

under this section may be used only for books, periodicals, documents, magnetic tapes, phonograph records, audiovisual materials, and other related library materials (including necessary binding).

"(3) Any sums available for use under paragraph (1) which are not used for the purposes of paragraph (2) shall be used in the manner prescribed by the first sentence of section 203 (a).

"(b) Grants pursuant to paragraph (2) shall be made upon application providing satisfactory assurance that (1) the applicant (or applicants jointly in the case of a combination of institutions) will expend during the fiscal year for which the grant is requested (from funds other than funds received under this part) for the same purpose as such grant an amount from such other sources equal to not less than 33-1/3 per centum of such grant, and (2) in addition each such applicant will expend during such fiscal year (from such other sources) for all library purposes (exclusive of construction) an amount not less than the average annual amount it expended for such purposes during the two-year period ending June 30, 1965."

Reports of the Congressional Committees, in explaining the purpose of the special purpose grants, specifically referred to the Center for Research Libraries in Chicago as "a notable example of potential college joint activities."

III

However, the Adult and Vocational Education Section of the United States Office of Education determined that the Center for Research Libraries was not eligible for assistance pursuant to Section 204 of Title II of the Higher Education Act of 1965. It did so on the theory that Section 201 entitles the Commissioner to make grants to "institutions of higher education; Section 204(a) (2) authorizes special grants to "institutions of higher education" and to "combinations of institutions of higher education"; and that the Center for Research Libraries, although specifically described in the legislative history as performing "notable examples of the potential of college joint activities," is not itself an institution of higher education.

In addition, the Office of Education Section raised the point that the membership of the Center included institutions which were not eligible "institutions of higher education," specifically the two Canadian universities (the University of British Columbia and the University of Toronto) and the John Crerar Library (whose collection of scholarly scientific materials is recognized throughout the world) which, while located on the campus of Illinois Institute of Technology, is not itself a degree granting entity.

IV

Joint activities of institutions of higher education often are carried out through the multi-university, not-for-profit corporation. The most notable recent example is the organization of Universities Research Association, Inc., a multi-university corporation under the auspices of the National Academy of Science, as well as the Atomic Energy Commission, to design, build and operate the high energy accelerator at Weston, Illinois. Similar corporate arrangements exist in the operation of the Brookhaven National Laboratory at Long Island, New York, the Argonne Universities Association for policy determination in operation of the Argonne National Laboratory at Lemont, Illinois, and ARPA for operation of astronomy research facilities in Arizona and Chile.

I would assume that the value and purpose of such arrangements are clear to both lawyers and prudent administrators. The case of the Center itself is in point. The magnitude of that operation could not be prudently administered through combination or joint venture arrangements involving universities situated at long distances over the country. Nevertheless, the position of the Office of Education Section, in effect, determines that such arrangements cannot be recognized as university combination activities for the purposes of the statute.

V

The Section of the Office of Education thus concluded that applications for support of the Center for Research Libraries had to be made individually by each member, then processed individually, grant disbursements made to each individual institution and then transferred. The result was that the Section was obliged to process multiple applications and, at the same time, each member in-