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IMPLEMENTING THE WADDY DECREE AND AUTHORIZING THE UNIVERSITY OF THE DISTRICT OF COLUMBIA

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON EDUCATION

OF THE

COMMITTEE ON THE DISTRICT OF COLUMBIA HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

ON

IMPLEMENTATION OF THE DECREE OF JUDGE JOSEPH C. WADDY OF AUG. 1, 1972 ON SPECIAL EDUCATION, IN *MILLS V. BOARD OF EDUCATION*

AND ON

H.R. 15643

TO AUTHORIZE THE UNIVERSITY OF THE DISTRICT OF COLUMBIA

MAY 29 AND 30, 1973, AND JULY 1 AND 3, 1974

Serial No. 93–12

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THE WADDY DECREE

TUESDAY, MAY 29, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EDUCATION OF THE
COMMITTEE ON DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m. in room 1310, Longworth House Office Building, Hon. Ronald V. Dellums [chairman of the subcommittee] presiding.

Present: Representatives Dellums, Stark, Fauntroy, Rangel, and Taylor.

Also present: Robert B. Washington, Jr., chief counsel; Ruby Martin, counsel; Joseph Clair, subcommittee counsel; John E. Hogan, minority counsel; James T. Clark, legal consultant; and Mike Duberstein, research assistant.

Mr. DELLUMS. The committee will come to order.

On August 1, 1972, the District of Columbia Board of Education and the District of Columbia government were placed under court order to provide specified services to certain identifiable segments of the school-age population.

The decree, the Waddy decree, that will be the subject of these oversight hearings, dealt with three main areas, and they are as follows:

(1) The identification, assessment, and placement of children requiring special education.

(2) The suspension or dismissal of any student duly enrolled in the District of Columbia public schools.

(3) The requirement for due process that must be employed.

Today we will begin hearings to assess the degree of compliance with the Waddy decree and the resource needs of the District of Columbia Board of Education in order to achieve complete and full implementation.

The first witness this morning will be Ms. Hilda Mason, Chairman of the Committee on Curriculum, Special Education, and Education Planning, of the District of Columbia Board of Education.

I welcome you this morning, Ms. Mason, and you may proceed in any fashion you choose.

STATEMENT OF MS. HILDA M. MASON, CHAIRMAN, COMMITTEE ON CURRICULUM, SPECIAL EDUCATION, AND EDUCATION PLANNING, DISTRICT OF COLUMBIA BOARD OF EDUCATION

Ms. MASON. Thank you.

I am Hilda Mason, a member of the District of Columbia Board of Education and Chairperson of the Board's Committee on Curriculum, Special Education, and Education Planning. I wish to thank you for

the opportunity to testify here this morning. I shall speak from the point of view of a Board member concerned with educational policy, Later the Superintendent, Dr. Hugh J. Scott, and some of his associates will give further information as to implementation.

Summary of Mills Case

When I became a member of the Board in January 1972, I found that there was pending in the U.S. District Court for the District of Columbia the case of *Peter Mills, et al.* v. *Board of Education, et al.* I stress the "et al" because the defendants included not only the Board of Education, the Superintendent of Schools, and other school officials, but also the Mayor-Commissioner, the Director of the Department of Human Resources, and other officials of the latter department. The original complaint was filed on September 24, 1973. Prior to that time the named minor plaintiffs, through their representatives, repeatedly had sought to obtain publicly supported education and certain of them were assured by school authorities that they would be placed in appropriate publicly supported education, either in schools directly operated by the defendants or through tuition grants in privately operated schools. When school opened in September 1971, none of the plaintiffs' children had been placed. After thus trying to obtain relief from the Board of Education and other defendants, the plaintiffs filed an action in U.S. District Court for the District of Columbia. On December 13, 1971, Charles I. Cassell, a defendant member of the Board of Education, filed an affidavit in support of the plaintiffs' motion for a preliminary injunction.

The case was certified as a class action by order of the court dated December 17, 1971. All of the named minor plaintiffs are black and of very limited financial means. However, the class which they represent is not limited by race or income level but includes all District of Columbia children who are eligible for a free public education and who have been, or may be, excluded from such publicly supported education.

On December 20, 1971, the plaintiffs and defendants agreed to and the court signed a stipulation which, among other things, provided that four of the named plaintiffs would be provided with a publicly supported education suited to their needs by January 3, 1972. With respect to at least three of these four plaintiffs, the defendants had failed to provide the appropriate education by January 3, 1972, and in fact had still not done so when school closed in June 1972.

I have outlined the situation which existed in January 1972 when several of us who had been elected in November 1971 took office on the Board.

A majority of the members of the Board agreed with the general principle that every child in the District of Columbia, no matter what his disabilities might be, was entitled to a publicly supported education suited to his particular needs. It was clear to me that this right had in the past been and was still being denied to many children, and that the plaintiffs in the *Mills* case were fully justified in bringing a class action in the U.S. district court to correct this long-standing situation. Fortunately the Congress had apparently recognized that unmet needs existed in the special education area and had substantially increased the funds available for special education in the fiscal year 1972 ap-

propriation act. Glad as we were to have these additional special education funds, it should be pointed out that they were granted at the expense of other important funding needs elsewhere in the school system. The problem before us was to inform the court of the Board's intention to enter into a consent judgment declaring the right of all children to a publicly supported education, and to set in motion steps which would assure that the special needs of every child would be met and that we would fully utilize the additional special education funds which had been provided in the fiscal year 1972 appropriation.

Board Action on Special Education

To this end, on behalf of the Committee on Curriculum, Special Education, and Education Planning, of which I had become Chairperson, I presented a series of motions at the February 9, 1972, meeting of the Board of Education. This was the first business meeting of the Board after the newly elected members of the Board, including myself, had taken office. These motions all passed and can be summarized as follows:

1. All special education positions—regardless of funding sources—were to be filled as rapidly as possible.

2. All funds, from whatever source, designated for special education must be spent solely for special education. A study was to be made as to whether additional funds would be needed.

3. The filing of an appropriate pleading in the U.S. district court indicating our intention of entering into a consent judgment declaring the rights of children in the District of Columbia to a publicly supported education.

4. The preparation of rules to provide for due process and fair hearings to meet the demands of *Mills* v. *Board of Education.*

5. A declaration of the intention of the Board to submit to the court a comprehensive plan for the education, treatment, and care of physically or mentally impaired children in the age range from 3 to 21 years. The hope was expressed that the other District of Columbia agencies concerned would join in the admission of the plan.

6. A declaration of intention to provide for comprehensive health and psychological appraisal of children and to provide for each child any special education which he might need. There was provision for a due process hearing if any child, or his parent or guardian, had any objection to any educational placement proposed by the school system.

On March 1, 1973, the Corporation Counsel, responded on behalf of the defendants proposing the entrance of a consent judgment declaring the rights of the plaintiff class. However, unfortunately there was a delay in submitting to the court the comprehensive plan for the education, treatment, and care of physically or mentally impaired children in the age range from 3 to 21 years. This delay was occasioned in part by the difficulty in getting agreement to a satisfactory comprehensive plan by the District of Columbia agencies other than the Moard of Education.

On April 7, 1972, certain documents were sent to the court on behalf of the Board of Education and those of its employees who were

defendants. The Corporation Counsel pointed out that the contents of these documents had not been endorsed by the other defendants. As Judge Waddy said in his memorandum opinion of August 1, 1972, it became obvious to the court that "the defendants had no common program or plan for the alleviation of the problems posed by this litigation and that this lack of communication, cooperation and plan is typical and contributes to the problem."

I concur in this analysis by Judge Waddy and regret to have to report that even though there have been a number of meetings between members of the administrative staff of the school system and their counterparts in the Department of Human Resources, the problem to which he referred has not been fully resolved.

Comprehensive Plan for Special Education

Subsequent to and in conformity with Judge Waddy's August 1, 1972, decree in *Mills* v. *Board of Education*, a document entitled "A Comprehensive Plan for Special Education, Public Schools of the District of Columbia, September 1972" was submitted to the court. The basic document was prepared by the staff of the school system, but there is an "appendix E" describing the program for health services for students in the District of Columbia Public Schools which is provided by the School Health Services of the Department of Human Resources. This appendix describes both the health services for children in special education—such as those at the Sharpe Health School, Mamie D. Lee School, and so forth—and the regular school health service provided for children throughout the school system. Suffice it to say that the latter is minimal and leaves most schools with no doctors or nurses regularly assigned. Some improvement in the scope and thoroughness of health appraisals is hoped for as a result of the application of $200,000 of special education funds to be used for such health appraisals by the School Health Services of the Department of Human Resources.

In addition to "appendix E" of the comprehensive plan for special education, there was also an addendum prepared by the Department of Human Resources which was devoted largely to a discussion of educational services provided at such DHR facilities as the Children's Center at Laurel, Md. (Forest Haven, Maple Glen, Oak Hill, and Cedar Knoll). It appears that there are substantial gaps in the areas covered by the DHR submission in the comprehensive plan. I refer to the special needs of children who are not wards of DHR and are not committed to any DHR institution but whose needs do not come within the very limited scope of service now provided by the school health services program of the Department of Human Resources. As the plaintiff's April 13, 1972, submission so eloquently points out, the provision of education for handicapped children often involves ancillary services which are frequently labeled as "care," "treatment," or "training." Any attempt to make different agencies responsible to the child and his parents for providing these services obviously would result in some children being lost between the cracks. I think it is clear that Judge Waddy's decree makes the Board of Education responsible for providing an education to every child, fitting that education to his special needs, and including such ancillary services as are required to round out his educational program. Under the present

arrangements the school system does not have medical personnel, and ordinarily calls on the Department of Human Resources to provide it. It would seem that the present number of doctors and nurses in the school health services program of DHR is clearly inadequate to identify and diagnose those with special medical problems and, after they are identified, to meet their special needs ancillary to the strictly educational program.

Tuition

Also with respect to those children for whom the District of Columbia Public School System does not have the appropriate programs or facilities and for whom residential educational settings are recommended, there is often a question as to whether the so-called tuition charges should be broken down to separate "education" in the narrow sense from "care," "treatment," "maintenance," and so forth, and whether the school system's special education funds should be chargeable for the whole amount of the bill or whether some part of it identified as "support," "treatment," or "care" should be reimbursable by the Department of Human Resources or, when there is the ability to pay, by the parent or guardian of the child. If the full amount is to be paid by the school system in such cases, our "tuition grant" budget will have to be augmented accordingly, since past budgets have not provided adequate amounts to pay the full charges made by these residential schools for children needing this kind of service. If, on the other hand, some parts of the charges are to be paid by the Department of Human Resources, it would seem that that fact should be taken into account when the budget for that agency is drawn up.

At the Board's stated meeting in March 1972, my colleague, Mr. Tirana, observed that the administration had not carried through on the February action of the Board regarding the filling of all special education positions and the use of all special education funds for special education and instead was proposing a budget plan which would reprogram $400,000 from special education to meet other school needs. He moved that the administration be directed to prepare its budget plan based on the Board's February decision that all special education funds be spent on special education. This motion was put and carried. At the continuation of the same meeting the following evening I presented, on behalf of the Committee on Curriculum, Special Education, and Education Planning, a motion which provided for the elimination of the "waiting list" for tuition grants and for the immediate approval of tuition grants for all students for whom no suitable educational program was available within the District of Columbia School System. This motion was also put and carried.

From March until June of 1972 we attempted to find out from the school administration what had been done to provide special education services to all of the children needing it and to obtain an accounting, for the fiscal year 1972 special education funds, including those in the regular appropriation and those coming from Federal grants. Only during the last few days of the fiscal year, late in June 1972, did we learn that it was anticipated that there would be an unused yearend balance of about $1.7 million which it was then proposed to reprogram and obligate for the purchase of equipment, building alterations, staff development, and so forth, related to the Special Education Department. The press gave this committee report considerable publicity

which was not particularly favorable to the school system. Unfortunately the present system which divides the responsibility for maintaining accounting records between the administrative offices of the public schools and the finance offices of the District government, under the control of the Mayor-Commissioner, makes it very difficult to obtain necessary financial information in a timely manner.

School Year 1972–73

The school year 1972–73 has shown considerable progress in special education. Many of the special education teaching positions planned last year have now been filled. A school-based program with a special education teacher located in each elementary school has been adopted and has been implemented to a considerable degree. The staff at Mamie D. Lee School has been expanded and the number of students there has been correspondingly increased. The requirements laid down in Judge Waddy's August 1, 1972, decree with regard to due process hearings has been put into effect. The hearing examiners are concerned with cases in which the student or his parent is dissatisfied with special education placement decisions or where principals propose to suspend students for disciplinary reasons for more than 2 days.

I shall not attempt to describe our 1972–73 activities in the same detail as I outlined those of the previous year because Mr. Merle Van Dyke who has served as Assistant Superintendent for Special Education since September 1972 is here and will testify later.

I believe that while we are working to meet the requirement of providing an education to meet the needs of every child, there is still must to be done. Staff development throughout the school system is needed to help all school employees understand how to deal with children and particularly with those having special needs. I believe that providing more and better service to young children (in the age range of 3 to 5 years, for example), may solve many special problems early so that the child can join the mainstream as he develops. There is much to be done in terms of "outreach" to identify children having special needs, especially these not now attending any school. The census of children required by law has, so far as I am aware, not been taken. I simply do not know how many children there are whose needs are not being met.

The "comprehensive plan" submitted to the court in September 1972, and referred to previously, was improved by an addendum subsequently prepared for submission to the court. It is possible that, as we work to carry out the plan, further modifications will be needed to assure that every District of Columbia child is provided with a publicly supported education suited to his particular needs.

Proposed Legislation

One question may perhaps be asked by your subcommittee, and that is whether any legislation by Congress is necessary or desirable in this area. Of course I would give first priority to self-determination for what is now the District of Columbia, and of the bills which have been presented, surely H.R. 2574, the statehood bill introduced by Mr. Dellums is the best. With self-determination, we in the District could legislate for ourselves.

In the absence of full self-determination I would put first in order of priority legislation that would clarify the autonomy of the elected Board of Education vis-a-vis the appointed Mayor-Commissioner and the City Council. Perhaps the most important area which should be clarified is the right of the Board of Education to make its own contracts and to control its own funds, from whatever source received. Experience shows that only delay, confusion, and duplication of work result from the present practice of routing all such transactions through the Department of General Services or other District Government agencies which are subordinate to the appointed Mayor-Commissioner.

I say this without casting any individual official of the District of Columbia government in an unfavorable light. It simply is not logical organizationally to place an elected body that is supposed to be responsive to the inhabitants of the District in a position where it cannot make its own contracts or control its funds but must seek these services from the subordinates of a Presidential appointee.

You may ask whether any congressional legislation specifically related to special education is needed at this time. I am not sure that it is. Recently I obtained a copy of chapter 766 of the acts of the Massachusetts Legislature passed in 1972 which regulates programs for children requiring special education and provides reimbuserment therefor. I believe that this is an excellent model for State legislation on this subject. Some parts of it would not be needed here, such as those that relate to the divsion of costs between the local school districts and the State. Other parts, such as these that relate to the rights of children with special needs problebly form a model for our Board of Education to use when making its own rules. As I said before, we are now trying to revise our rules relating to special education to bring them up to date and to incorporate procedures to implement the decree in *Mills* v. *Board of Education*. I believe that our own rulemaking power will suffice for this and that congressional legislation is probably not necessary.

At present I am in no position to say whether congressional legislation is needed in the area of enlarging or redefining the powers of the Department of Human Resources with regard to children with specal needs who are neither wards of the Department nor the children of welfare recipients. Nor can I say whether legislation is needed to define the boundaires between the responsibilities of the Board of Education and those of the Department of Human Resources. I would hope that we could work out such matters at the local level.

