right in there.

Dr. MATTHEIS. Yes.

Mr. O'HARA. Title II provides for a State plan for administration of title II. Tell me how do you administer title II in Minnesota?

Mr. MATTHEIS. We administer it with the State plan as you indicate and it is primarily geared to a distribution modeled after our equalization formula for the public schools of the State which is based upon the wealth of the school district to support education, where the poorer school districts get the larger amounts of money and the richer school districts get a smaller amount.

There are also some floors which are guaranteed something to all of the school districts but it is based primarily on the equalization aid formula that Minnesota has had for the past 10 years.

Mr. O'HARA. What happens in actual physical operation dealing with training materials?

Dr. MATTHEIS. It is a simple matter for a school district indicating to us how they are going to spend their allotment. The money allotted to Minnesota is worked out on the equalization aid principle and the school district is notified of the number of dollars available to them under this title, and they simply make an application to us from a list

of bibliographic materials as to how they are going to spend the money and that is about all there is to it.

Mr. O'HARA. How do you handle the nonpublic?

Mr. MATTHEIS. They work through the public school districts. It is indicated how they are going to provide for the nonschool districts in their application.

Mr. O'HARA. Under title II certain amounts may be used for administration expenses. What happens to those dollars in Minnesota?

Dr. MATTHEIS. They are spent for administration, Mr. Congressman. We have found they are insufficient to cover all of the administrative work of the title. This has been one of our concerns with it but we have employed a number of staff people in the department of education for the administration of it working with the school districts.

Some of the school districts in our State have joined together to work out the program of application for funds and distribution of materials later on on a joint procedure and they have used administrative funds of course to implement it at that level.

I don't know that I could be any more specific.

Mr. O'HARA. Then the administrative funds under the act are used by the State department of education and the local school districts?

Dr. MATTHEIS. There is a provision for a local school district to use an amount of the funds available for a processing charge which I think includes administrative costs.

Mr. O'HARA. The State department of education does not do much administering, do they?

Dr. MATTHEIS. I think we—

Mr. O'HARA. You sit down with a pencil and apply your equalization formula in the State to the amount available for the State and then you send out the checks.

Dr. MATTHEIS. There are more things that we do than this. We have set up a number of demonstration centers as a part of the State involvement in this project and we have a number of demonstration centers for title II scattered around the State.

We staff those. They are available for visit and consultation by local school district personnel, giving them an opportunity to see what things may be purchased, how a good resource unit might be set up. This is a part of the administrative function as well.

Mr. O'HARA. I notice a trend under title II which I hope is not noticeable in your State for the State plan to put most of the local administration over on local school district units and then keep the administrative overhead money in the State department of education.

That has happened in a number of places, and it ends up with the local school units bearing the burden of administration and the State department of education getting the money for it. I hope that is not going on in Minnesota.

Chairman PERKINS. Mr. Scherle.

Mr. SCHERLE. Thank you, Mr. Chairman.

I think to begin with I would like to say that I have always had a great deal of respect and admiration for the knowledge of Congressman Quie in the field of education. I would also like to compliment our fine chairman for this wonderful opportunity to hear the two witnesses this morning. I think in the hours we have spent in session

that your testimony has been some of the finest and I compliment you both for it.

I would like to ask a question or two to follow the subject dwelled on previously in regard to Dr. Mattheis on page 4, on title II.

You have misgivings in regard to title II and perhaps even its constitutionality in regard to the affiliation and entanglement of church and state, is this true and if so in what respect?

Dr. MATTHEIS. Yes, sir. I think in the matter of the loan of the books, the materials to the teacher and the child. I think in actual fact the word loan is open for an awfully lot of discretionary judgment and use. I think it is used in many ways and many of them I think could be challenged very, very seriously.

What a loan means to one individual I think might be different from what it would mean to another. I think in actual practice and in fact the loan is such, as it is being implemented might not fit what many people call to be a loan and perhaps the courts might rule to be a loan.

Mr. SCHERLE. Do you believe then in your own mind that there is a possibility that the money allowed to you in the form of Federal aid is being given to parochial activity that is not entitled to it?

Dr. MATTHEIS. Only in this regard, Mr. Congressman. I think in the implementation of the act where a public school district in cooperation with the nonpublic school purchases these resource materials and then loans them to the teacher and child I think this is the area of the great discretion and perhaps discrepancy, where, in fact, I think in many of these cases then initially or ultimately it is working out to be a permanent loan situation and I think there are many who would question whether this is within the constitutionality of our State.

Mr. SCHERLE. In your State of Minnesota, do you bus children?

Dr. MATTHEIS. We do not. I think the Minnesota constitution has been indicated to be one of the strictest in this area of expenditure of public funds for nonpublic schools. We do not provide textbooks or other material for them either.

Mr. SCHERLE. Do you anticipate any kind of litigation to challenge this Federal act?

Dr. MATTHEIS. I don't know that I would say I would anticipate it, Mr. Congressman, but I am not encouraging it though.

If I may, Mr. Congressman, I should now interject because that might be taken to be too negative. The relationship we have had with the public schools in Minnesota, and I think Dr. Byrne is knowledgeable enough to speak to this, has been excellent and both in title II the way things have worked out.

I have not heard anything particular about voicing questions of it or desire to put it through the court procedures.

There are many people in our State who are aware of the fact that it is working its way through the courts in some other States and they are concerned about it, but I don't think overly so at this point.

Mr. SCHERLE. Dr. Byrne would you like to comment on this?

Dr. BYRNE. I don't think I would really have too much to add to what Mr. Mattheis said. We know for example that there is a question of litigation in Pennsylvania and some other States. I have never heard the topic raised at all in the State of Minnesota.

I have never run across this as a problem, perhaps even to the extent that Mr. Mattheis expressed it in this morning.

Mr. SCHERLE. As long as these funds are made available to the State board of public instruction, do you feel that children in parochial schools should be entitled to some of the benefits derived from the funds given by all taxpayers?

Dr. MATTHEIS. I think I would differentiate there, Mr. Congressman, by saying I would not feel and I think this could really get us into some very severe problems if we were to provide for from the general revenue of the State participation by the school districts.

I think this would not be possible. The law passed allowing the State department of education to implement the elementary and secondary education of 1965 specifically stated to implement it in accord with the Federal regulations, rules, and guidelines, and so on.

We are using this authority to provide it then for the participation of the nonpublic school students and teachers. I think it would be completely different if we were to use State funds for such programs.

Mr. SCHERLE. You do realize though in some States they do use State funds to bus children from their point of embarkation to a parochial school and this has been upheld by the Supreme Court.

Thank you, Mr. Chairman.

Chairman PERKINS. Mr. Carey.

Mr. CAREY. Thank you, Mr. Chairman.

I apologize for coming in late. I flew down from New York this morning and my plane was delayed. I hope on cursory reading I can get some help from the distinguished superintendent on his apprehension about title II. I have a special interest in title II, having been one of the early proponents of textbook loans to all children.

Can you be more specific about title II in your concern about the entanglement that you see in this title as you say on page 4? I frankly don't know what you are driving at.

Dr. MATTHEIS. I think it centers primarily around the word loan of these materials to children and teachers of nonpublic schools. In the actual administration and implementation of this title, I think there could be very easily some serious question raised as to whether in fact this is a loan or not.

Mr. CAREY. May I interrupt you at this point? Why do we have to deal in hypotheticals? We are dealing in realities here. This is a law. You say there could be. Is there any clear cut or even apprehended violation in your State right now?

Dr. MATTHEIS. I think, Mr. Congressman, without wanting to inquire into it too specifically I think there are a number of the school districts if not in fact many of them which are in effect making this a kind of permanent loan, whatever that phrase might be, versus loan which could indicate that it is going to be returned to the public school and then loaned again or some such thing.

Mr. CAREY. May I suggest to the distinguished superintendent that you take the time to read the hearings of this committee which are most extensive on this point when we had discussed with leading constitutional authorities on both sides: namely, those in favor of textbook loans and those who were opposed.

We spent a great deal of time and energy on spelling out some sort of a parameter that would guide us in this question of the duration

of the loan and we came right back to what I think would be your field of interest and that is the loan is for the period during which the student and teacher would need to use the materials, whether textbook or audiovisual materials, in the presentation of the subject matter.

Can you see anything wrong in this from the standpoint of educational soundness?

Dr. MATTHEIS. No, I can't but I think, Mr. Congressman, in actual implementation of it, I think it is not going to be adhered to that closely.

Mr. CAREY. May I suggest this is your responsibility. You administer the State plan. I hope that you are familiar with the tightening amendments which I sponsored among others in the 1966 amendments.

In those amendments we clearly set forth some guidelines for the State administrators of the State plan to loan textbooks so you could be more precise and a great deal more meticulous in administering your State plan so that the very thing that you apprehend here would not occur.

Now in that we asked for a subdivision of administrative functions and moneys to accompany those functions so that at the school district level and at other intermediate levels up to the State department of education you could police and you could in every way protect the spirit and the letter of the act.

I know in my own State for instance that some of the monies that are used at the lower levels are used for the purpose of cataloging and actually physically storing the books at the end of the term period and restoring them to the central book loan depository and things of this kind but this is necessary to protect the act and you have to do this.

We gave you the direction—I don't want to use the term direction—we gave you the guideline and the money and the power in the act in 1966 to protect against the very same thing which you seem to apprehend as a danger in the act in your statement on page 4.

Now what more do you need?

Dr. MATTHEIS. I think, Mr. Congressman, we are well aware of the amendments and are doing what we think is our best to try to implement them. There are many problems associated with this and I think the Congressman from Minnesota is aware of the fact the number of school districts which we have which compound it significantly.

I can only say we fully intend to comply with and to have our school districts comply with it. I am only concerned about the fact that we are going to be unable to do it in fact in the letter of the law.

We are doing our best and I think the school districts have a real feeling that they intend to carry it out and we do, too, but there are these detailed problems that I have some concern about.

Mr. CAREY. I think it was Judge Frankfurter who once said where questions of social policy is concerned, preoccupation with fringe areas of constitutionality are not in the spirit of free people.

Now for goodness sake is it so complicated we can't work the situations out to get the books then into the hands of the children who need them and still protect the spirit of the constitution?

It is not that tough a job, is it? Wit and ingenuity of administrators is far greater than that of legislators and I think it can be worked out.

Dr. MATTHEIS. I appreciate your confidence.

Chairman PERKINS. Mr. Dellenback.

Mr. DELLENBACK. Just to be sure I got an answer given earlier correctly I would like to ask you both this one question again. If teacher training funds were made directly available to the respective areas with which you are concerned rather than through the Teacher Corps, do you feel so far as the recruitment of new teachers is concerned there would be no falling off of new teachers in the areas covered by the Teacher Corps?

Dr. MATTHEIS. I would respond by saying I could not foresee any falling off. I think as I indicated earlier in particular St. Paul and Minneapolis when title I became available they began a recruitment program for these types of individuals and I think they were overwhelmed with response.

Dr. BYRNE. I would agree with Mr. Mattheis.

Mr. DELLENBACK. I listened with interest to the comment that has been made through the course of these hearings and the argument made in days when you gentlemen were not here that it seems that the fact that State departments have not performed in the past is taken by some to be conclusive evidence that they would not perform in the future.

I don't accept that. I think the mere fact that some areas have not been covered in the past does not mean they would not henceforth in the future be covered and I appreciate particularly the remark Dr. Mattheis made on this that there is a significant new factor which is present today which was not present before, and that is the substantial infusion of Federal funds.

Against that background I would ask you both this, because you have both spoken in terms of block grants being superior to categorical aid.

If we were to move forward at this stage and make additional block grants of funds available, what would be the top priority uses to which those funds would be put in the State of Minnesota, Dr. Mattheis?

Dr. MATTHEIS. I think, Mr. Congressman, there might be two or three priorities. I am not sure which would ultimately receive the highest priority. I think perhaps the first would be a significantly larger degree of attention to the problems of the large cities.

We are giving this attention in a number of ways in Minnesota and I think many of them inadequate but I think this would be certainly very, very high on the priority that some attention be given to these problems.

A second, and we referred to this earlier in the course of discussion, would be related to teachers, attracting them to the profession, keeping them in the profession once they are prepared to become teachers, teachers salaries, working conditions, and whatever, and the third and I am not sure but what I should have mentioned it first because of the interest and work of the chairman, would be in the interest of school buildings, capital outlay, construction funds for school districts.

Those are the priorities I could see for the use of the funds in block grant forms.

Mr. DELLENBACK. Do you feel there would still be a moving forward in the field of education in the State of Minnesota rather than a leveling

off in the utilization of these funds to reduce present taxation in the State?

Dr. MATTHEIS. Certainly the efforts indicated over past years in Minnesota has indicated they have and are still willing to make the contribution to education and I would see no—I have not seen in history at least any indication that they would slacken the pace of support for education.

Mr. DELLENBACK. Could you add anything to that, Dr. Byrne?

Dr. BYRNE. I would agree with what has been said and I think I would say I feel the funding should go to the disadvantaged because we have some of the most disadvantaged people in the State of Minnesota.

Mr. DELLENBACK. To perhaps plow the ground once more, you feel that if we were to move forward with the new factor of additional Federal money this would be imaginatively, innovatively, advantageously used within the State of Minnesota rather than resulting in a tapering off of this kind of work?

Dr. MATTHEIS. It would be my feeling it would be, but it would not completely eliminate as I tried to indicate in my testimony the possibility for some slippage or spoilage along the way, some trial and error effect.

I am sure there might be some programs that would be devised that would not spend the funds entirely as efficiently and expeditiously as some people might desire but I think on the whole it would be worth this problem with the end product the effort and the strengthening of the States in the educational area.

Mr. DELLENBACK. With the pressure of time being on us, may I ask one more question of you both about this because I personally think this concept of using the States as laboratories to come up with ideas is a good one if the factor of dissemination of advantageous ideas is truly followed through on after State X comes up with a good plan, it just does not stay in State but goes to all of the other 49 States.

Do you have any suggestions relative to the improvement of disseminating ideas? Is the job being well done now?

Dr. MATTHEIS. It is being done very well. The information really is more available than we are able to use because of oppressive duties and time. I suppose the phrase we are not doing as well as we could have, as I indicated in Minnesota, we employed people under title V to prove it can be improved significantly.

Mr. DELLENBACK. Would you agree with that, Dr. Byrne?

Dr. BYRNE. Yes, sir.

Mr. SCHEUER. I would be happy to yield my time to Congressman Meeds.

Chairman PERKINS. May I ask that you not utilize that time so we could get through here? I failed to put the other witnesses on. We have them from New York and different places, California, and let the other members—the other witnesses make their statements before any witness if you want to use it go ahead and use it.

Mr. MEEDS. I will finish my questioning in 5 minutes.

Mr. Commissioner, I was somewhat distressed with several of your statements. Now I am referring to page 10. I would also like to comment on something noticeably absent when you came through with a

very strong plea for changing Headstart to the U.S. Office of Education and their inclusion as an integral part of title I, ESEA.

May I remind you, sir, under the present provisions of title I, ESEA, if the present prohibitions in the law were there that approximately 30 percent of the Headstart programs in this United States and 10 percent of the students presently being served by those programs would be ineligible.

Are you aware of that?

Dr. MATTHEIS. I think they would not be unavailable. Particularly it is a matter in how they have been administered but this would not make them particularly unavailable for the future as I see it.

Mr. MEEDS. You recognize the need of operating this through the Office of Economic Opportunity to avoid some of the state-church problems. You spoke about church-state problems in your State and indicated that it had one of the strongest constitutional prohibitions against infringement of this provision, is that right?

Dr. MATTHEIS. Yes, sir.

Mr. MEEDS. Do you think that if the Federal Government were to make funds available to you for just the category of Headstart that you would, through your department of education, be able to contract with a parochial school to run a Headstart program in that school?

Dr. MATTHEIS. I don't know that this would be possible, sir.

Mr. MEEDS. I don't think it could.

Dr. MATTHEIS. The reason I am placing this in here is because I could foresee the Headstart and followthrough programs being operated the way our kindergarten programs are operated now where we serve all of the children of all of the people.

Mr. MEEDS. Do you have State-supported kindergarten programs that support the parochial study?

Dr. MATTHEIS. The non-public-school students attend the public kindergarten during that year and then they transfer to the nonpublic or parochial school for the first year.

Mr. MEEDS. Do you operate any of those in private institutions?

Dr. MATTHEIS. No, sir.

Mr. MEEDS. Do you feel you could under provisions of your law?

Dr. MATTHEIS. No, sir. I would say they would be entirely public operated.

Mr. MEEDS. Do you have any Headstart programs in your State which are being operated in parochial or private institutions?

Dr. MATTHEIS. Yes, sir.

Mr. MEEDS. Then under your law those Headstart programs would not be available to the students that are taking them?

Dr. MATTHEIS. Not in the form they are but I would contend they could be very easily transferred to the educational institutions in the various communities and operated through them.

Mr. MEEDS. So you feel you are not completely utilizing your facilities in Minnesota; is that right?

Dr. MATTHEIS. I would not go so far as to say that. I think facilities would be made available for those programs as they are for the kindergarten programs and the expansion of those, the construction of facilities, whatever, however the needs demand.

Mr. MEEDS. Would they require any additional building?

Dr. MATTHEIS. It could in many cases.

Mr. MEEDS. Do you think you would be able to get that off the ground prior to the next year's operation of Headstart?

Dr. MATTHEIS. I think Mr. Congressman this would be a situation relative to the expansion of kindergartens in our various communities where there might be various ways that would have to be implemented initially to take care of the program, temporary facilities, whatever, and then a program of working into construction.

Mr. MEEDS. It is very likely in your State if the proposal were adopted even in your own State, and incidentally not only in your State but in others, there are many children who would not have the value of Headstart programs.

Dr. MATTHEIS. I would not make such an assumption. I think if we were given the opportunity we could do the job.

Mr. MEEDS. We have the problem of legislating for the entire United States on this program and it is the opinion of most of the members of the committee, I think—there would be grave problems in implementing what you have suggested. I am certainly in agreement with your statements and the direction which you are evidently heading when you say you have been and are becoming increasingly an advocate of strong general aid rather than categorical aid for elementary and secondary education and you make a strong plea for such assistance.

I think this is the direction we would all like to go. However, again, may I ask you this: Assume that the Office of Education through the Federal Government were to make funds available to you for general education in the State of Minnesota, do you feel that you could operate presently and serve the students of parochial schools which are now being served under the categorical aid of title I, title II, title III of the Elementary and Secondary Education Act as it is now written?

Dr. MATTHEIS. I think Mr. Congressman, it would depend upon the Federal legislation and the terminology of it as to how strong it was in that area and then whether the State gave us the authority to implement it in recognition of the guidelines of the Federal Government.

I think there would be some opportunity for problem, yes, sir.

Mr. MEEDS. Aside from the problem of passing through the Congress a general aid to education bill, considering the constitutional problems at the Federal level, assuming we could do that, don't you foresee a great number of problems in your State, with your State constitution and in other States with a general aid to education provision, moneys from the Federal Government in serving low-income students or any students in parochial institutions?

Dr. MATTHEIS. Yes, sir.

Mr. MEEDS. So a lot of the parochial students who are now participating in categorical aid under the Federal program might be cut out if you are suggesting—if your suggestions were adopted, isn't that correct?

Dr. MATTHEIS. I would assume this would be likely, Mr. Congressman.

Mr. MEEDS. I was also interested in another one of your statements and I hope I am not doing you an injustice when I paraphrase and at least tell you that the idea I got from your testimony was that you felt

that the reasons that there had not been the breakthrough in education and the attention paid to economically deprived children is the States' lack of leadership and lack of funds; is that correct?

Dr. MATTHEIS. Yes. It is prevalent in either or both situations.

Mr. MEEDS. Let me tell you we have heard a number of administrators and State school officers testify to this same effect so you are not alone in this. In this line of reasoning, however, I would just like to ask you if you think the State of Minnesota prior to the adoption of the Elementary and Secondary Education Act has been doing enough in your larger cities, Minneapolis and St. Paul, in educating the economically deprived children?

Dr. MATTHEIS. I did allude to it earlier in response to a question. I am not aware as significantly as fine a job being done in Minneapolis as in St. Paul. St. Paul previously had Dr. Forrest Conner. I think he and their board were excellent leadership, did a very fine job of beginning this program of work in the core city of St. Paul with both exceptional staff and recruitment of staff and additional funds to be placed into these schools.

Mr. MEEDS. So your answer would be you have done enough?

Dr. MATTHEIS. The answer is "Yes and no." We have done some very fine things prior to the enactment.

Mr. MEEDS. Don't you think, however, in the final analysis when you people come in here and talk about a lack of leadership and a lack of funds that it is a question of priorities within your State as to what you do with your educational programs prior to the enactment of ESEA?

Dr. MATTHEIS. Yes, sir; and no more than it is the Federal level setting priorities.

Mr. MEEDS. If we found, as a matter of fact, then in this committee that there had not been enough throughout this Nation for the education of economically deprived children, don't you think we ought to do something about that problem and provide some leadership and some funds?

Dr. MATTHEIS. Yes, sir.

Mr. MEEDS. And it is a problem that has not been taken care of?

Dr. MATTHEIS. Not sufficiently well.

Mr. MEEDS. It had not been given the priority it needed, sir?

Dr. MATTHEIS. Yes.

Mr. MEEDS. Isn't it also true with the Federal help we still have not solved the problem, and we have not sufficiently taken care of the economically deprived child?

We have not done it before, and we have not done it yet.

Dr. MATTHEIS. We have a way to go.

Mr. GARDNER. I would like to explore this a little bit more. We seem to have a variance of thinking on the committee. It would seem to me the big problem facing the States throughout the country has been a lack of funds.

The distinguished gentleman from Michigan in the questions he asked you seemed to harp on leadership. I think the big lack has been in the area of funds.

It seems to me a majority of our States seem to operate on a sounder financial basis than does the Federal Government. I don't think I could include the State of Michigan in this group.

Would you comment on this if you had to mention the two between leadership and fund, which would be more important?

Dr. MATTHEIS. I think I would give priority in the problem area to the funds. I think this is indicated in title III, as for instance, where this is an innovative situation, and I think Minnesota and many other States exemplified the kind of leadership and thinking that is available in the States when given an opportunity. We had more projects and new ideas thrown out than anyone ever guessed we could.

I think the leadership is there not to the degree we would want, but there is plenty of leadership.

Mr. GARDNER. If the proper funds were available for the State in the same amounts that the Federal Government has been giving in grants-in-aid programs, do you think the State could do a better job of administering these programs compared with the Federal Government, and why?

Dr. MATTHEIS. It would be my opinion, Mr. Congressman, that we could do equally as good a job.

I think most studies in research and education that we come out with about equal or as good a job, but rarely can we prove conclusively that one way of doing it is better than another, but with this very important difference that we would still then be maintaining a higher degree of respect and integrity for the State and the development of State institutions and legally constituted agencies within the State to do the job.

I think it could be done equally as well with ability in guarantee to develop and continue the agencies that are existing within the States to do those jobs.

Mr. GARDNER. On page 10 of your testimony you say you strongly support Federal aid for elementary and secondary education. Would you want to change this statement if we went into a Federal tax-sharing plan with various States and the money were available to the State?

Dr. MATTHEIS. Would I want to change the statement?

Mr. GARDNER. Yes.

Dr. MATTHEIS. No, sir; I would think that the tax-sharing plan, Mr. Congressman, that is being talked about would be a satisfactory and desirable way of getting Federal dollars back to the States. I have a high degree of confidence in the way the public education has been dealt with in Minnesota, that education would receive a due portion of any Federal funds that were returned to the State on a tax-sharing program.

Chairman PERKINS. Mr. Steiger.

Mr. STEIGER. Thank you, Mr. Chairman.

I will be just as brief as possible so we can get the other witnesses on. You made a very eloquent statement. Let me just ask a couple of things.

Archie Buckmiller, the deputy superintendent of schools in Wisconsin, made a presentation to Mrs. Green's subcommittee and title II was touched on. One of the concerns that they expressed was, and I will quote here "that the Federal Government seems to be bending towards even greater specificity and administrative control in its educational control programs. Descriptive detail narrows the option available to

State agencies and school districts." They went on to cite title II which says the State should consider in its guidelines the geographic library which runs counter to Wisconsin's concept of trying to provide daily access to the material through a library at each school. Have you found in Minnesota any of these same kinds of difficulties?

Dr. MATTHEIS. Not particularly.

I think we have worked out these to our satisfaction in the development of our State plan. We do not have the same plan as far as the regional situation as Wisconsin does and maybe this is why we have not experienced difficulties, but I would say difficulties experienced under title II have been very, very minimal in working out our State plan.

Mr. STEIGER. You indicated in your testimony, and I share your concern about title III, and it was suggested yesterday by the National Education Association that perhaps we ought to go to a 75-percent State plan operation, 25 percent under the Commissioner of Education for the direction of title III funds. What would be your reaction to that concept?

Dr. MATTHEIS. I would not particularly support that concept, Mr. Congressman. I could see no reason why this should be of significant advantage or importance in carrying out the intent of the title.

I think it can be done on a 100-percent basis to the States. I don't conceive that this 25 percent is going to do much if anything above and beyond the intent of the law that could not be done with any 100-percent funding to the State.

Mr. STEIGER. Do you share a concern expressed by some of the witnesses before this committee as well as some of the members of the committee about the idea that is contained in several portions of H.R. 6230 for educational agencies included in its definition, other public, nonprofit agencies to meet the needs and so forth? Do you think this is a good trend for us to go to outside the educational agencies?

Dr. MATTHEIS. Mr. Congressman, in responding I would say I think the trend of using these agencies is excellent. I would see, however, that the responsibility for working with those agencies should be at the State and not the Federal level.

I think that if the funds are given to the State and then the State has the opportunity to contract with various agencies, this is one thing, but to have that contracting done from the Federal level is something completely different. I would support the option being made available to the States, but not the Federal.

Mr. STEIGER. One last question.

What is your own reaction, and I am reading from your statement. I gather that you support the regional labor concept. My problem with the regional lab really is what this does to the State department because they are outside of any constitutional or legislative or any other guidelines, or requirements for salaries and so forth. Does this tend to weaken State departments because you will draw people out of them into the regional lab rather than trying to strengthen the State department of education? Is this a problem?

Dr. MATTHEIS. In responding to it and, I think, the questions was raised a little earlier, I would only reaffirm the material I said then. I have great concern about it and I did originally when it was introduced.

In sort of a self-protection for the Department of Education, I think, all of us around the country became very involved in them and in their direction and in the setting up of these regional laboratories feeling if we are part of the guiding force of it at least we would be participating in the decisions to be made within it.

I still have some concern about it. I am not sure these things could not be reasonably well done at the State level in each case. We have an upper midwest laboratory in our area and the chief State school officers of the state participating are represented on the executive group dealing with decisionmaking policies. We have some reservations about it but we had a reasonable degree of assurance that it was going to be established, so we got in there to participate in it and help direct it. However, I think we had some questions about its future.

Mr. STEIGER. Thank you, Mr. Chairman.

Chairman PERKINS. Thank you, Doctor Mattheis and Doctor Byrne for your appearances here today.

We are not by any means excusing you, but we are going to let you stand aside inasmuch as we now have other witnesses who wish to make a general statement. When we reconvene after lunch, you will sit at the table with the other witnesses as a panel for further questioning.

Mr. QUIE. I would like to add my word of thanks, too, for the excellent statements you have made, very provocative and you have served a very worthwhile function here.

I would also like to say for Commissioner Mattheis who is in the public eye in Minnesota.

Dr. Byrne, you have made what I think is the best statement that has been made here on this whole topic of the elementary and secondary school. I recognize that a prophet is not even safe within his own country.

I wish every member of the Legislature in Minnesota could have heard you today, and they would have been mighty impressed with the work you have done.

Mr. BELL. Mr. Chairman, from sunny California, the largest State in the Union, we have today two very distinguished guests who will be testifying, Dr. Ernest Willenberg, president of the Council for Exceptional Children, Los Angeles, Calif., would you come forward, Dr. Willenberg, and Dr. Bruce Miller, superintendent of schools of Riverside, Calif.

I would like to take this opportunity, Dr. Willenberg, to welcome you to the committee. We know of your excellent record in Los Angeles.

Mr. SCHEUER. I have three witnesses I would like to introduce.

Chairman PERKINS. Dr. William C. Greer, executive secretary, Council for Exceptional Children, would you come around to the table, also?

Msg. James C. Donohue, director, Department of Education, National Catholic Welfare Conference and Mr. John Cicco.

Inasmuch as the gentlemen from New York have to leave in just a few moments, the witnesses from New York in the order that Mr. Scheuer wants them to proceed will proceed with a general statement.

Mr. SCHEUER. Dr. Niemeyer and Dr. Gordon Klopff and Mrs. Williams.

I am very pleased and honored to have such educational adventurers and leaders down here. I use that word "adventurers" in the most exciting meaning of the word.

I am sure your testimony is going to prove useful and constructive for all of us.

I might say that among the programs that Dr. Niemeyer and Dr. Klopff have participated in has been a program involving parent outreaches, and since all four of my children went to the Bank Street School and since their outreaches projected me into this great body, I feel that you really brought the parent average concept to its full fruition many years ago. With those words, I greet you, welcome you and look forward to what you are going to tell us.