In closing I must express the belief that what progress we have made in special education is to a large degree the result of *Peter Mills* v. *Board of Education* which follows the direction of the earlier decision of the U.S. district court for the Eastern District of Pennsylvania in *Pennsylavnia Association for Retarded Children* v. *Commonweath of Pennsylvania* in declaring the right of every child to a public education, no matter what his physical or psychological handicap may be.

Perhaps it is unusal for a a defendant to thank the plaintiffs for bringing a lawsuit, but on behalf of the children of the District of Columbia, whom our Board of Education has the duty to serve, I think I must express gratitude to Peter Mills and the other named plaintiffs, both children and parents, and to the public interest lawyers w ho represent them, for their great public service in bringing this action

which will undoubtedly result in substantial benefit now and in the years to come to other children similarly situated. This case and others like it which have been brought or will be brought in other jurisdictions, will raise the sensitivity of school boards and school administrations throughout the country which historically have tended to ignore the needs of children having serious handicaps or other special problems. Only in the past few years has there been any systematic effort in our school system, or in many others, to met the needs of all children whatever handicaps they may have. These court actions serve as an important thrust toward the fulfillment of the right of every child to a publicly supported education.

Mr. DELLUMS. Thank you very much, Ms. Mason.

First of all, I would like to thank you for coming this morning, and thank you for your very detailed and informative testimony.

I have a few questions and then will throw it open to other members of the committee and counsel.

First of all, Ms. Mason, what steps would you recommend to bring about a greater degree of cooperation between all the party defendants named in the suit? I noticed in your testimony you allude rather specifically to problems that exist between and among the party defendants.

Do you have any recommendations how this might be improved?

Ms. MASON. As I said in my statement, at this moment I do not have a recommendation. It is a very serious problem. I do not know if the Department of Human Resources people will be testifying before your committee. I would hope that they are.

I would hope further that when their budget is presented that the need which I have identified as specifically the health need under the school health program will be considered very seriously, because that is one of the most serious problems in the school system.

Mr. DELLUMS. Thank you.

My next question is: You stated in your testimony that Congress increased the special education budget at the expense of other school programs. Would you like to elaborate on that for us?

Ms. MASON. I am sure that the administration will be glad to elaborate on it when they come to it, but that did indeed turn out to be a very serious problem, because the moneys which were earmarked for special education were in fact taken out of the regular budget.

STUDENT SUSPENSIONS

Mr. DELLUMS. Thank you. My final question to you, Ms. Mason: The decree states that there must be a due process hearing for any student suspended in excess of 2 days. Do you feel that this has in any way hampered the ability of the local school administration to administer the school program and its operation?

Ms. MASON. I am very glad that you raised that question. I think that the committee should know that I did in fact work in the school system, and in my 19 years of experience in the school system, first, I never suspended a child, and never asked that a child be suspended. That is when I was teaching, counseling, and in administration. I do not feel that the decree in anyway hampers the operation of the school system. I feel that people have not properly interpreted what the de-

cree says. The decree says that a child has to be provided an education no matter what decision is made. That is the first thing. The second thing is that the child is entitled to due process in whatever decision is made about providing those services for him. The child, from my point of view and the child's parents, should certainly play a major role in making those decisions. I think that people have to start from that point in order to be able to bring about a just decision.

School Legislation

Mr. Dellums. Ms. Mason, I thank you very much for your response. I would just make one addition to a statement you made on page 10 of your testimony, which states that in the absence of full self-determination I would put first in order of priority legislation that would clarify the autonomy of the elected Board of Education vis-a-vis the appointed Mayor-Commissioner and the City Council.

I would simply like to give you the information that we are presently planning some hearings and will have them in the very near future to establish, if it appears necessary, an independent piece of legislation dealing with the whole question of the nature and relationship between the School Board and other decisionmaking agencies in the city.

The self-determination bill that will be reported out of Mr. Adam's subcommittee will carry a brief reference that this subcommittee will hold its own hearings and establish legislation in this area; so we will be calling on you and others for your ideas and recommendations on: (1) Whether or not legislation is needed in the area, and (2) the nature of that legislation. We will be calling on you, so you will have full and ample opportunity to discuss that matter.

I would now like to yield to my distinguished ranking member, Mr. McKinney.

Mr. McKinney. Ms. Mason, it is nice to have you. As usual, you present an eloquent case. I do not think we have to check to see whether or not legislation is necessary to define the powers of the School Board. We all know it is rather necessary. Let us take a more positive attitude.

Special Education Procedures

I would like to ask some background questions.

How does a parent with a child, either retarded or with learning disabilities, or a handicap—how does that parent apply for admission to schools. Do they go to the school system or do they go to the Department of Human Resources first?

Ms. Mason. I think customarily the parent takes the child to the local school and applies there and the child is processed through the Department of Special Education; that is, if the child is of school age. If the child is not of school age, then I would suppose that the parent would go to the Department of Human Resources or to a private physician.

Mr. McKinney. It would seem to me that this has been a problem in other States, obviously, and that one of the biggest problems here is the coordinating factor between the two that you discussed in your testimony. For instance, in the State of Connecticut, the Welfare Department, if it happens to be that Department that is concerned,

can remand to the Board of Education and in many cases will take the child before school age and foot the bill so that the Education Department does not. Then we also have our special education. Then this became a morass of who was doing what to whom and who is paying for whom, and this seems to be what you have here.

Ms. MASON. Yes.

Mr. MCKINNEY. Would it not help if we were able to supply some legislation, or in the budget, a coordinative office so that the Department of Human Resources and the Special Education Department of the Educational System had a cooperative or a meshing office of some type in order to coordinate this problem.

Ms. MASON. I think that has to be explored very carefully.

Mr. MCKINNEY. Just as background to the problem, we had and we are having right now a problem which is happening in my town, a problem relative to transportation for the handicapped. The School Board puts in for specialized funds. But every time the Finance Board sees that, they take it out. So the Welfare Department pays for the transportation. In the meantime, because nobody is talking to anybody about it and they are both going in different directions, the taxpayer is the one who is getting gored and the kids are not getting to schools.

Ms. MASON. As of now the decree puts the weight on the School Board for providing the services and then working out the problems. The school system does have the responsibility to provide, and that is to really be an advocate to make sure that all children are receiving a publicly supported education, and then should assume the responsibility to deal with the appropriate agencies to come up with their fair share.

How you deal with them when they won't come up with their share—of course, the judge does have a provision for bringing the problem back to court. People hate to stay in court but you may have to do that to provide the services.

Mr. MCKINNEY. This makes you the appellant in front of the Department of Human Resources for a child in many cases.

Ms. MASON. That is right.

Mr. MCKINNEY. Not only is this a long and involved program and puts you in a business you should not be in, but the child is suffering while he is in a state of limbo.

Ms. MASON. That is true.

Mr. MCKINNEY. So if we could set up some type of machinery which would cause the automatic taking over of the different responsibilities—yours to educate and Human Resources to be certain of living conditions and social problems—it would be a lot easier for you as a school system, is that correct?

Ms. MASON. Yes, it would. At one time the health program was under the school system. I cannot remember exactly when it came out from under. I am not sure it was any better. We do have to find a better way to get it done, because it is a big problem and many children are being lost.

Mr. MCKINNEY. Thank you very much.

Mr. DELLUMS. The Chair would now like to recognize the presence of the distinguished Representative from the District of Columbia who is a member of the full committee but not a member of the subcommittee, Mr. Fauntroy. I would yield time to you.

Mr. FAUNTROY. Mr. Chairman, I simply want to thank you, as chairman, and the members of the committee, for holding these oversight hearings. It is a real pleasure to be allowed to share the hearings with you. I will have questions at a later time.

Mr. DELLUMS. Thank you.

The Chair would now like to yield to my distinguished colleague from New York, Mr. Rangel, who is also a member of the Full Committee and not a member of this subcommittee. We appreciate your interest in coming this morning. I would like to yield time to you if you would like to make a statement or if you have any questions to ask of the witness.

Mr. RANGEL. Thank you, Mr. Chairman.

As you know, in the city of New York we have a vacancy in the Superintendent's slot and I understand in the District of Columbia they might have someone free in a short while.

Most of the problems that we have in central Harlem are very similar to those I have found during my short stay in the District of Columbia.

HANDICAPPED CHILDREN

I wonder, Ms. Mason, if you can determine what percentage of the so-called handicapped child is actually receiving training within the Board of Education structure rather than being contracted out?

Ms. MASON. As well as I can recall, there are about 6,000 children—Mr. Van Dyke may want to correct me on that—who are receiving help—he says it is 10,000.

Dr. SCOTT. 10,000 full time and part time, and 500 on tuition.

Ms. MASON. That 10,000 is as of the end of March.

Mr. RANGEL. I understand that the special training that is necessary still comes out of the regular educational budget.

Ms. MASON. Yes.

Mr. RANGEL. You have just one budget, really, and any extra moneys that are needed for additional professional training would come out of the budget.

Ms. MASON. That is correct.

Mr. RANGEL. To your knowledge, do you have an agency that would take care of training for the handicapped other than children?

Ms. MASON. I am not sure I understand your question. Do you mean adults?

Mr. RANGEL. Yes, adults.

Ms. MASON. Are you speaking of under the school system or a separate agency?

Mr. RANGEL. A separate agency.

Ms. MASON. I would think that would come under the Department of Human Resources.

Mr. RANGEL. Under their guidelines, would you have to be considered poor in order to receive this type of training?

Ms. MASON. I am not sure, but I would hope not. I would hope anybody who needs it would receive the training.

Mr. RANGEL. What I was trying to do was to see whether we could identify any agency other than the Board of Education that might already have special talents in connection with training the so-called handicapped people.

Ms. MASON. Maybe Mr. Van Dyke could answer that question.

Mr. VAN DYKE. I understand Vocational Rehab.

Mr. RANGEL. Thank you very much.

Mr. DELLUMS. Thank you very much, Mr. Rangel.

The Chair would now yield to chief counsel for the minority, Mr. Hogan.

Mr. HOGAN. Ms. Mason, as I understand it there was a court decision in Virginia that affected the Fairfax school system. Do you happen to know what they have done in Fairfax County or Arlington County or Prince Georges County as it relates to this particular problem.

Ms. MASON. I had read some newspaper accounts they are also wrestling with this problem. It is a national problem.

Mr. VAN DYKE. I am not thoroughly familiar with the Virginia suit although I know some legal action has happened or has been filed. I do know these kinds of suits are going on all over the country; class action suits for educational rights of handicapped children.

SPECIAL EDUCATION CATEGORIES

Mr. HOGAN. Ms. Mason, I think in your testimony you talked about special education, particularly those who might have some physical or mental impairment and then Judge Waddy's decision talks about 22,000 retarded, emotionally disturbed, blind, deaf, speech- or learning-disabled children.

Do you know exactly how many people are involved in the special education and could you break it down as to how many of those are of the category that Judge Waddy talks about as opposed to those who might constitute discipline problems, other than the learning disabled or those who may have some type of behavioral problems? I don't know whether these are called special education products or not.

Ms. MASON. I think Dr. Scott can speak to that.

Dr. SCOTT. Almost 2 years ago Dr. John Johnson, when he was on the staff—we have had three heads of special education in less than 3 years—went into special education. We used some figures from the Office of Education in terms of how to take a normal city and its population and make some estimates as to what would exist out there. We submitted in that report an estimate of somewhere in the neighborhood of 18- to 20-some-thousand total population.

Now, what was not done, I think needs to be clear. Some of these are youngsters of preschool age who would be in that 18- or 20-some thousand, in the total population in need of special education.

Some of these are beyond school age. We have finally worked that down to somewhere in the neighborhood of 10,000 full time, part time, given treatment; 500 and some on tuition grants and another 1,200 to 1,500 who we identified as an unmet need waiting on more resources or vacancies to exist in other institutions.

The figure is twenty-some-thousand. I don't want to project there is an over abundance in the District of Columbia, especially for those with learning disabilities, but that is the figure based on total population.

When you speak of New York City, you will be speaking of close to 800,000-some people. But that would be your total population. That would be youngsters from birth to those just before death. We never

broke it down. We apply it to total population and begin the outreach of it to see which part belongs to the school system.

I believe Mr. Van Dyke will give you those figures a little later, what we are now serving, what are the populations, what we identify within those categories as an unmet need. The largest number in any group in terms of special education would be those who have learning disabilities and some degree of mental retardation.

I somewhat regret the due process aspect of this Waddy decree becoming confused in the suspension. We were suspending people in need of special education. We were also suspending others who were not in need of special education. Those two populations should not be confused.

In that sense, the decree bound all suspensions into one act and gave due process to students and parents with regard to review as to what actions were taken.

There are some suspensions in the case of a youngster emotionally disturbed where I feel the system has moved in that regard to bring in our personnel service department to make an assessment as to whether there is a psychological problem associated with that. We can deal with that later, but I don't think we should group all of our suspensions. In fact, our suspensions are down quite significantly since the Waddy decree.

Mr. HOGAN. If I understand correctly, you had separate educational services for behavioral or disciplinary problems in the school system for some number of years. I think Acting Superintendent Henley headed up one of these schools at one time, did he not?

Dr. SCOTT. I think Dr. Henley was the principal for the school——

Mr. HOGAN. I assume you still have those facilities, is that correct?

Dr. SCOTT. There again, this gets to our philosophical thrust I don't believe there was automatic identification of those who needed to be isolated.

We should not isolate a youngster solely because of mental retardation. Many retarded are being treated in regular schools. Retardation is no excuse for putting them with other retardees so that is the only type of person they see.

I think the worst thing possible is to move to isolate youngsters. That is what we are doing.

If you look at our budget, it calls for 170 positions in the local schools. We keep kids on a part-time basis. You can be retarded and still function in gym, art, music, and other classes, but may need help in reading and some of the other basic skills. This is what we are doing. This has caused some degree of apprehension among teachers who wanted to get them out of the classrooms and among citizen advocate groups who want to keep the population segregated so it produces a clientele for their services.

Ms. MASON. I did refer to staff development, and I think we should look at it as intensive, comprehensive staff development, and include retraining for all the people who work in the school system, including custodians, cafeteria workers, and so forth.

From the central administration all the way down, because there are too many people who work with the children not only in the District of Columbia, but around the country, who do not first of all

understand child growth and development, who do not understand how children learn, who are not sensitive to the problems that some children have at home and in their local environments, and are willing to really help children grow in the way that they should grow, and include that as a part of the educational program. This is a very important part of the thrust that we are now taking, the comprehensive staff development.

Mr. HOGAN. You could indicate what the School Board's position is as relates to the matter, but it seems to me along more traditional lines here you would be talking about three different categories. You would be talking about those who traditionally have been thought of as special education individuals, as perhaps defined by Judge Waddy, which refers to retarded, emotionally disturbed, blind, deaf, speech, or learning disabled children—if you have that category, then you have the second more traditional category that apparently was segregated in special schools, as I understand it, some years ago, and you have the third category of the individuals 3 to 5 years old.

Now, is it your understanding or is it the position of the Board that the Waddy decision encompasses all of these categories?

Ms. MASON. Yes, it does. The Board policy is going to include trying to identify children in an early age grouping so we can eliminate some of those problems before they really become what we call school age. I hope you will keep that in mind when you receive the budget.

Mr. HOGAN. Currently, you do not offer schooling to all students in the ages of 3 to 5 years. This would be an expansion of your educational offering then in the District of Columbia School System?

Ms. MASON. Right.

Mr. HOGAN. To encompass all children in the age categories 3 through 5?

Ms. MASON. That is right.

Mr. HOGAN. You would also then encompass all of those in the emotionally disturbed as well as those who constitute disciplinary problems, in the past, or more traditionally thought of in the past as disciplinary problems?

Ms. MASON. Yes; we would.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. DELLUMS. Thank you very much, Mr. Hogan.

The Chair would now like to yield to Ms. Ruby Martin, who is counsel for education on the full committee staff.

EFFECT OF WADDY DECREE

Ms. MARTIN. It seems to me the school board and the school administration are the principal defendants in this case. By that I mean if the judge decided to hold somebody in contempt, he would haul you off to jail first.

Have you thought about the requirements of that decree and looked at the cooperation or lack thereof you are getting from the Department of Human Resources according to your testimony and thought about going to the law firm that represents the plaintiff in this case and talking to them about that decree and the requirements of that decree, which places some responsibilities on you, you cannot fulfill because you are closely tied to an agency over which you have no control?

What I am suggesting is perhaps the court order itself imposes the kind of responsibilities on you that are sufficient for you to come back to this committee and some other committees of Congress—the Appropriations Committee or what-have-you—with a request that you be given the authority and funds, if necessary, to hire your own doctors, for example.

What I am sugesting is that maybe the lawyers in the Waddy decree for the plaintiff—I don't suspect the Corporation Counsel would be of much assistance to you in this regard, but perhaps the lawyer for the plaintiff could offer you some assistance in trying to come up with the kind of authority you would need to carry out your responsibilities.

I wonder if you have thought about that?

Ms. MASON. We have not thought about that group of lawyers, but we have been looking around for some lawyers who could help us work this out and hopefully we can get some legislation which will give us full authority to do whatever is necessary to provide the services for the children.

We do know we are the ones who can be hauled off to jail and we knew that when we signed the compliance order, but we did that because we felt that is our responsibility. You know, if I have to go to jail to make sure that children are educated—not that being in jail is going to assure that, but if I have to go, in trying to do that I, for one, would not mind going and would not avoid trying to find other avenues, as many avenues as possible, to provide the services for the children because this is a very, very serious problem, not only in Washington, D.C., but around the country.

I would just like to add to that. It is such a serious problem that most school systems have not even had a Department of Special Education for a long time. I mean only recently did school systems find it important enough to add on a Department of Special Education. I think ours has only been in existence really since 1968, which is fairly recent.

Ms. MARTIN. Was the Department of Human Resources a party to the consent decree?

Ms. MASON. It is my undesrtanding that they never signed; that nobody signed except the Board of Education. It has something to do with people who are elected and people who are not elected.

Mr. DELLUMS. I woud like to thank you, Ms. Mason, for coming before us today. We thank you very much for facilitating our hearings and we deeply appreciate it.

As our next witness this morning, it is my pleasure to call forward Dr. Hugh Scott, Superintendent of the District of Columbia Schools, who is accompanied by Mr. Merle Van Dyke, Gary Freeman, and Mr. Edward Winner.

Mr. Scott, we have your prepared testimony. If you wish to summarize it, we have it for the record and you may proceed in any fashion you wish.

The Chair would simply like to say before you start, in the interests of time, I might suggest to the members of the committee and the staff that we will invoke the 5-minute rule so we can move as expeditiously as we can this morning.

STATEMENT OF DR. HUGH J. SCOTT, SUPERINTENDENT, DISTRICT OF COLUMBIA PUBLIC SCHOOLS, ACCOMPANIED BY MERLE VAN DYKE, GARY FREEMAN, AND EDWARD WINNER

Dr. SCOTT. Mr. Chairman, since you do have my prepared statement and since I have the advantage of hearing certain questions, perhaps I can let the prepared statement stand and then comment on some points which need to be emphasized.

Mr. DELLUMS. Without objection, the full statement will be inserted in the record.

[The statement follows:]

PREPARED STATEMENT OF HUGH J. SCOTT, SUPERINTENDENT OF SHOOLS

Mr. Chairman and Members of the Committee: It is indeed a pleasure for me to have this opportunity of appearing before you today to testify on compliance with the decree in PETER MILLS ET. AL. V. D. C. BOARD OF EDUCATION ET. AL. I will present the historical background, a summary of the Waddy Decree, the conceptual thrust of Special Education, the relationship between the Department of Human Resources and D. C. Public Schools, a funding rationale, the implementation of the Waddy Decree, persistent problems and finally, recommendations. Other school personnel will speak as follows:

Mr. Gary Freeman, Acting Director of Pupil Personnel Services, Outreach—Identification and Due Process.

Mr. Merle Van Dyke, Assistant Superintendent of Special Education, Special Education Programs.

Mr. Edward Winner, Budget Director, The Special Education Budget.

A. SERVICES PRIOR TO SEPTEMBER 1972

The problems which confront the Public Schools of the District of Columbia with regard to the scope and quality of special education services and the concerns about such problems are of long tenure. Shortly after my installation as Superintendent of Schools, numerous individuals and groups, representing local organizations that focus on the various services areas of special education, indicated to me that the special education services offered by the school system were in serious need of reform and expansion. This view was also articulated by the Board of Education.

The conduct of special education services in the District of Columbia Public Schools was severely limited by the general shortage of trained and skilled personnel at all levels. This shortage, as it impacted on the ranks of supervisory and administrative personnel, tended to multiply the detrimental effects on the quality of services offered by the Department of Special Education. Added to the need for more trained and highly skilled practitioners was the fact that the Department was understaffed. The filling of vacancies was made difficult by a nation-wide shortage of competent professionals. Prior to the Waddy Decree, it could be said with validity that the Department of Special Education was insufficiently funded and its personnel inadequately trained for the demands placed upon it. Additional funding for special education and an improved delivery system have advanced the Department of Special Education far beyond its deplorable status of Fall, 1970.

In February 1971, a special task force was established by the Superintendent to study the problems of special education services in the school system and to submit its analysis of the problems and its recommendation for resolving them. This task force was comprised of personnel from the public schools, representatives from various professional organizations in the areas of special education, lay representatives from the community, and a member of the Board of Education.

Dr. John Johnson, then Assistant Provost at Syracuse University, was selected as a part-time consultant to the task force. Dr. Johnson, in July 1971, was appointed to the position of Associate Superintendent of Special Education. He resigned from this position in July 1972. Shortly after his appointment as Associate Superintendent for Special Education, Dr. Johnson was directed by the Superintendent to prepare a report that would present in a concise way the needs of the Department of Special Education so that it could respond more

effectively to the need for special education services. Based on the reports received from Dr. John Johnson and the Superintendent's Special Task Force on Special Education, the development of a comprehensive plan for reform and renewal of special education services was initiated. Such planning efforts culminated in the document: *A Comprehensive Plan for Special Education, September 1972.*

B. THE WADDY DECREE

On August 1, 1972, District Court Judge Joseph C. Waddy issued his decree which required the Government of the District of Columbia and the Board of Education of the District of Columbia to provide certain specified services to certain identifiable segments of the school-age population of the District of Columbia in the area of special education services. The Court's order focused on three major areas:

(1) The identification, assessment and placement of children requiring special education.

(2) The suspension or dismissal of any student duly enrolled in the Public Schools of the District of Columbia.

(3) Due process to protect the student's constitutional, statutory and human rights.

The Court mandated that no child eligible for a publicly-supported education in the District of Columbia Public Schools shall be excluded from a regular Public School assignment by a rule, policy, or practice of the Board of Education of the District of Columbia unless such child is provided (a) adequate alternative educational services suited to the child's needs, which may include special education or tuition grants and (b) a constitutionally adequate prior hearing and periodic review of the child's status, progress, and the adequacy of any educational alternative.

The Court stated that every school-age citizen of the District of Columbia must be provided with a free and suitable publicly supported educational program suited to his needs. Implied in this statement is the basis for placing students in special classes, hence special education. But the Court also stated that it favors keeping students in regular public school classes with appropriate ancillary services as opposed to placement in a Special School Class. However, once it has been decided that the educational needs of the children are such that they cannot be met in a regular classroom, there are certain procedures that must be strictly adhered to. These are due process procedures that are constitutionally and statutorily guaranteed the child. Each of these steps/procedures, must be followed because violation of any of them is a violation of the child's rights and a breach of the Court's orders.

C. CONCEPTUAL THRUST

The conceptual thrust of the *Comprehensive Plan for Special Education* represents far more than just a statement of reform and renewal. The plan speaks to the fundamental right of every child to equal educational opportunity. It seeks to establish a rationale for the efforts of the school system to bring into reality the concept of equal educational opportunity. The emphasis in the plan is repeatedly focused on the need for a systematic approach to the provision of instructional services as well as those critical non-instructional services without which formal instructional processes would be rendered inadequate.

Special education services are now presented in a new thrust. No longer can school personnel justify the massive and sometimes arbitrary isolation from the regular classroom setting of youngsters who may have major or minor intellectual handicaps or who are impeded in their growth and development by either permanent or temporary psychological, physical or sociological factors. The new thrust stresses continuity and appropriateness of educational programs in the determination as to whether or not the school system is meeting its responsibility in fulfilling each child's fundamental right to equality of educational opportunity. The system's plan for special education seeks to offer a more relevant philosophical foundation for our endeavors as educators and to present a programmatic effort that integrates special education into the system and bring into actuality the tenents of equal educational opportunity and due process.

D. HUMAN RESOURCES

The Public Schools and the Department of Human Resources have established cooperative and coordinated ventures in the provision of a host of needed

services to children in the District of Columbia, but much remains to be done, The Court has declared that the fundamental right of a child to equality of educational opportunity cannot be denied or abridged because of exceptionality regardless of the degree of severity of the exceptionality. Thus, those children who require the assistance of services which are provided by one or more of the operational units of the Department of Human Resources must be provided such if they are to be accorded equal educational opportunity. The Department of Human Resources has repeatedly emphasized that its services can only be offered to those who are wards of the Court or who appropriately fall within the socio-economic guidelines for eligibility for receipt of services from Human Resources. The Court has imposed on the District of Columbia the responsibility to meet the needs of children with exceptional needs. There is no provision in the Waddy Decree for the denial of services to exceptional children because of insufficient funds.

E. FUNDING RATIONALE

The present and past levels of funding of the Public Schools of the District of Columbia have been grossly insufficient to respond programmatically to recognized needs and standards in special education. The Department of Special Education, if it is to be effective, should not be forced to compete with other departments for the limited dollars available to the system. There is no way the school system, with its present fiscal base, can finance a total program of special education services without the elimination or crippling of some regular programs. Quality improvement in special education and adequate financial support will have to come from significant increases in the funding level of the Department of Special Education, but not at the expense of other programs. It is not realistic to seek to finance the legitimate financial needs of the Department of Special Education by redirecting or reprogramming existing funds now allocated to the total school system.

The majority of local school systems throughout the nation receive state allotments and separate subsidies to supplement local school district efforts in financing of special education. In the absence of a state governmental unit for the District of Columbia, the responsibility falls to the Congress. In the past the Congress has responded as both a federal and state governmental unit in its fiscal and legislative relations with the District of Columbia. This means that Congress is the only body that has the authority and capacity to provide financial support and improve services to handicapped children.

F. WHAT HAS BEEN DONE

The Waddy Decree and the efforts of school personnel have promoted significant advances in the availability and quality of services for students with exceptional needs. The following are viewed as reform and improvements which are worthy of highlighting here:

School system's recruitment efforts have been more expansive and innovative resulting in the filling of most of the system's staff vacancies in the Department of Special Education.

Staff Development activities have been quite extensive and have involved not only personnel assigned to the Department of Special Education but many of the teachers and Administrators assigned to local school units.

Mr. Merle Van Dyke assumed the leadership of the Department of Special Education in September, 1972, and has given outstanding leadership to this responsibility.

The system of "due process" has been established and has been quite effective in ensuring a "check and balance" system.

The number of students receiving special education services has been greatly expanded and the quality of such services improved.

The school system's outreach effort has been both thorough and effective and has been carried out in accordance with the Court's mandate.

The cooperation and coordination between the Department of Pupil Personnel Services and the Department of Special Education have been significantly improved and have resulted in a more prompt resolution of the needs of those students identified as needing special education services.

A greater percentage of the students receiving special education services are being served within the confines of their local school setting rather than being transferred to special school environments.

The level of funding for special education has significantly been increased from its funding level in June 1971

G. PERSISTENT PROBLEMS

The efforts of school personnel over the last several months to comply with the mandates of the Waddy Decree are commendable but there remain persistent problems. The problems are the following:

The school system has neither secured the necessary funds nor the number and quality of personnel needed to meet the total demands for special education services within the District of Columbia.

The inadequacies inherent in the control structure which dictate the degree of constraints on the efforts of school personnel make it unduly difficult or impossible to respond appropriately and promptly to the program needs of students with exceptional needs. The following are examples of such:

(a) Contracting for special education services is often impeded by regulations and procedures which impose constraints that undermine efforts of staff to contract for services.

(b) Reprogramming actions take far too long from the point of the system's initiation of such and the final approval of the Congress.

(c) Constraints on the movement of funds for special education from one line item to another in the budget make it difficult to respond to immediate program needs.

The Department of Human Resources position that it cannot provide services on a need basis to those students who are not either wards of the Court or welfare recipients constitutes a barrier to the school system's forts to provide a comprehensive plan of services for students with exceptional needs.

The turnover in the leadership of the Department of Special Education has not produced the necessary continuity needed to stabilize the operations of this unit. There has been three individuals serving as the administrative head of the Department of Special Education since October 1, 1970. Mr. Van Dyke, the present head of the Department of Special Education, is on a leave of absence from George Washington University.

The Department of Special Education's efforts to reform its operations and expand the scope of its services has produced the need to both improve the quality of the services delivered by existing personnel while bringing on new personnel who can function appropriately in accordance with the new thrust of special education in the Public Schools of the District of Columbia.

H. RECOMMENDATIONS

The following recommendations are offered to reconcile needs:

1. That the Congress enact legislation to ensure that the public schools be accorded sufficient operational flexibility to redirect funds promptly in order to respond to the complex needs of those students who require special education services.

2. That the Congress enact legislation which will provide a separate and direct subsidy to finance programs and services in the area of special education.

3. That the Congress enact legislation to integrate the services of the Department of Human Resources appropriately in the delivery of support services where needed for children who require special education services from the public schools.

Dr. SCOTT. Let me just add about five points here.

BACKGROUND

(1) On October 1, 1970, when I took over the superintendency here, special education was in a disastrous condition. It was disorganized. A group of citizens met with me and said it was not only a matter of quality of services, but quality of personnel as well.

Shortly after that I formulated a superintendent's task force to explore the problems of special education because they dealt with so many different categories. The blind, physically handicapped, and so forth.

Each group had a lobby. Each group advocated a certain direction, and sometimes they were in conflict with each other.

Dr. John Johnson, who was the assistant provost of Syracuse University with a background in special education, came on board as a speical consultant, along with others.

They submitted a report. Later Dr. John Johnson came on board as the second person to head up special education during my tenure, and I thought at first, because I didn't see much future for additional funds coming from the Congress of the United States to deal with the area of special education—our first task was to take the $5 or $6 million we had and reform and renew that before we expanded. That was going to be our concentration of effort, but the Congress, in its wisdom, granted the school system an additional $1.1 million. We were faced with the problem of how to improve a service of $6 million which needed total reform and renewal, and at the same time expand the quality for the $1.1 million and at the same time give the new deliveries.

Along came Judge Waddy during this period of time, after prior negotiations with Mr. Herr, who represents the plantiff in this regard, and I think it is clear, I hope, Mr. Herr—and I have had some discussions with him on that matter—there was never any intention of the Board or the superintendent, or any members of the staff, to deny service. There was a question as to whether or not two things could happen. We could gear up our resources, personnel resources in the delivery system that was acceptable in contemporary growth and development principles and, secondly, get the money to do it.

Right to Public Education

(2) Of course, Mr. Herr, I think, took the position, rightfully so, that the services should be delivered well to the students. That was the point of contention, and that led to Waddy's decree which then stated quite clearly it was the right of every child to a publicly supported education. It didn't make any difference as to whether that child was physically or mentally handicapped.