STATEMENT OF JOHN H. NIEMEYER, PRESIDENT, BANK STREET COLLEGE OF EDUCATION, ACCOMPANIED BY MRS. VERONA WILLIAMS AND DR. GORDON KLOPF

Mr. NIEMEYER. Mr. Chairman, Mr. Scheuer, gentlemen of the committee, it is a pleasure to listen. Not only do we hear the splendid presentation from this particular table, but if Congressman Scheuer owes his knowledge and perception about education to the education of his own children, I am sure all of you have had children in very excellent schools.

Mr. SCHEUER. Dr. Niemeyer, would you qualify yourself and Dr. Klopff?

Mr. NIEMEYER. I am the president of the Bank Street College of Education which is a graduate school training liberal arts graduates, mostly for service in slums and slum schools in the inner cities, the big cities.

My organization is a research center which has been at work through formal research and experimental projects since 1916, trying to understand the whole teaching-learning process in the institution called the school.

I have with me today two colleagues, one on my left, the person called by Mr. Scheuer, the star witness is Mrs. Williams.

We wanted, in spite of the temptation, to talk on all aspects of the amendments and the bill, we wanted today to try to bring to this committee perhaps just a little bit deeper understanding of the whole educational aide, the nonprofessional school aide area of work.

Mrs. Williams is such an aide who has come up in the public school system of New York and is an educational aide in P.S. 1, which is down in the Lower East Side.

She also serves on the advisory committee to a study of the whole question of the training of nonprofessional auxiliaries which are being carried on at the Bank Street with OEO funding by Dr. Klopff and other associates.

This study is attempting to follow and to give nurture to and to get dissemination among and from the 15 OEO sponsored training programs for aid scattered across the country.

Therefore, Dr. Klopff who has been at this for a couple of years brings a good deal of rather deep understanding of this and Mrs. Williams, who has served on the advisory committee, brings the under-

standing that she has gained from study and also her personal experience as an aid.

I think perhaps I ought to say just one bit about Bank Street for you so you will know the background out of which we talk.

We are deeply involved in teacher training, but we are more concerned with the whole question that has been raised here today by many of you which is how do you get dissemination, how do you get change, how do you get improvement because it is very telling, the question which says "well, if a concern with a disadvantage is long overdue, where have the States been? Where have the school systems been?"

One answer, of course, and it is partly a legitimate answer, is that there have not been the funds.

On the other hand, many of us who are out in the field working in school systems and studying them find that even where there seems to be plenty of funds, the funds are not used wisely and changes are not made to try to bring about new practices that will lead toward the goal which everybody agrees is important, which is to try to bring into the American stream of life about 30 percent of the children of America who today are coming out of our schools, a large proportion of them, ill-trained for productive lives in society and many of them already doomed to what I call permanent unemployment in our society.

When you think that in the large system in which we work in perhaps 250 elementary schools, 85 percent of the children at the end of the seventh grade are retarded in reading and, I would guess, at least 50 percent of these are so retarded that they cannot possibly do successful secondary education work. It becomes apparent that this is an advance problem, a difficult problem, a complex problem.

The first point of two I would like to make today, and perhaps I can make other points in the questioning period after lunch, is first, in spite of the difficulties and in spite of the problems which you men and women are as concerned about, and certainly even more knowledgeable about than most of us who work in certain areas of the country, in spite of that, there is, and in spite of what I just said about the tremendous job still to be done, there is, as I have said in my written testimony, abroad in the land today a spirit and a movement among educators and all of the other people who are becoming more interested in education and the work of the school which gives great hope.

The first summer that Headstart came into New York, the public school program was opened and almost no children appeared. The school system realized that the schools really have never known how to get in touch with the children of really disadvantaged, disorganized, alienated, poor families, but they got to work and by the end of the first year the school system had introduced personnel who got out to the homes. They had more home visiting going on, and by the time the second summer came around a different situation occurred.

This required change. I would just like to point out the change in the educational establishment is no more difficult, but I am sure, it is no less difficult for the people in that establishment than it is for any establishment that you can think of, any bureaucracy. Change takes

place very slowly. We all have ways of working and we continue to use those ways and it takes a great deal of dynamite sometimes, intellectually and from the standpoint of funding and so on to make us change our ways of behavior.

This is a deep concern of all of our studies and work in fact, in our teacher education work at Banks Street we are concentrating now upon teams of teachers and administrators from various parts of the country who come for workshops, and we try to work with them and develop with them ideas with which they can go back to their home towns and States and bring about some of these changes which really have to take place.

The chairman would be pleased to know a team from Louisville, Ky., will be at Banks in this summer as well as Atlanta, Cleveland, Hartford, Miami, and various parts of the country.

I would say it is difficult to bring about the change but I think some change is taking place, and that leads me to the second point, and that is the support we would like to give—I am not very good on all of these titles and I get confused about them—but that part of the amendments which would permit States to set up planning and evaluation agencies. I will certainly go along with the Commissioner from Minnesota, who said that the State organization should not be bypassed. They should be used more fully. The local areas need to be used more fully.

While I support this amendment, I should like to interject at the beginning a statement in support of what we have now. I am a great believer in not letting any one establishment have the whole show. That is why I would hope that Headstart would not be put into the Office of Education and under title I. It may belong in the department, but I would hope that it could be set up in some way so that some of the influence of the people who had the original vision in OEO and Shriver, and so on, could still have an influence upon this, because we see evidence all the time of a State department having a good influence upon the local system, of the local system having a good influence upon the State and both of these being influenced by guidelines and by requirements and by encouragement out of the Federal Government, and I mean beyond money. I mean encouragement of ideas, because our profession—and I have been in education all of my adult life—my profession is just like other professions—very, very slow to change and we do need the influence from all of these sources.

However, having said that, I do feel that a great deal more planning needs to be done at the State level. I think this is a capital idea that is being proposed to encourage and make it possible for the States to set up these planning, these State planning and evaluating agencies and to require that among the things which they will do will be concern for new programs, new horizons, new ventures.

That leads me to the point which I hope we will be able to spend most of our time on in the time allotted us: namely, one of our interests in such planning groups at the State level and these new programs is that such bodies pledge to try to implement and devise and to implement new programs that one of the new programs which they certainly will have to get into is this program of the training of school aids, the nonprofessional personnel.

Now, for the past 2 years we have been studying in but we have also been bringing the people who are in these training programs together, people from school systems, people from outside the agency, in labor, in industry, and so on, together to find out and to learn from them and we find that certain things are true.

We find that the aid program is successful where the following conditions are obtained:

1. Where the role of the aid is not defined in a rigid fashion, but is defined in the way Mrs. Williams has had, with the flexibility, with the taking advantage of the particular interests and the ability that she has and the needs of the particular kids in that particular school.

2. We find that this does no good unless the teachers are trained how to use aids and the aids have a continuing training program—they are not dumped into taking off overshoes or picking up papers.

3. When the school looks upon the aid as a career and, if possible, a career with ladders so that people who want to, can climb up the rungs of these ladders to better positions. In the very short time we have known Mrs. Williams, we have seen this tremendous growth toward becoming a real professional. Yet she started over as a housewife who was just interested in kids and wanted to help.

4. We find that it is pretty essential, and you would subsume this, I would imagine, that the aids be in schools where the schools and the school system believes that every adult in the school is important in the life of a child, from a janitor or the custodian, the cook, up to the superintendent of schools. They are all a part of a team, all influencing the lives of children and youth. Where that attitude exists, we find that the aid program is extremely important. Where these conditions do not obtain, either in toto—and in some places they don't obtain at all though they have aids—then we find that really the advantage of this for the children and for learning seems to be very slight indeed.

Personally, I do not pretend to know what should or should not be in the legislation. But I would hope that in some way the influence of the committee could be exerted if an amendment does go through Congress and that this influence would be thrown behind stimulating in relation to the aid training program and would be toward stimulating the use of the research which has been done by this national committee that happens to be located at the Bank Street College of Education about this whole program because I come back to another point and with that I am finished.

There is no question about it that there just is not very much dissemination. Things happen that are important here and they are not even known in the same school system let alone in another part of the country. This is a problem which we should address ourselves to, we are trying to at my level, but it is a universal problem which is of great importance.

Now, I had hoped that Mrs. Williams would be able to tell you, Mr. Chairman, some of her experiences. Perhaps that would best be done if done as the result of questions, but she has gone to a lot of work to prepare a beginning statement and if you would like to have her do that, she is prepared to do so.

Chairman PERKINS. If there is no objection, her statement will be inserted in the record and if you care to summarize it, it would certainly expedite the hearing.

Mrs. WILLIAMS. Mr. Chairman, Members of Congress, I am a school aide employed at P.S. 1, by the Board of Education.

Some of my duties are, one, I am primarily a library aid, which means processing all books that come into the school whether through ESEA or through library funds and also stimulating the interest of children where they read for enjoyment and not because it is a chore. In doing this, I have been able to raise the reading level of some children and also in helping children that have remedial retardation in reading.

I had one little Chinese boy who arrived from Hong Kong who had a difficulty reading problems and he was reading at the third grade level while he was in the fifth grade. I helped him. If a test is given and a child does not know how to read-mark he cannot pass the test. Also the silent "b." He did not know how to pronounce the word "lamb," and also the magic "e" where the magic "e" becomes use.

No teacher has enough hands to give every child the individual attention they need. This was one of my duties.

Also, in the morning, receiving prekindergarten, kindergarten and first-grade children. It is very important to the parents to be able to leave these children in school with peace of mind. These children come to me in the morning, leave their mothers.

It has been a wonderful experience. We have a working community. Parents are now asking what can they do to help improve their children's reading ability, what is curriculum, something that was never asked before by parents. Also, if a child has a problem bothering them they can come to you and ask you and you can relate to them and speak to them on their level.

I also act as liaison between school and parents. I could go on forever about the things that have gone on in school. It has been rewarding to me and also I think the school has gained something from it. I would like to think that aids are responsible for this.

I will also help with the barking of the school, taking care of book-keeping, also in ordering supplies for the school. I don't think there is anything that an aid could do except in a professional field that I could not qualify for. The only reason I couldn't qualify is because I am not a professional.

Chairman PERKINS. Thank you very much for your eloquent statement.

Mr. NIEMEYER. Dr. Kopf is the dean of the college and he would like to make a comment.

Mr. KOPF. I think I would like to support the amendment dealing with greater planning on the part of States.

I think a very basic ingredient to this, however, is not only more leadership on the State level, but using some national guidelines or some national leadership in this direction to assist States in their planning.

I serve right now as chairman and follow through the national planning committee for the Office of Education and we have a team working from all over the country working on this program. I feel

very strongly that States can have resources from national leadership, both in the U.S. Office of Education and from other States and from other institutions throughout the country. Although I support very strongly greater planning on the part of States, I think included this planning plus the leadership from throughout the country whether it is from the U.S. Office of Education or other institutions.

I think that Headstart is really one I consider the great examples or great innovations on the national level of the past 10 or 15 years in education. This was a national program and it was both initiated and implemented on a national level through local areas. To what degree some of you know more the stipulations of followthrough, this perhaps would be a combination.

Another major concern of mine has been the study of the MDTA training institute. I think you were sent copies of reports we did at Bank Street 2 years ago. The difference from the assistance at the national level, these institutes as we looked at them two different times, through national leadership, through national assistance, I think, has been very, very significant. Programs in States, cities, and the institutions as Mr. Niemeyer said, has to be a combined approach. We have to work it together, but we do need more State planning with greater leadership and richer leadership on the part of the States.

(Mr. Niemeyer's prepared testimony follows:)

TESTIMONY BY JOHN H. NIEMEYER, PRESIDENT BANK STREET COLLEGE OF EDUCATION

Ladies and gentlemen, I wish to thank Chairman Perkins for inviting me to testify before this morning on the Elementary and Secondary Education Act Amendments of 1967. With his permission I am accompanied by two of my colleagues: Mrs. Verona Williams who is an aide in the New York City Public School System and a member of the Advisory Commission for the Bank Street Study of Auxiliary Personnel in Education, and Dr. Gordon Klopff who is the Dean of the Faculties at Bank Street and is co-director of the Study. Dean Klopff is also currently serving as Chairman of the committee here in Washington planning policy and guidelines for Project Follow Through. Our plan, with your permission, is that I shall make a brief statement, and will then ask Mrs. Williams and Dean Klopff to speak, following which we should be glad to try to answer questions which members of the Committee may wish to address to us.

Perhaps it would be helpful if first I said something about the work of Bank Street College of Education so that those of you who are not familiar with our program will know the experience and professional concerns from which we speak. Bank Street is solely a graduate school for the training of early childhood and elementary teachers and supervisors, and a research center which from its inception in 1916 has been seeking ways for improving the teaching-learning process. We work through highly formal research and through field experiments. As part of the latter, we have conducted for many years an experimental laboratory school, operate a day-care center for the Welfare Department of New York City, and have for the past two years been attempting to develop on the West Side of Manhattan a child and parent center (which we call simply the Bank Street Early Childhood Center because that is the name selected by the families who are working with us to develop this center as a resource for themselves and their neighbors). In the Center we are trying to carry out to its fullest the broad conceptualization of Head Start. The families in the Center are representative of the poorest and the most isolated of families which we have ever known, and yet families with very great potential for self help.

Since 1943 the College has had a close working relationship with the Public School System of New York and for all these years we have sent faculty teams into schools to work with teachers and supervisors on problems of their own choosing. The most recent and perhaps dramatic of these cooperative efforts is the Bank Street Educational Resources Center, located in the heart of Harlem,

which has been serving as a resource to three District Superintendents. Long before there was the wide-spread concern about the schools of the ghetto areas of the big city, Bank Street was deeply engaged in studying and probing at this great problem.

Finally, I should perhaps add, the College has in the past six years conducted training programs and provided consultation to a number of cities across the nation, thus giving us a picture of the educational scene beyond New York City. For the Office of Equal Educational Opportunities of the U.S. Office of Education we have been providing consultation service to school systems facing particular curriculum problems as part of their efforts to desegregate and integrate their schools. We have provided training for teams of teachers and administrators from such cities as El Paso, St. Louis, Louisville, Boston, Washington, D.C., San Juan, Milwaukee, Charlotte, and Cleveland. This coming summer, teams of teachers from Louisville, Atlanta, Hartford, Miami, and Cleveland will be studying at Bank Street directly on the problems faced by their school systems in relation to the education of disadvantaged children.

From this wide-spread involvement we can report to you, ladies and gentlemen, that, although the educational problems of this nation are vast and will require an expanding effort on the part of the federal government and the states for correction, there is abroad in the land today an encouraging movement on the part of not just schools and educators but of the related professions and the general citizenry which promises great hope. We are convinced that the school is the most critically important agency in our society for cutting into the permanent cycle of poverty. Many other things need to be done, of course, but unless we can provide the boys and girls who are now coming out of our schools doomed to permanent unemployability the skills and attitudes necessary for playing productive roles in society, the culture of poverty will continue and only grow worse.

My first point relative to legislation to strengthen elementary and secondary education in the country is to commend this Committee and the Congress upon the important first steps which have been taken and to urge that in all future legislation the vast proportions and complexity of the problem be borne in mind. School systems, just like other social systems, do not change easily. The problem of the re-training of large numbers of personnel is gigantic in proportion and slow in accomplishment. New methods and new materials for teaching the children from highly disorganized families must be developed. New resources must be found to meet the medical and psychological needs of children. Therefore, if we, the American people, intend to do the job, we will have to put into it many times the resources which we have been willing to make available to date. My first point, then, is to urge the Congress to provide increasing funds in support of the various programs which can, given enough time and money, bring about the necessary and desirable changes in our entire approach to the education of children and youth.

Secondly I should like to make some brief observations on the proposed Amendment to Title V of the Elementary and Secondary Act relating to grants for comprehensive educational planning. Because, if solving our educational problem requires a great deal more money, it also requires a great deal more systematic, coordinated planning and evaluation of education at all levels.

We strongly support the proposal in Section 523 (a) (1) of this bill for the establishment of a single state agency to develop comprehensive state-wide planning programs designed to 1) set state-wide educational goals; 2) develop through analysis alternative methods of achieving these goals; and 3) plan new programs and improvement of existing programs based on the results of these analyses.

We also urge that there be included among the new programs to be considered by such state-wide planning agencies a program for "New Careers in Education"—that is to say, the coordination of non-professionals along with professionals in a long-range, integrated approach to meeting the learning needs of children and youth.

Bank Street College of Education is currently conducting, under a contract with the Office of Economic Opportunity, a nation-wide Study of Auxiliary Personnel (that is non-professionals) in Education. The first report of this Study is the volume entitled "Teacher Education in a Social Context," several copies of which I shall leave with the Committee staff. Preliminary findings from the analyses of 15 demonstration training programs for auxiliary school

personnel reveal that such personnel demonstrate a capacity to make a positive contribution to the learning-teaching process, when the following conditions prevail:

1. When the roles for aides are developed in terms of the particular strengths of each aide and the particular needs of the pupils of particular classrooms, rather than the roles being defined in rigid categories which are supposed to apply to all situations.

2. When intensive and continuing training is provided, *both* for the non-professionals and for the professionals with whom they work.

3. When the job of the auxiliary personnel is incorporated in the entire school structure as a new and respected career, and not merely as a temporary expedient.

4. When the school and the school system look upon all members of staff, from the building custodian to the top superintendent, as being part of an educational team which is constantly influencing the lives of the young.

These essential components in the productive utilization of auxiliary school personnel are often lacking, almost always because there has been no comprehensive planning. The attitude so often is: "We certainly could use an extra pair of hands and somebody else is paying the bill, so let's get ourselves some aides." Whether this is precisely the attitude or not, we can say that the widespread employment of non-professionals without adequate orientation or training has often proved deleterious to the total program and has nullified its potential values.

State-wide planning agencies to clarify and confirm educational goals, such as providing education which is relevant to the needs of individual children, would, we believe, contribute significantly to establishing the conditions which we believe are essential if the important program of using auxiliary school personnel is to make the important contribution which it can make. State-wide planning agencies would be in a position to analyze the way in which the introduction of non-professionals into the classroom can help implement the goal of individualized instruction, and then develop innovative programs for the training and institutionalization of auxiliary personnel in school systems throughout each state in the nation.

Therefore, ladies and gentlemen, we want to give special endorsement to this particular section of the proposed legislation.

AUXILIARY SCHOOL PERSONNEL: THEIR ROLES, TRAINING, AND INSTITUTIONALIZATION

Based on a nationwide study of teacher-aides, teacher-assistants, family workers, and other auxiliary personnel in education

(By Garda W. Bowman and Gordon J. Klopff)

The employment of teacher-aides, teacher-assistants, guidance-aides, health-aides, family workers and other auxiliary personnel in schools increased sharply during the mid-sixties. Often however, the circumstances under which funds could be secured as well as the urgency of the need required a crash program. The essential component of preparation was therefore lacking—preparation not only of the nonprofessionals themselves but even more importantly, *of the teachers and other professionals with whom they would be working.*

Several convergent forces—social, educational and economic—have contributed to the mushrooming of such employment at a pace which sometimes precluded adequate orientation:

1. The ever changing and expanding needs for school services;
2. Acute shortages of professionals to meet these needs;
3. New dimensions in education, requiring a more complex and demanding role for teachers;
4. Heightened awareness of the special learning needs of disadvantaged children and youth;
5. Recognition of the communication blocks which often exist between middle class professionals and lower class pupils;
6. The plight of undereducated persons unable to compete in an increasingly automated economy;

7. The availability of Federal funds for the employment of low income non-professionals in education, through such sources as O.E.O., M.D.T.A., and Title I of the E.S.E.A.

The Office of Economic Opportunity, alert to this critical situation, requested Bank Street College of Education to conduct a study of auxiliary personnel in education. This study, exploratory and developmental in nature, has three specific areas of inquiry: role development, training, and institutionalization of auxiliaries in school systems. One component of the study was the coordination and analysis of 15 demonstration training programs, 11 of which were conducted during the summer of 1966. The other four started in the fall of 1966. In these programs professionals and nonprofessionals studied and worked together to increase the effectiveness of auxiliary personnel in various school situations.

The auxiliaries learned specific skills and gained some basic understandings needed to operate in a school setting. The teacher-trainees learned in a reality situation—a practicum—how to utilize and relate to other adults in a classroom.

The auxiliary trainees in the Summer Institutes included Navaho Indians from a reservation; low income whites from Appalachia; Mexican-Americans, Negroes and others in California; predominantly Negroes in Gary, Ind., in Jackson, Mississippi, and in Detroit; mothers receiving aid to dependent children in Maine; Puerto Ricans, Negroes and others in East Harlem; Puerto Ricans in disadvantaged sections of Metropolitan San Juan; and a cross-cultural, cross-class group of trainees in Boston.

The varied experiences of the demonstration programs will be described and analyzed in some depth in the final report of the study which is due early in 1967. Meantime, this brochure considers what seems to help or harm effective utilization of auxiliary personnel in education. It offers: (1) rationale for the use of auxiliaries in school systems; (2) some difficulties which might be encountered; and (3) some recommendations for coping with these difficulties, based on the experience thus far in the demonstration training programs.

It is expected that the demonstration programs may have some relevance to other school situations where auxiliary personnel are employed or are about to be employed. Further this report may elicit comments and countersuggestions which will contribute to the exploration of a new and promising development in education.

RATIONALE FOR THE UTILIZATION OF AUXILIARY PERSONNEL IN SCHOOL SYSTEMS

The question is often asked: "Should the school system be required to solve all the social problems of our time?" This leads to a second question: "Is the utilization of low income workers as auxiliary school personnel aimed primarily at creating jobs for the poor, at coping with acute manpower shortage, or at helping to meet the needs of pupils?"

To those who conducted demonstration training programs during the summer of 1966 the answer appeared to be that the essential criterion of any innovation in education is whether it helps to meet the learning and developmental needs of children and youth. However, they believed that the learning-teaching process can be truly effective only in relation to the totality of the child's experience. The school, like every other institution, operates within a social context, not in isolation.

The sponsors of the demonstration programs believed that even if there were no shortage of teachers, the introduction of more adults into the classroom would enhance the quality of education—adults selected on the basis of their concern for children and their potential as supportive personnel rather than primarily on the basis of previous training. They saw, too, great possibilities in the professional-nonprofessional team in enabling the teacher to differentiate the learning-teaching process to meet the individual needs of pupils, as diagnosed by the teacher. They saw, too, in this multi-level team approach escape from rigid structuring in the classroom—for example, more freedom of movement, more small groupings, more independent activities than would be feasible for one person often operating under difficult teaching conditions. In fact, the teacher might, with this assistance, be able to experiment with innovative techniques which he had long been wanting to inaugurate.

These values are universal—that is to say, they might be realized through the effective utilization of auxiliaries in any classroom regardless of the composi-

tion of the school population or the socio-economic background of the auxiliaries. In summary, the multiple benefits which were perceived as possible in *all* school situations were—

1. *To the pupil*, by providing more individualized attention by concerned adults, more mobility in the classroom, and more opportunity for innovation;
2. *To the teacher*, by rendering his role more satisfying in terms of status and more manageable in terms of teaching conditions;
3. *To the other professionals*, by increasing the scope and effectiveness of their activities;
4. *To the auxiliary*, by providing meaningful employment which contributes at one and the same time to his own development and to the needs of society;
5. *To the school administrator*, by providing some answers to his dilemma of ever increasing needs for school services, coupled with shortage of professionals to meet these needs—a solution, not *the* solution, and certainly not a panacea;
6. *To family life*, by giving auxiliaries, many of whom are or may someday become parents, the opportunity to learn child development principles in a reality situation;
7. *To the community at large*, by providing a means through which unemployed and educationally disadvantaged persons may enter the mainstream of productivity.

In addition to these global considerations, there are some specific benefits which may flow from the utilization of indigenous personnel as auxiliaries in schools serving disadvantaged neighborhoods.

The auxiliary who has actually lived in disadvantaged environments often speaks to the disadvantaged child or youth in a way that is neither strange nor threatening. He may help the new pupil to adjust to the unfamiliar world of the school without undue defensiveness; to fill the gaps, if any, in his preparation for learning; and to build upon his strengths, which may have more relevance to the new situation than the child, himself, realizes. This cultural bridge is seen as an asset, in and of itself, even if there were no need to provide jobs for the poor.

Moreover, the low-income auxiliary, having faced up to and overcome some of the difficulties and frustrations the children now face, may serve to motivate the child to further effort. His very presence in a role of some status in the school says to the child: "It can be done; it is worth trying to do; you, too, can succeed here." This has far more meaning than the story of a Ralph Bunche or a Felisa Rincon de Gautier to one who obviously lacks the exceptional ability of these great but remote persons.

Naturally, this message would be imparted more forcefully if the faculty, too, were mixed in terms of socio-economic background. As work-study programs become increasingly available, economic integration may become more frequent in school faculties. Meantime, the low-income auxiliary sometimes provides incentive to poor pupils which would otherwise be lacking.

Further, the auxiliary from the child's own neighborhood may be able to interpret to the middle class professional some aspects of the behavior of a child who is non-responding in a school situation. The auxiliary may, in turn, interpret the goals of the school and the learning-teaching process to both parent and child. To reach the child for a few hours a day without reaching those who influence his mode of living may be of little avail. The parent who doesn't understand a school official sometimes finds a neighbor serving as a school auxiliary helpful.

However, the fact that low-income auxiliaries may and often do facilitate communication between school and community does not mean that *all* poor people can work effectively with poor pupils and their families. Naturally, any candidate for school employment should be carefully screened for those personal characteristics needed to work with children and youth. However, the demonstration programs have revealed that a flexible and imaginative selection process may discover in poor people potential that has been overlooked thus far—potential which may be developed as an asset in a school setting.

In summary, new dimensions in education call for the utilization of school personnel of various socio-economic backgrounds and at various levels of training working together as teams to meet the wide range of pupil needs in changing communities. Since economic, social and educational problems often have some

common causal factors, a single solution may have multiple values. It may result in positive pupil outcomes and in socially useful outcomes as well. The utilization of low-income auxiliaries in disadvantaged areas appears to be a case in point. Its possibilities are many. Its real significance is only beginning to be explored.

The study is designed to view these possibilities in terms of several reality situations, and to identify factors which seem to block or facilitate the realization of educational values from the utilization of auxiliaries in these specific situations.

DIFFICULTIES WHICH MIGHT ARISE IN THE DEPLOYMENT OF AUXILIARIES IN SCHOOLS

During the pre-planning for the overall study and for the demonstration programs, many professional and administrative concerns were discussed. Some of the anticipated difficulties were actually encountered. Others proved to be mere conjecture, not substantiated by experience. The fact that these possible problems had been considered in advance aided in their solution.

The difficulties anticipated by each of the groups involved in the training programs differed widely. For school administrators they were largely "how to" problems, such as establishing fiscal policies—the whole process of setting up a new hierarchy of positions, with job descriptions, job titles, salaries, increments, role prerogatives, and training requirements for advancement. Another "how to" problem for the superintendent was orienting the principals, who, in turn were faced with the problem of interpreting the new program to the teachers and other professionals so that they would utilize rather than ignore, reject, or resent their would-be helpers. Theirs was the task to determine who would conduct the training of both professionals and nonprofessionals and how to secure such personnel. Often all this had to be accomplished within and in spite of institutional rigidities. Moreover, the school administrator was responsible for involving local institutions of higher learning and the indigenous leadership in the planning, and for interpreting the new program to the Board and to broader community.

The professionals—teachers, supervisors, guidance counselors, et al—were primarily concerned that professional standards should be maintained. They wondered whether the auxiliaries might try to "take over," but they were even more concerned lest the administrators, caught in the bind between increasing enrollment and decreasing availability of professional personnel, might assign functions to the auxiliaries that were essentially professional in nature. The teachers, specifically, believed that teacher-aides might sometimes be assigned to a class without the supervision of a certified professional. Teachers, particularly, questioned whether funds which might have been used to reduce the teaching load would be used instead to employ auxiliaries, while increasing rather than decreasing the size of classes.

Some teachers and other professionals also doubted that adequate time would be set aside during school hours for *planning* and *evaluating* with the auxiliaries assigned to them. Moreover, many professionals were not accustomed to the new leadership function which they were being asked to perform. Some felt threatened by another adult in the classroom. Others could not envision ways in which to use this new source of assistance effectively. Still others anticipated that the auxiliaries might not speak in standard English and hence might undermine their own efforts to improve the pupils' language skills. A few wondered whether the pupils would respond more easily to the auxiliaries than to themselves and that they might therefore lose close, personal contacts with their pupils.

The auxiliaries, themselves, had many trepidations. They, too, appeared to be concerned about the differences in their background, values, and patterns of speech from those prevailing in the school. While the professionals often considered the effects of such factors upon pupils, the auxiliaries tended to become defensive and uncomfortable because of these differences. On the other hand, some auxiliaries were resentful, particularly in pre-school centers, when they observed only the end result of the planning—i.e., what was actually done for pupils and by whom in the classroom. Not understanding the diagnostic skills required of the teacher in designing the program to meet the needs of individual pupils, these auxiliaries were heard to say: "We do the same things as the teacher; why should they be paid more?"

It became evident that the problem of defining and redefining one's own role was only one aspect of the challenge. An even more important task was defining, understanding and accepting the role of the person with whom one was to work. This was equally true of professionals and auxiliaries as they entered into a new, sensitive and complex relationship. In fact, one of the insights gained from the demonstration programs was that many of the doubts and concerns could have been avoided if there had been adequate specification of roles and functions prior to the operation.

In those programs where these possible difficulties were discussed by school administrators, university representatives and community leaders in pre-planning sessions, the problems were either ameliorated or prevented. Usually, only the unexpected proves disastrous.

PRELIMINARY RECOMMENDATIONS

In essence, the experiences in the 11 demonstration programs which were operating during the summer of 1966 seemed to indicate that it is not likely that the desired outcomes from the utilization of auxiliary personnel in a given school situation would be realized unless certain pre-conditions to their use were established, so as to avoid or resolve some of the difficulties listed in the preceding section.

Specific recommendations are presented below, based on the experiences, thus far, in role development and training demonstrations. The recommendations refer to all types of auxiliaries, not merely to those from low-income groups.

1. Role definition and development

That role specifications and prerogatives of auxiliaries be clearly defined, in order to prevent either their *underutilization* by unconvinced professionals, or their *overutilization* by harried administrators faced by manpower shortages.

That the functions of individual auxiliaries and of the professionals with whom they work be developed reciprocally in terms of the dynamics of each specific situation.

That role *definition*, which gives security, be balanced with role *development*, which gives variety and scope to the program.

That the whole range of teaching functions be re-examined, so as to identify those which might be performed by nonprofessionals such as monitorial, escorting, technical, clerical, and the more important functions directly related to instruction and to home-school relations.

That teaching functions be further examined to identify the more complex and highly professional functions which should be performed by a teacher alone, such as diagnosis of the learning needs of pupils, planning programs to meet these needs, and orchestrating other adults in the classroom in the execution of such programs.

2. Training

a) Preservice

That there be preservice training of auxiliaries to develop communication skills and other concrete skills as well as the basic understandings needed for success during their first work experience, thus bolstering self confidence and encouraging further effort.

That the training be differentiated to meet the special needs and characteristics of each group, considering such variables as the age of the trainees and the levels (elementary, middle or secondary) at which they are being trained to work.

That there be orientation of both the administrators and the professionals with whom the auxiliaries will be working, including an opportunity for the expression of any doubts or fears which may exist, and for consideration of the new and challenging leadership role of the professionals vis-a-vis the nonprofessionals.

That institutes for administrators, teachers and auxiliaries be conducted, where a sound approach to collaborative education can be developed.

That a practicum be included in all preservice training—i.e. a field teaching experience where professionals and nonprofessionals try out and evaluate their team approach, under the close supervision of the training staff.

That training of trainers and supervisors be provided.

b) Inservice

That there be a comprehensive, continuing, in-depth program of development and supervision of auxiliaries closely integrated with a long term program of stable, open-ended employment, so that each level of work responsibility will have comparable training available.

That mechanisms for process observations and feed-back be developed with a spirit of openness to suggestion so that dynamic role concepts and relationships may emerge which are relevant to each specific situation.

c) Higher education (on work-study basis)

That the cooperation of 2-year and community colleges be sought in the development of programs for auxiliaries who would move into roles requiring more knowledge and skills than at the entry level; for example, library-aides might have one or two years' training in the librarian's role.

That the cooperation of colleges of teacher education and departments of education in institutions of higher learning be sought in two respects, first by providing educational opportunities for auxiliaries who desire to qualify for advancement to the professional level, and second by incorporating into their curricula the expanded role concept of the teacher in collaborative education.

Since the demonstration programs conducted during the summer of 1966 were primarily for the purposes of role development and training, the third focus of the study—institutionalization—was not a component of these demonstrations except in the programs conducted by school systems: Detroit, Puerto Rico, and Gary, Indiana. However, in every training program, the need for institutionalization was stressed by staff and participants alike. They believed that the anticipated benefits had been realized in their training experience, but they also believed that training for jobs that were not stable or at best dead-end would be frustrating to the participants. The following recommendations on institutionalization are, in effect, a look into the future rather than a look backwards at the Summer Institutes. They represent the needed developments, as perceived by innovators in this field, for the optimum effectiveness of auxiliary personnel in American education.

3. Institutionalization

That when and if a school system decides to utilize auxiliary personnel, the program be incorporated as an integral part of the school system, not treated as an extraneous adjunct to the system.

That goals be thought through carefully, stated clearly, and implemented by means of definite procedures.

That there be cooperative planning by the school systems, local institutions of higher learning and the indigenous leadership of the community served by the schools, both before the program has been inaugurated and after it has been institutionalized.

That each step on the career ladder be specified in terms of functions, salaries, increments and role prerogatives, moving from routine functions at the entry level to functions which are more responsible and more directly related to the learning-teaching process.

That professional standards be preserved and that all tasks performed by teacher-aides be supervised by a teacher.

That encouragement of those who desire to train and qualify for advancement be expressed in such a way that others who prefer to remain at the entry level feel no lack of job satisfaction, status, and recognition of the worth of their services—in other words, that there should be *opportunity* but not *compulsion* for upward mobility.

That time be scheduled during the school day or after school hours with extra compensation¹ for teachers and auxiliaries and other professional-non-professional teams to evaluate their experiences and plan together for the coming day.

That the quantity and quality of supervision be re-examined in the light of the needs of this program.

That the personal needs and concerns of both professionals and auxiliaries be dealt with in counseling sessions as they adjust to a new and sometimes threatening situation.

¹ This arrangement would vary according to the pattern established in each school system.

That parents be involved in the program both as auxiliaries and as recipients of the services of family workers.

That contacts be established with professional groups.

That a continuing program of interpretation among educators and to the broader community be developed, with emphasis upon feed-back as well as imparting information.

That an advisory committee of school administrators, supervisors, teachers, auxiliaries, parents, community leaders and university consultants be established to evaluate and improve the utilization of auxiliaries in each school where such a program is undertaken.

Mr. BELL. I would like to introduce Dr. Willenberg.

Mr. WILLENBERG. Thank you for the introduction, Mr. Chairman. Would it be the desire of the chairman that I summarize and ask that the statement be placed in the record?

Chairman PERKINS. Without objection, we will insert your prepared statement in the record at this point.

(The statement referred to follows:)

STATEMENT OF ERNEST P. WILLENBERG, PRESIDENT, THE COUNCIL FOR EXCEPTIONAL CHILDREN, NEA

Mr. Chairman and Members of the Committee: The Council for Exceptional Children is grateful to the House Committee on Education and Labor for the gains in the education of handicapped and gifted children which have accrued through the Elementary and Secondary Education Act of 1965 and the amendments to this act of 1966. We are very pleased to present our reactions to the Elementary and Secondary Amendments of 1967.

We believe that there has been no act of greater significance in improving American education than the Elementary and Secondary Education Act of 1965. Furthermore, we have noted that the amendments of 1966 were necessary ones to extend and improve the Elementary and Secondary Education Act. We also are in full agreement with H.R. 6230, The Elementary and Secondary Amendments of 1967.

At this point, we would also like to commend the Honorable Hugh Carey and the members of the Ad Hoc Subcommittee on the Handicapped during the 89th Congress. We believe that the able work of Mr. Carey and his committee did much to clarify the needs for handicapped children and the issues related thereto. When Mr. Carey, joined by the full Committee on Education and Labor, helped to secure Title VI through the Elementary and Secondary Education Amendments of 1966, the basis for sound and continued progress in the education of exceptional children was firmly established.

We are particularly pleased that the amendments this year add to the substantial base already created. Recognizing that the committee will bear much testimony on other phases of the Administration proposals, we will confine our testimony to those which have reference to amending Title VI. We are sure the committee is aware that the programs envisioned under the amendments to Title VI were thoroughly discussed in the Ad Hoc Subcommittee on the Handicapped last year and that a substantial record has already been built with regard to these crucial needs. Our statements regarding these new provisions are as follows:

"1. The new Section 608, providing for Regional Resources Centers, would enable services and improvements in the education of handicapped children which are greatly needed. We have noted that institutions of higher education, state educational agencies, or combinations of such agencies or institutions within particular regions of the United States, are authorized to establish such centers. We would urge that a "combination" feature be emphasized, if not required. Greater cooperation between state educational agencies and institutions of higher education would be fostered by the joint operation of a regional type of center. Furthermore, since these Regional Resource Centers would undoubtedly become resources in higher education, it would be logical for these centers to be developed with the cooperation of regional agencies in higher education, such as the Southern Regional Education Board, Western Interstate Commission on Higher Education, and the New England Board on Higher Education. These agencies are uniquely staffed and equipped to encourage the type of regional action which is

intended by this provision. We also want to emphasize that two great needs would be met through these centers. These needs are as follows:

"a. A place would be provided for the educational appraisal of children presenting very difficult problems. For example, a deaf-blind child is difficult to assess adequately. Being deprived of both visual and auditory senses, this child is unable to respond to stimuli ordinarily associated with those senses. Determining differential elements in this child's diagnosis is a problem requiring the most astute and knowledgeable medical, psychological, audiological, educational, and other personnel available. There are also other children who present multiple physical, sensory, and learning disabilities and who require extensive and careful appraisal.

"b. Furthermore, the Regional Resource Centers would be authorized to help develop additional programs to meet these needs and to assist appropriate schools and organizations through consultation, periodic reexamination, reevaluation, and other technical services. The worth of this Regional Resource Center assumes even greater proportions when one realizes that the numbers in some categories of multiply handicapped children are so small that even regional and national resources for educational training might be required. We feel certain that these Regional Resource Centers, when established, will become fountains-heads of innovation in terms of developing understanding of, and programs for, the handicapped.

"2. As the Chairman of the Committee indicated in introducing the Administration proposals in the House of Representatives, the best current estimates are that 300,000 teachers of handicapped children are needed and that only approximately 70,000 are currently employed. We join with the Chairman in pointing out the necessity for recruiting the professional personnel needed to assume the task of providing the education these children need. We are fully aware of the competition which already exists, and which may become even greater, for the product of our institutions of higher education. We believe that careers in educating the handicapped must be presented as favorably as possible if we are to secure the teachers we need.

"The Council for Exceptional Children is pleased to report to this committee that we and some of our state units are already at work in this field. The Illinois Council for Exceptional Children has demonstrated that a state organization can have great impact by conducting a concerted recruiting campaign. In cooperation with the State Department of Education and the colleges and universities who train educational personnel for exceptional children in Illinois, the Illinois Council for Exceptional Children has conducted career days and other efforts which have brought major numbers of recruits into Illinois colleges. It is interesting to note that, currently, in 17 colleges with such training programs in Illinois, 3572 students are enrolled with majors in the field of special education. Similar efforts are underway or are being planned by CEC units in other states.

"The Council for Exceptional Children has a Committee on Recruitment which is currently developing a career brochure which we hope to have printed in time for use by high school counselors next fall. These brochures will also be available to our state units and to others who request them. Furthermore, the CEC Committee on Recruitment is considering other ways in which the association may become active in this field.

"Many colleges and universities conduct their own recruitment campaigns. We believe that the financial assistance in H.R. 6230 for recruiting personnel would provide greater substance to the efforts now underway. We hope that the scope of this provision might include short-term stipends for students to work in summer settings for the handicapped, such as schools, camps, and recreation programs, so that a brief experience would be available to assist the student toward a career decision.

"We also hope that information of all kinds, as indicated in the bill, could be disseminated through brochures, career films, radio and television spot announcements, and programs especially designed for educational television stations as well as for public service time on commercial television stations. In short, we hope that all possible media and methods which might have an impact on the recruitment of students would be possible through this legislation.

"3. We are fully in accord with the extension of the provisions of Title VI of the Elementary and Secondary Education Act of 1965 to schools for Indian children and to the Defense Department overseas dependent schools. We have

had significant correspondence from school personnel in military installations indicating such needs. The committee might be interested in knowing that a number of CEC members are specially engaged in educational work in Indian schools. We have had occasion to discuss briefly the needs of handicapped children in the Indian schools with personnel from the Bureau of Indian Affairs and feel certain that in appropriate agencies of the government there is some awareness of these needs. Here, again, we commend the committee for its obvious determination to be sure that the full benefits of the Elementary and Secondary Education Act extend to every American child.

"4. We warmly endorse the proposed expansion of the Captioned Films for the Deaf program to include all handicapped persons. The Captioned Films for the Deaf program started first through private resources, but became a Federal program when it became obvious that the needs in this field were so great that the Government had to become responsible for support. We believe that this program has already brought educational benefits to thousands of children in schools as well as to the adult deaf.

"In 1965 this act was broadened to make provision for 'research in the use of education and training films and other educational media for the deaf, for the production and distribution of educational and training films and other educational media for the deaf and the training of persons in the use of such films and media.' Here we have a practical demonstration of how a program has served one of the areas of the handicapped. It seems fairly obvious that if similar advantages were offered the blind, the mentally retarded, the neurologically impaired, and others through the design and production of specialized educational media, great advantages would accrue. We would emphasize that, from the beginning, the program for the deaf should be protected at a level of performance consistent with its present status and reasonable future expansion.

"We would assume that an authorized \$1 million, if appropriated, would become available for laying the foundation for developments in fields of exceptional children other than the deaf. In time, due attention would need to be given for appropriations adequate for a reasonable growth of these new programs. We believe that current and future technological advances, as well as knowledge about the instruction of children, can be applied in an imaginative way through a program of this type. We are sure that, provided this opportunity, educators of the handicapped will combine their ingenuity with the knowledge of technical consultants to produce instructional media and materials which will greatly improve the efficiency of personnel instructing handicapped children."

Inclosing, Mr. Chairman, we would like to assure the committee of the desire of The Council for Exceptional Children to be of further assistance as you may need us. We also pledge ourselves to continue our efforts to assist in mobilizing the field of special education to undertake the great and important tasks that lie before us.

STATEMENT OF ERNEST P. WILLENBERG, PRESIDENT, COUNCIL FOR EXCEPTIONAL CHILDREN, NEA, ACCOMPANIED BY WILLIAM C. GEER, EXECUTIVE SECRETARY

Mr. WILLENBERG. I am the president of the council for exceptional children and the director of special education for the Los Angeles City Schools.

We appear before you today—Mr. Geer, who is the executive secretary of the Council for Exceptional Children, a department of the National Educational Association—

Chairman PERKINS. We are glad to welcome you here, Dr. Willenberg, and I want to concur in the statement made by my colleague from California, Mr. Bell.

Mr. WILLENBERG. To speak on behalf of the amendments that have been suggested with reference to title 6 of the Elementary and Secondary Education Acts, we are in hearty agreement with the amendments proposed to title 6.

I might detail these by referring to the new section 608 providing for the regional resource centers and support the concept of these regional resource centers by also suggesting that if these centers are approved and funded to the extent indicated that it would seem well that the centers be operated in conjunction with institutions of higher learning and, also, possibly in conjunction with the regional education board.

In those instances in which the educational board and institutions of higher learning would not be the appropriate administrative organizations, certainly State departments of education would have the prerogative and should be encouraged to exercise its leadership role in seeing that regional resource centers are able to function according to the intent of the proposed legislation.

Certainly, there is need for a better appraisal of the educational potentialities of exceptional children. This constitutes a serious problem throughout the Nation and we look forward to the time that these regional resource centers will be available so that more children who require special services because of handicapping conditions will have the opportunity of being identical.

In addition to that service of education of children with special needs, the resource centers would be authorized to help develop additional programs to meet these needs and to assist appropriate schools and organizations through consultation periodic reexamination, reevaluation, and other types of technical services.

As the chairman of the committee indicated in introducing the administration proposals in the House of Representatives, the best current estimates are that there are 300,000 teachers of handicapped children needed, but that we have at present only approximately 70,000 currently employed. We are fully aware of the significance and importance of a nationwide recruiting campaign that would call to the attention of those who are potential teachers and workers with exceptional children, the opportunity that exists in working with this segment of the school population.

The council for exceptional children is pleased to report that it has a committee already at work and has an exemplary program already in existence for the recruitment of teachers for handicapped children in Illinois where through the Illinois federation of the council for exceptional children that council has developed a statewide plan to interest prospective candidates to enter the teacher preparation programs: 3,572 students, as a matter of fact, are enrolled with majors in special education in that State and we point to that as an example of what can be accomplished with some enthusiasm that would be encouraged on a nationwide basis through legislation.

We are fully in accord, also, with the extension of the provision of title 6 of the Elementary and Secondary Education Act of 1965 to schools for Indian children and to the Defense Department overseas-dependent schools. We warmly endorse the proposed expansion of the caption film programs for the deaf to include all handicapped persons. We caution in our endorsement of this aspect of the amendments that the current program for captioned films not be reduced; that in the expansion of the program that the current program for

the deaf be continued; that the expansion occur with the augmentation of similar programs for other programs of handicapped children.

In closing, Mr. Chairman, we would like to assure the committee of the desire of the council for exceptional children to be of further assistance as you may need us. We also pledge ourselves to continue our efforts to assist in mobilizing the field of special education to undertake the great and important tasks that lie before us.

Thank you.

Chairman PERKINS. Thank you very much.

You have made an excellent statement and I agree it is time for us to get busy and do a better job in the training field for teachers.

In connection with the committee's consideration of the administration's recommendations with respect to title VI providing special educational programs for handicapped children, I want the record to show reference to the hearings conducted by the Ad Hoc Subcommittee on the Handicapped during the 89th Congress. The commendable leadership provided by our colleague in chairing those hearings has added much to the knowledge of the committee respecting the needs of this group of disadvantaged children. Program improvements being recommended in H.R. 6230 with respect to title VI are attributable in large part to the fine work done by Mr. Carey and his subcommittee during the last session.

Education and Training of the Handicapped, Hearings before the Ad Hoc Subcommittee on the Handicapped of the Committee on Education and Labor, House of Representatives, 89th Congress, Second Session, on Investigation of the Adequacy of Federal and Other Resources for Education and Training of the Handicapped, parts 1, 2, and 3, on June 6, 8, 9, 14, 15, 20, 21, and 22, 1966; August 9, 16, 17, 18, 22, 24; October 5, 1966, and December 19 and 20, 1966.

Chairman PERKINS. Would the next witness identify himself for the record?

Dr. GEER. Dr. Geer.

I collaborated on the statement just read by Mr. Willenberg and if I can be of any assistance in answering questions, I will be happy to do so.

Chairman PERKINS. We will recess at this time and reconvene at about 1:15 p.m.

We will let the other witnesses make their statements and then all of the witnesses will assemble for questioning.

Mr. BRADEMAS. If it would be in order, Mr. Chairman, I would like to make a unanimous-consent request. I request that following reference to it in my colloquy with the witnesses from Minnesota there be included an article from the Minneapolis Star dated March 3, 1967.

I would also like to ask unanimous consent that following my colloquy with Dr. Edgar Fuller of March 6, 1967, there be included a letter from Nolan Estes of the Office of Education relevant to our discussion at that point.

Chairman PERKINS. Is there objection?

The Chair hears none.

It is so ordered.

We will recess until 1:15.

(Whereupon, at 12:15 p.m., the committee recessed, to reconvene at 1:15 p.m. of the same day.)

AFTER RECESS

(The committee reconvened at 1:15 p.m., Representative Carl D. Perkins presiding.)

Chairman PERKINS. The committee will come to order.

We have with us Monsignor Donohue, the director of the department of education, National Catholic Welfare Conference here in Washington, Msgr. William McManus, and Mr. John Cicco, deputy superintendent of the diocese of the schools of Pittsburgh.

First, I promised this morning Congressman Quie could introduce briefly Dr. Austin D. Swanson, associate professor of education, State University of New York, N.Y.

Before we get started, let me ask do we have any other witnesses in the hearing room who have not been called upon for a statement? If so, hold your hands up. We overlooked a witness here the other day and I hope we don't do it again.

Mr. QUIE. I would like to introduce Dr. Swanson. Congressman Goodell asked me to do it, and also asked Dr. Swanson to come down from New York. Mr. Goodell has been away because his campaign manager passed away and the funeral is today. If it had not been for that, he would have been here to introduce Dr. Swanson. I will make you an honorary Minnesotian for today.

Chairman PERKINS. On behalf of Congressman Goodell and Congressman Quie, welcome. For all of the members of the committee, we are delighted that you came down to make a statement. As you know, Congressman Goodell has been very active in the writing of legislation.

STATEMENT OF AUSTIN D. SWANSON, ASSOCIATE PROFESSOR OF EDUCATION, STATE UNIVERSITY OF NEW YORK AT BUFFALO

Dr. SWANSON. Thank you Mr. Chairman and member of the committee. With the name Swanson I think I qualify for citizenship in the State of Minnesota.

Perhaps I should identify myself a little bit further. I am an associate professor of education at the State University of New York at Buffalo. My academic area of specialty is that of public school finance. As most professors, I also have other responsibilities. One is executive Secretary of the Western New York School Study Council and another responsibility which should be of particular interest to this committee is that I am a project director for a planning grant of one of your title 3 supplementary educational centers.

With that I would like to say I appreciate this opportunity to testify on H.R. 6230, the elementary and secondary education amendments of 1967 and related acts. I have spent the majority of my career as an educator studying the financing of State and local school systems. During this time I have become quite conversant with many of the problems and have developed certain opinions on what to do about them. I hope that these opinions will be helpful to you in your search for means of assisting State and local governments in providing for the educational needs of the Nation.

The passage of the Elementary and Secondary Education Act of 1965 by the 89th Congress cast the Federal Government in a new edu-

cational role. Traditionally the Federal Government has been viewed as a sympathetic although inactive supporter of public education.

Now it is playing an increasingly important role in the formulation of educational policy and its financial participation, although still relatively small, is expanding rapidly. Despite its new importance in educational affairs, the Federal Government has continued to relate with existing educational agencies along traditional lines, through the exclusive use of categorical aids.

I would like to consider with you some of my thoughts about the direction in which the Federal Government should move in order to permit a maturing of relationships between the Federal and State and local educational agencies. Then I wish to make specific recommendations concerning amendments to existing legislation.

Many of the views which I express are similar to those contained in a position paper on Federal aid to education developed by the committee on school finance and legislation of the Western New York School Study Council. Over 60 school boards in the eight western New York State counties hold membership on this committee. These boards are responsible for the education of nearly 300,000 children. A copy of their paper is attached for your information. Although I serve as an adviser to that group, I am not appearing on their behalf. I claim sole responsibility for the comments which are about to be made.

Because my remarks focus upon means I consider appropriate for improving existing legislation, they may have a negative flavor to them. I am sure I share the feelings of the majority, if not all, of your committee that the Federal Government has a strong interest in, and indeed a responsibility for, the welfare of the Nation's elementary and secondary schools.

Therefore, I wish to state emphatically at the outset that I see the legislation passed by recent Congresses as having accomplished much that is good. It has made available resources which have enabled thousands, perhaps millions, of youngsters to get a decent educational break for the first time in their lives. It has shaken up the educational establishment and has encouraged new thinking on old educational problems. It has encouraged the development of a community-wide view of education. It has enabled all districts to become innovators in education, not just the financially able.

A survey made by Project Innovation, the regional planning center for western New York funded under title III of the ESEA, has revealed that over 90 percent of the innovations reported by school districts of the region were federally aided.

On the other hand, all is not well with these acts of legislation. Three weeks ago when I was discussing this subject with my Congressman, Richard D. McCarthy, of the 39th New York Congressional District, I was appalled to learn that he had not received a single letter in support of the accomplishments of the ESEA legislation.

This is probably because of the great frustration on the part of educational administrators and the public alike, not with the intent of the legislation, but with its administration. Unless immediate relief from some of these frustrations is provided, I am afraid that the realization of the objective of substantial Federal support of education will be greatly delayed.

All Federal legislation assisting schools focuses upon specific educational or social problems. All Federal school aid is of a categorical nature with the exception of Public Law 874—aid to federally impacted areas.

I wish to challenge the wisdom and the necessity of using this means for distributing massive amounts of Federal assistance to elementary and secondary schools. Prior to 1965 the amount of Federal assistance was so small that there was not really great concern over how it was distributed. This is no longer the case.

I recognize your dilemma. You want to provide financial assistance to elementary and secondary education, yet you also have a responsibility to the Federal taxpayer—who is also the State and local taxpayer—to see to it that the funds are properly spent. I suspect that you have underestimated the ability of the existing State and local machinery for providing you with adequate assurances of the proper use of these funds.

Objections to categorical aids are of at least four kinds:

1. They tend to shift decisionmaking to the aiding agency.
2. They tend to have an antiequalizing effect—rich school districts are in a better position to take advantage of the aid than are poor districts.
3. They are very inefficient to administer.
4. They tend to fractionalize normally integrated educational programs.

Shift in decisionmaking. Students of public school finance have long recognized that categorical aids tend to shift the initiative for decisionmaking from the local school district to the agency giving the aid.

Contrary to the pattern of Federal school aid, most States since 1925 have developed formulas whereby they can distribute the bulk of State aid to local school districts efficiently and without interfering with the discretionary authority of local school boards to formulate local educational policies.

The effect of categorical aid upon the center of decisionmaking is well illustrated in a letter to me from a member of the staff of the U.S. Office of Education dated November 18, 1966, in response to the above mentioned position paper.

(The information referred to follows:)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., November 18, 1966.

MR. AUSTIN D. SWANSON,

Council Associate, Western New York School Study Council, Buffalo, N.Y.

DEAR MR. SWANSON: On behalf of Commissioner Howe thank you very much for sending us a copy of your position paper, *Federal Aid to Education*.

We share your concern over the best means available to the Federal Government to aid educational institutions. We do believe, however, that the position of the Federal Government with respect to education differs from that of the State governments and such a difference justifies categorical aid.

Clearly there is a growing interest in general aid to education, and I agree heartily with Commissioner Howe when he says there is a need to devise better formulas for the intelligent application of Federal resources. However, I would urge that anyone considering the proper Federal role in education place no small importance on categorical aid. Our experience with the National Defense Education Act demonstrates the importance of categorical programs. For example, it is very doubtful that we would have made such remarkable progress

in improving and extending modern foreign language instruction in our schools and colleges over the past seven years without the categorical aid programs of the NDEA. Language instruction was in a deplorable state and provided a situation which could not continue without a real hindrance to the national interest. We have seen no evidence to support the view that the same progress would have been made had the decision been left to each of the 50 States as to which programs should be supported.

Across the board support of education has much to recommend it and while we would welcome it, there is and should be continued interest in categorical programs which recognize particular national interests and concerns.

Thank you again. Rest assured the comments made in your position paper will be discussed in developing our legislative program.

If the Office of Legislation can be of further assistance, please let us know.

Sincerely yours,

AUGUST W. STEINHILBER,
Specialist for Legislation.

DECEMBER 7, 1966.

MR. AUGUST W. STEINHILBER,
*Specialist for Legislation, Department of Health, Education, and Welfare,
Office of Education, Washington, D.C.*

DEAR MR. STEINHILBER: Thank you for your thoughtful remarks concerning the position paper of the Committee on School Finance and Legislation of the Western New York School Study Council. "Federal Aid to Education."

Your letter of November 18, 1966 urged that "anyone considering the proper Federal role in education place no small importance on categorical aid." The position paper does recognize that under certain circumstances categorical aid may be justified. Proposal 1 on page 5 includes the following commentary:

"Categorical aid should be provided by the Federal Government only in those instances where the Federal Government determines that it is in the national interest that particular types of programs or particular activities be included in the public school programs of the nation. In such instances the Federal Government should honestly admit that it is deliberately trying to influence, if not control, the programs of the public schools of the nation in these areas. Categorical aid should not require matching funds from state and local governments."

The concern of the Committee is that with categorical aid there is a substantial amount of control. If the Federal Government is sincere in its disclaimers of control which have been included in all educational legislation to date, it should refrain from any further enactments of categorical aid laws except where it is convinced that the areas of assistance are crucial to the national interest and where it is apparent that the same ends cannot be achieved without interfering with the local decision-making process. In such cases there is no justification for a disclaimer of control, for the very purpose of such legislation is to control those areas covered by the legislation.

It may be, prior to the enactment of NDEA, as you state in your letter, that "language instruction was in a deplorable state and provided a situation which could not continue without a real hindrance to the national interest." Many would question the assertion that the state of foreign language instruction was a real hindrance to the national interest and whether the expenditure of funds for foreign language instruction was the most critical of all the needs to be met by the public schools. Your next sentence clearly indicates that the purpose of NDEA is to deliberately interfere with the local decision-making process when you state that you have "seen no evidence to support the view that the same progress would have been made had the decision been left to each of the fifty States as to which programs should have been supported."

This Committee does not deny that the Federal Government has an interest in the status of education. It only asks that the Federal Government not approach these tasks lightly: that in such instances where it finds categorical aids necessary, it not disclaim any interest in control of the public schools; and that such programs, unlike the NDEA, be financed wholly from Federal funds.

Sincerely yours,

AUSTIN D. SWANSON,
Acting Executive Secretary.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., December 22, 1966.

MR. AUSTIN D. SWANSON,

Acting Executive Secretary, Western New York School Study Council, State University of New York at Buffalo, Buffalo, N.Y.

DEAR MR. SWANSON: After a thorough study of your latest letter of December 7, I whole heartily agree with the last paragraph which reads,

"This Committee does not deny that the Federal Government has an interest in the status of education. It only asks that the Federal Government not approach these tasks lightly; that in such instances where it finds categorical aids necessary, it not disclaim any interest in control of the public schools; and that such programs, unlike the NDEA, be financed wholly from Federal funds."

We obviously agree in philosophy and perhaps also agree in the application of this philosophy. For example, the Office of Education has supported a more categorical approach to Federal aid as evidenced by expanding the NDEA categories, elimination of categories under the Higher Education Facilities Act, and the general aid approach for programs under P.L. 89-10.

My reference to support categorical aid was perhaps prompted by my interpretation of general tenor of your study council report rather than any one specific item, or perhaps by the comments of many other educators of this subject. In short, I simply wish to emphasize our continued interest in categorical programs.