This is a new thrust. I think the members of this committee should recognize that. This is a battle being waged in many other States across this Union.

The District of Columbia, if you will review the record, really has no provision other than the compulsory school age attendance law, to govern the parents of any youngster in school, or with regard to the handicapped for that matter.

Looking at the legislation, we had an absent page for the District of Columbia. You have the 50 States and the various entities that call themselves States, the District of Columbia, Guam, Virgin Islands, and other places. So there was nothing to make a reference to except the compulsory school age attendance. Judge Waddy jumped on that and rightfully so.

As superintendent, I was faced with how to implement the right of every child to a publicly supported education, and I believe the Waddy decree includes a number of our youngsters not necessarily in need of special education services, but a host of compensatory services to compensate for impediments to growth and development which exist in this environment.

The school population is 95 percent black, and I think it is quite obvious many of our youngsters are not learning, not necessarily because of poor delivery systems, but because of poor environmental support systems.

Without any additional money, I was faced then with the requirement of the court telling me resources didn't make any difference; that I must provide for this, and the Congress taking the $1.1 million, and saying to the superintendent and to the Board, "Take this out of your regular services," which were already in dire need for more money. Then it was done again last year for $2.1 million increased services. I was told to cut the budget 160-some positions, but "do not touch special education."

So in two fiscal years Congress has given to the school system not an increase for special education, but authorized about $3.3 million be spent for special education in increased funding to cover that.

Subsidy

(3) Most school districts in most States provide a subsidy—I declared to the Board of Education almost 2 years ago we could not do this by robbing Peter to pay Paul. Elementary lost 180-some positions this past school year, fiscal 1973. A total of 180-some positions, support, management, administration, and supervision, in order to take care of a $6 million budget reduction. Part of that reduction was traced to special education increase of $2.1 million.

No school system other than the District of Columbia, and Maryland operates without some subsidy from the State government. In this case, the Congress is the State. So we come to the budget hearings not with an identification of the need based on the population we have identified, and with our funds of $1.8 million needed to compensate for that need, or $2.8 million in some cases. We have to come and say, "Here is what we need."

In other words, we can hire three teachers almost, for a population of 30 kids for what we pay for one special education service. It amounts to that if you look at some cases.

So there is no additional money to pay for special education, no acceptance of a subsidy rationale. I have had to cut $3 million out of the regular programs to pay for special education.

How To Achieve Results

(4) The other concern that needs to be clearly understood by this committee and the citizens who are advocating reform and renewal: We, in effect, did what we were supposed to do. We identified the need. What was not clearly demonstrated to the Board and to the Congress and to the citizens, it was a need in which we could not program services fast enough to compensate for the need with an accurate, equitable, and acceptable delivery system.

We came with a need somewhere of about $5 million. There is no way in the world a school system could declare that, that we could spend $5 million in new money for special education in that brief period of time, and say we were going to deliver quality service.

There is a national shortage across this Nation. Every State is seeking people in special education. It is a new service. Now, the

courts in Pennsylvania, the District of Columbia, and other places, are saying that it is the right of every child to a publicly supported education, even if his IQ was 10, zero, 1, that child must be educated in the public schools.

I attended a conference of the President's Commission on the Legal Rights of the Mentally Retarded, and they are taking the position across the Nation that no youngster is to be denied an education.

In some cases it took 800 hours of instruction to teach a youngster who was profoundly retarded to button his shirt. Yes, 800 hours of instruction.

Now, that is the kind of bill we have got to be able to face.

Funding

Also, I think this committee has got to recognize any inconsistency in its practices, since it represents the Congress—you cannot on one hand deny to the Board of Education equal educational opportunity to 120,000-some or 130,000-some students and show a great passion for 10,000 special education kids. I think it is totally inconsistent. Equality of educational opportunity is a right for all youngsters. We have a large cadre of young people out there who are denied compensatory programs solely because we don't have the money. Yet we are cutting elementary and secondary to pay for special education.

In effect, you are creating a larger population in special education by delimiting the quality of the services of the regular program. I think that has to be stopped and I hope this committee will come up with some special legislation to put this school system in accordance with other school systems across this Nation.

Mr. Rangel. Dr. Scott, must we assume from your testimony that prior to the court decision or prior to the time that your board geared up to meet the special needs, that there was no agency in the District of Columbia that dealt in whole or in part with the problems of these 10,000 youngsters?

Dr. Scott. That is right.

Mr. Rangel. And that they merely stayed at home without the benefit of any type of training?

Dr. Scott. That is right. With the exception of those who entered the schools. There were some private agencies within the District of Columbia who did something, but there wasn't any legislation that stated they had to enforce the compulsory school age attendance if the child was severely retarded.

How To Comply With The Waddy Decree

You see, nationally it has been the feeling of educators which I think needs to be changed, as well as legislators, that a youngster who is profoundly retarded—I don't want to get into the IQ question—anywhere from below 50—that that youngster was not educable. Therefore, not entitled to the equality of educational opportunity. That has been thrown out in certain places.

I would say the basic constitutional question—a right that is not financed means very little.

I said this to Mr. Herr and the President's Commission. Unless you come up with some money—I don't know how Judge Waddy can mandate the Congress of the United States to fund special education.

Frankly, I would encourage the parents of those youngsters suffering from accumulative deficiences in the ecquisition of basic skills to file charges against the District of Columbia Public School System every time we cut elementary or secondary to pay for the child in special education because this is a denial of education.

Then you come to the question, who do you deny?

As Superintendent, frankly, I have about reached the end of my rope, and I am going to give it back to the Congress.

I am encouraging one hundred and some thousand parents in this school system to sue the school system and the Congress for denial of educational opportunities if we don't finance the right.

Let's join with those 10,000 special education youngsters because that is the only way I am going to get out of this dilemma.

We have increased the budget about 2 percent or 3 percent in the last 2 or 3 fiscal years and our total costs run 7 to 8 percent. Therefore, we have decreased services every year. Since I have been Superintendent, we have increased special education by 3 million, decreased total operation of the school system by $10 million. That is just not the way to go in terms of financing educational opportunity.

My other point is that we are really in a debate. I don't think we ought to set up a Department of Human Resources. There is no need to duplicate nurses, therapists, clinical psychologists. Services to be provided by Human Resources. They have said they will not provide resources except to those who are wards of the court or those who are eligible because they are recipients of welfare services. They will only provide such services within the bounds or limitations of their resources. They will not commit resources. So we have a court order that says to the District of Columbia: "You hire responsible services" and resources don't mean anything. Yet another agency of the District of Columbia government says it is not accountable, and the legal arm, the Corporation Council, is unable to make a substantive legal opinion when asked for it by the superintendent, to declare what it is the legal posture of Human Resources or the Mayor and the school system when confronted.

You have a gentleman on your right, Mr. Clair, who served on my staff and has repeatedly asked the Corporation Counsel to resolve this issue.

Now, you took my attorney. I have the best insight I can get in that regard.

A closing point here: There are a lot of agencies who will testify as to what is being denied. I think there is no question about it, I am proud of what we are doing now compared to where we were before.

Costs

I think Mr. Van Dyke has done an excellent job. Dr. Johnson has done a fine job.

However, we cannot provide a service. We are automatically being out of compliance with Judge Waddy's decree every time we have a child denied access to a service. Within the District of Columbia, we

still have some citizens—I am going to lay this one the table. There are citizens of the District who only pursue the free public education of the District of Columbia when it applies to a special education youngster. When that service is expensive.

We have citizens who call up my office or Mr. Van Dyke's office and ask for tuition. We make the assessment as to whether tuition is needed and that assessment is reviewed by a hearing officer to justify it.

In other words, there are citizens who don't mind taking $7,500 in tuition grants, but nothing else.

As soon as the decree was issued in August 1972, almost every agency around the District and around the country raised its tuition costs almost by 100 percent for the same services.

We are a State board of education. I am a State superintendent. Yet I am powerless to enforce State functions.

The Board and I make up legislation in some cases or go out and do it with a very limited staff.

We have had some very difficult problems. I think one of the things that ought to be clear, we are trying to operate on the basic assumption that those services which are more economically provided by other institutions, either within the District or outside the District, ought to continue to be provided by them. There is no need to duplicate a very small service to a very unique population. But where we ought to be able to provide our full services for those who are retarded, and especially for those who have minimal retardation, we think we can handle those youngsters.

We still have problems with some youngsters who are extremely emotionally disturbed.

I do want to close with this: We have a population of 140,000 students. We speak of suspensions. That is a large city; it is a community.

If you went ahead with 1 percent—the figure is, 11 percent of our total population has spent some time in a mental home.

If you added that 1 percent, we are going to have some youngsters who have some problems that will interfere or impede the provision of educational services where a judgment is going to have to be made and I am not appropriate to make that judgment. No school person presently on the payroll can give a medical opinion about this. We no longer use the word "diagnosis." That is a medical decision. We use "assessment."

We only refer to what it is in the child's behavior that interferes with his acquiring basic skills or learning as done by school personnel. I cannot deal with whether he is a paranoid, a schizophrenic, and so forth.

There is where we need Human Resources to provide those services and we are not getting those services.

Mr. DELLUMS. Thank you very much, Dr. Scott. We appreciate your testimony.

PRIVATE SCHOOLS

Do you have any idea as to how many children between the ages of 7 and 16, to your knowledge, are still out of the District of Columbia Public Schools who are residents of the District?

Dr. SCOTT. Do you mean public and nonpublic schools and so forth?

Mr. DELLUMS. Yes.

Dr. SCOTT. We haven't it here. I believe we have a population breakdown as to residents of the District of Columbia attending nonpublic schools. We can get you that figure.

Mr. DELLUMS. We would appreciate it.

[The information requested was not received in time to be included in the record.]

SCHOOL CENSUS

Mr. DELLUMS. My next question is, why is there a failure to comply with the census requirement of the District of Columbia Code? The second part of the question is, has money been asked for this?

Dr. SCOTT. I assume at one time—this goes back—there is some question when the last school census was conducted. Legislation can be passed, but appropriations don't necessarily follow.

In the school census we got an estimate of around $350,000. Mr. Freeman can give you a little more of the history on this. We haven't submitted a request recently because we would have to take $350,000 out of our regular budget and we are not prepared to do that.

They tell me the census legislation was passed in 1925. It has never been implemented.

Mr. DELLUMS. You have never had the funds available in order to do the job.

Mr. FREEMAN. That is right.

Mr. DELLUMS. When is the last time a formal request was made for additional revenues in order to meet this?

Mr. FREEMAN. I came with the Department 4 or 5 year ago. I think we made the request then as to the funding for the project and it was not a high priority item at the time. We made this same kind of investigation last year and, as Dr. Scott said, we found there was an estimate for $350,000 up to $700,000.

PERSONNEL

Mr. DELLUMS. Dr. Scott, how many Department of Human Resources personnel are presently assigned to pupil assessment teams? How many additional personnel would be needed to keep current with referred children?

Dr. SCOTT. I think Mr. Freeman can handle this.

Mr. FREEMAN. There are five persons assigned to the personnel center from the Department of Human Resources. Some time ago we had approximately 18 such persons.

I think when Dr. Grant came along he took these people back but we did work out an agreement with him to have some of these people assigned to our pupil personnel centers to help with the assessment of these kids.

The second part of your question I didn't get.

Mr. DELLUMS. How many additional personnel would be needed to keep current with referred children?

Mr. FREEMAN. They want us to make an assessment in 20 days. That poses problems for us. I think in order to reach this kind of deadline, 20 days, we are talking in terms of having increased approximately 15 to 20 more school psychologists.

The ratio of school psychologists to pupils in our school system runs abut 1 to 4,000. The National Office of School Psychologists

suggests there should be a ratio of 1 to 1,500 to 3,000 kids so you can see where we stand in that regard.

Dr. SCOTT. Our first task in the provision of services is identification of the population. That is an outreach effort which the court has mandated. That is one part.

A second one is the assessment process.

What Mr. Freeman speaks to, the school system on its own staff needs approximately 15 more school psychologists to do the assessment. That is not speaking to what we would need from Human Resources. It is based on what the assessment renders in that regard.

Then we have treatment. We have assessed youngsters who are waiting. That is where we had trouble with the judge in the first place. There were identified needs, but there was no provision of service because there was nowhere to send them, or no one to send them to, so you start adding it up. The more people we have in the outreach creates a larger population. The more people in the assessment creates a larger population and therefore you keep building it up. You must build this thing all the way down the line or it falls down.

Then you also need evaluation of what the services are so you can get some of these people out.

Emotional disturbances can be temporary. They tend to be permanent in this school system in many respects because we don't have followup as well as we would like it.

Now, every year, every youngster must be assessed as to whether he should remain, and also the child or the parent can petition to the hearing officer for review.

For instance, a youngster in a moment of anger hits a principal. Now, in the past we would have shipped him off to boy's vocational, or senior or junior school, and he would stay there for the remainder of his schooling.

That is almost like prison. We have stopped that practice to a large degree. Or the principal can handle it this way: "Don't come back to school."

So that is where due process and all this fits into this kind of thing. It really raises some problems.

I have been criticized somewhat—you may have read it in the paper—about my holding fast to Judge Waddy's decree in terms of due process for those students arrested on drugs. Either possession or selling—use of drugs or selling drugs—in the sense I felt it was not my reponsibility as superintendent to serve as a penal institution, and until such time as the court adjudicated the condition, in terms of an alleged violation of law, I had a responsibility as superintendent of schools.

Since we don't have alternative schools to send that youngster to, we had to return that youngster to the school.

The judge says quite clearly if you alter significantly his educational program, you must provide due process, which is a hearing. Many principals have found that uncomfortable, and I have been criticized for letting junkies and drug addicts go to school.

The court and Mr. Herr haven't helped us in the due process rights of the school system. It is very vague in that sense. We have to try to develop programs to accomplish everything.

Mr. DELLUMS. Dr. Scott, I thank you. Before I yield to my colleague, Mr. McKinney, I want to say I thank you very much and am quite

pleased that you concur in the selection of our committee counsel. We appreciate that.

Dr. SCOTT. Thank you.

Mr. DELLUMS. The Chair will now yield to Mr. McKinney.

Mr. MCKINNEY. Doctor, getting back to my original point, as things now exist you are being put in a duplicatory position. You are, No. 2, being put in a position where you basically don't have the experience or the expertise to judge many of the problems the kids may have. No. 3, we are limiting it to school years.

EXPERIENCE IN STATES

It seems to me—and I will try to be very brief and see if you agree or not—in my State the situation is a little bit different. The Department of Human Resources or its equivalent, the health department, is the department that takes care of it. And when the child has a specific problem, the health department decides whether that child needs a private education of a certain type because this could be a high IQ situation within a limited background. For instance, we send children to private schools because we figure their IQ is so high and their backgrounds are such.

Some have to have live-in facilities, and the State pays the subsidy.

What happens is, the welfare, or health department, is determining through its group of psychiatrists and so on. Say you get the child in the school system and you have problems with that child. You then remand the chid to the department of health for evaluation, and they take over again the payment.

All we do to our educational system in the State is to say, "You must supply classes for special education for the retarded. You must supply the classes for the handicapped; you must supply classes for those with vision problems. You must supply classes for those with deafness problems, and then we, the State, will decide which child fits into which category and who will pay the subsidy for it."

Isn't this a far more intelligent way to do it? Plus the fact the States determines what you are going to get for it, which some boards of education don't like, but it helps when you are dealing with private institutions and other State agencies.

Dr. SCOTT. I think we need to go back to the basic reference point. The school system provides educational services. Only to the degree that the child brings some difficulty—and that may be related to the educational environment, or other environmental conditions, or his own innate limitations.

If there is an impasse in the instructional process, we assess that educationally to make a determination. In most of the cases the educational personnel, the school psychologists, in some cases even the local school principal, the teacher, can assess the situation and make a judgment and reassign the youngster, or add something to his program.