Thank you again for giving us much food for thought.

Sincerely yours,

AUGUST W. STEINHILBER,
Specialist for Legislation

Dr. SWANSON. There is no doubt but that the categorical aid made a much greater impact upon foreign language instruction in most school districts than if the determination of the use of the money had been left to the State and local agencies. But was this the best educational use of the money? Were the guides prescribed the most effective way of improving language instruction? Was this condition really a threat to the national security? Was it more of a threat than multitudes of other aspects of well-rounded educational programs which were not aided? Which level of government is best able to judge each kind of educational issue?

Perhaps the reason the States have made such wide use of general aid to local educational agencies is that they can control local educational agencies without the use of financial coercion. The schools are State institutions, locally operated, and as such are subject to State regulation.

The Federal Government has no direct authority over State and local educational agencies; therefore, Congress must rely upon financial coercion through categorical type aids if it is to have any influence over their decisions.

But, if Congress concern is over the general health of publicly supported education with no desire to exert any specific control over what goes on in the schools—as it has stated on several occasions—then it is not necessary to persist in this cumbersome manner of distributing money.

I believe that the principal national concern should be for a well-rounded comprehensive educational program for all youth. Categorical aid is disfunctional for this purpose. I can conceive of instances where Congress, with perfect justification, may wish to lead State and local agencies to certain type decisions. In such instances, categorical aids are the vehicles to use.

But I urge you to fully recognize that when you legislate such aid, you are in effect superseding decisions made at another level of

government with one which is made in Washington. I would also urge that you take such drastic action only when there is no reasonable doubt that Washington is in the best position to make such decisions.

Antiequalization effect. Categorical type aids often have an antiequalization effect, that is poorer and smaller districts are at a disadvantage compared with richer districts in securing such aids.

Categorical aids normally require a written proposal for each project for which aid is sought. Federal or State officials use these proposals to judge the acceptability of the project under the criteria established in the enabling legislation. Poorer and smaller districts as a rule neither have the quantity nor quality of personnel to compete for Federal moneys in this fashion.

A matching fund requirement often accompanies categorical aids. This is the case with the NDEA legislation, but fortunately is not the case with ESEA. Poorer districts are again at a disadvantage compared with richer districts in raising the necessary local monies to qualify for supplemental moneys. When it is the view of Congress that its objectives can be accomplished only through categorical type aid, the Federal Government should finance completely the projects involved as it does with ESEA.

Administrative inefficiency. A third weakness of categorical aid is in its administration. It is a very inefficient means by which to distribute public moneys. It requires a large number of administrators, a large number of forms, and a large number of files. The New York State Education Department requires approximately 30 times the manpower to distribute \$1 of Federal aid than is required to distribute \$1 of State aid. The State aid is principally of a general aid nature.

A similar situation is developing in local school districts. Within the past year many administrators have been appointed at this level whose sole purpose is to keep abreast of developments in the Federal arena and to write, submit, and revise proposals to qualify the district for Federal aid to education—this, despite the fact that in most districts only about 5 percent of operating costs will be met through Federal funds.

Can you imagine the administrative bureaucracy that would be necessary if Congress should decide to substantially increase its support of education within the limits of categorical aids.

A shortage of competent professional personnel existed prior to ESEA. ESEA unnecessarily aggravated the situation by creating many administrative positions of limited utility. To further compound the staffing situation, because of the tenuous nature of many federally financed programs, it has been necessary to pay certain personnel premium salaries in order to encourage them to take the risk.

Difficult to integrate. A final general weakness of categorical aids is that it is difficult to integrate the projects they finance into the regular on going educational program. In order to qualify for aid, an activity must be artificially separated from the regular program, at least for accounting and evaluation purposes and often for other purposes such as employment of personnel. It is also difficult to do long range planning for such projects because of the tenuous nature of their financing.

In order to gain full benefit from Federal participation in educational matters I strongly urge Congress to move rapidly toward replacing most existing categorical aids with a general aid to the States for redistribution to local educational agencies.

In shaping a new Federal posture I recommend the following principles:

1. Federal aid to education should be general in nature, leaving the decision for its allocation to State and local school authorities. Categorical aid should be provided by the Federal Government only in those instances where the Federal Government determines that it is in the national interest that particular types of programs or particular activities be included in the public school programs of the Nation.

In such instances the Federal Government should clearly indicate its intentions to influence, if not control, the programs of the public schools of the country in these areas. Categorical aid should not require matching funds from State and local governments.

2. Federal aid should be distributed to the States on an equalized basis; that is, the amount of Federal aid made available to the States should be in inverse ratio to the wealth of the State. The concept of equalization is one which is firmly imbedded in most if not all of the State aid programs of the 50 United States.

In establishing a Federal equalization policy however; the principles developed at the State and local level cannot be directly applied to the situation at the national level. The chief reason prohibiting such an application is the fact that while most States exist within a single economic region, there are several economic regions within the United States.

In a public service industry such as education, by far the principal cost, approximately 70 percent, is labor. The costs of labor vary markedly from one economic region to another thereby significantly influencing the cost of educational programs for a given amount of service. This means that poorer regions as measured by personal income can provide comparable educational services at a lower cost than can richer regions because of lower labor costs.

This phenomenon tends to reduce, although not eliminate, the variation in ability among States to support educational services.

3. Federal aid programs should recognize the integrity of each State. All Federal moneys for education should be distributed through the established State authority for public education, normally the State education department.

4. Public money must be administered in the public domain. If Federal moneys are to be appropriate and used for children in private schools, the accountability for the use of these moneys must remain within the public domain through the State designated local educational agency.

5. Since basic research into matters related to human learning and development are of equal value and importance to all segments of our Nation, the Federal Government should continue and expand its financing of such activities.

Likewise it should expand its efforts to disseminate resulting discoveries and applications so that the timelag between invention and widespread application may be substantially reduced.

6. The responsibilities of the U.S. Office of Education should be increased in the areas of providing leadership and reduced in the areas of administering categorical aid programs.

The nature of the U.S. Office of Education role should be one of influencing educational adaptation through field service leadership activities rather than through administering acts of financial coercion. This means the massing of a considerable body of knowledgeable persons in the U.S. Office of Education which would be available to States and local school districts at their request to assist them in educational planning and evaluation.

Long-term recommendation: I contend that the greatest immediate need for Federal funds lies in making available in all States a general level of financial support adequate to provide acceptable levels of educational services. A large number of States do not have the resources necessary to provide such programs even with confiscatory tax efforts. Federal funds are the only solution for these States. Providing general tax relief to all States is of secondary importance.

I would like to recommend for your consideration a formula developed by the Committee for Economic Development. It is reported in their publication entitled "Paying for Better Public Schools," September 1961. The illustration is based on 1957 data.

It is a program designed to aid education in States with personal income per student in average daily attendance in public schools that is below 80 percent of the national average. For each student in average daily attendance this program would pay such States an amount equal to the product of (1) the amount by which its personal income per student in average daily attendance falls short of 80 percent of the national average, and (2) the national ratio of current school expenditures to personal income.

For example, personal income per student in average daily attendance in the Nation as a whole was \$11,446. Eighty percent of this was \$9,157. In Mississippi, personal income per student in average daily attendance was only \$4,893.

Subtracting \$4,893 from \$9,157 give \$4,264. In the Nation as a whole, current school expenditures equalled 2.83 percent of personal income. For each student in average daily attendance Mississippi would get 2.83 percent of \$4,264 or \$121. With 444,200 students, Mississippi would thus receive a total grant of \$54 million.

Such a program would permit any State to reach the 80-percent level in current expenditures by devoting the same proportion of its residents' income to current school expenditure as the Nation as a whole. And they could do better by providing more.

The specifics of the formula may be altered to satisfy your analysis. For example, it would make good sense to me to use the national average personal income per student as the reference figure rather than 80 percent of it. Thirty-three States fell below this figure in 1965.

If it is Congress' desire to provide general assistance to all States, and it might be politically expedient to do so, this could be accomplished by making a minimum grant to all States of say, \$100 per student. Any general aid formula should carry with it a provision requiring the maintenance of State and local effort.

I recognize the transition to general aid cannot be accomplished this year. But the planning for such could commence. During the planning period I would recommend that:

1. The objectives of all Federal aids to elementary and secondary schools should be reviewed. Those which are critical to the national interest and which could not otherwise be achieved should be continued.

2. Those categorical aids whose purposes are not critical to the national interest should be discontinued and replaced with a general aid formula.

3. The Federal resources should be reviewed to determine the amount of supplementary moneys which could reasonably be added to item 2 for distribution through a general aid formula.

4. Appropriations should be made to the U.S. Office of Education for the purpose of planning its transition from a basically administrative unit to one capable of providing to the Nation dynamic educational leadership through extensive field services.

Recommendations for immediately needed amendments to existing legislation:

1. Simplify the application and reporting procedures under titles I and II of the Elementary and Secondary Education Act. Under these titles, allocations are developed for each school district.

Presently it is necessary for a district to apply for these funds and to develop lengthy proposals for each of a series of discrete projects whose budgets equal the amount of the allocations. Complete and discrete records and evaluations must be made.

These proposals are reviewed and judged by the respective State education departments and funded or rejected. The Federal interests could be safeguarded with much less redtape through the existing regulatory and supervisory powers of a State. This could be accomplished by having the local educational agency claim its allocation from the State through a resolution of its board of trustees indicating among other things that it would spend the allocation according to the federally developed criteria.

The supervisory personnel now used to read and judge proposals could be released for working directly with local educational agencies in stimulating and planning new educational procedures and for evaluating existing ones. A brief annual report on the use of funds should be required of each district as should a financial audit. The present emphasis on evaluation should be continued.

2. Make appropriations for school aid earlier. Most school districts operate on the same fiscal year as does the Federal Government, and like the Federal Government they must plan their programs, expenditures, and revenues well in advance of the beginning of their fiscal year.

The nature of education is such that the bulk of expenditures goes for securing the services of professionally trained personnel. When additional personnel are required to carry out a program they must be recruited several months prior to the assuming of their respective positions.

All of this adds up to the fact that the availability of Federal moneys should be known by local school districts no later than the January preceding the fiscal year in which the moneys are to be used.

Under the status quo, school districts do not yet know the allocation for the present school year and probably won't know for at least another week or two.

In the meantime, the districts have been operating programs on estimates and faith. For the most part the estimates have been conservative, which means that when school districts are notified of their allocations they will have 5 months in which to plan, recruit, carry out, and evaluate proposals. This is not conducive to wise use of the money.

On the other hand a few districts have badly over estimated the amount of Federal funds they are to receive. These districts will have to drastically curtail their programs during the remainder of the year.

3. Distribute all funds under title III, ESEA through the State educational agency.

Shift a greater degree of control of titles I, II, and III, ESEA to the States permitting them to establish their own administrative procedures to a maximum degree.

4. Permit judicial review of the aid provisions to private and denominational schools.

The church-state issue has served as a major block to general Federal aid to elementary and secondary schools for a century. The accommodations under ESEA do not satisfy either the denominational schools or the proponents of strict separation. This controversy will continue to jeopardize general aid proposals until the judiciary makes its position clear.

Under existing circumstances it is virtually impossible to achieve standing in the court to challenge the constitutionality of the accommodations without a specific provision by Congress.

Mr. Chairman, this completes my prepared statement. I would be happy to entertain any questions the committee might pose.

Mr. BRADEMAS. Thank you, Mr. Swanson. Let me ask you a few questions about your statement if I may. We appreciate very much your observations. I must say, however, that I am somewhat astonished by the positions you assert in your statement for a very simple reason and maybe you can help me.

I was brought up as a political scientist and trained to think that you ought always to offer some evidence for your propositions and you have a lot of propositions but I am afraid not very much evidence.

I find it significant that on page 2 of your statement you say that:

Ninety percent of the innovations reported by school districts of the region were federally aided.

On page 3 you say you are appalled to learn that one of our colleagues had received not a single letter in support of the accomplishments of ESEA legislation and you say:

This is probably because of the great frustration on the part of the administrators and the public alike with the administration of the bill.

If I was your teacher in political science, I would probably flunk you for that statement. Might it not be said this is because most of them are satisfied? I don't know that this would be accurate either but I would like to see more evidence for your conclusion that a mere assumption.

Very often people write us when they are unhappy with the administration of programs but don't if they are happy so maybe the reverse could be said.

Dr. SWANSON. If I may elaborate a little bit more on this conversation. I did not put the other aspect of it in. There has been much controversy over certain distributions of the money and to the red-tape and this sort of thing. He had heard this type of feedback. However, there had not been the positive feedback of the good which had been accomplished through the programs.

Getting back to your other statement concerning the fact that 90 percent of the innovations were funded under Federal aid, I think what this indicates is that local school districts if they are given the resources are able to innovate and to establish good programs.

With the money which they have through the State and local agencies, they are able to operate a normal on-going program.

Mr. BRADEMAS. Then why don't you vote more money at the State level for innovation purposes?

Dr. SWANSON. We are asking that the resources of the Federal Government which you must admit has the broadest and strongest tax base of any State join with the tax base of the State and with the tax base of the local level and together we need to provide an adequate level for innovative purposes?

What we are indicating here is the money can be put to good use and local officials have shown that they can use this money profitably.

Mr. BRADEMAS. I fail to see the validity of that argument.

Dr. SWANSON. In the case of New York, it is difficult to say they are not putting forth a good deal of effort.

Mr. BRADEMAS. I did not say that you were not.

I note also you say on page 3:

I suspect you have underestimated the ability of the existing State and local machinery for providing you with adequate assurances of the proper use of these funds.

Again I would like evidence. Indeed we had some evidence in here these last few days when Dr. Miller came in with his survey of title III programs and showed that there was almost no leadership of an effective and aggressive kind being given by State departments of public education. You may suspect we have underestimated the ability but once again where is the evidence?

Dr. SWANSON. Once again I can point to the State of New York where there is a strong education department.

Mr. BRADEMAS. That is true but we all know New York has an exceptionally strong State department of education.

Dr. SWANSON. It has been developed through State resources and there is no reason why other States through additional support cannot also develop strong leadership institutions. But all State education departments do have the machinery whereby they can and do enforce the regulations passed by the legislatures of the States. These vary. Sometimes they are extensive and sometimes they are not.

Mr. BRADEMAS. My time has about run out. You say the New York State Education Department requires approximately 30 times the manpower to distribute \$1 of Federal aid than is required to distribute \$1 of State aid. Can you really support that kind of an allegation with facts and figures?

Dr. SWANSON. Yes. In the State of New York \$1,500 million is distributed to local school districts. It requires 25 personnel.

In the State of New York Federal moneys amount to about \$250 million. It requires 125 persons to distribute this money.

Mr. BRADEMAS. I think you ought to look at your bureaucratic operation in the State of New York.

Dr. SWANSON. The difference is the State money is distributed on a general basis. The Federal money involves what is called an awful lot of paper massaging which requires five times as many people to distribute one-sixth the money.

Mr. BRADEMAS. I appreciate your coming but I am dubious about the assertions you have made and I find very little evidence to support them.

Dr. SWANSON. I would like to comment just a little further here.

Mr. BRADEMAS. I have no more time. I have talked too long.

Mr. QUIE. I would like to use my 5 minutes on this side, too. I think you can see evidence in the U.S. Office of Education with respect to what has happened with categorical programs. With each new program there is a tremendous increase in personnel required. If we go to general aid, there would be strenuous objection because these people would lose their jobs.

Think of all of the people they have reading the projects. I think you are making an excellent point here of the increased work the further expansion of these Federal-aid programs has given us.

One thing I noticed however that you must feel especially magnanimous about Federal aid to the State of New York when you suggest that the aid be made available in inverse proportions to the State's ability to pay for their education. I happen to believe in that myself, but you come from a State which is up there at the top in wealth and in expenditures for education.

Are you able to get by with that politically in New York?

Dr. SWANSON. Fortunately, I don't have to get by. That is why I recognized in my statement it would probably be politically expedient to provide something like \$100 per pupil to take care of the good Congressmen from New York who also have to campaign for reelection.

Mr. QUIE. This is what we found to be a political reality when we changed this.

Mr. Chairman, I won't use any more of my time.

Dr. SWANSON. Could I use the remainder of your time to make one remark that was prompted over here?

Mr. QUIE. Please.

Dr. SWANSON. You said that my statements were not backed by any type of evidence. The statements are backed with really the only kind of evidence we really do have. Let's face it; the Federal Government is a newcomer in education. It has been interested for a long time but it really has not been deeply involved.

However, it has been involved in the northwest area, yes; but it has not been deeply involved in the development of educational systems.

Mr. BRADEMAS. That is a different statement.

Dr. SWANSON. And the financing of them. So we have to draw our experience from the States. There is a pretty lengthy history of State involvement here. We have made studies of this sort of thing.

We have observed the effect of different types of aid. It is on the basis of the State experience that many of these comments are made.

Mr. BRADENAS. What evidence do you have of that experience?

Dr. SWANSON. The States got into aid to education in much the same fashion as the Federal Government is now, but by 1925 they recognized that categorical-type aid was a cumbersome method of financing public school systems. Then they began to move toward more general-type aids such as the foundation programs and more recently shared cost-type programs which are even more general than foundation-type programs.

Chairman PERKINS. At this time we have several very important witnesses who have not been permitted to make their general statement. Before we have further interrogation of the witnesses we will let the remaining witnesses complete their general statement. After they make their general statement, all of the witnesses will be seated at the table and there will not be any limit on the questioning for just as long as you want to remain.

At this time I again welcome Msgr. James C. Donohue, director, Department of Education, United States Catholic Conference.

Monsignor Donohue, how do you wish to proceed.

STATEMENT OF MSGR. JAMES C. DONOHUE, DIRECTOR, DEPARTMENT OF EDUCATION, U.S. CATHOLIC CONFERENCE; ACCOMPANIED BY MSGR. WILLIAM McMANUS, ARCHDIOCESE SUPERINTENDENT OF EDUCATION, CHICAGO, ILL.; AND JOHN CICCIO, DEPUTY SUPERINTENDENT, DIOCESE SCHOOLS, PITTSBURGH, PA.

Monsignor DONOHUE. Mr. Chairman, first let me introduce the men who are accompanying me. On my right is Msgr. William McManus, the superintendent of schools for the archdiocese of Chicago.

Chairman PERKINS. We welcome you again, sir. He has been before us several times. At this time I think we should call upon our distinguished colleague Congressman Pucinski.

Mr. PUCINSKI. I should like to join in welcoming Monsignor McManus to Washington again. We all realize the important and tremendous contribution that he and Monsignor Donohue, Mr. Cicco, and Mr. Consedine have made in behalf of the original legislation and the many contributions they have made in helping us resolve many of these difficult and legal and constitutional problems.

In the years that I have been here I found every time Monsignor McManus comes before us, he leaves with us a great contribution. We have high regard and respect for him in Chicago and we welcome you here from Chicago.

Monsignor DONOHUE. On my far right is John Cicco, deputy superintendent of education for the diocese of Pittsburgh. Mr. Cicco also acts as a consultant to the Office of Education on participation of non-public schoolchildren under title I of ESEA.

Of course all of you I am sure are familiar with Mr. William Consedine, the director of the legal department.

I think it might be just a good idea, Mr. Chairman, since we saw you last to mention that our organization has a new name. We were, as

you recall, the National Catholic Welfare Conference. We now are the United States Catholic Conference. It is so noted here.

I would like to express to you and the committee my deep appreciation and that of my colleagues here today, for the opportunity to be heard by the Congress as it considers its future actions on the provision of Federal aid to education.

We welcome the opportunity to express to the members of this committee and your congressional colleagues, the gratitude of the 6,027,756 elementary and secondary school children and their parents whom we represent, for your efforts to raise the educational standards of all segments of American education, both private and public, with the assistance of Federal programs.

In the short span of 2 years, the Elementary and Secondary Education Act of 1965 has brought educational services to over 1,200,000 private school students. Eighty-five percent of the children in non-public schools have received, on loan, library books, textbooks and audiovisual materials. Almost 40,000 private school teachers have participated in inservice training programs. From a study underway at the Office of Education of the United States Catholic Conference, the following examples of title I participation by parochial school children are most encouraging:

Denver, Colo.: 1,225 educationally deprived children participating in language arts and reading programs at the elementary level and tutorial programs at the secondary level. Participation in teacher workshops and the use of such equipment as reading machines, tape recorders, overhead projectors, and film projectors.

Dubuque, Iowa: 2,552 students in corrective reading programs; 7,249 students participate in health services and 239 in speech therapy classes. Other services available to students include counseling and remedial reading, math, and English; 100 teachers attend inservice education classes.

Santa Fe, N. Mex.: Remedial reading and mathematics, guidance and counseling, speech therapy for 11,605 students.

Youngstown, Ohio: 44 schools and 852 children participate in a wide variety of programs such as psychological services, health and guidance services, visiting teacher services, speech and hearing services, junior high shop and home economics programs.

Pittsburgh, Pa.: 13,702 elementary school students and 1,083 secondary school students participate in remedial reading and math, special services such as speech, hearing and psychological, language arts, and educational TV.

It is significant to note that in all of these cases there has been a high degree of consultation and cooperation between public and private school educators.

Before this committee last year, I noted that there were areas of the Nation where participation of children in private schools was less than equitable. At that time, I ventured the confidence that more experience under the act would help to improve these situations.

I am happy to report that in several circumstances this confidence was justified. In California, Maryland, Kansas, Missouri, to name a few, our permissible participation has improved during 1966. These results derive in no small measure from the effective efforts of the U.S.

Office of Education and I would like to pay tribute to Commissioner Howe and his staff for their concern and fair handling of these problems.

There are still some problem areas where participation is less than realistic and a few places where it is all but nonexistent. Some State constitutional prohibitions are still a major roadblock to equitable treatment for private school students.

In other areas there persist mistaken impressions barring permissible programs for private school children. Each area requires, now, patient efforts at implementation, to fully achieve the congressional purpose.

We are encouraged, too, by the new regulations published last month and feel the clarified language and more positive approach to private school participation will help resolve many of the remaining difficulties. It is now clear that each local education agency shall provide educational services to meet the special educational needs of the educationally deprived children enrolled in private schools.

Genuine opportunities to participate will be improved by the provision for consultation with persons knowledgeable of the needs of those children.

One of the largest problems being faced in the implementation of ESEA programs is lack of adequately trained personnel. I am sure you have heard this from every public school administrator who has appeared before you.

There is a large, trained, able, and willing body of educators which has not been tapped. I am speaking of more than 177,000 private elementary and secondary school teachers who could be available at least on a part-time basis, and in many cases on a full-time basis, to staff ESEA programs.

There is no question in my mind that private schools, and their teachers, can offer valuable additional services to the community. I think this has been proved by our involvement in Headstart.

Throughout the country, countless nonpublic agencies have responded with eagerness and imagination. The legislation has encouraged all agencies, public and nonpublic, to pool their resources by lending whatever skills, talents, and personnel available to help all children wherever they may be.

Side by side, public and nonpublic personnel, facilities, and resources enter daily into this community effort. The same potential is available for broadened educational programs. If the passage of the ESEA of 1965 told nonpublic school educators anything it told them they were partners in the total American education effort. We would like to be not only receiving partners but contributing partners as well.

I would now like comment briefly on five of the amendments being considered in connection with possible changes in the Elementary and Secondary Education Act.

First, we support the Teacher Corps program enthusiastically and agree it should be placed in title I of ESEA. We also support the extension of the program for a 3-year period. A number of our colleges, including Trinity College here in Washington, are participating as training centers for Teacher Corps volunteers.

Talking with people on these campuses has led me to believe the status of the program can affect the morale and commitment of the young people in training. Bringing the Teacher Corps into the

mainstream of the Federal aid program will do much to give it the status and support it needs.

Second, we support amending title V of ESEA to provide for a comprehensive statewide program of systematic planning toward achievement of opportunities for high quality education for all segments of the population. This comprehensive approach is recognition of the pluralistic character of the American education community.

Total educational needs and goals cannot be set if the States do not have any idea of what the private schools are expected to do and what the special educational needs of children who attend those schools may be.

The presence of parallel education systems in an areas has consequences for the form and quality of educational services in that area. Failure of the two systems to develop an adequate exchange of ideas on education and to plan jointly for the future can reduce the effectiveness of that education for the entire population.

Third, we endorse fully the proposal to provide greater educational opportunities for handicapped children. I think it is significant to note that the wholehearted and enthusiastic cooperation between the public and private sector in this field proceeded by many years the educational ecumenism engendered by the ESEA.

Fourth, we commend those who would amend the disaster school assistance authority of Public Law 81-815 to authorize construction assistance to the local educational agency where private school facilities are destroyed and will not be replaced. This is an eminently fair and just provision.

Fifth, we certainly applaud all the programs and projects in vocational education. We solicit earnest consideration by the committee for inclusion in the law of provisions comparable to title I, section 205(a) (2) of Public Law 89-10, which under H.R. 6230 would become section 105(a) (2). This would merely assure that to the extent consistent with the enrollment in private schools of educationally deprived children residing in the school district receiving a project grant, that provision be made for their participation in these programs.

Thank you, Mr. Chairman and members of the committee for giving me the opportunity to appear before you today. My colleagues and I will be happy to answer any questions you might have. We recognize your sincere concern for the educational well-being of the children of our country. We too are concerned. We stand ready to assist you in any way possible.

Chairman PERKINS. I want to thank you, Monsignor, for your appearance and Monsignor McManus and all of the distinguished who have come here to assist us.

Mr. Quie?

Mr. QUIE. I would like to ask a question of you with regard to the followup program as being proposed by the President and we have not yet heard from the administration how they are going to implement that.

We have the private schools involved directly in Headstart and we have the title I language now which permits shared time and mobile services and even in some cases the public school paying the teacher providing remedial services, conducting his or her activities within the private school.

We have really these two ways of handling private school relationship to children, the one with the direct assistance and contract by the community action agency, what is preschool, and inschool the title I type relationship. I think this arrangement follows a brief that was presented to us probably in 1961 or 1962 from the HEW with the help of the Justice Department, stating that under the Constitution, it was permissible for the Federal Government to make a direct contribution to education because it was not compulsory. I assume they use the same reasoning in the preschool level because it is not compulsory for them to attend school either.

The following program will be in the grade level where it will be compulsory to attend and we are dealing with the children where a large number of them have been reached by the private schools. Have you any suggestion on these programs so we can have another wedding of the two systems?

Monsignor DOXOHUE. Both Monsignor McManus in Chicago and Mr. Cicco in Pittsburg are deeply involved in Headstart and I would ask them to speak to that.

Monsignor McMANUS. We have 900 children under Headstart. We share your concern and that of the administration for the development of a plan to followup on the good work accomplished during the 12 months of the children development program in which we have much more confidence incidentally than in the short-term program of the summer.

Mr. QUIE. Are your 900 preschool children in a year-round program?

Monsignor McMANUS. Yes. For the summer program we are negotiating now for approximately 1,500 to 1,700 children over and above the 900 who are on the year-round program.

We are considering at our own expense the extension of our kindergarten program in the central city and with a curriculum that will followup, followthrough on the program of the child development courses.

Thereafter we would envision an ungraded primary with the target being, by the time these youngsters reach the fourth grade, the intermediate level, they will be on grade levels certainly in reading, because we feel if they have reached that level by the time they get to the fourth grade their chances of getting all the way to high school are good and there is even a possibility that a number of them would go on for higher education.

Monsignor Donohue intimidated gently in his presentation that the door is open for the Government to explore the possibility of contracting with nonpublic schools for the followup program. On our part, this would mean that we would have to agree to the same non-sectarian terms that are expected of us under the child development program, that we would employ teachers without regard to religious affiliation, that all children of a neighborhood would be accepted without regard to their religious denomination.

This seems to be the trend in some of the more advanced thinking for the utilization of every conceivable resource in the central city in this all-out effort to compensate for all of the deficiencies that these children and in the impoverished areas have to labor under.

If the Chicago Board of Education were to approach me for a contract for the utilization of one or two nonpublic schools, Catholic schools, according to nonsectarian terms to do this extraordinarily urgent and special work, I think we would have an open mind on it. This is what Monsignor Donohue meant I think by his remark that we have reached a degree of maturity in public-private school relations where we have to, on our side of the fence, be as much concerned about how we are going to pitch in and help as we are in what we are going to receive.

So, in brief, I would say in answer to your question that the followup program will have to be twofold. Private agencies on their own with their own resources will have to followup and the door should be left open to contractual arrangements under ESEA and with local public school systems to do this particular kind of work.

Mr. QUIE. I assume if we followed the same reasoning of that brief in 1961 we would not have any trouble with contractual relationships at the kindergarten level. I would like to ask Mr. Consedine, do you think there will be any constitutional problems of such contractual relationships for grades 1, 2, and 3 which we know are absolutely necessary in the followthrough program.

We have an agreement on the policy level. Now what about the constitutional question and the use of the private school?

Mr. CONSEDINE. Congressman, I cannot accept the thesis of the HEW brief that for some reason or other because children attend school under the compulsory attendance statutes and the parents choose a church-related school that this disqualifies them from participating in Government programs. The short answer is that if government is free to assist citizens voluntarily seeking an education, it would seem to be under a special obligation to aid them when compelled by the government to attend school.

It is true the HEW took that position in its brief. We challenged it stoutly in the legal department study on the permissibility of including our children in any Federal aid programs.

Since 1961 when we challenged their position, the Congress itself has very perceptibly faced the issue in the provisions of title I of ESEA. That solution is by no means the outer limit of the permissible limit and thrust of Federal assistance to children enrolled in private schools.

We attempted to make that clear in our legal department study in which we found that there were no constitutional barriers based upon the decided cases and the historicity of the first amendment. Since that brief was prepared, the Supreme Court in several decisions has made clear what the appropriate constitutional tests are.

The Supreme Court said in the *Schemp* case which involved the question of prayer reading and bible reading in the public schools that in deciding the issue of whether it was impermissible for the State, it was the same issue in the earlier *Engle* case, to sponsor prayer in the public schools, the Court said that the test of constitutionality that we must look to what is the primary purpose and effect of the State action. In each case they found that the primary purpose of the State was to encourage the reading of the Lord's prayer or reading a chapter of the bible or to cite the New York State's regents' prayer

prescribed in the State of New York and therefore, the State action was actually invalid.

But keep in mind the test they established. That is, what is the primary purpose and effect of the statute.

Now if the primary purpose of the Federal Government is to achieve excellence in education and if the means utilized to achieve the congressional purpose is indeed secular, then there should be no barrier in the Federal Constitution to the Congress achieving in a secular way its permissible public purpose of encouraging education.

Now, additionally, the Supreme Court said in the *McGowan* case since our study, a case involving the question of the validity of the Sunday closing statutes—now, obviously sabbatarians were disadvantaged by State laws which said there must be a compulsory day of rest and that day of rest was ordained by most all of the States as Sunday.

Now, Sunday as a day of rest and Sunday as a particularly important day in the Christian calendar happened to coincide.

It was challenged on the grounds that this then was aid to a particular religion. But the Supreme Court in validating the Sunday closing statutes again announced the test of what is the primary purpose and effect. It also concluded that to the extent that the public purpose of the Government is a valid one and to the extent that the means that it utilizes to achieve what is purely secular, that the mere fact that there may be an incidental, unavoidable, and minimal aid to some particular religion becomes irrelevant in a constitutional sense.

I say this because to suggest when considering the constitutional aspects that somehow or another, if you aid the children, if in a church-related institution there are Federal funds utilized to improve the educational processes or the education of the children, somehow there is a collateral benefit to the institution.

At the college level this becomes clearly irrational because at the college level or at the hospital level for example, whenever we get a Federal grant for a secular facility, we must match it with funds of our own so the mere participation in and with the Government in accomplishing its purposes in the educational field and in the health field, we derive no benefits.

As a matter of fact, we incur disadvantages but it is our cooperation with the Government that prompts us to do these things.

In sum I did not believe and I did not agree with the HEW brief. In 1961 we answered it I thought very adequately and I will be glad to provide copies of our answer to the committee. I think since we made that rebuttal the Supreme Court in several decisions has added to the strength of our argument in announcing the test—

Chairman PERKINS. I hate to interrupt you but Mr. Pucinski has to leave.

Mr. QUIE. May I ask unanimous consent that Mr. Consedine's answer to the HEW brief together with their answer be placed in the record at this point.

I know some of our colleagues may feel they didn't want to know that much but I appreciate having this lengthy statement in the record.

Chairman PERKINS. It is so ordered.
(The statement follows:)

The Constitutionality of the Inclusion of Church-Related Schools in Federal Aid to Education

LEGAL DEPARTMENT
NATIONAL CATHOLIC WELFARE CONFERENCE

Reprinted from
THE GEORGETOWN LAW JOURNAL

Vol. 50, No. 2

Winter, 1961



THE CONSTITUTIONALITY OF THE INCLUSION OF
CHURCH-RELATED SCHOOLS IN FEDERAL AID
TO EDUCATION

LEGAL DEPARTMENT
NATIONAL CATHOLIC WELFARE CONFERENCE

TABLE OF CONTENTS

	Page
Preface	399
Introduction	401
I. The Education Crisis and National Survival	402
1. The Nature of the Crisis	402
2. Church-Related Schools and the Public Welfare	405
II. The Constitution and Church-Related Education	411
1. The "Religion" Clauses of the First Amendment	412
2. The Relevant Supreme Court Decisions	415
A. The <i>Bradfield</i> , <i>Cochran</i> and <i>Everson</i> Decisions	415
B. The <i>McCullum</i> and <i>Zorach</i> Decisions	422
C. The <i>Meyer</i> and <i>Pierce</i> Decisions	426
3. Legislation as Constitutional Precedent	433
4. Permissible Forms of Aid	434
Conclusions	437
Annex A. Statistical Tables	443
Annex B. Analysis of Memorandum of Department of Health, Education and Welfare of March 28, 1961	445

PREFACE

This study is one which the Legal Department (NCWC) has long planned to bring forth. The need for a comprehensive constitutional statement on the church-state issue in education and its relevance to long-standing NCWC policies was made vividly clear by the statements and confusion on these issues in this year's debate on federal aid to education.

On March 28, 1961, the Department of Health, Education, and Welfare publicly issued its now widely read "Memorandum on the Impact of the First Amendment to the Constitution upon Federal Aid to Education." The Legal Department (NCWC) thereupon asked a number of constitutional scholars and lawyers for their independent critical analysis of the merits of that memorandum. The comments received in response to that request affirmed the necessity of presenting to the public a far more adequate analysis of the constitutional issues involved. Accordingly, as Director of the Legal Department, I requested William B. Ball, Esquire, of Harrisburg, to prepare such an analysis in cooperation with members of our staff. I wish to express my great gratitude to Mr. Ball for the selfless dedication and splendid competence which he has devoted to this task. I also wish to express special appreciation to George E. Reed, Esquire, of the Legal Department (NCWC), and to Charles M. Whelan, S.J., of the Georgetown University Law Center, who worked constantly upon this study and contributed to it in all phases of its preparation.

In presenting this study to the public, it is, of course, our hope that it will serve to clarify constitutional issues and to cause a more widespread recognition of the massive contribution of church-related and other private schools to the common welfare. However, should there not be presently achieved a just resolution to the problems with which this study deals, then it is our hope that we will at least have provided a basis for a continuing public dialogue respecting these problems. It is especially hoped that the presentation here made may stimulate in the educational and legal communities further intellectual interest.

This hope has received solid encouragement from the readiness with which many outstanding constitutional lawyers responded to our request for their advice and criticism when the preliminary draft of this study had been completed. Although a complete list of the authorities consulted would be too lengthy, we have a special debt of gratitude to

Professor Wilber G. Katz of the University of Chicago Law School, Dean Paul R. Dean and Professor Chester J. Antieau of the Georgetown University Law Center, Professor Paul G. Kauper of the University of Michigan Law School, and Professors Arthur E. Sutherland and Mark DeWolfe Howe of the Harvard Law School, for their valued comments. It is understood, of course, that none of the authorities consulted has committed himself by his cooperation to an endorsement of the positions and policies advocated in this study.

It has been the American experience in the past—and we are confident that it will be so in the future—that rational discussion of common problems by men of good will must in the end yield beneficent results to all.

WILLIAM R. CONSEDINE

DIRECTOR

LEGAL DEPARTMENT

NATIONAL CATHOLIC WELFARE CONFERENCE

INTRODUCTION

May the federal government, as part of a comprehensive program to promote educational excellence in the nation, provide secular educational benefits to the public in private nonprofit schools, church-related as well as nondenominational? This is the general constitutional question to which this study is addressed. Three related questions are not treated: the basic constitutionality of federal aid to education; the constitutionality of federal aid to education exclusively in public schools; and the constitutionality of federal aid to religious instruction.¹

The providing of secular education is unquestionably a public service and may be financed with public monies. It is equally unquestionable that secular education is provided in private nonprofit schools, church-related as well as nondenominational. Accordingly, the public may provide transportation for school children to private nonprofit schools.²

Whether the public may also help provide the secular education itself in private nonprofit schools, both church-related and nondenominational, is the precise question left open by the Supreme Court by its denial of certiorari in the Vermont school tuition case.³

Two contentions deserve summary disposition at the outset. One is that whatever helps religion is unconstitutional. The other is that religious benefit or detriment is irrelevant to the constitutionality of non-religious governmental programs. Both contentions have been flatly rejected once again by the Supreme Court in the Sunday Law Cases.⁴

The question actually is not whether religion is helped or hurt by the providing of secular educational benefits in all private nonprofit as well as public schools, but whether the help or hurt that results from such a nonreligious educational program is the kind of benefit or detriment forbidden by the first amendment. This study does not deal with the constitutionality of legislation which has financial benefit to church-

¹ It should be noted that this study makes no attempt to explore the further practical question of whether there in fact exists a need for large-scale federal aid to education. While, as is stated *infra*, there is no doubt that the nation now faces an educational crisis, there are, notoriously, radical differences in views as to the means necessary to resolve that crisis. These involve economic, educational, and political factors which it is not a purpose of the study to evaluate.

² *Everson v. Board of Educ.*, 330 U.S. 1 (1947); *Snyder v. Town of Newton*, 365 U.S. 299 (1961) (appeal dismissed for want of a substantial federal question).

³ *Anderson v. Swart*, 366 U.S. 925 (1961).

⁴ *McGowan v. Maryland*, 366 U.S. 420 (1961).

related schools as its primary purpose or effect. It deals with the constitutionality of legislation which aims at the promotion and improvement of the education necessary for the general welfare—our culture, prosperity, and defense—and which for these purposes seeks to improve educational opportunities in both public and private nonprofit schools.

I

THE EDUCATION CRISIS AND NATIONAL SURVIVAL

1. The Nature of the Crisis

Our intellectual and creative resources, then, are our first assets. And the more we invest in them, the greater the returns in every aspect of our lives. Human capital has taken priority over material capital both as a public and private investment.

Thus did the Regents of the University of the State of New York underscore the stellar importance which is being ever more generally ascribed to education in the United States today. At least since the appearance of Sputnik similar declarations have been made by leaders in all sections of the land. President Kennedy, in his message to the Congress on February 20, 1961, stated that the nation's twin educational goals must be "a new standard of excellence in education—and the availability of such excellence to all who are willing and able to pursue it."⁵ He further stated that there is now required "the maximum development of every young American's capacity."⁶

Spurring the nationally felt need for more and better education has been, first of all, the genuine fear that the free world, of which the United States is the leader, may be destroyed through conquest, or may so far decline in position relative to Soviet power that it will inevitably become the subject of communism. Additionally, however, are other dynamic factors related to a fresh emphasis upon education. It is recognized that—communism aside—Americans have important missions to perform both abroad and at home. The conquering of disease and of poverty, the improvement of cities, the advance of industry, the increase of useful invention, the realization of greater achievement in the arts—indeed also the entire complex of the problems of a vastly more populous civilization in a far more closely knit earth in a suddenly opened universe of space and planet: all these supply additional imperatives to America's new effort to educate its young.

⁵ H.R. Doc. No. 92, 87th Cong., 1st Sess. 2 (1961).

⁶ *Id.* at 1.

It should here be noted that the unvarying stress in all of the leading recent public pronouncements upon education is upon education as a national need and therefore as something to be rendered to all. It is never suggested in these statements that any racial or religious or economic or ethnic or income group, if educable, should be excluded.

It would be unthinkable, moreover, that an expanded American educational program would destroy certain values and traditions in American society without which that society would be no longer American. And all American educational and political leaders who have been proclaiming the new frontiers for our educational effort, have laid heavy and specific stress upon the need to maintain those values and traditions, indeed to revitalize them. Among the chief of these are the moral values of the Judaeo-Christian tradition. Requiring equal stress, because of its close relationship to freedom is that tradition of harmony-in-diversity which we call intellectual and cultural pluralism. The general increase of scientific endeavor and knowledge would in the end have been achieved in vain if the price paid for it were the acceptance of a moral order whose sole standard was the will of the state and of a pervasive conformity to a state-imposed single culture.

While, as has been noted, no position is here taken respecting the need for federal aid to education, it is apparent that two principles should ideally govern an American educational program for the future:

1. It is in the national interest that *every* child have the opportunity for an education of excellence.
2. It is in the national interest that our moral heritage be preserved, along with our freedom to acquire education in diverse, non-state institutions.

In simple terms this means that *every American child should have equal opportunity, according to his talents, to acquire the best education possible but to acquire it in such school as he or his parents, in the exercise of their judgment, deem most desirable, provided such school meets reasonable state requirements of intellectual and physical competency.* To achieve this objective, government need not be restricted to a single technique in selecting programs of aid to education—such as to extend aid through the institution only, or solely through parent or solely through pupil. Any such technique may be reasonable and the choice thereof should be determined by government's informed view as to how education will best be advanced.

But if aid through institutions is the selected means, then if governmental aid is to be given through some institutions (even if a majority) which are deemed competent to carry on the task of educating citizens, then it should be given through all institutions similarly competent—*unless constitutional requirements plainly dictate to the contrary*.

This is necessary to emphasize, since it is being strongly intimated in some quarters that nonstate schools somehow do not perform a public service; that especially the church-related schools are in some way alien to America; and that all which is nonstate inherently has no standing to receive state support.⁷ This view, far more than clear constitutional objection, lies at the heart of much of the controversy over aid to education in church-related schools.

But to expose this view by plainly stating it is at once to scotch it, since it is immediately apparent not only that it attacks the great American tradition of popular, church-related schooling, but that it also points the way to a totalitarian society. The campaign which it would inspire would begin with the forcing out of church-related education but its end could be a totally sovietized state.

It is an irony of the present debate that this view should have made headway, because while it talks constitutionalism, it weakens constitutionalism and the related concept of a diverse and free society. What the debate now needs is fresh recollection of American traditions of cultural differentiation and private initiative, along with a far more exacting scrutiny of the American constitution—an organic document which over the generations has proved hospitable to enlarged concepts of social needs, while preserving individual freedom.

Considering in a particular way both our public schools and our church-related schools, it would be a very great mistake to assume that the former need be any the less devoted to the expression of our traditional moral values than are the latter. Indeed our great public school system—built by men of all faiths—should receive the particular interest (as it does the financial support) of those who are dedicated to the church-related schools, since no citizen should shirk his duty to work for the common good in all areas of society.

⁷ See, e.g., Hearings on Public School Assistance Act of 1961 Before the Subcommittee on Education of the Senate Committee on Labor and Public Welfare, 87th Cong., 1st Sess. 516, 527 (1961) (testimony of M. V. Little and Agnes Meyer); Hearings on the National Defense Education Act Before the Joint Subcommittee on Education of the House Committee on Education and Labor, 87th Cong., 1st Sess. 238-39 (1961) (testimony of Dr. Edgar Fuller); Editorial, *The New Republic*, March 20, 1961.

On the other hand, the church-related and other private schools should be far better appreciated by that large part of the public which has not had direct association with them.

2. *Church-Related Schools and the Public Welfare*

The church-related school, teaching largely the same curriculum as the public school for the general education of the citizen, is not an intruding latecomer on the American educational scene. It represents, rather, our original source of popular education and, far from being a distractive force deviating from the American educational tradition, it stands instead at the core of that tradition and as a force which emphasizes certain moral and spiritual values with which that tradition is identified.

The elementary schools in all the colonies had the teaching of religion as their chief aim and as their main component. And Massachusetts, in 1647, enacted what has been described as "the first system of public education in the colonies." Known as the "Old Deluder" Act, it provided:

It being one chiefe proiect of ye ould deluder, Satan, to keepe men from the knowledge of ye Scriptures It is therefore ordred, yt evry towneship in this iurisdiction, aftr ye Lord hath increased ye number to 50 housholders, shall then forthwth appoint one wth in their towne to teach all such children⁸

New York, a nontheocratic colony, adopted a similar law. Education in New Jersey, Pennsylvania and throughout the South, was emphatically religious.⁹ One of the earliest tasks to which French and Spanish missionaries in America devoted themselves was the founding of schools. They were among the first in the land, and, while they offered training in secular subjects, they were religious in nature generally.

The end of the colonial era and the coming of the Republic witnessed no change with respect to the strongly religious character of the American people, and it is not therefore surprising that hospitality to the religious upbringing of their children should have marked public attitudes toward education. The third article of the Northwest Ordinance of 1787 directly linked religion with good government and the well-being of society, and thus stated a major purpose of education: "Religion, morality and knowledge, being necessary to good government

⁸ The Laws and Liberties of Massachusetts (1648) at 47 (1929).

⁹ See Dunn, *What Happened to Religious Education?* 16 (1958).

and the happiness of mankind, schools and the means of education shall forever be encouraged." The document has been described as "second only in importance to the Bill of Rights of the Constitution as a guarantee of religious freedom." The Northwest Ordinance was re-enacted August 7, 1789 by the first session of the First Congress,¹⁰ the same Congress to which a few weeks later, on September 26, 1789, the Conference Committee report proposed the final draft of the first amendment. It was later praised in the highest terms by Webster¹¹ and by Lincoln.¹² The Southwest Ordinance, passed by the First Congress in 1790, applying to Tennessee and eventually to the entire Mississippi Territory, contained the same provision.

Nor did the new education movement launched by Horace Mann in the 1830's seek the abolition of religion in the schools. To the contrary, it was definitely intended that the new schools should provide knowledge of religion along with traditional moral training. While Mann desired sectarianism kept out of the public school curriculum—what he called "special and peculiar instructions respecting theology"—he defined education to include moral and religious upbringing. He concluded his lecture in 1838 on "The Necessity of Education in a Republican Government" by stating:

And, finally, by the term education I mean such a culture of our moral affections and religious sensibilities, as in the course of nature and Providence shall lead to a subjection and conformity of all our appetites, propensities, and sentiments to the Will of Heaven.¹³

Similar expressions from American educational leaders are to be found in abundance over the remaining decades of the nineteenth century and, indeed, down to the present.

There is no purpose here to suggest criticism of the reasons why public school education in America became to a considerable extent secular rather than religious, nor is it suggested that it is inevitably true that certain trends toward sterilizing the public schools of any minimal efforts to acquaint children with God or the Commandments or prayer will continue.¹⁴ It is, on the other hand, merely pointed out that it can-

¹⁰ 1 Stat. 549.

¹¹ Quoted in 1 Am. Hist. Ass'n Rep. 56 (1896).

¹² Speech in Columbus, Ohio, Sept. 16, 1859, in 1 Complete Works of Abraham Lincoln 549 (ed. Nicolay-Hay 1894).

¹³ 2 Life and Works of Horace Mann 144 (1891).

¹⁴ See *Resnick v. Dade County Bd. of Pub. Instruction*, No. 59C 4928 and No. 59C 8873, Cir. Ct. of 11th Judicial Cir., Fla., May, 1961; *Murray v. Curlett*, No. 64708, Balti-

not with any accuracy be said that the American tradition of education is somehow a tradition of irreligion. On the contrary, it is a stubborn fact of our history that that tradition is one of hospitality to religious values and to a religiously based moral training.

Today, church-related schools of the United States are making a vast and patent contribution to the public welfare. Considering the largest of the groups of these—the schools under the auspices of the Roman Catholic Church—the extensiveness of citizen education which it supplies is remarkable. The phrase of the preceding sentence—"citizen education which it supplies"—bears repeating, since, as will later be stressed herein, these schools supply not some form of special or eccentric training, of which society can take no notice, but education recognized by the state as meeting essential citizen needs.

In 1960 there were enrolled in Catholic elementary schools 4,401,824 pupils.¹⁵ In the same year Catholic secondary schools had an enrollment of 885,406 students. It is estimated that in 1961 Catholic elementary schools are providing education to approximately four-and-a-half million children and Catholic secondary schools to approximately one million children. In 1960 Catholic elementary and secondary schools were educating 12.6% of the total school population, and for 1961 the percentage is believed to be slightly higher. In a number of states and the District of Columbia Catholic schools are educating considerably higher percentages of the children in school—in Rhode Island 25.8%, Wisconsin 23.3%, Pennsylvania 21.9%, Massachusetts 21.9%, Illinois 21.3%, New Hampshire 21%, New Jersey 21%, New York 20.8%, Delaware 18%, Minnesota 16.9%, Vermont 15.6%, Ohio 15.4%, Maryland 15%, Missouri 14.8%, Connecticut 14.7%, Michigan 14.4%, Louisiana 14.3%, Nebraska 14.1%, District of Columbia 13.8%, Iowa 12.9%.

Thus in nineteen states (and the District of Columbia) having a total school population of 21,868,683, and whose school population represents 51.9% of the total national school population, Catholic parochial schools are performing the public service of educating 18.6% of all children in elementary and secondary schools.

While one child out of every ten American children in Hawaii receives in a Catholic school the complete education deemed adequate by the

more Super. Ct., April 28, 1961; Engel v. Vitale, 10 N.Y.2d 174, 176 N.E.2d 579, 182 N.Y.S.2d 659, cert. granted, 30 U.S.L. Week 3177 (U.S. Dec. 5, 1961) (No. 468).

¹⁵ The statistics for which no other reference is given in the following paragraphs are contained in, or computed from, the figures given in the General Summary of The Official

state, approximately one out of five does so in Massachusetts, New York, New Jersey, Pennsylvania, Illinois and New Hampshire, while approximately one out of four does so in Wisconsin and Rhode Island.

Catholic elementary schools are conducted in all of the fifty states, with a total, in 1960, of 10,662 schools throughout the nation. The number of such schools per state varies from eight in Alaska to 1,136 in the state of New York. In the Archdiocese of Chicago alone are 426 Catholic elementary schools.¹⁶ In the city of Pittsburgh, Catholic elementary schools educate 44% of the entire elementary school population.¹⁷ There were in 1960 2,426 Catholic secondary schools in the United States.

In 1960 there were 152,948 teachers staffing the Catholic secondary and elementary schools, the number being composed of 113,527 religious teachers and 39,421 lay teachers, the percentage of lay teachers now increasing rapidly in the Catholic schools (from, for example, 5.2% out of the total in 1948 to 25.8% of the total in 1960).

Here it should be noted that the religious aspect in church-related schooling is an addition to, and that it is not a subtraction from, basic citizen-education requirements. The pupil in the church-related school learns essentially the same arithmetic, spelling, English, history, civics, foreign languages, geography, and science which it is required that the pupil in the public school learn. He learns religion in addition, and the religious dimensions of secular knowledge. But let it be again stressed: this is in addition, not in subtraction.

Recalling that this study is at this point discussing simply the public welfare function of the church-related schools rather than the question of constitutionality of aid to such schools, it may be further noted that Catholic educational efforts—like many nonpublic educational efforts—have evolved over the years numerous schools of special achievement and schools for exceptional groups, such as the gifted and the mentally or physically handicapped, and have pioneered many valuable new teaching methods.¹⁸

Catholic Directory (1961). See Appendix A of this study for a state-by-state summary of statistics on elementary and secondary school enrollment in the United States for 1960.

¹⁶ See *The Official Catholic Directory* 57-58 (1961).

¹⁷ Statistics on file in the Catholic Schools Office of the Diocese of Pittsburgh.

¹⁸ See *Directory of Catholic Facilities for Exceptional Children in the United States* (1958), listing facilities under Catholic auspices throughout the nation which are accommodating a total of more than one million exceptional children. The 1958 edition of this Directory is currently being revised.

The Catholic school, moreover, has always stressed patriotism and other civic virtues. It is an important force for social democracy in the nation. Historically, Catholic education proved a beneficent bridge by which immigrant passed to the status of American.¹⁹ Typically, the Catholic school has been a meeting place for children of different ethnic and economic backgrounds. Although the schools are primarily for the education of Catholic children, non-Catholic children are admitted as a matter of universal policy where there is room. The record of Catholic schools generally with respect to Negro and other nonwhite children has been distinctly creditable. These schools have for the most part not been located according to *de facto* zoning which divides neighborhoods racially or economically. Thus the Catholic school has been an invaluable training ground to prepare citizens for full participation in a pluralist society. It has been stated:

If, as seems reasonable, the preservation and perpetuation of private and parochial schools are indispensable to the preservation of a pluralistic society, then those committed to a pluralistic America owe a great debt to the Catholic Church, just as those committed to a secular public school system owe it a great debt.²⁰

No fact can be more obvious than the fact that the graduates of the Catholic schools are found in all classes, occupations and activities of American life, contributing commonly²¹ with all other citizens, publicly and privately, to the sustenance and development of the American society. From these schools have come men and women who have been faithful public servants, fruitful scientists, creative artists. Upon the coming of the wars in which the nation has been involved, the man of Catholic school training has never been classified as alien in loyalty or divisive in inclination; and as in peacetime he is agreeably known in all neighborhoods and all occupations, so in times of national peril he has been found in all theatres of war and upon every beachhead and place of struggle. It is assuredly a late day for argument respecting the value of the training which Catholic and other church-related schools have conferred upon the country through their graduates.

¹⁹ Herberg, *Protestant-Catholic-Jew* 162 (1956).

²⁰ Pfeffer, *Creds in Competition* 82 (1958).

²¹ This is noted by the Rossis: "We could find no evidence that parochial schools tend to alienate individual Catholics from their communities. Parochial school Catholics are as involved in community affairs as anyone else of comparable educational position." Peter and Alice Rossi, *Some Effects of Parochial School Education in America*, *Daedalus* 323 (Spring 1961). See also Fichter, *Parochial School: A Sociological Study* 109-31, 427-53 (1958).

The public welfare contribution of the Catholic schools must, however, be seen in one further aspect. In the school years 1957 and 1958 the average current expenditure per public school pupil in average daily attendance in the United States was \$341.14.²² This means that the Catholics who supported the 5.3 million students in the Catholic elementary and secondary schools in 1960 absorbed what would otherwise have been an expense for all taxpayers in the order of magnitude of \$1.8 billion. Even this figure gives a wholly inadequate picture of the estimated savings to the country by virtue of the existence of *all* private schools, from the grade school level through college and the university. The total current expenditures, capital outlay, and interest of all private educational institutions in 1958 was \$4 billion.²³ For the period 1950-59, the same expenditures of all private elementary and secondary schools are estimated at \$13.9 billion.²⁴

This in turn throws into bold relief another aspect of the public welfare contribution of the Catholic school system: this immense financial value—attributable to, it must be borne in mind, the providing of essential citizen education—is a value accruing to the nation not only out of the pay checks and savings accounts of millions of Catholic citizens but out of the very lives of a legion of other Catholic citizens—priests, nuns and brothers—who have dedicated themselves without recompense to teaching generation upon generation of young Americans.

Up to this point, this study has not discussed the constitutionality of federal aid to church-related education. What appears beyond contradiction, however, is the immense contribution to the public welfare made by church-related schools through their providing essential citizen education.

The demands of the education crisis relate directly to this, since it is the clear imperative of the times that all of our means of education must be utilized to their fullest extent, consonant with constitutional requirements. It is equally imperative that the pluralist structure and the basic freedoms of the nation be not lost while the education crisis is sought to be resolved.

This study is not a brief on behalf of the principle of federal aid to education. But it would appear undeniable that, so far as the question

²² Biennial Survey of Education in the United States: Statistics of State School Systems 1957-1958, at 73 (1961).

²³ See U.S. Dept. of Health, Education, and Welfare, Trends 68 (1960).

²⁴ See *id.* for figures on which this estimate is based.

is one of *policy* and not of constitutional law, if the federal government offers aid to education in public schools, aid should similarly be offered to education in church-related schools.

The question of policy considered, the problem of constitutionality may now be explored.

II

THE CONSTITUTION AND CHURCH-RELATED EDUCATION

The question presented, in its broadest terms, is whether the federal government may aid education in church-related schools. However, no proposal has been made that government undertake to pay the full cost of the education provided in a church-related school. Such a proposal might involve constitutional problems not presented by proposals for limited support of such education and might moreover foreshadow total governmental control of such education. The forms of limited aid being chiefly discussed are:

- a. Matching grants to church-related educational institutions for secular instruction therein.
- b. Long-term loans to church-related educational institutions for secular instruction therein.
- c. Grants or loans of tuition to students, which may be used in church-related educational institutions.
- d. Tax benefits to parents as part or total reimbursement for tuition expended by them in church-related (or other) educational institutions.

It is the conclusion of this study that (1) the church-related schools perform a public function which, by its nature is supportable by government; (2) that such support may be only in a degree proportionate to the value of the public function performed; (3) that such support may take the form of grants to institutions or of loans to institutions or the form of grants of tuition or tax benefits; (4) that the federal government may constitutionally provide support in any of the aforementioned forms.

In order to ascertain whether the foregoing conclusions with respect to constitutionality are correct, it is needful, first of all, to examine those judicial decisions and other materials which provide the constitutional background.

1. *The "Religion" Clauses of the First Amendment*

The first amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" The clause respecting "establishment" is the clause chiefly relied upon by the March 28, 1961 Memorandum of the Department of Health, Education, and Welfare²⁵ as blocking most kinds of grants, loans, or tuition payments for education in church-related schools. Therefore, preliminary to an examination of the relevant judicial decisions, it is desirable to ascertain the historic meaning of that clause.

The No Establishment Clause was not the product of an anti-religious revolution. Unlike the French Revolution, the American Revolution was made by men of strong religious conviction. It is not conceivable that they would have written into their Constitution a clause the purpose of which would be to sterilize all public institutions of religious content. Virtually every document relating to the formation of the United States attests to this. The Declaration of the Causes and Necessity of Taking Up Arms, July 6, 1775, abounds with such phrases as "the divine Author of our existence," "reverence for our great Creator."²⁶ In the Preamble and Resolution of the Virginia Convention, May 15, 1776, appeal is made to God as "the Searcher of hearts" respecting the sincerity of the colonists' declarations.²⁷ The Declaration of Independence acknowledged God as the source of all human rights and stated that it is in order to secure these God-given rights that governments exist. The Articles of Confederation concluded by invoking "the Great Governor of the World."²⁸ The Northwest and Southwest Ordinances, as has been noted, specifically related religion to education and good government.