We are saying—and this is a small percentage of the cases, but these are the cases where youngsters generally get denied something: When it is an extreme situation—again, I repeat that number, it is 140,000 youngsters—no one gives a psychological examination to a youngster in a school, or a psychiatric case. None of these things are done.

Yet we know our whole society is deteriorating before us.

So we get to a problem that a block is something outside of the educational environment, that we feel that somebody else needs to handle, in order to recoup right, you might say, the youngster to function.

In fact, we would even go beyond that. To function, period.

When we send a kid to a psychiatrist because it exceeds our assessment capacity, we are saying that youngster is sick; he needs help. Really, it would raise a serious question as to whether he should be out on the street without that clinical psychological assessment.

We ought to deal in educational matters. I don't think a psychiatrist can tell you how to teach a child to read and write.

He can tell you whether he is a schizoid. I wouldn't know a split personality myself.

Mr. McKINNEY. That is my point. You should be empowered to run an educational system and be paid for that, and we should come up with some type legislation which forces the Department of Human Resources, or some other department, to take the responsibility on of the outside evaluation, the financial remuneration, and the subsidy for these kids begin taken care of. Rather than trying to lump the whole thing into a Board of Education budget which is making you educators, psychiatrists, evaluators, and forcing the entire burden on you.

Dr. SCOTT. If you could make a determination in each case accurately, what should be a part-time assistance and what would be a full time? There are probably some youngsters in our schools today who need to be outside of these schools in some clinical setting where their problem can be studied and some kind of prescription given to correct it.

There are also some who are part-time patients who could be in a clinical study and at the same time be in the regular classroom getting some assistance.

I think when you go beyond what we can handle on a part-time basis, or a full-time basis, then I would agree that the Department of Human Resources, through its multiplicity of services in a very unique area, needs to provide for that youngster.

We agreed in the *Waddy* case, and in this document, that there would be a team to make an assessment.

Mr. McKINNEY. But there is no team.

Dr. SCOTT. The reason for it not being a full team, they say they don't have enough psychiatrists to deal with the problem. Our problems get larger and larger. I don't know where we are going to get these people.

With the medical program, Human Resources could not meet the contract for $200,000-some for health services.

Mr. McKINNEY. I am almost out of time, but it seems to me in most States, Human Resources had money—in other words, they had it in their budget for mentally retarded, mentally ill, handicapped, crippled, and so on, and they were one source. They would then decree this child came under one category or the other.

All right, he comes under retarded and will be remanded to the District of Columbia school system to be taught.

Therefore, the District of Columbia school system will get a subsidy for one retarded child from the retarded section of that department.

Certainly in your budget you will have to have a classroom, a teacher, and you will be in the educating business and you probably won't make ends meet—because we haven't—because you never know whether you will have 10 children or 50, but you will get paid from the department who says this is a retarded child and therefore it is paid for out of the retarded budget. There is a mentally ill child; therefore, it is paid for out of that.

Someone else makes the decision as to where this child should be, and you have to agree to that. It is not included in your budget with a need for 20 psychiatrists.

Funding for Special Education

Mr. Fauntroy. Dr. Scott, I have one question relating to the source of funds for special education.

I wonder if any of you are aware of a model by which the services delivered to a State are such that we might apply it here in the District?

Mr. Van Dyke. There are other people I think who will testify before you who will know more about what is going on at the national level in other States. I am familiar with the State of Michigan which I left some 8 years ago to come to this area.

Under funding patterns there at that time, each child within any given school system was called a membership, and x number of dollars was given to the local school system for any handicapped child. There were different reimbursable formulas.

If they set up something for educable mentally retarded, that school system would get two memberships.

If they set up a program for physically handicapped children, they would get four memberships.

Mr. Fauntroy. What is the membership?

Mr. Van Dyke. That is a basic amount per child in any local public school system.

There are other reimbursement formulas who others can speak to.

Mr. Fauntroy. So the Congress, as our State government, State resource in the District, under this formula, would provide for every identified handicapped child an additional reimbursement to three members, or four?

Dr. Scott. There has been some talk among the Board privately in terms of this whole business about statehood and what would be the role of the school system in terms of submitting a population figure by the various categories of services and then saying to the Congress, "If you still have that funding relationship with the school system"—if we identify 140,000-some students then without you interfering—let's say you are interacting—let's use that word—with our budget—if we can identify 140,000-some students, you would then grant, based on the various categories of services—let's say for high school youngsters, a certain amount of the money to cover services; for elementary a certain amount of money; for special education—that special education youngster in elementary education, let's say, age, would he get, let's say, with 521,000-plus—that would be the membership—if the formula for special education was 2½ times that, he would get $500 plus another $250, $750, for a total of $1,200-some. That would

be the ratio that would work out. That is the way most States work this out.

Now, of course, you know the States, depending on how much money they got, their matching grants to the local school district depends on how much money they have from their tax sources. But it is a much easier provision, and it deals with a legislature that does not attempt to try to control the interactions of the local school budget, only how much money it grants, but that also is predicated on the assumption that the local community contributes a certain part to it as well.

In his case, I am just showing you what he means by membership. We don't have that. Everybody competes for the some dollars.

Mr. DELLUMS. Mr. Hogan.

SPECIAL EDUCATION STUDENTS

Mr. HOGAN. Mr. Scott, how many additional students have you placed on the rolls as a result of the Waddy decision; do you know offhand?

Dr. SCOTT. Mr. Van Dyke can speak to that.

Mr. VAN DYKE. During the 1971–72 school year, some 4,700 children received service from the Department of Special Education in either part- or full-time programs.

Mr. HOGAN. That never received it before?

Mr. VAN DYKE. Not necessarily. There were a total of 4,700-some children who received service.

Mr. HOGAN. Do you know how many new children you have?

Mr. VAN DYKE. No. During this school year, 1972–73, as of the end of March, the number was some 9,700, or roughly 10,000 as of this date, I would imagine. So that the increase for special education service this year is now over 100 percent of what it was last year.

Mr. HOGAN. Does that include transfers from your regular programs, or is that all new students? In other words, are these students who formerly remained at home or were these students formerly in the school system and were transferred into special education for one reason or another?

Mr. VAN DYKE. The majority of these children would be youngsters formerly in the school system and transferred into or to receive services from special education programs.

Mr. HOGAN. Do you know how many new children you brought into the system other than those who would have come in by reason of having attained the age of 6 or moved into the District of Columbia?

Mr. VAN DYKE. No, sir, I don't have the figure.

Mr. DELLUMS. Mr. Rangel.

Mr. RANGEL. I have no questions.

Ms. MARTIN. Dr. Scott, do you believe that the Waddy decree went too far? Do you believe that there should have been a cutoff point in the Waddy decision?

Dr. SCOTT. A good point. I do say this, that as an educator, in my attendance of 3 weeks with the President's Commission on the Legal Rights of the Retarded, convinced me that no youngster should be denied a publicly supported education; that there was no such thing as a youngster who is living who could not be educated to do something. It would take a lot more time. It is a matter, Ms. Martin, of taking the word "education" as we tend to use it—it is education—it

may take up to 11 years of age to teach a profoundly retarded youngster how to use a lavatory. That is an important thing if you are a parent.

I will give you an example. A lady in another State asked me how she in her State could secure services for a profoundly retarded youngster which she didn't have the money to do, though the State of Pennsylvania is now doing it, and the District of Columbia is now doing it. The only thing I could suggest was to start a court action.

There is no boundaries with regard to income. If you hear about someone making 100-and-some-thousand and has a child in the system, the law makes no provision for the wealth or lack of wealth of the parent. I move to implement that.

Previously we used to get grants with a $2,000 limit. Which meant a mother economically disadvantaged, if she couldn't cough up the extra $2,000 to pay the difference, she was therefore denied it. You would thus end up subsidizing the middle class and above.

Now everyone gets the full cost up to their full needs. I don't know what the highest tuition grant is, but I think it is $7,000 or higher.

LEGISLATION RECOMMENDED

Ms. MARTIN. In Ms. Mason's testimony she said that she was not sure there were any legislative actions she would recommend for this committee to take in order to have the school system implemented by the Waddy decision. What is your comment on that?

Dr. SCOTT. As you explore what the legislation is in other States with regard to financing special education—I do want to say this to this committee: Unless the Congress revises its reprograming constraints, there is no way in the world we can avoid annually in areas of special education for a good number of years to come, being stuck with money we can't spend.

Let me give you an example. It takes a while to find that you are going to have money left over.

Reprograming actions for special education up to $9.1 million has taken in itself somewhere in the neighborhood of 8 months to get through the Congress. We just moved ahead and did it anyway.

Now, as we move toward the end of the fiscal year, the apparatus of the whole District government involved in the Congress is just too slow.

Take $200-and-some-thousand in personnel, which we know we can't spend, and reprogram it and put it some place else, because time will not permit our getting full authority. We were denied it when we moved to take $1.1 million last year.

In other words, we got money we couldn't spend because we couldn't get the people. Now it has taken time, but we had 13 vacancies out of 624 positions as of February.

Now, that is a massive movement of filled positions, but it also means to me quite clearly and to Mr. Van Dyke, that is a massive staff development program.

If we had money left over and teachers we couldn't recruit, we also need money for staff development. We have to pull that out of personnel and move it to another line item in the budget, send it to Congress, get approval in both Houses, of the committees, and by the

time all that occurs, we couldn't contract with any of the agencies around us to get that money into operation.

It is almost like giving you money you can't spend. I have been in that position. I have been criticized by the Board for doing it, but technically you can't move faster.

By the time we reconcile District government expenditure records of our own and then find a mass of money, find the line item in the budget, time runs out before you can reprogram the money by moving it from nonpersonnel to personnel, from personnel to nonpersonnel.

Mr. VAN DYKE. Due to some vacancies in the fall months, particularly September, October, November, and then steadily decreasing amounts, I can give you specific figures if you like, there were personnel savings, or savings in personnel compensation and benefits.

On February 11 of this year I initiated reprograming action to move some of that money into a line item in the budget which would give direct service to children.

That action was approved by the City Council on April 9. To this date I have not received any official notification from the Congress, either the House or the Senate, that such reprograming has been approved.

Now, that was a $100,000 item. The net effect of that, of course, is, we anticipated in February that we would need that money and our anticipations were indeed correct, but right now there are children whose bills I cannot pay because of the, what, four or five months delay getting official approval for that. That is a very serious matter. Especially when one stops to consider that we now, after this, have to go through the procedures for contracting for the use of that money, and through all the agencies of the District Government to which Ms. Mason referred and it can be a 60 to 90-day delay there. It will be really tough to spend that money this fiscal year.

REPROGRAMING AUTHORITY

Mr. HOGAN. Mr. Chairman, if you will permit me to ask a question, did you find, Mr. Van Dyke—the Nelsen Commission suggested a liberalization on the reprograming authority—quite often sometimes a necessity for reprograming indicates that perhaps the original planning was somewhat deficient. Was this the case in this instance, or was this just a case where there were some excess funds to be available later?

Dr. SCOTT. Mr. Hogan, let me see if I can answer that. I cannot pass up this opportunity.

As Superintendent of Schools I manage an overall budget of approximately $180 million.

I am perhaps the only superintendent in America that has no discretionary powers to move money within that budget. You cannot anticipate everything. You don't approach the recruitment with the notion you are not going to get all the people. You vigorously seek the people. If you fail, then you try to readjust that money. Businesses do it repeatedly—I think General Motors and the other companies; Congress does it. We know that money gets spent at the end of the fiscal year because you don't want to send it back to the Treasury.

Mr. Van Dyke indicated his anticipation for the specific need was done months ago, but we are still waiting for a response because we wait to spend money, especially the vendors, and have bills come back that we can't pay because we were not authorized to pay.

You will recall last fiscal year we were facing a possible deficit. Fortunately we ended in the black and black is beautiful, in the financial area at least. Therefore, we did not, with specific orders from the Board, spend all that money. We were forced by all the other operational concerns. It doesn't have to do with the planning, except for the fact that no school system can anticipate all its needs when that budget is cast in Congress, and maybe 18 months later you get your money.

Frankly, in fiscal year 1972 I think we got our budget on December 16. I had to testify on that budget so long ago that I almost forgot about it. I was working on fiscal year 1973. It makes it difficult to reprogram money sensibly, when you do not know what the basis for the next fiscal year will be. You try to anticipate what the Congress and District Government will do and the administration will do and the Board will do and those four agencies make it very difficult to do some advance planning. Somehow we do this. We should have a small discretionary—I use that word "discretionary" with discretion—flexible money to move to needs. But when you have $180 million in the budget and you cannot put a dollar here or there it is pretty sad.

Thank you.

Mr. DELLUMS. Thank you very much.

Dr. SCOTT. Mr. Van Dyke, Mr. Freeman, Mr. Winner, on behalf of myself and members of the committee, we would like to thank you for coming forward this morning. It seems rather clear from all your testimony that there are certainly areas that this committee and this Congress can delve into to make life easier and enhance the quality of life and education in this District. I hope your presentation in these hearings will facilitate that.

We thank you very much for coming.

Dr. SCOTT. Thank you very much, Mr. Chairman, and members of the committee.

Mr. DELLUMS. We still have one additional witness to come before us. It is very important that we get to our final witness because he has to be out of town.

The next witness is Attorney Stanley Herr, National Legal Aid and Defender Association.

STATEMENT OF STANLEY HERR, NATIONAL LEGAL AID AND DEFENDER ASSOCIATION, ACCOMPANIED BY PATRICIA M. WALD, ATTORNEY, MENTAL HEALTH LAW PROJECT

Mr. DELLUMS. Before you proceed, the Chair would like to recognize the presence of our distinguished colleague and member of the committee, Mr. Breckinridge, who has joined us for the remainder of the hearing.

Mr. Herr, we will insert your prepared testimony in the record, so will you summarize in the interest of time?

Mr. HERR. Thank you, Mr. Chairman.

Members of the subcommittee, accompanying me is Mrs. Patricia M. Wald, plaintiff's co-counsel who is also available to answer your questions.

[The statement follows:]

PREPARED STATEMENT OF STANLEY HERR AND PATRICIA M. WALD,[1] COUNSEL FOR THE MILLS PLAINTIFFS,[2]

Mr. Chairman and members of the subcommittee, we appreciate the opportunity to appear before this Subcommitee to lay out some of the problems of implementing the decree in *Mills* v. *Board of Education* which have repeatedly come to our attention. At the outset we acknowledge our thanks to the Chairman's continuing interest in this case and its impact on the District's handicapped children. Nearly two years ago you helped to see that Peter Mills and others similarly institutionalized had their day in court by acting as their "next friend" in this legal action.

I. PRE-MILLS SITUATION

Two years ago when this suit was first filed the situation was very different and quite bleaker than it is today. Then our clients were excluded from any schooling—excluded for periods ranging from several months to six years; a waiting list of some 1500 children represented the visible tip of the unserved handicapped population; children were literally being placed on waiting lists for assessments as a prelude to being placed on waiting lists for classroom space. Most disturbingly, there was no express commitment on the part of the school system to educate all our children. Nor did the school system in many instances follow even rudimentary due process safeguards before suspending or completely terminating a pupil's education. The *Mills* case was, of course, decided on a factual record which noted just those abuses and that absence of procedures. And it is equally important to bear in mind that the decree of the Court, based on ths factual record and on the summary judgment in favor of the plaintiffs' constitutional and statutory rights, was jointly worked out by the parties. Indeed the final version accepted by the Court was that of the defendants. In essence, the decree required the adoption of a zero-reject system of education—no child could thereafter be excluded from regular education without being supplied with an adequate educational alternative. Moreover, for the children or parents wishing to contest the suitability of that proposed publicly-supported educational alternative, a constitutionally adequate due process hearing was mandated. Similarly, for children subject to disciplinary suspension in excess of two days, due process hearings were prescribed. This was an integral aspect of the suit because so many children in need of special help had been forced out of school—and out of any educational programming—through the vehicle of disciplinary suspensions.