Story, writing in 1833, stated:

Probably at the time of the adoption of the constitution, and of the first amendment to it . . . the general, if not the universal sentiment was, that Christianity ought to receive encouragement from the state, so far as it was not incompatible with the private rights of conscience, and the freedom of religious worship. An attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation.²⁹

²⁵ Specific analysis of the Memorandum is contained in Annex B *infra*.

²⁶ 1 Journal of Congress I, 134-39 (1800 ed.).

²⁷ Quoted in Documents Illustrative of the Formation of the Union of the American States 19 (Tansill ed. 1927).

²⁸ *Id.* at 35.

²⁹ Story, Commentaries on the Constitution of the United States § 1868 (1833).

The prime purpose of the clause as then universally understood, was to prohibit the Congress from creating a national church or from giving any sect a preferred status.³⁰ This is clear from the language of the original draft of the first amendment submitted by Madison to the House of Representatives:

The civil rights of none shall be abridged on account of religious belief or worship, *nor shall any national religion be established*, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.³¹

Professor Corwin comments:

That is, Congress shall not prescribe a national faith, a possibility which those states with establishments of their own . . . probably regarded with fully as much concern as those which had gotten rid of their establishments.³²

The clause contains, of course, no such wording as "separation of church and state" or "wall of separation of church and state."³³ Used according to its historical intendment, "separation of church and state" is a concept familiar to all from the time of the adoption of the first amendment. The term "wall of separation of church and state" finds its way into the opinions of the Supreme Court almost a century later in the case of *Reynolds v. United States*.³⁴ There the phrase was quoted from the well-known letter of Thomas Jefferson to the Danbury Baptists, the phrase plainly being employed in *Reynolds* in the same sense in which it was employed by Jefferson, namely, to show that the No Establishment Clause deprived Congress of power to prescribe religious practices. That Jefferson did not consider the clause to erect a wall which would prevent all relationship between government and religion is plain from his report to the President and Directors of the Literacy Fund of the state-supported University of Virginia in 1822:

It was not however, to be understood that instruction in religious opinion and duties was meant to be precluded by the public authorities, as indifferent to the interests of society. On the contrary, the relations which exist between man and

³⁰ Although there is some evidence that some considered the clause also as a protection of the right of the several states to maintain official church establishments.

³¹ 1 Annals of Congress 434 (1789-91). (Emphasis added.)

³² Corwin, *The Supreme Court as National School Board*, 14 *Law and Contemp. Prob.* 11, 12 (1949).

³³ Justice Frankfurter, in his concurring opinion in the Sunday Law Cases, states: "But the several opinions in *Everson* and *McCullum*, and in *Zorach v. Clauson*, 343 U.S. 306, make sufficiently clear that 'separation' is not a self-defining concept." *McGowan v. Maryland*, 366 U.S. 420, 461 (1961).

³⁴ 98 U.S. 145 (1878).

his Maker, and the duties resulting from those relations, are the most interesting and important to every human being and most incumbent upon his study and investigation.³⁵

Jefferson then went so far as to suggest that the various sects establish religious schools on the confines of the university.

It would not have made sense in 1791, any more than it does today, to say that the No Establishment Clause prevents relationships—even cooperative relationships—between state and church. It is instead clear that an essential purpose of the clause was to prevent governmental transgressions upon *religious liberty*. It was fear of this and not fear of religion which prompted the drafting of the first version of the clause. Madison's first draft reveals this, the context plainly being one of respecting rights of conscience. Jefferson's "Bill for Establishing Religious Freedom," exposing the meaning of the clause, stressed that *religious liberty* required that no man should be compelled to support "any religious worship, place, or ministry whatsoever."³⁶

Far, therefore, from being a mechanical formula, prescribing automatically a void between religion and the state, it was the original common understanding of the No Establishment Clause, that it existed, in the main, for the protection of religious liberty. Indeed, it was therefore properly seen as a pro-religion clause and not as an anti-religion clause. Such protection, it is plain, existed to preclude (a) the setting up of an official church; (b) approaching the equivalent thereof by giving any sect such a degree of preference that government would have provided a powerful inducement to the people to belong to such preferred sect. The clause was never intended to exclude religion from the democratic processes and the political forum, nor to prevent the sects from taking advantage of these in peaceful competition for lawful benefits. The No Establishment Clause attacked preference by law. Certainly it was never understood to mean that religious institutions which perform public services are disqualified to receive compensation for them through the governmental organs of the society which has benefited by the services.

Throughout the nineteenth century this was the accepted view of the matter. Story's views have been noted. Cooley, in his treatise, *Constitu-*

³⁵ 19 Writings of Thomas Jefferson 414 (Memorial ed. 1904).

³⁶ 12 Hening, Statutes at Large 84, 86 (1785). The original draft of the bill, with indications of the deletions made by the Virginia Assembly, is given in 1 Stokes, Church and State in the United States 392-94 (1950).

tional Limitations, makes it clear that the principal function of the No Establishment concept is to insure religious liberty.³⁷ He states that certain things are not lawful under any of the American constitutions, among these:

Any law respecting an establishment of religion. The legislatures have not been left at liberty to effect a union of Church and State, or to establish preferences by law in favor of any one religious persuasion or mode of worship. *There is not complete religious liberty where any one sect is favored by the State and given an advantage by law over other sects.*³⁸

2. The Relevant Supreme Court Decisions

A. THE BRADFIELD, COCHRAN, AND EVERSON DECISIONS

Bradfield v. Roberts, *Cochran v. Board of Educ.*, and *Everson v. Board of Educ.* are the three decisions of the Supreme Court—and the only three—which directly concern *aid-providing* by government in the sense presented by the instant problem of federal aid to education in church-related schools.

*Bradfield v. Roberts*³⁹ lends support to the argument that federal aid to secular education in church-related schools, of the kind described herein on page 411 *supra*, would be constitutional. The Court there held that the appropriation by Congress of money to a Catholic hospital, as compensation for the treatment and cure of poor patients under a contract, did not constitute an appropriation to a religious society in violation of the No Establishment Clause. The Court noted that the hospital was owned by a corporation and that, legally speaking, the corporation was secular and nonsectarian and subject solely to the control "of the government which created it." However, the Court also noted that the hospital was conducted under the auspices of the Roman Catholic Church. "The meaning of that allegation," said the Court, "is that the church

³⁷ The Court in a recent case, in the context of discussing standing to sue, stated that "the writings of Madison, who was the First Amendment's architect, demonstrate that the establishment of a religion was equally feared because of its tendencies to political tyranny and subversion of civil authority." *McGowan v. Maryland*, 366 U.S. 420, 430 (1961). Later in the same case the Court quoted Madison's comment on his original draft of the first amendment (which was not adopted by the Congress): "Mr. Madison 'said, he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience. . . .'" *Id.* at 441.

³⁸ Cooley, *Constitutional Limitations* 469 (2d ed. 1871).

³⁹ 175 U.S. 291 (1899).

exercises great and perhaps controlling influence over the management of the hospital.”⁴⁰ The Court also noted that the stockholders of the corporation were all nuns. Thus the Court (1) did not rule that a direct appropriation to a sectarian institution would be unconstitutional; (2) did hold that a direct appropriation might be made, for the performance of a public function, to an institution conducted under the auspices of a church which exercised “perhaps controlling influence” over it. Most significant in the *Bradfield* decision is the Court’s direct disavowal of the point of view which had been advanced by those who brought the suit, that religious institutions performing public functions cannot, on account of the No Establishment Clause, be aided by government. The Court stated that the plaintiffs had said that Congress has no power to make “a law respecting a religious establishment,” and then pointedly noted that “a law respecting a religious establishment” was “not synonymous with that [language] used in the Constitution,” namely, “a law respecting an establishment of religion.”⁴¹

*Cochran v. Board of Educ.*⁴² established that the use of government funds to provide secular textbooks for parochial school students is constitutionally justifiable as an expenditure for a public purpose. Under Louisiana statutes, boards of education were directed to provide “school books for school children free of cost to such children,” and appropriations were made accordingly. The plaintiffs contended that they were being taxed to support a private purpose, contrary to the provisions of the fourteenth amendment. They stated the purpose of the acts to be “to aid private, religious, sectarian and other schools not embraced in the public educational system of the state by furnishing textbooks free to the children attending such private schools.”⁴³ The Supreme Court held the appropriations and the program of providing textbooks constitutional, in spite of the fact that children receiving textbooks under the program were enrolled in sectarian schools, noting that the textbooks involved were not religious books but books relating to secular subjects.

Again, in *Cochran*, the Court refused to hold that, because an institution was under religious auspices, its educational program could not receive governmental aid proportioned to the public function which such program involved. The Court was able clearly to distinguish the

⁴⁰ *Id.* at 298.

⁴¹ *Id.* at 297.

⁴² 281 U.S. 370 (1930).

⁴³ *Id.* at 374.

public aspect of parochial school education from its private (religious) aspect and held, in effect, that whatever benefit might accrue to the institution from the aid given, such was incidental to the public benefit conferred upon the citizen-pupil and therefore constitutionally without significance. Per Hughes, C.J., the Court stated:

The schools, however, are not the beneficiaries of these appropriations. They obtain nothing from them, nor are they relieved of a single obligation because of them. The school children and the state alone are beneficiaries The legislation does not segregate private schools or their pupils, as its beneficiaries, or attempt to interfere with any matters of exclusively private concern. Its interest is education, broadly; its methods comprehensive. Individual interests are aided only as the common interest is safeguarded.⁴⁴

It is true that at the time of the *Cochran* decision the Supreme Court had not specifically held the first amendment applicable to the states through the fourteenth amendment.⁴⁵ But the great point of the *Cochran* opinion is this: it establishes flatly that the teaching of secular subjects in a parochial school is the performance of a public function and that such program may therefore be governmentally aided. It was not until the *Everson* case, discussed *infra*, that the Court considered the impact of the first amendment on legislation which met the public purpose requirements of the fourteenth amendment.

In *Everson v. Board of Educ.*,⁴⁶ the Supreme Court held constitutional a New Jersey statute which provided that reimbursement to parents might be made out of public funds for transportation of their children to (*inter alia*) Catholic parochial schools on buses regularly used in the public transportation system. The decision was made in the face of first amendment objections to the New Jersey program which had been directly raised. As can be seen, this holding is directly relevant to the issues stated on pages 401 and 411 of this study. The underlying principle of the case is plain: government aid may be rendered to a citizen in furtherance of his obtaining education in a church-related school. Justice Black, for the majority, stated:

It is undoubtedly true that by the New Jersey program children are helped to get to church schools. There is even the possibility that some of the children

⁴⁴ *Id.* at 375.

⁴⁵ Eighty-five years previously the Court, in a case involving a claim of a denial by Louisiana of rights under the free exercise clause of the federal constitution, had held that "the Constitution makes no provision for protecting the citizens of the respective States in their religious liberties." *Permoli v. Municipality No. 1 of the City of New Orleans*, 3 How. (44 U.S.) 589, 609 (1845).

⁴⁶ 330 U.S. 1 (1947).

might not be sent to the church schools if the parents were compelled to pay their children's bus fares out of their own pockets when transportation to a public school would have been paid for by the State.⁴⁷

It is true that Justice Black, in the course of his opinion, then stated:

The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from Church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation between Church and State."⁴⁸

For making this oft-quoted statement, Justice Black has been criticized as having gone well beyond the necessities of decision in essaying upon the supposed application of the No Establishment Clause to a number of cases not then before the Court. The statement, however, must be regarded as more than dictum.⁴⁹ It is, in fact, part of the rationale of the decision, and must be read in the light of the actual result of the case: school bus benefits at government expense to citizens, to enable them to acquire education in church-related schools. That is to say: conformably with even so stringent an interpretation of the No Establishment Clause, secular education in church-related schools (and that was precisely and solely what was there involved) is supportable by government.

Unfortunately, the next succeeding paragraph of the Black opinion is often omitted from the discussion of disestablishment problems, but it forms the inseparable complement to his foregoing statement, necessarily resolving the tension between the two concepts of No Establishment and free exercise, which concepts would otherwise become unworkable absolutes. Justice Black stated:

We must consider the New Jersey statute in accordance with the foregoing

⁴⁷ Id. at 17.

⁴⁸ Id. at 15-16.

⁴⁹ Justice Black, speaking for the Court this year in *Torcaso v. Watkins*, denies that the statement was dictum. 367 U.S. 488, 493-94 (1961).

limitations imposed by the First Amendment. But we must not strike that state statute down if it is within the state's constitutional power even though it approaches the verge of that power. New Jersey cannot consistently with the "establishment of religion" clause of the First Amendment contribute tax-raised funds to the support of an institution which teaches the tenets and faith of any church. On the other hand, other language of the amendment commands that New Jersey cannot hamper its citizens in the free exercise of their own religion. Consequently, it cannot exclude individual Catholics, Lutherans, Mohammedans, Baptists, Jews, Methodists, Non-believers, Presbyterians, or the members of any other faith, *because of their faith or lack of it*, from receiving the benefits of public welfare legislation. While we do not mean to intimate that a state could not provide transportation only to children attending public schools, we must be careful, in protecting the citizens of New Jersey against state-established churches, to be sure that we do not inadvertently prohibit New Jersey from extending its general state law benefits to all its citizens without regard to their religious belief.⁵⁰

Everson thus teaches that aid rendered to a citizen in order to obtain state-prescribed education in a church-related school is not, in the constitutional sense, "aid to religion," or a "financing of religious groups," or "support of the religious function" (to borrow terms used by various objectants to aid to education in church-related schools). It is recognition of the principle that government may assist all public service aspects of an educational enterprise.⁵¹ The decision, therefore, conclusively establishes a logical and enlightened "social benefits" doctrine, weighing (in the best traditions of the Supreme Court) the social benefit⁵² conferred by government action, relatively to prohibited government action.

To what subjects may these benefits extend? Justice Black, writing for the majority, said that they included also police and fire protection, connections for sewage disposal, public highways and sidewalks. He

⁵⁰ Id. at 16.

⁵¹ Justice Frankfurter, a dissenting justice in *Everson*, commented upon its holding in his separate opinion in the Sunday Law Cases as follows:

[T]his Court held in the *Everson* case that expenditure of public funds to assure that children attending every kind of school enjoy the relative security of buses, rather than being left to walk or hitchhike, is not an unconstitutional "establishment," even though such an expenditure may cause some children to go to parochial schools who would not otherwise have gone. The close division of the Court in *Everson* serves to show what nice questions are involved in applying to particular governmental action the proposition, undeniable in the abstract, that not every regulation some of whose practical effects may facilitate the observance of a religion by its adherents affronts the requirement of church-state separation. 336 U.S. at 467 (separate opinion).

⁵² See discussion at p. 433-34 *infra* of the many "social benefits" relating to education in church-related schools which already have the sanction of legislative constitutional precedent.

said that cutting off these services would make it far more difficult for the school to operate and that it was no purpose of the first amendment to bring about such a result.⁵³ He noted that such services were "indisputably marked off from the religious function," but he did not clarify this point or what he meant by "the religious function."⁵⁴ However, at an earlier point in his opinion he explicitly recognized the full force of the *Cochran* case, discussed *supra*, saying: "It is much too late to argue that legislation intended to facilitate the opportunity of children to get a secular education serves no public purpose. *Cochran v. Louisiana State Board of Education*."⁵⁵ It would therefore appear clear that Justice Black did not include the education in secular subjects given in church-related schools within the term "religious function" which he employed. The careful avoidance by the majority of any rule which would preclude aid to church-related education so far as the secular subject training in such education is concerned is to be noted in the following oft-quoted section of the opinion: "No tax in any amount, large or small, can be levied to support any *religious activities* or *institutions*, whatever they may be called, or whatever form they may adopt to *teach* or *practice* religion."⁵⁶ The foregoing language excludes aid in support of (a) the teaching or practicing of religion ("religious activities,"

⁵³ 330 U.S. at 18.

⁵⁴ Similarly indistinct is the expression of the Vermont Supreme Court in *Swart v. South Burlington Town School Dist.*, 122 Vt. 177, 167 A.2d 514 (1961), cert. denied sub nom. *Anderson v. Swart*, 366 U.S. 925 (1961). That court held violative of the first amendment the practice of school districts of making tuition payments to certain state-approved Catholic parochial high schools where the districts in question did not have public high schools. This practice was authorized by state statutes, which did not, however, state whether the tuition should be paid to the parent or to the child or to the school. The plaintiff taxpayer sought an injunction to restrain the continuance of payments to the schools. The court cited the *Bradfield*, *Cochran*, and *Everson* decisions. In the *Swart* case, although the court stressed that the high schools in question were an "integral part" of the Catholic Church, this was also true in *Cochran*, which case the court professed to follow. Undoubtedly the real reason for the decision in *Swart* lay in the fact that the tuition payments, which were made directly to the schools, were not in some manner apportioned to support of the nonreligious instruction given. This view finds support in the particularity with which the court noted that in *Cochran* none of the books furnished by the state was "expected to be adapted to religious instruction." Even so, *Swart* does not hold that tuition payments made to pupils or parents for use in obtaining in church-related schools a state-approved education would be unconstitutional. The court's extensive citation of the "citizen-benefit" cases points to the contrary.

⁵⁵ 330 U.S. at 7.

⁵⁶ *Id.* at 16. (Emphasis added.)

"teach or practice religion"); (b) religious institutions *as* religious institutions. As noted *infra*, the aid given in *Everson* did actually to an extent support religious institutions, but the majority appeared to be saying that such aid is constitutionally unobjectionable where arising as an incident to the conferring of a definite social benefit upon a citizen.

Moreover, the allusion to "the religious function" found in the majority opinion is extremely indefinite. This merely said that cutting off police, fire and sewerage services—these being "so separate and so indisputably marked off from the religious function"—"would make it far more difficult for the schools to operate."⁵⁷ This is plainly not a statement that fire, police, sewer (and transportation) services are the only aids to education (a) which are not part of "the religious function"; (b) which government may constitutionally supply in the case of education in church-related schools.

It cannot readily be denied that the New Jersey program aided "the religious function," that is, helped the teaching of religion in Catholic schools to continue. Justice Rutledge, dissenting in *Everson*, was not able to distinguish between so-called "direct" and "indirect" benefits. He thought that what the majority had sanctioned was "aid" to religious institutions—modified by whatever adjective. This, in his view, (which is the view which *lost* in *Everson*) was unconstitutional. As Professor Paul G. Kauper has noted:

But to distinguish on principle from this type of benefit ["fringe" or "auxiliary"] and the more substantial benefits that would accrue from subsidies to pay teachers' salaries or to provide educational facilities presents difficulties, particularly when it is noted that in the *Everson* case the Court emphasized that the state imposed a duty on all parents to send their children to some school and that the parochial school in question met the secular educational standards fixed by the state. By hypothesis the school building and the instruction in secular courses also meet the state's requirements. When we add to this that education is appropriately a function of both government and religion, the question may well be raised whether the same considerations that govern the problems of bus transportation costs and text books, as well as the question of public grants to hospitals under religious auspices, do not point to the conclusion, whatever different conclusions may be reached under state constitutions, that the First Amendment, in conjunction with the Fourteenth, does not stand in the way of governmental assistance for parochial schools.⁵⁸

Professor Kauper might also have noted the existence of such benefits to church-related education as tax exemptions.

⁵⁷ *Id.* at 18.

⁵⁸ Kauper, *Frontiers of Constitutional Liberty* 136 (1956).

The rule of *Everson v. Board of Educ.* is plainly this: (1) Government may support the education of citizens in various ways. (2) "Education of citizens" may take place in church-related schools. (3) Government may not support a religion or church, as such, but so long as its program confers directly and substantially a benefit to citizen education, that program is constitutionally unobjectionable, although benefit is at the same time incidentally conferred upon a religion or a church.

*Bradfield, Cochran, and Everson are therefore decisions which not only do not constitute precedent against aid, as discussed herein; they—and especially Everson—are clear precedent for aid, as discussed herein. And they are the only decisions of the Supreme Court of the United States which pronounce upon the financial aid-providing function of government in the sense raised by the questions herein presented.*⁵⁹

B. THE MCCOLLUM AND ZORACH DECISIONS

The *McCollum* and *Zorach* decisions form the next grouping of cases here of interest. Perhaps the first thing to be noted about the two cases is that they did not involve any programs of financial aid-providing by government—no grants, no loans of money or property, no rebates, credits or reimbursements. That is to say, they are not in point with respect to any such programs save insofar as they may have involved the concept of "aid" in some far less tangible or nonmaterial sense or save insofar as they contained pronouncements upon the meaning of the first amendment relevant to the problems involved *instantly*.

*McCollum v. Board of Educ.*⁶⁰ involved an education program imposed by a local board of education in Illinois whereby pupils in the public schools were permitted to attend classes in religious instruction conducted during regular school hours upon the school premises by outside teachers representing the various faiths. Pupils not attending these classes were required to utilize the periods involved in pursuing their regular nonreligious studies. The petitioner charged that the program violated the first and fourteenth amendments. The Court held the program unconstitutional, as "a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their

⁵⁹ *Quick Bear v. Leupp*, 210 U.S. 50 (1908), is not in point, because it dealt with tribal funds, not public funds.

⁶⁰ 333 U.S. 203 (1948).

faith.”⁶¹ The Court stressed that the fact that the program was upon a nonpreferential basis did not relieve it from the force of first amendment objections;⁶² the state’s tax-supported public schools could not constitutionally be used for the dissemination of religious doctrine. The state could not, without violating the first amendment, use its compulsory attendance machinery to provide religious classes for sectarian groups.⁶³ This was the opinion of the Court. Justice Frankfurter concurred, offering various grounds for objection to the school program which were not stated in that opinion. He was joined by Justices Jackson, Burton and Rutledge. Justice Reed wrote a lengthy dissent.

The case, of course, is not in point with respect to programs of grants, loans, tax rebates, etc. What precedent value it may be considered to have with respect to the instant problem lies in analogy, but the factual analogy is at best remote. The case does present a re-emphasis of the statements of Justice Black in *Everson* respecting the scope of the No Establishment Clause, and supplies this as its *ratio decidendi*. This, coupled with Justice Black’s three times employing the phrase “wall of separation between church and state,” led many commentators to conclude that the Court had now stated a doctrine of *absolute* separation of church and state and that the ground had now been judicially prepared for the liquidation of fruitful relationships between government and religion which had been the American experience of one hundred sixty years. These commentators were proved incorrect by the decision of the Supreme Court in 1951 in *Zorach v. Clauson*.⁶⁴

Zorach, like *McCullum*, involved a “released time” program, the program considered in *Zorach*, however, being one which took place off the school premises. As in *McCullum*, however, the student not participating in the program was to remain in the classroom. As in *McCullum*, the administrative machinery of the public school system was employed in the running of the program. Here, as in *McCullum*, the program was attacked upon the basis of first-fourteenth amendment objections. The Supreme Court held the program constitutionally unobjectionable.

So far as the problems presented for consideration by this study are concerned, there are two points especially to be noted with respect to the *Zorach* decision: (1) the case is not, upon its facts, in point with

⁶¹ Id. at 210.

⁶² Id. at 211.

⁶³ Id. at 212.

⁶⁴ 343 U.S. 306 (1952).

respect to loans, grants, tax rebates, etc.; (2) the majority opinion, through its lengthy statement upon the first amendment, makes it clear beyond all question that the first amendment is not to be taken as a weapon for the liquidation of the salutary American tradition of government-religion relationships. It moreover makes clear that the phrase, "separation of church and state," is not to be taken in any absolute sense:

The First Amendment . . . does not say that in every and all respects there shall be a separation of Church and State. Rather it studiously defines the manner, the specific ways, in which there shall be no concert or union or dependency one on the other. That is the common sense of the matter. Otherwise, the state and religion would be aliens to each other—hostile, suspicious, and even unfriendly. Churches could not be required to pay even property taxes. Municipalities would not be permitted to render police or fire protection to religious groups. Policemen who helped parishioners into their places of worship would violate the Constitution. Prayers in our legislative halls; the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; "so help me God" in our courtroom oath—these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies would be flouting the First Amendment. A fastidious atheist or agnostic could even object to the supplication with which the Court opens each session: "God save the United States and this Honorable Court."⁶⁵

Far from holding to absolutist concepts respecting a "wall of separation," the Court further stated:

We are a religious people whose institutions presuppose a Supreme Being. . . . When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For then it respects the religious nature of our people and accommodates the public service to their spiritual needs. To hold that it may not would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who do believe.⁶⁶

The Court also suggested limits beyond which government might not go in cooperating with religion, stating that government may not (1) "finance religious groups," (2) "undertake religious instruction," (3) "blend secular and sectarian education," or (4) "use secular institutions to force one or some religion on any person."⁶⁷ These points had already been stated in *Everson*, and here again it is plain that they cannot be

⁶⁵ Id. at 312-13.

⁶⁶ Id. at 313-14.

⁶⁷ Id. at 314.

asserted as constitutional blocks to such financial aid to education in church-related schools as is here under consideration. These do not involve the financing of religious groups but instead the financing of citizen education.⁶⁸ By providing support for such citizen education, government is in no sense undertaking religious instruction nor a blending of that with secular education. Nor is it, of course, in any way utilizing secular institutions to force religion on anyone.

In view of the decision in *Zorach v. Clauson*, there has been much speculation as to whether the Court there virtually overruled the *McCollum* decision. The dissenting justices in *Zorach* believed this to have been the case, Justice Black saying that he saw "no significant difference between the invalid Illinois system and that of New York here [in *Zorach*] sustained."⁶⁹ Justice Frankfurter stated that the principles accepted by the court in *McCollum* "are disregarded in reaching the result in this case,"⁷⁰ while Justice Jackson said "the *McCollum* case has passed like a storm in a teacup."⁷¹ Constitutional scholars have made similar observations. Professor Kauper states: "One may well agree with the dissenters in *Zorach* that the majority decision in the *Zorach* case . . . amounted to an overruling of the *McCollum* case."⁷² Undoubtedly the correct view to be taken today of the *McCollum* decision is that which is plainly suggested by Chief Justice Warren speaking for the majority of the Court in *McGowan v. Maryland*.⁷³ In that case the Chief Justice, in disposing of the "establishment" contentions there raised, referred to the *McCollum* case, stating its holding:

Thus, in *McCollum v. Board of Education*, 333 U.S. 203, the Court held that the action of a board of education, permitting religious instruction during school hours in public school buildings and requiring those children who chose not to attend to remain in their classrooms, to be contrary to the "Establishment" Clause.⁷⁴

⁶⁸ See discussion of *Everson* at pp. 417-22 *supra*.

⁶⁹ 343 U.S. at 316 (dissenting opinion). Subsequently Justice Black in *Torcaso v. Watkins*, 367 U.S. 488, 494 (1961), noted that the Court in *Zorach* had stated: "We follow the *McCollum* case." Undoubtedly this does not represent a change in Justice Black's views since in *Torcaso* he was addressing himself to the narrow question of the validity of a test oath. This was the context of his notation, which was immediately followed by his stating that nothing decided or written in *Zorach* would justify sustaining a test oath.

⁷⁰ 343 U.S. at 322-23.

⁷¹ *Id.* at 325.

⁷² Kauper, *Frontiers of Constitutional Liberty* 122 (1956).

⁷³ 366 U.S. 420 (1961).

⁷⁴ *Id.* at 442.

It is, of course, this precise holding of *McCullum* which today survives as the law of that case. Sweeping dicta in the case which justifiably gave rise to fears that the No Establishment Clause should be interpreted to create cleavage, if not hostility, between government and religion were given strongly moderating limitation by the Court in *Zorach*.

* * * * *

It may be concluded from the *McCullum* and *Zorach* decisions that (1) they do not constitute precedent against the kinds of possible aid to church-related education here under discussion; (2) the Court has specifically rejected the view that the Constitution requires an absolute separation of church and state and instead makes it clear that government and religion may in various ways cooperate. So far as an absolutist concept of the "separation" principle may be derived from the *McCullum* case, that concept is today constitutionally dead.

By its broad and eminently practical view of the No Establishment Clause—a view which expressly recognizes governmental accommodations to the religious interests of the people—the *Zorach* case goes some distance to argue in favor of, rather than against, such governmental aid to education in church-related schools as is herein discussed.

C. THE MEYER AND PIERCE DECISIONS

Meyer v. Nebraska and *Pierce v. Society of Sisters* form the third relevant group of cases. They relate, in differing ways, to rights of free choice in selecting educational institutions. In a more profound sense they stand as constitutional barriers against the imposition by the state of an exclusive educational pattern aimed at creating an official *Kultur*.

*Meyer v. Nebraska*⁷⁵ involved a state statute which made it a crime for any teacher to teach any subject in any elementary school in any language other than English. Meyer, a teacher in a parochial school maintained by the Zion Evangelical Lutheran Congregation, was convicted under the statute of teaching the reading in the German language of Bible stories to a child. The statute was enacted just after the close of World War I, and it recited the existence of an emergency. The Supreme Court of Nebraska in upholding the conviction, considered that to have children become acquainted with any foreign language was

⁷⁵ 262 U.S. 390 (1923).

"inimical to our own safety." The requirements of the statute the court therefore upheld as a reasonable exercise of the police power. The Supreme Court of the United States reversed, holding that the statute as applied violated the rights of the teacher guaranteed by the due process clause of the fourteenth amendment.