II. POST-DECREE COMPLIANCE

Many commendable changes have occurred since the Court's decree of August 1, 1972. Many vital concerns affecting the education of the District's exceptional children, however, remain substantially, and tragically unaltered. It is to those latter concerns that we would direct the Committee's attention this morning.

A. Financial Resources

Through its implementation plan filed last September, the school system expressed its commitment to providing "appropriate instructional experiences for all youngsters of school age in a manner . . . consistent with their general and individual needs." Not unexpectedly, resources have not lived up to this design. Less than 6% of the school budget is going to serve the estimated 10% of the school population with special needs. Moreover, requests for additional funding for special education to meet those needs have simply not been forthcoming from the school system. For fiscal 1974, only 700,000 more dollars have been requested (a rise from 9.5 to 10.2 million) to serve the special education

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needs of some 10,000 to 14,000 students. Yet, according to a December report of the special education department, it is costing nearly that much now to provide some sort of special education to the 5,426 students currently served. It would be a cruel hoax to double special education enrollments without proportionate funding increases. Yet in this year's budget requests there appeared to be no new money for special education teachers despite increased enrollments expected in virtually every category of special programs; no new money for placement officers, and assessment personnel despite the system's admission that they are running behind schedule in their *Mills* assessments due to overworked personnel (we are advised the entire system has only 35 psychologists); no new money for transportation and no new money for the development of previously promised joint "innovative efforts in behalf of emotionally disturbed children and youth." (D.C. Public Schools, "A Comprehensive Plan for Special Education," Part VI, p. 4, September 1972).

B. Supportive and Ancillary Personnel

It is fair to say that school teachers and principals are disillusioned with the special education resources available for implementing *Mills*. They fear not without reason that the laudable intention of keeping as many children in regular classrooms as possible with school based special resources will deteriorate into tokenism and its only effect will be to make their job harder. These school personnel, as well as school officials in special education, and pupil personnel assessment and these children's parents are all in accord that additional instructional and non-instructional personnel is essential if many of these children are to learn and to prosper.

The school system's implementation has emphasized a philosophy of keeping as many children as possible in regular classrooms with supportive aid from school-based specialists. The Director of Special Education has estimated that 75–80% of the District's children with special educational needs could so be educated. (The others would be placed in special classrooms, special schools or tuition grant-supported private schools for those with unusual handicaps). Serious questions need to be raised as to whether the District has obtained a sufficient supply of trained and qualified school-based specialists, and has adequately oriented and prepared regular classroom teachers to make this commendable philosophy work. When the caseloads of such school-based diagnostic-prescriptive or crisis-resource teachers soar to unmanageable proportions, any efforts at individualized and ongoing attention for special children—the core of any mainstreaming philosophy—will prove a frustrating and vain hope. school-based specialists.

C. Lack of Inter-Agency Coordination

One of the most telling failures of implementation efforts to date is the lack of coordination between agencies charged with providing services to handicapped children. Judge Waddy's decision in *Mills recognized* the gaps in service which have, historically, resulted from bureaucratic lines of authority which are not responsive to the neds of individual children. The decision insisted that organization charts would not be allowed to stand in the way of necessary relief:

> The lack of communication and cooperation between the Board of Education and the other defendants in this action shall not be permitted to deprive plaintiffs and their class of publicly supported education.

The other principal defendant in this action is the District's Department of Human Resources (DHR). For example, the school system has often taken the position that severely or multiply handicapped children needed "treatment" more than "education" and that such "treatment" is the province of DHR. Conversely the school system exercises neither control nor any standard-setting powers over the school programs in juvenile institutions.

Coordination of efforts between the school system and DHR is undeniably necessary. In the "Comprehensive Plan for Special Education" prepared by the school system, a November 15, 1972 deadline was set for the production of a document spelling out DHR/School System responsibilities in interstitial areas. Despite attempts by plaintiffs' counsel to prod both sides into action, and despite continuing meetings (10 to 12 in number) between the two agencies, no fully coordinative scheme has yet surfaced. For children in DHR facilities this lack of coordination is more than bureaucratic bickering; reports of inadequate educational programming in DHR facilities must be attributed, in part, to the failure to take advantage of the school system's expertise in planning educational activities.

Ironically, back in September, 1972, Dr. Merle Van Dyke, Director of Special Education, offered to assist Forest Haven personnel in setting up or otherwise assisting in special education programs for the school-age retarded residents of that DHR institution, but was not taken up on his offer. In corollary fashion, children in the public school ssytem are deprived of potentially valuable DHR services, i.e. physical therapy or mental health counselling.

D. Need for Staff Orientation

Both the litigation and the school systems response stressed concepts variously articulated as "normalizing," "mainstreaming," and "least restrictive." Under any label, the notion that children should be educated in a setting as close to the "regular" classroom as conditions permit has the functional impact of placing considerable decision making authority in the hands of building level personnel. It becomes imperative, then, that the staff members in whose hands the success of implementation efforts rest must be thoroughly oriented to their functions. For whatever reasons, this necessary understanding of *Mills* and the implementation efforts has not been achieved.

Most particularly in the area of disciplinary suspensions, confusion and misdirection have threatened to vitiate the court-directed policies. Unfortunately, misinformation concerning the disciplinary component of the litigation has swept the school system and carried in its wake two unfortunate consequences. In the maelstrom of cries about disciplinary due process hearings false fears that physically dangerous young people must be kept in school rooms threaten to monopolize the attentions of school personnel—diverting energies from the problems of the handicapped children. More concretely, overreaction to these perceived but not real funds has led to violations in the process of procuring discipilinary suspensions. Our reports indicate that a common tact employed by Principals is to encourage youngsters to drop out of school—thereby improperly bypassing hearing requirements.

Part of the problem appears to be misinformation or an inability to convey in the training sessions what the suspension provisions do and do not require. Many parents and principals seem unaware that the decree permits the principal, if he believes the child's presence in the classroom permits the possibility of physical injury, to keep a child out of school until the decision resulting from a hearing held four days later. And that during any subsequent 10 day suspension allowed after a hearing officer's decision, diagnostic and assessment procedures may be initiated culminating in a special education recommendation and placement. There also seems not to be an awareness that in the notorious cases it is frequently the juvenile court which orders the child back to school as a condition of release. They appear not to appreciate the educational statutory mandate that even a child *accused* of wrongdoing must be allowed to continue his education somewhere pending court disposition.

Contributing to the sad confusion in implementing disciplinary due process hearings is the Board of Education's failure to adopt clear rules, setting out "offenses" for which suspension or expulsion is warranted. This lack of regulation was brought to the attention of the Board's Committee on Curriculum, Special Education and Education Planning and Committee on Rules and Administration at the public meeting held December 11, 1972. The Board's response has been inaction.

E. Rules Governing Disciplinary Proceedings

In the bulk of the disciplinary hearings held to date, some of which have concerned class-cutting, loitering and like-minor offenses, the school system has prevailed, that is the hearing officer ordered some disciplinary action. Hearing officers are still faced with the difficult problem of determining the propriety of suspension or exclusion for such varied and informal offenses as: "loitering in the halls and classrooms at unauthorized times"; "non-compliance with established authority"; and "refusal to attend classes". To make discipline meaningful and to make the hearing procedure effective it is essential that a formal code be established setting out punishable conduct and appropriate sanctions.

III. SOME NECESSARY QUESTIONS

While we have received generalized information indicating the existence of the sorts of problems outlined above, more specific knowledge is necessary to pinpoint difficulties and provide a base for providing solutions. Among the questions which this Committee should seek to answer are the following:

Why has there been a failure to comply with the census requirements of the D.C. Code? Has money been requested for such a census?

Why have the public schools and D.H.R. failed to achieve agreement on their respective duties in carrying out the mandate of *Mills*?

What relationship has the school system had with D.H.R. with respect to the student population at the Reception House, Junior Village, Children's Center, St. Elizabeth's Hospital and Forest Haven?

What level of educational services is provided to such children and how does it compare with public school education?

How many children are currently receiving special education services at the end of this school year? How many are receiving school-based auxiliary services to stay in the regular classroom? How many are in special classrooms and schools?

How many are diagnosed as in need but are awaiting these services?

How many more personnel and resources would the school need to adequately serve these children? Have these "unmet needs" been costed out yet?

How much extra money for testing, placements, tuition and special education services will be in next year's (fiscal 1974) budget over and above last year's? How much was asked for?

Are there sufficient resources to place the emotionally disturbed "acting-out" children who are so often involved in disciplinary proceedings? What is being planned for next year? Does D.H.R. have any joint programs for this kind of child?

How many hearings held? In how many has the child had a lawyer? In how many has the parent obtained an independent educational or psychological assessment? Where can these be obtained?

IV. RECOMMENDATIONS

To eliminate some of the aforementioned difficulties encountered in implementing *Mills* and to ensure full and vital compliance with the spirit of that decree, we would strongly urge the following basic actions:

Increased levels of funding for the special educational and ancillary services required to provide a suitable education to every District child with special needs and problems.

Initiation of an intensive program of staff recruitment to obtain the additional education specialists, i.e., school-based teachers, psychologists, other teachers and therapists for the handicapped to ensure more appropriate professional to student ratios and levels of individualized attention.

Direct the school system to promptly carry out the census of school-age children required by the District of Columbia Code, as well as an empirical survey of unmet needs for special education of children in the school system, in D.H.R. programs or elsewhere in the District.

Direct that supplemental budget requests be prepared by school and District officials (if this step has not yet been taken) to meet the implementation resource requirements as presently known and reasonably predicted.

Instruct the school system to affirmatively ensure that handicapped children between the ages of 3 to 21 are entitled to suitable education.

Provide mechanisms for the review and accreditation of educational programs in the District's public residential programs to ensure that such programs are at least comparable in quality to those offered children who reside in the community.

Urge the Board of Education to promptly adopt regulations governing the grounds for disciplinary suspension proceedings and to offer adequate in-service and orientation programs to their staff so that disciplinary hearings and the alternatives thereto will be understood and properly employed.

Instruct the school system and the Department of Human Resources to coordinate their resources as required by law and to create an adequate number of programs for the emotionally disturbed, the severely and profoundly retarded and multiply handicapped children who are in need of a combination of services.

These recommendations are by no means an exhaustive list of needs. They are, however, priority concerns deserving of this Committee's close attention and prompt action. Such attention and action could be immensely helpful to the District's most troubled and severely handicapped children.

We thank you for your consideration of their plight. We stand ready to answer your questions or to provide any information you deem helpful.

Mr. HERR. I would like to thank the chairman for his longstanding interest in the children who are the Mills' plaintiffs and the efforts to carry out the effect of reforms for the education of the handicapped. We note with appreciation that the chairman helped Peter Mills get his day in court when that chairman acted as a friend to those youngsters. Perhaps I can focus the dilemma we face as plaintiff's counsel in this fashion. I can bring it into sharper focus by recalling some remarks that Dr. Scott made to an audience at that conference, which he previously mentioned in his testimony.

Dr. Scott there suggested that the Mills advocates join him on Capitol Hill to help obtain the resources and the authority to make the decree work.

I think that our response today, and 3 weeks ago and 2 years ago when we started the lawsuit, is the same, that we would gladly do whatever we could to obtain those resources and to obtain that necessary authority.

PRESENT SITUATION

There is much in Dr. Scott's testimony, and certainly in the testimony of Ms. Mason, that we applaud and agree with. I think among those items would be authority which would make the financing of special education a clearer matter, and that would make coordination with DHR a mandatory matter. But having said that, we as plaintiff's counsel still have one serious problem. As of yet, the school system has still not come up with a programmatic package to lay before this or any other congressional committee that would fill the unmet needs for special education of the children—I think the 1,100 or 1,200 children that were mentioned in the testimony of Dr. Scott, and perhaps the unmet needs of other children that has not yet been enumerated.

It is difficult—indeed, impossible—to lobby for a phantom program. I think we know in broad outlines where the school system is going, but there is not a supplemental budget request for those additional needed services and staff before any committee. There is not a comprehensive plan for coordinating DHR and Board resources before this or any other committee, or indeed before Judge Waddy. I might call to mind that Judge Waddy perhaps anticipated that some sort of impasse like this might be reached and provided a mechanism for breaking that kind of impasse. He stated that if the District of Columbia government and the Board of Education cannot jointly develop the procedures and programs necessary to implement this court's order, then it shall be the responsibility of the Board of Education to present the irresolvable issue to the court for resolution in a timely manner, so that plaintiffs and their clients may be afforded their constitutional and statutory rights.

That presentation of whatever the problem is, whatever is the logjam—I think there has been some hint as to what those conflicting views in the DHR and Board are—have simply not been presented to the court for that resolution. We do not know what the status of the 10 or 12 meetings that the Board and DHR have had without producing this comprehensive plan. In reviewing—when Mrs. Wald and I reviewed the plaintiff's budget request—I found no new money for

special education teachers next year—no new money for placement officers, assessment teams, psychologists, for transportation, for substantial increase in programs for the emotionally disturbed, or for the profoundly and severely retarded; no new money for staff training, for orientation, for their development to effectively carry out the constitutional and statutory mandates laid out in Mills. Nor has the District yet laid out an outline of a plan for coordinating the resources between the Board and DHR. Nor at this late date—and we are now talking about May, 1973, for a lawsuit which was begun in September 1971 where in that complaint we raised the issue that there was a lack of constitutionally specific grounds for suspension—disciplinary suspensions—the existing code provided for suspension for unduly vague offenses, such as immoral behavior, or poor hygiene—and this is the most ironic punishment—suspension for tardiness or absenteeism. The Board agreed with us that they did not have a proper code and would get to the business of writing one. As of this date, we still lack that rule or regulation. We find ourselves still waiting for supplemental budget, for plans of coordination, for in this minimal description of what is punishable conduct and what are appropriate sanctions, these delays, we would submit, are making the education of the District's handicapped children even more difficult and a frustrating enterprise.

Financing

In the prepared statement, which is part of the record, we have outlined to some extent our view of the type of financial resource problems, need for adequate staffing, need for interagency coordination, and need to clarify disciplinary proceedings that exist. I might say that we certainly agree that there have been many commendable changes in the implementation of special education programs since the court's decree of August 1, 1972, but these particular issues outlined in the testimony remain substantially and tragically unaltered. It is to those that we would direct the committee's attention.

We essentially, in terms of financing, as Dr. Van Dyke indicated, have a doubling of the enrollment of special education students without a commensurate increase in funding levels in teaching staffs. We fear that may indeed make that special education received next year a cruel hoax. We see that there is 6 percent of the District's budget allocated for nearly 10 percent of its student body. The increase between this year and last is simply nominal. It is only $700,000 more. In whatever fashion the District and the Board want to submit the request for money, we have no quarrel or from whose budget it comes. We simply do not see the additional budgetary request forthcoming. It is particularly grave in the education of the emotionally disturbed youngster who is often the subject of disciplinary proceedings.

Dr. Scott has candidly conceded that they have an inadequate number of children for such programs. As long as we have an inadequate number of programs, we have a serious blockage in our educational system. The problem is not with the procedures of Mills. The problems are often at the outcome, there is not a program where the youngster can be appropriately slotted to meet his needs. An unfortunately consequence, I might add, on the attention of the disciplinary suspension

proceedings, is that it has diverted attention from the main issues. The main issues are the lack of programs. In large part it has resulted from a lack of understanding of what the decree actually allows.

For example, many parents and principals seem unaware that the decree permits the principal, if he believes the child's presence in the classroom presents a risk of danger or injury to others, to keep that child out of school until a hearing can result and a decision reached. During that interim, assessment can be made which could identify the underlying emotional or other problem which would require special education. We have that level of misunderstanding.