In arriving at its conclusion the Court stressed the importance of education in America, advertent, in relation thereto, to the Ordinance of 1787. It found, however, no harm in mere knowledge of the German language. It then went on to describe three groups of rights which it declared the Constitution protected against unreasonable intrusions by the state: the right of the teacher, the right of the parent, the right of the child. Of the statute the Court then said:

Evidently the legislature has attempted materially to interfere with the *calling of modern language teachers*, with the *opportunities of pupils to acquire knowledge*, and with the *power of parents to control the education of their young*.⁷⁶

Thus the Court struck at a doctrine which is everywhere identified with modern totalitarian regimes and which unhappily is on the ascendancy in the United States: the view that all educational rights are the possession of the state.⁷⁷ The Court here forcefully pointed out the existence of rights in other groups. While conceding that "the state may do much, go very far, indeed in order to improve the quality of its citizens, physically, mentally, and morally," yet, it insisted "the individual has certain fundamental rights which must be respected." The Court stated moreover: "The desire of the legislature to foster a homogeneous people with American ideals . . . is easy to appreciate . . ." ⁷⁸ But it warned that the means adopted could not be means violative of the liberty guaranteed by the Constitution.

Meyer has great significance with respect to the questions to which this study addresses itself. It is more and more insistently argued that only one form of education is really entitled to exist in the United States;

⁷⁶ Id. at 401. (Emphasis added.)

⁷⁷ Indeed the Court with great accuracy detailed the relationship between complete state absorption of education and the marking of the totalitarian society, referring to the proposals of Plato that the state take the young for their upbringing, totally isolating them from their parents. The Court remarked: "In order to submerge the individual and develop ideal citizens, Sparta assembled the males at seven into barracks and intrusted their subsequent education and training to official guardians. . . . [I]t will hardly be affirmed that any legislature could impose such restrictions upon the people of a state without doing great violence to both letter and spirit of the Constitution." Id. at 402.

⁷⁸ Id. at 401-02.

that, apart from constitutional considerations, education in church-related schools has no claim to governmental support because—though it teaches what the state requires—it also teaches religion. It thus lacks the all-important character of complete “officialness” and is a force contributing to cultural heterogeneity, diversity, pluralism.

So far as it is part of the argument against aid to education in church-related schools that we should have but a single, state-run, uniformitarian system of education in the United States, the Supreme Court in *Meyer v. Nebraska* warned that homogeneity is not to be attained at the sacrifice of basic teacher, parental and child rights. It also gave warning—highly significant in view of cries for uniformity based upon Russian achievements—that the invocation of “emergencies” does not command the ouster of such basic rights.

The landmark decision in *Pierce v. Society of Sisters*⁷⁹ involved an expanded recognition of parental and child rights in education.⁸⁰ It involved an even more positive rejection of statism in education than had been made by the Supreme Court in the *Meyer* case. As in *Meyer*, there was involved a statute aimed at creating a uniformitarian scheme of education, but whereas *Meyer* concerned the question of whether the state has absolute power to prescribe curriculum, *Pierce* concerned the question of whether the state has a monopoly over education itself. The teaching of the *Pierce* case is of central importance with respect to issues presented for discussion in this study.

A statute of the state of Oregon required every parent or other person having custody of a child between eight and sixteen years of age to send such child to a public school. Failure to comply was made a misdemeanor. The statute was the result of a campaign to “Americanize” education in Oregon launched in 1920 by the Imperial Council, A.A.O. Nobles Mystic Shrine and certain related groups. Their purpose was stated on the official ballot when the compulsory education bill was before the electorate. The sentences are instructive at the present hour:

Our nation supports the public school for the sole purpose of preservation.

The assimilation and education of our foreign-born citizens in the principles of our government, the hopes and inspiration of our people, are best secured by and through attendance of all children in our public schools.

⁷⁹ 268 U.S. 510 (1925).

⁸⁰ The right is in the parent until the child is emancipated; the right is otherwise in the child. The *Pierce* decision, in defining parental rights, stressed protection of the child, and by necessary implication, his right to be educated in nonstate institutions. *Id.* at 535.

We must now halt those coming to our country from forming groups, establishing schools, and thereby bringing up their children in an environment often antagonistic to the principles of our government.

Mix the children of the foreign-born with the native-born, and the rich with the poor. Mix those with prejudices in the public school melting pot for a few years while their minds are plastic, and finally bring out the finished product—a true American.⁸¹

The “Americanization” campaign swept the state and the measure became law. The Hill Military Academy and the Society of Sisters sought injunctions restraining enforcement of the statute, alleging its unconstitutionality. Ranged on the side of the Society of Sisters and Hill Military Academy were the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States of America, the North Pacific Union Conference of Seventh-Day Adventists, the Evangelical Lutheran Synod of Missouri and Ohio, twenty-five ministers of the Presbyterian Church, the Catholic Civil Rights Association of Oregon, and the American Jewish Committee.

The Protestant Episcopal brief *amicus curiae* saw the state monopoly over education created by the statute as “threatening the whole structure of religious education and morality.” The Seventh-Day Adventist brief *amicus curiae* saw the statute as breaching “the common law, or natural right” of the parent “to direct the education of the child” and:

The natural rights of the parent for which we contend in this case preceded the state, and the government, formed to “secure these” certainly ought not to take any action which would subvert the very purpose of its creation.⁸²

The most extensive and learned brief *amicus curiae* to be filed in the case was that written by Louis Marshall on behalf of the American Jewish Committee. He expressed his fears as to what the practical results might be of state absorption of all education:

Recognizing in the main the great merit of our public schools system, it is nevertheless unthinkable that public schools alone shall, by legislative compulsion rather than by their own merits, be made the only medium of education in this country. Such a policy would speedily lead to their deterioration. The absence of the right of selection would at once lower the standards of education. If the children of the country are to be educated in accordance with an undeviating rule of uniformity and by a single method, then eventually our nation would consist of mechanical Robots and standardized Babbitts.⁸³

⁸¹ Oregon School Cases: Complete Record 732 (1925).

⁸² *Id.* at 594.

⁸³ *Id.* at 615.

Against the slander—similar to that heard today—that parochial and private schools are somehow “un-American,” the American Jewish Committee brief stated:

There is no foundation in truth for this statement. The private and parochial schools which exist throughout the country are conducted on the same patriotic lines as are our public schools.⁸⁴

Moreover:

Among the advantages of private and parochial schools is the fact that there prejudices are apt to be mitigated. At all events they are not stimulated in a truly religious atmosphere or in a genuine cultural environment.⁸⁵

Marshall inveighed against the exponents of uniformitarian education:

All of these statements combined lead to the conclusion in the minds of those responsible for this species of argumentation, that by the education of the youth of the nation in our public schools “all shall stand upon one common level.” By that doubtless is meant the dead level of uniformity. God forbid that that shall be the case!⁸⁶

But the most trenchant criticism of the statute and of the philosophy of those who defended it Marshall reserved for the conclusion of his brief. The point is most pertinent in view of charges made today that church-related schools are “divisive.” Backers of the statute had stated: “Our children must not under any pretext, be it based upon money, *creed* or social status, *be* divided into antagonistic groups, cliques or cults there to absorb the *narrow views of life* as they are taught.”⁸⁷ This view Marshall castigated:

Here those who send their children to private and parochial schools because of their creed are charged with constituting antagonistic groups and as absorbing ‘narrow views of life.’ In other words, parents who are anxious for the future welfare and happiness of their children, and who seek to dedicate them to moral, ethical and religious principles, are denounced for sending their children to private and parochial schools, because, forsooth, the views of life which they there absorb are characterized as ‘narrow’.

What does that mean but an attempt on the part of the protagonists for this law to sit in judgment upon their fellow-citizens whose ideals differ from theirs? How does such a mental attitude differ from that which prevailed when governments sought to enforce uniformity of religious beliefs and punished nonconformists as criminals?⁸⁸

⁸⁴ Id. at 618.

⁸⁵ Id. at 619.

⁸⁶ Id. at 620.

⁸⁷ Id. at 621. (Emphasis added.)

⁸⁸ Id. at 621-22.

The Supreme Court of the United States affirmed the decrees of the lower court enjoining enforcement of the statute. Its basis for affirmance was that the statute deprived plaintiffs of liberty and property contrary to the guarantees of the fourteenth amendment. The Court noted that the District Court of the United States for the District of Oregon had ruled that the statute interfered with the schools' "free choice of patrons" and that "parents and guardians, as part of their liberty, might direct the education of children by selecting reputable teachers and places."⁸⁹ The Supreme Court further stated (with respect to schools operated by the Catholic Church): "The Compulsory Education Act of 1922 has already caused the withdrawal from its schools of children who would otherwise continue, and their income has steadily declined."⁹⁰

Acknowledging the power of the state reasonably to regulate all schools, the Court noted that the district court had declared that private schools in question "were not unfit or harmful to the public."⁹¹

The Supreme Court concluded that, under the doctrine of *Meyer v. Nebraska* it was "entirely plain that the Act of 1922 unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control."⁹² The Court then stated, in effect, that it is not within the competency of the legislature to vest in the state a monopoly of education: "As often heretofore pointed out, rights guaranteed by the Constitution may not be abridged by *legislation which has no reasonable relation to some purpose within the competency of the state.*"⁹³ The Court was, of course, stating that the Compulsory Education Act of 1922, creating the state educational monopoly, did not bear reasonable relationship to a purpose which was within the state's competency.

Again stressing the parental rights and sharply attacking that concept of governmental power which would result in subjecting all to a single educational mold, the Court stated:

The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to *standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny*

⁸⁹ 268 U.S. at 533-34.

⁹⁰ *Id.* at 534.

⁹¹ *Ibid.*

⁹² *Ibid.*

⁹³ *Id.* at 535. (Emphasis added.)

have the right, coupled with the high duty, to recognize and prepare him for additional obligations.⁹⁴

The teachings of *Pierce* are of importance with respect to the issues here presented. First, *Pierce* holds that there is no power in the state to monopolize education. Secondly, *Pierce* states that the child is not a mere creature of the state. Thirdly, *Pierce* holds that parents may, in the discharge of their duty under state compulsory education laws, send their children to church-related schools rather than to public schools if the church-related schools meet the secular educational requirements which the state has constitutional power to impose.⁹⁵ This is described by the Court as a *right*—not a privilege but a part of that “liberty” protected under the due process clause of the fourteenth amendment (and also undeniably of the fifth amendment).⁹⁶ This becomes a consideration to be weighed where a program of governmental spending upon education in public schools may reach such proportions as to require the cessation of all other kinds of education in the land and *de facto* to remove all possibility of the exercise of the parental right of choice.

The *Pierce* decision has received subsequent recognition by members of the Supreme Court as having established protection to parents and to children under the free exercise clause of the first amendment. Justice Rutledge so recognized it in his dissenting opinion in the *Everson* case,⁹⁷ and Justice Frankfurter in his concurring opinion in the *Sunday Law Cases*, in which Justice Harlan joined.⁹⁸

Certain essential theses of the *Pierce* decision find subsequent expression in the racial desegregation cases.⁹⁹ Here, an “official” plan of free education for Negro children was prescribed by the state. These children felt themselves, however, constitutionally entitled to receive their schooling in institutions which were “unofficial” as to them. The Supreme Court, by the fact of its decision in *Brown*, inferentially denied any supposedly supreme power in the states to require attendance at “official” schools. Moreover, there appears in the *Brown* opinion (by a

⁹⁴ *Id.* at 534. (Emphasis added.)

⁹⁵ Specific recognition of this was given in the opinion of the Court in *Everson v. Board of Educ.*, 330 U.S. 1, 18 (1947). And see similar recognition by the Court in *Prince v. Massachusetts*, 321 U.S. 158, 166 (1943).

⁹⁶ See *Bolling v. Sharpe*, 347 U.S. 497 (1954).

⁹⁷ 330 U.S. at 32-33.

⁹⁸ *McGowan v. Maryland*, 366 U.S. 420, 467 (1961) (separate opinion).

⁹⁹ *Brown v. Board of Educ.*, 347 U.S. 483 (1954).

unanimous Court) strong emphasis upon certain human and personal values—an emphasis which is the antithesis of statism. It spoke of education as “awakening the child to cultural values”; it spoke of the personal success of the child in life.¹⁰⁰ Above all, it rejected the notion that adequate state-provided plant, teachers’ salaries and curriculum went to make a real education where human personality—the “hearts and minds” of which the Court spoke—would be adversely affected.¹⁰¹ In its opinion the Court even went to the length of citing materials from the field of psychology in order to buttress its position that values of personality and related rights of conscience take precedence over “official” government programs of education, however competent these may be.¹⁰²

The *Meyer* and *Pierce* cases underscore the protection with which the American Constitution jealously surrounds individual rights in education. They both stress child-parental rights; by clear implication they attack the concept of a statist culture which would result from the permitting of government monopoly of education. Each gives strong basis for argument that governmental programs which result in denials to parents and children of choice in education according to the reasonable demands of conscience may be unconstitutional.

3. Legislation as Constitutional Precedent

While constitutional doctrines of judicial review vest in the judiciary the power ultimately to determine validity, the duty upon the legislative and executive branches to assess and to pass upon constitutionality is by no means on that account removed. Indeed, the doctrine of the presumed constitutionality of legislation rests upon the presumed scrupulous pursuit of that duty by the legislature.

No stronger answer is to be found to the argument that no aid may be afforded education in church-related schools than the fact that the Congress has in numerous ways over the years deliberately provided such aid. A list of forty-one such programs—all, by the way, consisting of grants and loans to church-related *institutions* (including educational institutions)—was issued on March 28, 1961, by the Department of Health, Education, and Welfare.¹⁰³ One of these programs, the Surplus

¹⁰⁰ Id. at 493.

¹⁰¹ Id. at 493-94.

¹⁰² Id. at 494 n.11.

¹⁰³ Senate Comm. on Labor and Public Welfare, Constitutionality of Federal Aid to Education in Its Various Aspects, S. Doc. No. 29, 87th Cong., 1st Sess. 37 (1961).

Property Act of 1944, has resulted in 488 grants of land and buildings to religious-affiliated schools belonging to thirty-five different denominations.¹⁰⁴

4. *Some Permissible Forms of Aid*

The wide variety of legislative precedents reveals that Congress has used many forms of aid to education in order to promote national excellence. Grants, loans, scholarships, tuition payments, and tax benefits have been among the forms used. Frequently, church-related institutions have been included on the same footing as other accredited schools and colleges. Familiar examples are the College Housing Act,¹⁰⁵ the Surplus Property Act,¹⁰⁶ and the G.I. Bill of Rights.¹⁰⁷ Only very recently has it been suggested that the only permissible form of participation by church-related organizations should be through the medium of loans—with, indeed, a further limitation, now urged in some quarters, that these loans be limited to a few purposes connected, in the main, with the national defense.¹⁰⁸

The form of aid is important only insofar as it embodies a concrete limitation of governmental support to the public aspects of education in private nonprofit schools. As previously indicated, this study is not concerned with the constitutionality of government programs whose primary purpose and effect would be the support of the religious aspects of education in church-related schools. How, then, can a meaningful financial division be made between those costs properly attributable to the secular aspects of education and those properly attributable to the religious aspects?

Such a division is properly the task of the art of accounting, as informed by the basic legal and educational principles applicable in this area. Some of the costs in the construction and operation of a church-related school are obviously the same as costs in providing public schools; some are obviously different; and still others are similar but not identical. The basic principle which must govern here is that if government support is to be limited to the secular aspects of education in church-related schools, then government support must be directed

¹⁰⁴ See 107 Cong. Rec. 17351 (daily ed. Sept. 7, 1961).

¹⁰⁵ 64 Stat. 77 (1950), as amended, 12 U.S.C. § 1749 (1958).

¹⁰⁶ 58 Stat. 765 (1944), as amended, 40 U.S.C. § 484(j) and (k) (1958).

¹⁰⁷ 66 Stat. 663 (1952), 38 U.S.C. § 911(6) (1952). The same provision was enacted in the Korean Veterans Bill of Rights, 72 Stat. 1174, 38 U.S.C. § 1601(6) (Supp. 1958).

¹⁰⁸ See Annex B at pp. 445-55 *infra* for analysis of a memorandum of the Department of Health, Education, and Welfare which defends this limitation.

towards the neutral items of expense: those expenses which are substantially the same in public and nonpublic schools. A corollary of this principle is that government should not bear the *complete* cost of constructing and operating nonpublic schools. Keeping the government's contribution to a limited basis means that some allocation of costs will certainly have been made. So long as the government's share is directed towards the neutral expenditures, government will not be involved in the purposeful support of religion. As already indicated in the discussion of the major Supreme Court decisions, the indirect benefit or detriment which may accrue to church-related institutions from such a governmental program is not forbidden by the first amendment because important national interests in education are at stake.¹⁰⁹

Fundamental to the entire discussion of the allocation of costs is the principle that when both governmental and nongovernmental institutions contribute to the cost of a program, the government has no right to insist on more than the achievement of the national purposes which the government intends to promote by making the expenditures. If those purposes are achieved, the nonpublic institution is constitutionally free and financially entitled to use its own funds for its own purposes. Consequently, if the government makes a grant of funds or equipment for national purposes to a church-related school, and this grant represents only a fraction of the cost of the operation of that school, all that government is entitled to insist upon is that the purposes for which the grant was made be in fact accomplished. It has no right to require the school to abstain from the accomplishment of other and compatible purposes through the use of the school's own funds.

If this principle of allocation is extended to particular items, there is still less justification for excluding the accomplishment of compatible private purposes. For example, if the government contributes only part of a classroom, it is manifestly not entitled to the entire use of the classroom. The mutuality of financial interest and the compatibility of the public and private purposes precludes any exclusivity of the government's interest.

¹⁰⁹ The point is stressed by Justice Frankfurter in his separate opinion in the Sunday Law Cases. Commenting upon the meaning of the No Establishment Clause, he stated the limitation of its reach: "Neither the National Government nor, under the Due Process Clause of the Fourteenth Amendment, a state, may, by any device, support belief or the expression of belief for its own sake"—the words, "for its own sake," being evidently employed to describe a primary benefit to religion. *McGowan v. Maryland*, 366 U.S. 420, 466 (1961).

In the case of loans, where the borrower bears the entire cost of the facility, it is particularly clear that government is without authority to require the banishment of the religious aspects of education. The national purpose is satisfied when the students learn what the government reasonably requires them to learn. It is not frustrated when they also learn their religious heritage.

Scholarships, based on merit and need, have been a frequent instrument for promoting educational excellence by the national and state governments. They exist on both the college and the high school level. Significantly, scholarship programs have carefully respected the student's and parents' freedom to choose any accredited educational institution and to study any subjects offered in that institution. No better example of the extravagant extremes to which some factions wish to push the separation of church and state can be found than in the attempts during the last Congress to limit the freedom of choice of scholarship winners both as to the institutions attended and the subjects studied. Religion, it would seem, is no longer a part of human culture.

Tuition grants differ from scholarships in being based not on merit but on some obligation of the government to provide education. At the state level, some state constitutions have limited tuition payments to public and nonsectarian schools.¹¹⁰ At the federal level, the situation is quite different. Page boys in Congress and the Supreme Court receive tuition grants from the federal government which may be applied either to a public or any private school.¹¹¹ If Congress may give this freedom of choice to federal employees, it is difficult to see why Congress may not extend it to federal taxpayers. It would be a paradox, indeed, were the separation of church and state to mean that scholarship winners or federal employees may attend church-related schools, but that no one else may.

¹¹⁰ Cf. *Almond v. Day*, 197 Va. 419, 89 S.E.2d 851 (1955); *Swart v. South Burlington Town School Dist.*, 122 Vt. 177, 167 A.2d 514 (1961), cert. denied sub nom. *Anderson v. Swart*, 366 U.S. 925 (1961). In these cases both courts found a prohibition of tuition payments to sectarian schools in both the federal and the local constitutions. In this connection, it should be carefully noted that most state cases invalidating state aid to education in church-related schools have been decided not on the first and fourteenth amendments, but on far more restrictive and specific prohibitions in the local constitutions. See, e.g., *Matthews v. Quinton*, 362 P.2d 932 (Alaska 1961), appeal docketed, Misc. Docket No. 762, U.S. Sup. Ct., Nov. 25, 1961; *Dickman v. School Dist. No. 620*, Ore. Sup. Ct., Nov. 14, 1961. *Matthews* involved bus transportation; *Dickman* dealt with textbooks.

¹¹¹ 60 Stat. 839 (1946), 2 U.S.C. § 88(a) (1958).

Tax benefits are in the unique position of having been almost universally accorded since the foundation of the country by both the state and the federal governments to all nonprofit educational institutions, church-related as well as nondenominational and public. If history means anything, such a tradition cannot be unconstitutional.¹¹²

Long-term loans, matching grants, scholarships, tuition payments, and tax benefits are only some of the possible forms of aid to education. Others will doubtless be conceived. What is important here is not a complete catalog, but the conclusion that the major forms of aid in current discussion are constitutional as applied to education in church-related schools. The form is important only as it safeguards the national purpose.

CONCLUSIONS

From the foregoing certain conclusions may be clearly drawn:

1. Education in church-related schools is a public function which, by its nature, is deserving of governmental support.

2. There exists no constitutional bar to aid to education in church-related schools in a degree proportionate to the value of the public function it performs. Such aid to the secular function may take the form of matching grants or long-term loans to institutions, or of scholarships, tuition payments or tax benefits.

3. The parent and child have a constitutional right to choose a church-related educational institution meeting reasonable state requirements as the institution in which the child's education shall be acquired.

4. Government in the United States is without power to impose upon the people a single educational system in which all must participate.

The foregoing conclusions, drawn from the relevant Supreme Court decisions, represent only a part of the justification for aid to education in church-related schools. What must further be considered are results which would flow from a denial of such aid in the face of long-term programs of massive support exclusively to the public schools.

Some of these results would raise serious constitutional problems, while others would render meaningless certain constitutional protections presently enjoyed. These results should be carefully pondered when any program of major federal aid to education is being considered, because they would plainly entail a transformation of a free and pluralist Ameri-

¹¹² Cf. *Heisy v. County of Alameda*, 46 Cal. 2d 644, 298 P.2d 1, cert. denied, 352 U.S. 921 (1956).

can society into a society in which uniformitarianism would be certain and freedom therefore doubtful. It is indeed true that governmental spending may effect transformations of society; and in no instance is this potential in government spending programs to be more carefully examined than where such programs are directed—as in the case of subsidies for education—toward the formation of the minds of citizens.

Massive spending solely for public schools would in time result in a critical weakening of church-related schools, presaging the ultimate closing of many of them. This, taken in conjunction with the compulsory attendance laws, would mean that most children would be forced to acquire their education in the public schools. *De facto*, parents would no longer enjoy the freedom to send their children to church-related schools. Practically speaking, therefore, the freedom of parent and child protected by the *Pierce* decision would have been rendered meaningless.¹¹³

Further difficulties appear. The Supreme Court observed in *West Virginia State Bd. of Educ. v. Barnette*: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion . . ."¹¹⁴ Yet an "orthodoxy" is expressed—inescapably so—even in a curriculum from which religious "orthodoxies" are absent. Removal, through government spending programs, of practical alternatives¹¹⁵ to public school education would mean that those

¹¹³ Although economic coercion through governmental action is not to be classified, constitutionally speaking, with statutory coercion such as was considered in the *Pierce* case, the observation made in 1955 by Alanson W. Willcox, presently General Counsel of the Department of Health, Education, and Welfare, should be borne carefully in mind: "Whenever a state imposes a choice between . . . receiving a public benefit, on the one hand, and exercising one's constitutional freedoms, on the other, the state burdens each course to the extent that abandonment of the other is unpalatable. The deterrent to exercise of first amendment freedoms when public benefits are at stake is a real one . . . Infringement of constitutional rights is nonetheless infringement because accomplished through a conditioning of a privilege." 41 Cornell L.Q. 12, 43-44 (1955).

¹¹⁴ 319 U.S. 624, 642 (1943).

¹¹⁵ The Supreme Court has made note of the absence of alternatives as a standard for judging the coercive effect of given governmental action. The Court pointed out that in the *McColum* case "the only alternative available to the nonattending students was to remain in their classrooms"; while with respect to the Maryland Sunday laws (which the Court upheld) "the alternatives open to nonlaboring persons . . . are far more diverse." *McGowan v. Maryland*, 366 U.S. 420, 452 (1961). The absence (in the case of closing of church-related schools, caused by a program of massive governmental support of public schools) of any alternative opportunity to receive a form of education to which

who, in conscience, desired education in a church-related school would be forced to participate in an education in unacceptable orthodoxies. Here, as a matter of practicality, would be the social result discounted by the Court in *McCullum*: coercion upon the child to participate in schooling, the orientation of which was counter to his beliefs—a *de facto* denial of free exercise of religion.¹¹⁶

Not only “free exercise” problems would be encountered by such spending programs; “no establishment” problems would become manifest. This is because there is little guarantee that the public schools can, in actuality, maintain a completely non-“value”-inculcating program. Since life itself, humanity, history, and the social sciences are all involved in the daily life of any educational institution, “values” of one sort or another inevitably creep in. In this connection, it must be asked: If the No Establishment Clause operates to exclude the inculcation of religion in the public schools, what, by constitutional definition, is “religion”?

Leo Pfeffer, of the American Jewish Congress, considers nontheistic beliefs to be “religious”:

In this study I shall regard humanism as a religion along with the three major faiths: Protestantism, Catholicism, and Judaism. This, I submit, is not an unreasonable inclusion. Ethical Culture is exclusively humanist but is generally considered a religion.¹¹⁷

Lanier Hunt, of the National Council of Churches, is somewhat uncertain of the definition of religion, but is willing to accord it a very broad definition:

By another definition, religion is simply loyalty to ultimate values. . . . In schools, youths look for answers to questions about the origin, destiny, and meaning of life. These are religious questions. In the United States we say that every individual has a right to an education. And this is an expression of a religious conviction about the nature of the universe and man's place in it. Within the wider definition of religion, public education is perhaps the greatest religious force in American life today.¹¹⁸

millions of citizens would consider themselves conscientiously entitled, would highlight the coercive effect of such a program.

¹¹⁶ The Court continues to underscore its warnings against such uses of governmental power as will tend to coerce beliefs. *Torcaso v. Watkins*, 367 U.S. 488 (1961).

¹¹⁷ Pfeffer, *Creeds in Competition* 5 (1958).

¹¹⁸ Hunt, *Religion and Education*, 332 *Annals of the Am. Academy of Political Science* 99 (1960).

Justice Black's notation in *Torcaso v. Watkins* is to the same effect:

Among religions in this country which do not teach what would generally be considered a belief in the existence of God are Buddhism, Taoism, Ethical Culture, Secular Humanism, and others.¹¹⁹

That public schools inculcate values is undeniable. Indeed, it has been said, respecting public school education:

The development of moral and spiritual values is basic to all other educational objectives. Education uninspired by moral and spiritual values is directionless

That educational purposes rest on moral and spiritual values has been generally recognized in the public school system. The Educational Policies Commission has previously declared: "Every statement of educational purposes, including this one, depends upon the judgment of some person or group as to what is good and what is bad, what is true and what is false, what is ugly and what is beautiful, what is valuable and what is worthless, in the conduct of human affairs."¹²⁰

The foregoing statement by the Educational Policies Commission of the National Education Association of the United States and the American Association of School Administrators is qualified, it is true, by the statement contained in the same report that public schools must be nondenominational: "As public institutions, the public schools of this nation must be non-denominational. They can have no part in securing acceptance of any one of the numerous systems of belief regarding a supernatural power and the relation of mankind thereto."¹²¹ However, several of the denominations to which Justice Black made reference do not acknowledge a supernatural power. The value-objectives of one of these, the Ethical Culture Movement, are described in the following statement:

A national movement of Ethical (Culture) Societies—religious and educational fellowships based on ethics, believing in the worth, dignity and fine potentialities of the individual, encouraging freedom of thought, committed to the democratic ideal and method, issuing in social action.¹²²

Certainly the Court, through Justice Black, cannot have meant to say that the teaching of certain religious value-systems to child citizens is publicly supportable, whereas the teaching of certain others is not. To make a distinction based upon whether the religious value-system em-

¹¹⁹ 367 U.S. 488, 495 n.11 (1961).

¹²⁰ NEA & AASA, *Moral and Spiritual Values in the Public Schools* 7 (1951).

¹²¹ *Id.* at 4.

¹²² 1961 *Yearbook of American Churches* 47 (1961).

braced the supernatural would be meaningless and invidious. The Court, in *Torcaso*, held the provision of the Maryland Constitution there involved unconstitutional because it favored "one particular sort of believers" ("believers," as the Court had noted, including also those who profess nontheistic religions).¹²³

Obviously, under an absolutist interpretation of the first amendment, such value-inculcation must pose serious problems. Again, however, rationality should point to the solution. Value-teaching should not, in principle, be regarded as an evil, to be shouldered out of community life by some deemed necessities of the first amendment. But if such teaching may, *without* first amendment objection, be offered in the public schools which are supported completely by government, then it cannot be said that some compulsive mandate of the first amendment decrees that no government aid whatever can be granted to education in church-related schools because the church-related schools, too, offer a program which inculcates values.