I think the Board can take action by authorizing staff training programs and orientation programs to cure that and explain what courses are open. There are a few basic questions that I think might serve as themes for some later parts of this hearing: One, why have the public schools and DHR failed to achieve agreement on their respective duties in carrying out the mandate of Mills? Two, what relationship has the school system to the children in public residential institutions, such as Forest Haven, such as the Children's Center, such as St. Elizabeths? Are the educational services received from those institutions comparable, if not better, than that available to the child in the community? Last, what exactly is happening for that group of youngsters whose needs have been diagnosed as unmet? What plans are there for their inclusion in the educational process?

Disciplinary Problems

Last, what are we going to do to provide sufficient resources to place the emotionally disturbed child who is often the subject of disciplinary proceedings? To anticipate perhaps a question that has been raised to other witnesses, what are our recommendations? What might this committee do in terms of concrete steps?

I think there are a few obvious steps: (1) To direct the school system to prepare supplemental budget request to meet the implementation of intensive staff recruitment to obtain needed educational speably predicted. By that I mean an assessment of the levels of funding for special education and ancillary personnel services, to provide the mandate of Mills, a suitable education for every child. Also, the initiation of intensive staff recruitment to obtain needed educational specialists, school-based teachers, psychologists, other teachers, and therapists for the handicapped; to instruct the school system to affirmatively insure that handicapped children between the ages of 3 to 21 are receiving suitable education.

I think you have heard Ms. Mason testify that the Board has adopted some sort of motion that sets them on record as being willing to serve that group between the ages of 3 and 21. I think that needs to be placed in the context of some binding authority, be it legislative, of a school age law, or regulatory. Right now there is a great deal of confusion in the District of Columbia among principals and others whether they have any obligation to educate children outside the 7 to 16 compulsory school-age law.

We would submit that they certainly do. That law was only intended to impose penalties for those who do not educate their children, not to set the limits of the school system's responsibility. The Board does not contest it, but we need it greatly in some statutory framework. We

need mechanisms to review the adequacy and accredit educational programs and residential programs in the District of Columbia, to insure that these children are getting at least comparable education. Presently there is just a dearth of authority for going into those programs and seeing that they meet minimum requirements, and using the expertise that is available in the School Board. The DHR is conducting educational programs wholly separate and offers by Dr. Van Dyke have gone unanswered. Lastly, we would hope that the Board will promptly pass regulations on the disciplinary suspension grounds matter we mentioned before and provide the in-service training to acquaint their staff with those grounds and the alternatives to disciplinary hearings.

I think I have already spoken to the question of coordination between DHR and the Board of Education and will not repeat that. These are not an exhaustive list of recommendations but they are some priority concerns which this committee could turn to.

Funding

Ms. Wald. If I might add a few words, Mr. Chairman, it seems to me what we really need here is the equivalent to a full employment budget or a full education budget. In a citizen group or council, one of the difficult jobs is trying to pick up the little piece of information here and there and finding out what is really going on. The people in the School Board have been very good about answering our questions but it has required a constant effort of going back.

The people at Human Resources just do not answer our letters, period. The question of requiring somehow for them to lay out—this is the money it would take to fund this number of children who have been diagnosed as needing these kinds of services, these are the staff we have, these are the staff we don't have, and the reasons why. In other words, there is no plac right now that I know of where there is a document which says, "Look, this is what it would cost to do what we know is the need, these are the funds we do not have."

The citizens groups could take this and run. We have heard the reason why. The schizophrenia, understandable within the school system now, you are going to take that money for those handicapped children away from children that really need it in the normal school setting. Somehow, the handicapped always end up unconsciously and unintentionally becoming the villains of the peace. The internal war which goes on between normal and handicapped children results in the final document of people outside not having anything to go on to try to help to lobby. You are faced with a war which you never get out into the public because it is carried out internally. I think if this committee could do something to require at some point that we get it out on the table as to what is needed, what we don't have, in order to do the job right—corollary—I think we need a document someplace that gives us the numbers which we do not have now about how many children do we know of that are still out there. I have asked the question innumerable times over the year: How many children have you identified who are still not in school? We have begun to send our own social worker out into the Recreation Department programs to try to locate the severely retarded children who

we are told may still be out not receiving an educational program but a day care program.

There are two of us and it is really difficult to monitor an entire system. The court decree did not require that kind of periodic reporting. Maybe we should have asked it. We learn by experience. The next time we certainly might.

That type of requirement, where are we this month with all the facts and figures in one place, is sadly missing. The last thing I would ask is this committee to try to get the real story of the Department of Human Resources out on the table. In short, we have not been able, entirely successful in the efforts we made to try to find out what if anything has happened inside the Forest Haven institution. Have there been reassessments? How many of those kids are really in educational programs? How many more this year than last year? What kind of outside evaluation of programs has there been or has there not been?

For the first time this morning we heard some answers we have not heard before, trying to pinpoint what the DHR has failed to do in the community program. I would like to know how many kids are suffering because they don't get the ancillary services that are needed. That is what we need in the way of facts to go back to the court. Those are difficult facts to find.

I thank the committee for getting some facts out on the table this morning that we have not gotten before.

I hope their focus on the Department of Human Resources will get a lot more out of future hearings.

Effect of Court Decree

Mr. Dellums. I would like to thank you both, Mr. Herr and Ms. Wald, for your testimony. I simply have two questions: One, I think, Mr. Herr, you already addressed yourself to but I would like to ask for the record. As plaintiff's counsel, have you made any attempt to determine the causes for the lack of performance on the part of the other District of Columbia governmental agencies, as you have cited in your testimony? The second part is, do you have any suggestion for this subcommittee with respect to that evaluation?

Mr. Herr. I found an attitude among some representatives of the Department that the decree just didn't bind them. Somehow or other it was imposed on other defendants. I think that is a serious misreading of the decree. For one thing, I would like to correct for the record, the decree was not a consent decree, although there were many parts that were agreed upon by the Board and by plaintiff's counsel. Therefore, DHR being one of the defendants and the District of Columbia being one of the defendants, are parties within the meaning of the decree.

Somehow or other through misinformation or scuttlebutt that has not reached the relevant officials and they still think they are operating on a permissive basis with the burden to be borne by the Board of Education.

I think the second part of your question was——

Mr. Dellums. The suggestion you might have as to how we might come to grips with the problem.

Mr. HERR. Obviously through close questioning of the representatives of that Department who appear before this committee. Perhaps recommendations by this committee that the Board of Education force the issue which Judge Waddy clearly left to them, that is, to present it back to him for resolution; or third, that this committee, failing success in the redefinition, help hammer out that responsibility.

My recommendation along the lines of responsibility would be this: That we have a unified educational authority, one system responsible for the education. In other words, the Board of Education responsible for the education programs and Forest Haven and for other public institutions, the DHR responsible for auxiliary services. I rather concur with Ruby Martin's suggestion, if DHR simply won't put their resources in the school systems, give the Board of Education authority to apply for those resources on their own.

Mr. DELLUMS. Are you saying that in order of priority that DHR assume its responsibility to provide ancillary services and only in the event they are not able or willing to respond that we go to the next area, which is to bring the Board into an area that is not specifically education?

Mr. HERR. That is right. That is essentially it. If there was a more unified package of services, the dichotomy between education and treatment I think is often a fallacious one.

Mr. DELLUMS. My final question is: Is there a need for additional or special programs or facilities for certain "discipline" problems as identified by the school system in your estimation?

Mr. HERR. I previously stated in my testimony that there is a need for more programs for the emotionally disturbed, for the acting out. I don't think that we should make separate schools simply because the child has been involved in disciplinary proceedings. But I do think that we need to provide services for those who have recognized handicapping conditions which interfere with their functioning in the normal classroom. To that extent I think the District's woefully short of those facilities.

Mr. DELLUMS. Thank you.

Mr. Hogan.

Mr. HOGAN. Ms. Wald, you indicated there was some information this morning brought out that you were unaware of. Could you characterize that?

Ms. WALD. Let me say this: When you talk to various people individually, I certainly heard complaints of the lack of cooperation with the Department of Human Resources. I think most of the winter there were joint meetings going on. So the answer was we are trying to work these things out, and maybe they will be worked out. If I remember Superintendent Scott's testimony correctly this morning he said they now appear to have taken the flat position that the Department of Human Resources just plain does not have to do anything unless the children are specific wards of theirs. I also heard some specific numbers from Mr. Freeman about the number of psychologists. A statement byDr. Scott that they do not have the capacity to diagnose a child to be psychiatrically ill or if he really is.

These are all the kind of specific examples of where that lack of cooperation breaks down and a child suffers, which you have to put your hands on.

What I would like to see is a lot more. I think this committee, aside from getting DHR, could also adddress a list of specific questions to school people about in how many instances have you had to postpone assessments, or have you not been able to get cooperation from the Department of Human Resources in diagnosing a child.

In how many cases have you gone to them and asked them to provide certain kinds of auxiliary mental health service and you have not been able to get it? That kind of documentation of where the need is and where it is broken down would be extremely helpful when you try to formulate documents.

Nelsen Commission Report

Ms. Mason. The Nelson Commission studied the public school system here and it found generally I think that there tended to be a conflict in a number of areas; contracting, budgetary, building management—this obviously is another area. What the Commission suggested in the budget area was, for instance, that the school system—obviously the way things are organized now, that the Mayor and the City Council have responsibility for an overall budget, but the school system submit their budget to the Mayor and City Council and the school system be responsible for the program and that the City Council and the Mayor, although they could recommend, would set the ceiling for the budget because obviously they have conflicting demands and only limited resources.

I don't know whether you have had an opportunity to read that report, but does that make sense to you, this idea of having program authority, if they wanted to put all their money, which they obviously wouldn't, but for purposes of argument, if they wanted to put, let's say, half of their resources in special education, they could then do it.

Ms. Wald. First, I haven't read the report. I am familiar with the recommendation. It is one of those areas of municipal government where I have no expertise.

However, it seems reprograming authority in light of what Dr. Van Dyke talked about, would make an enormous amount of sense because we do get this business year after year.

They are returning money; they are returning money and that sort of thing. If they were able to spend it in the areas of need, that would emanate good sense.

I don't have the expertise to know whether they keep control over their own budget.

Ms. Mason. Thank you, Mr. Chairman.

Mr. Dellums. The Chair would like to yield to Mr. Breckinridge.

Mr. Breckinridge. You have certainly participated in some landmark legislation. I came into this problem perhaps a generation ago informally. When I read the language to be found on page 25 of the particular copy of the opinion which I have to the effect that "The District of Columbia shall provide to each child of school age a free and suitable publicly supported education, regardless of the degree of that child's handicap," and then back earlier, that that shall be equi-

tably determined, I think Judge Waddy has handed down a remarkably statesmanlike decree.

Two questions which reflect only my inability to keep up with everything that is going on, but that are of interest ot this committee I am certain:

First, what is the status of this or similar litigation in appellate channels throughout the Federal and/or the State system; and No. 2, am I correct in assuming and understanding that this matter is still on the docket and may be renewed at any time by the parties plaintiff or other interested persons for the purpose of assuring compliance in the broader areas that have been discussed here this morning?

Mr. HERR. Congressman Breckinridge, the case is under continuing jurisdiction of the court. The defendants waived the opportunity to appeal that decision, so it is a final decree.

As to the status of like cases around the country, Dr. Alan Abeson of the Council for Exceptional Children has been keeping track of the scorecard, and I think at this juncture there are actions in 17 or 18 different States.

To my knowledge, none of those actions have yet reached an appellate decision unless an earlier case in New York involving brain damage could be considered.

These cases are in various stages of litigation all around the country. *Mills* and the case in Pennsylvania are regarded as the leading cases.

Mr. BRECKINRIDGE. I make this additional observation that relates to the Nation as a whole and not just the District of Columbia. When we start analyzing the answer to this question, you haven't proposed a 10-percent burden; you have imposed a financial cost per unit far in excess of the average educational unit, and you have more importantly and more difficult of resolution, established and pinpointed and identified a need for professional and paraprofessional people not presently available throughout the country, and all we are doing now is competing with each other, and I think we should be addressing ourselves to that problem.

Mr. DELLUMS. We would like to thank you both. I join with my colleague in applauding your efforts on behalf of the children. My hope is that the result of these hearings will be some logical conclusion to the efforts that you have started in the courts, and my hope is that this subcommittee and this Congress will address itself to some of the complex problems I think legislatively we are in a position to try to correct and try to facilitate, and I thank both of you for coming.

Mr. HERR. Thank you, Mr. Chairman.

[Whereupon, at 12:35 p.m., the subcommittee was adjourned.]

THE WADDY DECREE

WEDNESDAY, MAY 30, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EDUCATION OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to adjournment, at 10 a.m. in room 1310, Longworth House Office Building, Hon. Ronald V. Dellums [chairman of the subcommittee] presiding.

Present: Representatives Dellums, Stark, Fauntroy, Rangel, and Taylor.

Also present: Robert B. Washington, Jr., chief counsel; Ruby Martin, counsel; Joseph Clair, subcommittee counsel; John E. Hogan, minority counsel; James T. Clark, legal consultant; and Mike Duberstein, research assistant.

Mr. DELLUMS. This morning we will continue the hearings we began yesterday morning on the degree of compliance and implementation of the decree in *Peter Mills et al.* v. *Board of Education*, commonly referred to as the Waddy decree.

Our first witness this morning is the Honorable Harry T. Alexander of the District of Columbia Superior Court.

STATEMENT OF HARRY T. ALEXANDER, JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA, ACCOMPANIED BY CHRISTINE TRUESDALE, PROBATION OFFICER, AND JANET BROWN, SOCIAL WORKER, FOSTER HOME CARE, SOCIAL REHABILITATION ADMINISTRATION

Judge ALEXANDER. Distinguished members of the subcommittee, it is indeed a high honor to appear before this distinguished chairman and the members of this very important Subcommittee on Education of the House District Committee.

It is with a sense of deep pride that I accept the invitation and welcome the opportunity to address this distinguished body on the subject of special education, or as outlined more precisely in the letter of invitation—to assist this subcommittee in its efforts "to determine the degree of compliance with the decree in *Peter Mills et al., v. District of Columbia Board of Education, et al.*, and to assess resource needs for complete implementation."

Since I am neither the author of the decision in *Mills*, nor a social worker, psychiatrist, psychologist, probation officer for juveniles, nor engaged in employment with the Board of Education or District of Columbia public schools or the Department of Special Education.

one might, at first blush, wonder why one in my occupation would either be interested, or possessed of any knowledge whatsoever about the subject matter of education, not to mention the topic of special education.

Well there are several reasons why one such as me should be interested, and just as many reasons why I am. For 20 years now, in dealing with the citizens of my community from every aspect of the legal profession, and for even more years in giving of my time and energy to church, school, civic, and social organizations. I have been keenly aware of the fruits of quality education, as well as the spoils of segregated education, unequal education, inferior education, and substandard education. All of these injustices characterize education in this, our Nation's Capital. For too long; too often have they been the hallmark of our educational process. What this subcommittee is about today is unprecedented in our history. It is the legislative counterpart of Judge Waddy's decree in *Mills* v. *Board of Education*. It is a godsend, not only to improve our schools, and our educational process; but what is even more important, to improve and even save our children.

The need for these "oversight hearings" is great. For 20 years now, unfortunately, in too many instances, I have been able to detect the difference in the kinds of education. In too many instances it is determined by the color of the student's skin; in other instances by the particular school the student attended; in others by the particular neighborhood in which the school was located. For just as many years it has been discernible that too many students have been passed; too many graduated from elementary school, from junior high school and senior high school, unprepared for the next successive level of education.