Again, it should be apparent that there is no need for a dilemma seemingly caused by opposed claims of the free exercise clause, on the one hand, and the No Establishment Clause on the other. *It is apparent that the free exercise clause as well as the No Establishment Clause must be recognized as creating limitations upon the spending power of the federal government.* If all governmental spending for education in church-related schools is to be considered ruled out on account of requirements of the No Establishment Clause, governmental spending for education in public schools must also be considered ruled out due to requirements of the free exercise clause. Ours, however, is a Constitution of rationality, not one of absolutes which paralyze social action. And plainly the solution becomes one in which government should be free to make such rational adjustment as best comports with the very real social needs involved.

Apart from the question of precise holdings in cases, constitutional precedent of another sort is available in aid of a solution to the problem here presented: the view often expressed in the more recent Supreme Court decisions respecting freedom of contract, the commerce clause, due process in criminal proceedings, and equal protection, that the Constitution is not static but must be from time to time reinterpreted in view of changed social conditions.¹²⁴ These decisions show a hospitality

¹²³ 367 U.S. at 490.

¹²⁴ *Emspak v. United States*, 349 U.S. 190 (1955); *Brown v. Board of Educ.*, 347

to change, an awareness of widely felt social needs, an admirable balancing of competing interests, and a recognition that the demands of justice are not necessarily met by such slogans as "freedom of contract," or "separate but equal"—or "separation of church and state" (where that phrase is meant to denominate *absolute* separation). Such pat phrases may command constitutional results while ousting rational discussion of the real and complex social problems involved.

In the present situation, where it is said that an educational crisis is upon us and that government aid to education is an imperative, it is apparent that the constitutional wisdom of the past is the necessity of the present. There is need to recognize the public contribution of education in church-related schools and to continue to utilize its beneficent contribution to the national weal. The problems involved are predominantly practical: no constitutional bar exists to the aid herein described to education in church-related schools. Practicalities, not slogans, should govern the determinations to be made—determinations which give clear recognition to the rights of parents, the rights of children, the enlargement of freedom, and the preservation of the nation.

U.S. 483 (1954); *Wickard v. Filburn*, 317 U.S. 111 (1942); *Home Bldg. & Loan Ass'n v. Blaisdell*, 290 U.S. 398 (1934).

ANNEX A

STATISTICS ON ELEMENTARY AND SECONDARY SCHOOL ENROLLMENT
IN THE UNITED STATES (1960)

Column 1: Total students enrolled in all elementary and secondary schools, public and nonpublic.¹²⁵

Column 2: Total students enrolled in Catholic elementary and secondary schools.¹²⁶

Column 3: Catholic school enrollment as per cent of total enrollment (Column 2 divided by Column 1).

STATE	Column 1 TOTAL	Column 2 CATHOLIC	Column 3 CATHOLIC/ TOTAL
Alabama	816,117	24,530	3.01%
Alaska	45,558	2,252	4.93%
Arizona	333,887	22,746	6.81%
Arkansas	433,325	10,150	2.34%
California	3,698,762	313,784	8.48%
Colorado	430,023	34,369	7.99%
Connecticut	573,331	84,416	14.72%
Delaware	102,604	18,544	18.04%
District of Columbia	143,214	19,787	13.82%
Florida	1,038,381	53,833	5.18%
Georgia	949,864	16,659	1.75%
Hawaii	161,841	15,590	9.63%
Idaho	166,440	6,838	4.11%
Illinois	2,274,666	484,506	21.30%
Indiana	1,125,367	128,942	11.46%
Iowa	672,855	86,473	12.85%
Kansas	516,083	46,439	9.00%
Kentucky	707,746	81,402	11.50%
Louisiana	847,164	121,058	14.29%

¹²⁵ Column 1 is an estimate derived from the addition of three figures: (1) public school enrollment as given in Office of Education Circular No. 634, Fall 1960 Statistics on Enrollment, Teachers, and Schoolhousing in Full Time Public Elementary and Secondary Day Schools, Table 3 (August 4, 1961); (2) Catholic elementary and secondary school enrollment as given in the General Summary of The Official Catholic Directory (1961); and (3) 10% of the Catholic enrollment as an estimate of the non-Catholic private elementary and secondary school enrollment. This 10% factor is based on the estimate in Biennial Survey of Education in the United States—1954-56: Statistics of State School Systems 1955-56, at 25-26 (1959).

¹²⁶ The totals given in Column 2 have been derived by adding the enrollments in four categories of the General Summary of The Official Catholic Directory (1961): High Schools, Diocesan and Parochial; High Schools, Private; Elementary Schools, Parochial and Institutional; Elementary Schools, Private.

STATE	Column 1 TOTAL	Column 2 CATHOLIC	Column 3 CATHOLIC/ TOTAL
Maine	234,597	27,104	11.55%
Maryland	727,489	109,205	15.01%
Massachusetts	1,072,240	234,414	21.90%
Michigan	1,997,376	287,851	14.41%
Minnesota	850,684	143,953	16.92%
Mississippi	590,599	14,181	2.40%
Missouri	984,156	145,237	14.76%
Montana	166,480	18,332	11.01%
Nebraska	334,763	47,060	14.06%
Nevada	68,080	3,365	4.94%
New Hampshire	137,758	28,899	20.98%
New Jersey	1,370,894	287,717	20.99%
New Mexico	248,217	22,967	9.25%
New York	3,606,894	751,722	20.84%
North Carolina	1,114,458	11,302	1.01%
North Dakota	158,497	18,485	11.66%
Ohio	2,349,326	362,249	15.42%
Oklahoma	558,457	17,688	3.17%
Oregon	420,672	29,165	6.93%
Pennsylvania	2,569,738	562,861	21.90%
Rhode Island	187,674	48,328	25.75%
South Carolina	591,249	9,390	1.59%
South Dakota	165,433	14,623	8.84%
Tennessee	816,229	19,517	2.39%
Texas	2,314,718	148,620	6.42%
Utah	242,313	4,116	1.70%
Vermont	90,402	14,101	15.60%
Virginia	888,909	37,892	4.26%
Washington	690,880	47,679	6.90%
West Virginia	454,617	15,419	3.39%
Wisconsin	975,455	227,686	23.34%
Wyoming	83,094	3,784	4.55%
Totals	42,099,576	5,287,230	12.56%

ANNEX B

ANALYSIS OF "MEMORANDUM ON THE IMPACT OF THE FIRST
AMENDMENT TO THE CONSTITUTION UPON FEDERAL AID TO
EDUCATION," ISSUED BY THE DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE, MARCH 28, 1961¹²⁷

The conclusions of this Memorandum may be summarized as follows: (1) "across-the-board" grants and loans to church-related schools are unconstitutional; (2) tuition payments for all pupils in church-related schools are equally invalid; (3) the providing of milk, lunches, and bus transportation to pupils in church-related schools appears to be constitutional; (4) loans for special purposes not closely related to religious instruction, such as the loans in Title III of the National Defense Education Act, are probably constitutional; (5) how far the principle of special purpose loans may be extended is difficult to ascertain.¹²⁸

These conclusions apply only to elementary and secondary church-related schools. The inclusion of church-related colleges and universities in federal aid to higher education is fully supported by the Department in the body of the Memorandum.¹²⁹

In a subsequent memorandum, dated June 27, 1961, the Department of Health, Education, and Welfare explicitly sustained the constitutionality of certain proposed amendments to Title III of the National Defense Education Act insofar as they would authorize loans to private non-profit elementary and secondary schools, including church-related institutions, for the purposes of providing "special educational facilities" and "physical development facilities." Since this second memorandum is only an application of the constitutional position developed in the first, it needs no special treatment here.

Owing to the wide publicity given to the first HEW Memorandum, it has been judged advisable to present here a somewhat detailed analysis. Necessarily, this results in some repetition of the discussion of the principal cases, already treated in the body of this study. The Memorandum states that there is a "paucity of Supreme Court precedent" with respect to government aid to education in church-related schools.¹³⁰

¹²⁷ The Memorandum has been printed in Senate Doc. No. 29, 87th Cong. 1st Sess. 7 (1961). All page references to the Memorandum [hereinafter cited as HEW Memorandum] are to the edition in this issue of the Georgetown Law Journal.

¹²⁸ HEW Memorandum 351-53.

¹²⁹ *Id.* at 377-81.

¹³⁰ *Id.* at 355.

Nevertheless, the Memorandum proceeds to derive a large body of supposedly controlling principles from such admittedly meager materials. This process was greatly assisted by the Memorandum's reliance, not upon the holdings of the cases, but upon sweeping generalizations in some of the majority and many of the dissenting opinions. Such generalizations, it is true, may not be readily discounted. But neither may the holdings of the cases. They are the precise decisional results deriving from particular critical facts; and it is these, not the broadly stated rationales given in their support, which are recognized as "controlling" when the precedent value of cases is assessed.

Everson v. Board of Education

The most important case having possible precedent value respecting the instant problem is *Everson v. Board of Educ.*¹³¹ The *Everson* case upheld, over first amendment-fourteenth amendment objections, reimbursement to parents for transportation of their children to (*inter alia*) Catholic schools on regular buses used in the public transportation system. This decision is not changed by characterizing it, as does the Memorandum, as a decision "by the closest margin (5-4)."¹³² If today the *Everson* decision is to be adhered to, then its underlying principle must be accepted: that at least some forms of government aid may be rendered to a citizen in furtherance of his obtaining education in a church-related school. If today the *Everson* decision is to be reconsidered, then simultaneously there must be a reconsideration of the excursive essay of Justice Black therein, relating to the historical meaning of the No Establishment Clause. Of course, under discussion of neither of the alternatives have the dissenting opinions of Justices Rutledge and Jackson significance from the point of view of precedence or *ratio decidendi*.

Taking the first of the foregoing alternatives, it is apparent that the Department Memorandum misses the significance of the *Everson* decision:

¹³¹ 330 U.S. 1 (1947).

¹³² HEW Memorandum 358. Moreover, this comment in the Memorandum ignores the significance of the Feb. 20, 1961, dismissal by the Supreme Court of the appeal in *Snyder v. Town of Newtown*, 365 U.S. 299 (1961). Compare the subsequent footnote on this case in HEW Memorandum 361 n.5. As the Memorandum notes, the issue in *Snyder* was the same as that in *Everson*. The Supreme Court dismissed, 7-2, for want of a substantial federal question.

1. The Memorandum states that the Court has ruled in *Everson* that across-the-board grants are prohibited.¹³³ First, it must be considered that the broad speculative generalizations respecting the scope of the No Establishment Clause appearing in Justice Black's opinion—"The 'establishment of religion' clause of the First Amendment means at least this . . .")¹³⁴—must be considered as limited by the opinion of the Court in *Zorach v. Clauston*.¹³⁵ This was recognized by Justice Black himself in his dissenting opinion in the *Zorach* case. It is no answer to assert, as does the Memorandum, that the Court in *Zorach* stated that "Government may not finance religious groups,"¹³⁶ since the principal effect of government aid to parochial schools, when seen from the point of view of the public interest, would not be to aid "religious groups" but to further the public interest in education of the citizenry. The opinion of the Court in *Zorach* markedly departs from the opinion of the Court in *Everson* insofar as the scope of disestablishment is concerned, and makes it clear that state and church, though separate, may commonly participate in matters related to the public interest. Indeed in *Zorach* it was said:

When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs.¹³⁷

Secondly, *Everson* conclusively establishes the "social benefits" doctrine. We are then left, apparently, to ascertain some point at which the "social benefit" is inconsiderable and the "religious function" is predominant.¹³⁸ The Court in *Everson* did not have before it a question of "across-the-board"¹³⁹ aid, but it may logically be argued that, so far as the teaching of *Everson* goes, its essential "social benefits" doctrine applied today would encompass even "across-the-board" aid. The dissenting opinion of Justice Rutledge in *Everson* was not able to distinguish between degrees of aid, or differences

¹³³ HEW Memorandum 351.

¹³⁴ 330 U.S. at 15-16.

¹³⁵ 343 U.S. 306 (1952).

¹³⁶ HEW Memorandum 352.

¹³⁷ 343 U.S. at 313-14.

¹³⁸ 330 U.S. at 18.

¹³⁹ Although it must be noted that the Memorandum never defines the term, "across-the-board," which it employs.

between "direct" and "indirect" benefits or "direct" and "fringe" benefits. To Justice Rutledge, what was sanctioned by the majority was direct aid to the religious institution. In this connection Professor Paul G. Kauper has stated:

But to distinguish on principle from this type of benefit ["fringe" or "auxiliary"] and the more substantial benefits that would accrue from subsidies to pay teachers' salaries or to provide educational facilities presents difficulties, particularly when it is noted that in the *Everson* case the Court emphasized that the state imposed a duty on all parents to send their children to some school and that the parochial school in question met the secular education standards fixed by the state. By hypothesis the school building and the instruction in secular courses also meet the state's requirements. When we add to this that education is appropriately a function of both government and religion, the question may well be raised whether the same considerations that govern the problems of bus transportation costs and text books, as well as the question of public grants to hospitals under religious auspices, do not point to the conclusion, whatever different conclusions may be reached under state constitutions, that the First Amendment, in conjunction with the Fourteenth, does not stand in the way of governmental assistance for parochial schools.¹⁴⁰

Thirdly, the reasoning of the Department Memorandum founders upon difficulties presented by the existence of such benefits to religious institutions as tax exemptions. It is at once apparent that constitutional sanction of tax exemptions (which exemptions are, practically speaking, equivalent to bounties) further weakens arguments that "direct" grants to parochial schools would be impermissible because such aid would support the "religious function" thereof.

Fourthly, an important qualification upon the "no aid" language of the *Everson* majority is expressly given in their opinion. It being clear that the government may not set up an official church, the No Establishment Clause appears to have its principal mandate *as auxiliary to the free exercise clause*. The majority opinion in *Everson* makes this clear. There could be no other explanation for the Court's holding that the No Establishment Clause is made applicable to the states by the fourteenth amendment. Moreover, the opinion of the Court at numerous points expressly stresses that "religious liberty" (free exercise) is the determinant with respect to all government legislation respecting religion which goes beyond "establishing" (in the British sense) a church. The opinion states: "The people . . . reached the conviction that *individual religious liberty* could be achieved best under a govern-

¹⁴⁰ Kauper, *Frontiers of Constitutional Liberty* 136 (1956).

ment which was stripped of all power to tax, to support, or otherwise to assist any or all religions"¹⁴¹

The Court quoted Jefferson's "Bill for Establishing Religious Freedom" in its exposition of the meaning of the No Establishment Clause, which stressed that *religious liberty* required no man should be compelled to support "any religious worship, place, or ministry whatsoever."¹⁴² Assuredly, then, the clause does not bar aid to church-related schools where the predominant benefit of such aid is not to the institution but to the citizen-student.

Fifthly, the Memorandum itself fully demonstrates that extensive government aid is presently furnished to church-related educational institutions. Or to assert, as does the Department, that such aid is not actually aid to institutions as institutions, is to do no more than really establish that across-the-board grants may be made to such institutions. As is explained in more detail *infra*, the "criteria" for aid which the Department (and not the Court) has constructed do not withstand analysis.

2. The Memorandum implies that the Court has ruled in *Everson* that loans to church-related schools are invalid. For the reasons stated *supra* with respect to across-the-board grants, it is clear that such loans would not be invalid. The Memorandum goes to remarkable lengths in attempting to justify its position. It cites *McColum v. Board of Educ.* as authority for the proposition that loans would be unconstitutional, resting here upon its own employment of the word "lend."¹⁴³ The opinion of the Court in *McColum* nowhere employs the word "lend" or "loan," and the utilization of the classrooms in *McColum* was not at all a "lending" in the sense the term is used in financial loans. Again, the Memorandum cites the *Zorach* case as authority, quoting therefrom the statement "Government may not finance religious groups."¹⁴⁴ This begs the question, the Memorandum failing to establish that the making of loans to parochial schools would in fact be to "finance religious groups."

3. The Memorandum states that tuition payments for all church school pupils are invalid under the rule of the *Everson* case "since they accomplish by indirection what grants do directly." It is in large

¹⁴¹ 330 U.S. at 11.

¹⁴² *Id.* at 12, 13.

¹⁴³ HEW Memorandum 352.

¹⁴⁴ *Ibid.*

part true that such payments would accomplish what grants would accomplish, namely, to educate the citizen-student. As has been seen, this would violate no constitutional precedent. It is also true, however, that the Memorandum itself asserts that tuition may be constitutionally paid by the government to students in institutions of higher education. For reasons more fully explored at a later part of this analysis, it would seem clear that the fact that the student would be in an institution of elementary or secondary education would be without constitutional significance. Indeed, the Department's principal argument in justification of rejection of aid (whether by tuition grants or otherwise) for elementary or secondary education in church-related schools, while qualifiedly upholding it in the case of higher education, would seem to work in reverse. That argument is, that education at the lower levels is general and compulsory.¹⁴⁵ Since it is compulsory that all children obtain elementary education, and since the education which the state requires may be obtained in church-related schools, and since these are the sole schools which certain children may as a matter of conscience attend, and, finally, since these schools presently are educating millions of American children, therefore it would seem that the institutions performing this public task (or the children who therein fulfil their public obligation) should have a clearer claim for public funds than would institutions or students in higher education.

McCullum v. Board of Education

A brief answer to the Memorandum's utilization of the *McCullum* case would be to say simply that it is not in point. It is remarkable that the Memorandum, which finds the closely relevant *Everson* decision to have no precedent value whatever with respect to the problem of grants and loans, discovers in the *McCullum* decision, which dealt with a very different problem, so much value as precedent. It is true that Justice Black, writing for the majority in *McCullum*, restated his views respecting the scope of the No Establishment Clause. (It may be noted incidentally that while the Memorandum quotes extensively from the dissenting opinions of Justice Rutledge in the *Everson* case, it all but totally ignores the lengthy dissent of Justice Reed in *McCullum*).

As has been noted, the rationale of the *McCullum* case is seriously qualified by the subsequent decision in the *Zorach* case. Some constitutional scholars consider that the *McCullum* decision was in fact over-

¹⁴⁵ *Id.* at 377.

ruled by *Zorach*. As professor Kauper has stated: "One may well agree with the dissenters [in *Zorach*] that the majority decision in the *Zorach* case . . . amounted in substance to an overruling of the *McCollum* case."¹⁴⁶

The "on-the-premises," "off-the-premises" distinction between the two cases seems not significant in view of the principal point made by the majority in *McCollum*, that the released time program there was unlawful because it encouraged recruitment into religion classes. This coercive element was equally present in the dismissed time program considered in *Zorach*, and the dissenting justices in *Zorach* indeed deemed *McCollum* to be overruled. It is interesting to note that the Department apparently agrees.¹⁴⁷

Zorach v. Clauson

In view of what has hitherto been stated herein with respect to the *Zorach* decision, only the following brief comments remain to be directed to the Department's appraisal thereof.

It must be stated that the Department Memorandum largely misconceives the teaching of the *Zorach* case. The Memorandum states: "The most that can be said [of *Zorach*] is that the opinion evidenced a more flexible attitude toward problems of separation."¹⁴⁸ Whatever legal meaning can be derived from this description is most uncertain. The dissenting opinions in *Zorach* were more definite. Justice Black saw in the majority opinion therein a new interpretation of the first amendment.¹⁴⁹ So did Justices Jackson and Frankfurter.¹⁵⁰

In attempting to establish its thesis, the Department encounters formidable difficulty in attempting to reconcile *Zorach* and again resorts to vague expression in appraising that case: "*Zorach* reaffirms that the state may not actively support a religious organization. On the other hand, it may, and perhaps under some circumstances must, temper its secular requirements if religious observances conflict with them."¹⁵¹ Notably, the Court in *Zorach* made it clear that the Constitution does not require in all respects a separation of church and state and that

¹⁴⁶ Kauper, *Frontiers of Constitutional Liberty* 122 (1956).

¹⁴⁷ HEW Memorandum 363.

¹⁴⁸ *Ibid.*

¹⁴⁹ 343 U.S. at 315-20.

¹⁵⁰ *Id.* at 320-25.

¹⁵¹ HEW Memorandum 358.

the state may in numerous ways accommodate its programs to the religious interests of its citizens and institutions.

This distinction between "aid to religion" and "accommodation of religion" is the basic proposition of *Zorach*. The distinction obviously makes "aid to religion" a highly technical concept, since religion was unquestionably "aided" as well as "accommodated" by the released-time program. The Department Memorandum, however, constantly applies the "no aid" principle in dogmatically literal manner without adverting to the fact that *Zorach* has interpreted and limited the principle in terms of a constitutional philosophy that is open to the accommodation of public services to religious interests.

Rule by semantics should never take the place of the rule of law. It can only result in complete confusion. A good example of this confusion is the Department Memorandum's assertion that loans are unconstitutional even if there is "no economic loss from the standpoint of the taxpayers."¹⁵² HEW explains that such a loan "might, nonetheless, be of measurable economic assistance to private institutions unable to secure reasonable credit from non-Government sources."¹⁵³ Another example of the same confusion lies in HEW's frequent recurrence to the "liberation of funds" argument.¹⁵⁴ Any form of joint financing by the government and religious institutions of secular activities, HEW argues, is constitutionally vulnerable, because it results at least in freeing funds for religious purposes which the religious institutions would otherwise have spent on secular welfare activities. This liberation of funds is "aid to religion" and therefore unconstitutional. Such an argument condemns itself.

It treats the "no aid" principle as if it were merely a phrase in the English dictionary. It cannot be reconciled with *Zorach* or the unbroken American tradition of the joint financing by religious and governmental organizations of social welfare activities.

Cochran v. Board of Education

The Memorandum dismisses the *Cochran* case as one of "dubious authority for the proposition that textbooks may be provided by a State to parochial school students."¹⁵⁵ While it is true that first amendment

¹⁵² Id. at 369.

¹⁵³ Ibid.

¹⁵⁴ Id. at 370.

¹⁵⁵ Id. at 359 n.4.

considerations were not involved in *Cochran*, it is also true that that case established that the use of government funds to provide secular textbooks for church-related school students was justifiable as being an expenditure for a public purpose. Importantly, the Court per Justice Hughes, stated:

The schools, however, are not the beneficiaries of these appropriations. They obtain nothing from them, nor are they relieved of a single obligation because of them. The school children and the state alone are beneficiaries . . . The legislation does not segregate private schools or their pupils, as its beneficiaries, or attempt to interfere with any matters of exclusively private concern. Its interest is education, broadly; its method comprehensive. Individual interests are aided only as the common interest is safeguarded.¹⁵⁶

The *Cochran* opinion therefore recognizes that the teaching of secular subjects in a church-related school is the performance of a public function and that such program may therefore be governmentally aided.

Here, obviously, the Department might have discovered a contradiction to its repeated assertion that grants, loans, and tuition payments may not be made to church-related schools upon the supposition that these aid in the carrying out of the school's "religious function." The Department states that "religious considerations are intertwined in the entire fabric of sectarian education" and therefore "moneys raised by taxation cannot be used to support such education."¹⁵⁷ The Supreme Court, however, was able to distinguish the public aspect of education in church-related schools from its private (religious) aspect and held, in effect, that whatever benefit might accrue to the institution from the aid given, such was incidental to the public benefit conferred upon the citizen-student and therefore constitutionally without significance.

Pierce v. Society of Sisters

The Memorandum pays little heed to the Supreme Court decision in the *Pierce* case. It is true that *Pierce* was decided before it was clear that the first amendment is made applicable to the states by the fourteenth amendment. It is also true, as Professor Howe and others have noted, that decided in a single opinion with *Pierce* was the companion case of *Pierce v. Hill Military Academy*, which involved the application of the same Oregon Compulsory Education Act to a nonreligious school. However, the case plainly involved freedom of religion. The issue was specifically raised in the Society's complaint and in its brief before the

¹⁵⁶ 281 U.S. 370, 375 (1930).

¹⁵⁷ HEW Memorandum 361.

United States Supreme Court. The issue occupies a considerable part of the transcript of the oral arguments before the Court. Justice Rutledge, in his dissenting opinion in *Everson* gave recognition to the specific religious element in the *Pierce* decision.¹⁵⁸

The true significance of *Pierce* was never stated in the Department Memorandum. *Pierce* not only upholds the liberty of parent and child freely to choose for the education of the latter a church-related school; it also denies a power in the state to monopolize education:

The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.¹⁵⁹

It is not, of course, intended here to suggest that the economic compulsion which would be visited upon the Catholic parent and child by massive expenditures for public schools only would be legally comparable to a compulsory public education scheme such as was employed in Oregon. It is important to point out, however, that the same standardization of which the Court warned would be the probable eventual result of such a one-sided spending program. The great question of policy, upon which the Court in *Pierce* puts its finger, is whether the public interest lies in the creating of a unitary *Kultur*.

Irrelevant Criteria

The "criteria" for "aid" given in the Memorandum are, of course, nowhere to be found in the cases. They represent, rather, the Department's attempt to make the cases fit its thesis. The Department is able to create a thinly plausible reconciliation of the cases and the constitutional principles involved principally by refusing to define "religious function" and by refusing to state the specifics of *how* some sort of "aid" does in fact result in aiding "religion" or the carrying out of "religious functions." At this point in its Memorandum, of course, the Department assumes that it has conclusively established that nothing in the way of what it dubiously calls "across-the-board" aid can be made to religion.

The Memorandum thus justifies (as it must) *Everson* in that the aid there given was for a "legitimate public concern." But if aid is

¹⁵⁸ 330 U.S. at 51.

¹⁵⁹ 268 U.S. 510, 535 (1925).

to be justified upon this basis, then aid to any form of state-approved schooling should be upheld.

The Memorandum lays great stress upon the views of the dissenters in *Everson*, who "characterized the statute as having the purpose of getting the child to school—an indispensable part of his education."¹⁶⁰ But if the dissenters were right in this, and the majority upheld the statute, then *Everson* plainly holds that that which is indispensably necessary to the educating of a child in a church-related school is constitutional. This consideration is not reflected in the Memorandum.

The Memorandum, as has been indicated, is totally unable to support its distinction between such aids as police, fire and sewerage on the one hand, and tuition, books, grants or loans on the other. The problem is not solved by semantics. Calling one form of aid "incidental" and the other "direct" changes no fact. Sewerage, to which the Department refers, is a *sine qua non* to the teaching of religion to groups of children. The providing of a school bus trip to the child who cannot otherwise attend a church-related school is actually as much an aid to his getting a religious education as there being a classroom in which he may be instructed at the trip's end. The Department's talk about "side effects of benefiting a religious institution" is meaningless unless (1) we are supplied with specific facts showing *how*—not a religious institution, but a church or sect—comes to be benefited, and (2) whether that benefit must not be ignored when seen in relation to the benefits to the citizen-student.

Although the Department furnishes many examples of aids which it says are not aids to religion, it is at a loss to show how financial aid is any the more essential to the church-related school than the aids which the Department would sanction.

The sections of the Memorandum respecting "criteria," it must be said in brief, are so shot through with categorical generalizations that little is served by attempting detailed analysis thereof. The controlling premises are found in such unsupported statements as "the State may not aid the religious instruction of a child";¹⁶¹ a "legislative proposal . . . [must not be] a mere subterfuge for religious support";¹⁶² the "means employed [must not] result . . . in support of religious institutions."¹⁶³

¹⁶⁰ HEW Memorandum 366.

¹⁶¹ *Id.* at 368.

¹⁶² *Id.* at 365.

¹⁶³ *Id.* at 366.

Mr. PUCINSKI. When we enacted title III of ESEA, there was considerable testimony at that time that we were going to have community supplemental training for education centers, centers that would have compensatory education, centers that would have remedial reading and the various other facilities which youngsters in that community regardless of what schools they were attending, whether they were attending public schools or parochial schools to come to these centers and get this additional education that they need.

That was a point that attracted me perhaps most to title III. Now, I am not aware of any such centers having been constructed. Are there any in Chicago or are there any in the country where youngsters have a community, can come in and get their additional training.

Monsignor DONOFRÉ. Mr. Cicco who is the deputy superintendent in Pittsburgh I think can speak to this first.

Mr. PUCINSKI. Are there any in Chicago?

Monsignor McMANTS. In the archdiocese, yes, but in the city of Chicago, no.

Mr. PUCINSKI. Why is that?

Monsignor McMANTS. I could guess the reason. Thus far the administration of the Chicago public schools and the board confronted with all of the monumental difficulties of getting titles I and II underway have not been in a position to develop the utilization of title III funds. Outside the city of Chicago in Arlington—

Mr. PUCINSKI. That is the very point I am making. I think in the administration of this program they have been so preoccupied with the inner city that the outer city is not getting its fair share and as a result we continue to see the plight of families looking for better education.

It would appear to me that this title III does offer our large cities an opportunity to provide the kind of compensation for education in a community that will arrest the flight of families into the suburbs.

Certainly when they set up compensatory centers in the suburbs it is understandable that families will gravitate to those communities which have the best education. For that reason I hope the Office of Education will stimulate the construction of these centers in the so-called outer city areas in the suburban areas.

Monsignor McMANTS. I share your convictions there, Congressman. I know in the Oak Park-River Forest township received over \$1 million in construction funds to increase the size of their high school.

On northwest side and west side of Chicago there is nothing exciting underway that would persuade people to remain within the city where there would be special services available to both the public and non-public-school teachers as well as children.

If I might get back a bit into history, Mr. Brademas would recall this I am sure. The original idea of title III was that there was to be a consortium of public and private educators and a separate corporation that could forge ahead.

Instead the law as it finally came out required the only people who could initiate anything under title III would be the public school agency, so the large metropolitan areas found themselves in so much money they just did not know how to utilize it for the purposes.