All of these deficiencies have long been evident to me as an interested citizen, a prosecutor, a private attorney, a professor of graduate education, and as a member of the Superior Court of the District of Columbia. Experience teaches me that a vast majority of victims of less than quality education are minorities, predominantly black. That they are adversely affected is as clear from the kinds of skills and occupations in which they are employed, as it is from the skills and occupations in which minorities and blacks are not employed.

The Civil Rights Commission has made it abundantly clear, once again, as late as January 1973 that "large-scale discrimination continues," in all avenues of our domestic life. Yet, it must also be realized that the situation of the greatest percentage of blacks being relegated to the general occupation level of grades GS 1 through 4, is due not only to various forms of discrimination, but also to inferior education, substandard education, and the denial of quality and equal education. Certainly, one who is not adequately prepared, cannot compete very long, or very far, if he can compete at all.

At this point, I am reminded of a recent visit to the Headquarters of the Strategic Air Command in Omaha, Nebr. It is readily discernible that blacks and minorities were conspiciously absent in this great, perhaps the greatest mecca of scientific achievement. When I requested of the commanding general the reasons for the conspicious absence of black men in the more important occupations, or in the junior

and senior officer corps, and how long would it take to rectify the situation, the general explained that the absence of quality education and the absence of sufficient education were the only reasons. He assured my group of visitors that neither segregation nor discrimination were factors in this disproportionate representation. He advised us of the Air Force's concentrated efforts in remedial education for blacks, but acknowledged they had projected it would still take 10 years to build up the junior officer corps, and the senior officer corps to a ratio comparable to the representation of blacks in our country.

Once I was taught, when I was a schoolboy, that farming was the backbone of our Nation. Although farming is important, I doubt if I ever believed the proposition—once possessed of the use of reason. It has always seemed to me that education is the backbone of our Nation. In fact, in 1954, the Supreme Court put its imprimatur on the present-day importance of education. When *Brown* v. *Board of Education of Topeka*, (347 U.S. 494, 496, (1953)), was first decided, the Supreme Court stated:

> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

Obviously, this philosophy applies with equal force to the District of Columbia. If precedent is needed, suffice it to add, *Bolling* v. *Sharpe*, 347 U.S. 497 (1954), outlawed segregated education in the District of Columbia, by virtue of the due process clause of the fifth amendment, while *Brown*, accomplished the same under the equal protection clause of the 14th amendment. Judge Waddy has with great wisdom, employed these constitutional principles in *Mills*. So did Judge J. Skelly Wright in *Hobson* v. *Hansen*, 269 F. Supp. 401 (D.C.D.C. 1967).

Naturally, what has been said concerning the victims of less than quality education applies with equal force to all children—to those in general education, as well as to those in special education. In pertinent part, Judge Waddy declared in *Mills*, 348 F. Supp. 866 at 878 (D.C. D.C. 1972):

> That no child eligible for a publicly supported education in the District of Columbia public schools shall be excluded from a regular public school assignment by a Rule, policy, or practice of the Board of Education of the District of Columbia or its agents unless such child is provided (a) adequate alternative educational services suited to the child's needs, which may include special education or tuition grants, and (b) a constitutionally adequate prior hearing and periodic review of the child's status, progress, and the adequacy of any educational alternative.

The Court further opined:

> The District of Columbia shall provide each child of school age a free and suitable publicly-supported education regardless of the degree of the child's mental, physical or emotional disability or impairment. Furthermore, defendants shall not exclude any child resident in the District of Columbia from such publicly-supported education on the basis of a claim of insufficient resources.
>
> Defendants shall not suspend a child from the public schools for disciplinary reasons for any period in excess of two days without affording him a hearing

pursuant to the provisions of Paragraph 13.f., below, and without providing for his education during the period of suspension.

Defendants shall provide each with a publicly-supported education suited for his needs within thirty (30) days of the entry of this order. With regard to children who later come to the attention of any defendant, within twenty (20) days after he becomes known, the evaluation (case study approach) called for in paragraph 9 below shall be completed and within 30 days after completion of the evaluation, placement shall be made so as to provide the child with a publicly supported education suited to his needs.

The Information Center for Handicapped Children, Inc., has defined special education and its components as:

* * * that part of general education which devotes its attention to students who are considered to exhibit impairments, disabilities, or handicaps in any form or combination, with the assumption that such conditions contribute to the students' inability to develop to their maximum capacities in the regular educational program:

Impairment.—Defective bodily structure (sense, systems, organs, members, etc.)

Disability.—A limitation of activity when compared with other individuals of similar age, sex, and culture.

Handicap.—A reduction of personal or social efficiency and the stigma therefrom.

Sometimes, we are inclined to limit too narrowly our application of the terms impairment, disability, and handicapped. But observations of the Information Center for Handicapped Children, Inc., militate against this inclination. Speaking of students who exhibit "impairments, disabilities, or handicaps" the Center stated:

These pupils (children and youth) are generally known as "exceptional" in terms of the usual manner of classifying human problems. A Department of Special Education exists for the purpose of educating those who are exceptional physically, mentally or emotionally to the extent that they require educational services.

The Information Center defined special education services as:

Those services provided to students and teachers when the individual learning needs of the students in affective, cognitive as psychomotor areas are exceptional enough to require professional assistance above and beyond that which can be provided by the regular classroom teacher if the learner is to progress at his optimum rate. Thus, special education consists of a continuum of services that are offered to the exceptional child directly or to the teacher who will assist the child in rectifying or compensating for various psychological, sociological, physical or intellectual factors which may dictate a need for temporary or continuing assistance. The term "exceptional" is used in this document to refer to the class of students described.

A mere reading of the language defining special education, its terms, and special education services leave the inescapable conclusion that special education has failed, whether we view it from the restricted view or from the what I believe to be the more appropriate broader view. In what might be termed a restricted view, the court declared in *Mills*, 348 F. Supp. at 878:

The District of Columbia shall provide to each child of school age a free and suitable, publicly-supported education regardless of the degree of the child's mental, physical or emotional disability or impairment.

This could be construed to mean any condition diagnosed by a physician, psychiatrist, or psychologist—a restricted view. But a broader interpretation must have been intended because, as previously quoted, Judge Waddy had already declared:

That no child eligible for a publicly supported education in the District of Columbia public schools shall be excluded from a regular public school assign-

ment by a Rule, policy, or practice of the Board of Education of the District of Columbia or its agents unless such child is provided (a) adequate alternative educational services suited to the child's needs, which may include special education or tuition grants . . .

The children and youth of our schools who belong in this broader interpretation, and in need of special education are legends. Reading scores, mathematics scores, English compositions and prevalent speech problems dictate that there is a great need for remedial reading, mathematics, grammar and speech therapy. A continuum of services must be offered to these types of exceptional children because psychological, sociological and intellectual factors * * * dictate a need for temporary or continuing assistance. These are the children who have been passed from grade to grade, without even the bare fundamentals of reading, writing, and arithmetic.

An article by Richard E. Prince in the May 27, 1973, edition of the Washington Post, on Eastern High School, pointed up the need for a broader interpretation of special education. Mr. Prince was describing Eastern High School in the District, the third largest high school in the city with a black working class population. He noted that much of what is now taught isn't really even high school material. He quoted the daily absentee rate of between 17 percent and 20 percent, and the fact that 300 students dropped out of Eastern last year and 183 have dropped out as of January of this school year. Of the students who did graduate from Eastern, a follow up study in 1969, showed that 37 percent went straight into jobs as bank tellers, file clerks, clerical workers or work for the telephone company.

This was a discouraging picture of education in the District, yet some teachers still have hope. Mrs. Anita Nance, for example, uses her subject material to help the children speak distinctly, as well as to inform. She stresses, with a child the acceptableness of failure if one can learn from it and go on. She refuses to let a child quit.

Another encouraging program at Eastern High School was the Home and School Association's attempt to alert parents of their children's absences.

This kind of cooperation from parents is indeed a necessity.

The subcommittee should be keenly alert and vigilant to safeguard against the possibility and even probability that some schools do not become the dumping grounds for children with behavioral problems, and similarly, that some classes within the respective schools do not become dumping grounds as well. On more than one occasion, I have been reliably advised that the practice is already too prevalent in some quarters.

The subcommitee should also scrutinize the tests, and methods of assessment employed by the Special Education Department of the District of Columbia Public Schools. It may well be that limited facilities, and limited funds cause "exceptional" children to be denied their proper classification, even though Mills specifically prohibits this unlawful discrimination. Moreover, the subcommittee should be concerned about the procedure the Department of Special Education employs in receiving recommendations to place students in special education, and to determine how such requests and children are lost for as long as a year.

One particular case which came before me in March as an Ex parte matter, revealed, after instead of an Ex parte consideration, a full hear-

ing was held, that two psychiatrists had recommended special education for over 1 year; that a probation officer had sought in vain to obtain such services, that the child was allowed to remain out of school, even general education, for more than 1 year. When ordered by the court to access the pupil, the Special Education Department determined that special education was not needed. A disinterested agency subsequently determined that special education was required.

Another case discovered during my March tenure as judge in chambers, revealed that the recommendation for special education had also gone unheeded. This case was more serious than the latter, because it pertained to a young man who had been found involved in a serious criminal charge—robbery. The probation officer had recommended the case be closed because the 6 months probationary period had been served. His conclusions contained a recommendation that the youth be enrolled in special education. The recommendation had not been answered by the Department of Special Education. A full hearing, instead of an ex parte hearing, brought success. Special Education has promised to make the assessment and, I have been assured the youth will be properly placed.

Another matter which came before me as judge in chambers during the month of March, and, as you can see, Mr. Chairman and distinguished members of the committee, in March I was engaged in other things in addition to handling poor people in this city, police officers, probation officers, and persons who have the necessity for paying a minimum sum of $1 tickets. This particular case pertained to a youth who had been in our juvenile system as a child in need of support for 16 years—from age 2 until 18. It was recommended as an ex parte matter, that the case of this youth be closed. Why? He had absconded from the youth facility. What simple and short inquiry revealed, however, was that we had custody of this youth from his toddling days to young adulthood in our jurisdiction in loco parentis, or parens patriae, but we had neglected to insure his graduation from junior high school.

These three cases are still under the continuing jurisdiction of the court. They must be scrutinized until the mission is accomplished. They illustrate that the following edict of *Mills* v. *Board of Education* is being disobeyed, if not flaunted. In paragraph 5 we are reminded:

> Defendants shall provide each with a publicly-supported education suited for his needs within thirty (30) days of the entry of this order. With regard to children who later come to the attention of any defendant, within twenty (20) days after he becomes known, the evaluation (case study approach) called for in paragraph 9 below shall be completed and within 30 days after completion of the evaluation, placement shall be made so as to provide the child with a publicly supported education suited to his needs.

These cases known to the court and those known to other judges, no doubt, will receive attention; but what of the unfortunate victims and parents whose situations are not isolated, discovered, or specifically brought to the court's attention. They, unfortunately, will be cases in which attention, education, and special education are denied.

This conclusion is poignantly made by the cases submitted to me by Mrs. Jean Schreibner, Acting Assistant Division Chief of the Residential Care Services Division, Department of Human Resources. Rather than paraphrase her good and conscientious efforts, I have decided to incorporate herein her entire report in Xerox form.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
DEPARTMENT OF HUMAN RESOURCES,
Washington, D.C., May 29, 1973.

HON. HARRY T. ALEXANDER,
U.S. District Court,
Washington, D.C.

DEAR SIR: Thank you for inviting me to submit information concerning the educational needs of our children who are in foster home placement. Due to the limited time factor I am only able to speak to the current needs of a small percentage of our children; those in placement in the N.W. section of Washington and those in the near N.E. area. Of the 400 school age foster care children in these two sections there are forty with identifiable and diagnosed academic needs that are not being met. The fact that these children are not properly placed is known to the foster parent, teacher, and social worker. School personnel is cooperative and concerned but the appropriate programs are just not available in the quantity needed.

Please let me discuss three cases in point.

Case No. 1—Eric, DOB: 6–13–63

Eric's need for special education has been known since the academic year of 1970–71. He had a complete evaluation from the School Placement Services with recommendations:

(1) Program for the brain damaged child with specific visual motor, and visual perceptual problems.

(2) Continue Ritalin 15 mgn for hyperactivity.

Through the efforts of his social workers and foster parents he was accepted at St. John's Child Development Center for the academic year of 1971–72, however, the Special Education Department was not prepared to include Eric's tuition in that year's expenditure of funds to private school.

As a result of a letter I wrote to Dr. Johnson, Associate Supervisor of Special Education, he assured me that Eric's application for such funds was not high enough on the list to be reached and from reviewing all the material he felt the child could be programed for within the public school system. This was not most satisfactory as I feel it preferable to offer the needed services within our own schools thereby providing for more children with the money that would otherwise go for one child in a private program.

Unfortunately Eric is still not in a special class programed for his needs, and his caseworker reports the school is promising special help this school year 1973–74.

Case No. 2—Robin, DOB: 9–27–57

From kindergarten (1963) it was determined that Robin was a "slow learner." Psychological testing from our agency substantiated that she had dull normal intelligence—this material given to the school

In May 1966 school states Robin extremely hyperactive and unable to do first grade work (age 9). School was to request immediate testing as they felt she needed special placement.

In March 1967—4 years after that case began—we wrote to Pupil Personnel requesting special placement. Robin was placed in a special class, however, throughout the year 1968–69 school states Robin's placement is not suitable. The class is for children with average intelligence and Robin needs a class for children with Learning Disabilities.

In January 1969 the results of a psychological and neurological study was sent to the Director of Special Education to request that Robin be considered for a class suitable to her needs.

In September 1969 she was placed in a regular 6th grade class and received failing grades. In 1970—7 years after the case began—Robin was suspended from Deal Junior High and later transferred to MacFarland. February 1971 after another psychological test, the recommendation remained special class. She was placed in the Mind Program, but this was not considered the proper placement and again in the school year 1971–72 Pupil Personnel tested Robin with special placement in mind, but not accomplished.

Case No. 3—Ruth, DOB: 9–29–63

April 1970 reports from Learning Diagnostic Center at Children's Hospital indicated that Ruth has learning disability.

Subsequent tests indicate child needs class for perceptually handicapped or as a second choice a class for slow learners.

All proper persons in the School System know of the recommendation for Ruth, however, as of May 1973 Ruth is still in a regular class and doing very poor work. She is upset and cries because she cannot do her work. She is very tense about anything connected with school and is embarrassed by her inability to cope with school and she finds that the children teases her.

An inquiry from our social worker to Center 4 (pupil personnel) brought the answer that there are no suitable classes available for Ruth. There are no classes in the District of Columbia for children with perceptual handicaps.

The three cases illustrated here indicate the early diagnosis of the problem, however, adequate treatment was not available. We cannot overlook the irreversible damage done to a child when year by year he passes thru the school system without being taught by a prescription tailored to his learning needs. We, who have this responsibility to develop so many children to their potential toward the goal of emotional independence, appreciate whatever help can be given by you and Congressman Dellums, Chairman of the Subcommittee on Education, to increase resources for specialized education classes within the District of Columbia.

Sincerely yours,

(Mrs.) JEAN L. SCHREIBER,
Acting Assistant Division Chief,
Residential Care Services Division.

Still another kind of case proscribed by *Mills* was brought to my attention. A 15-year-old youth for whom special educational placement had been requested and denied, was repeatedly suspended from Paul Junior High School; in one instance for over a month, without a hearing. After court intervention, he was returned to school, but has been suspended twice since March.

Once again, these additional cases illustrate that the *Mills* decree is not being implemented. How many more are there? Only the Department of Special Education can answer this question with the candor and accuracy needed. It must be answered!

After the long awaited tuition grant is received, the Special Education Department assumes that its role and duties are terminated. Yet, the private institution selected, nor any other, may accept the student in its institution. For example, a juvenile child waited from 1965 to 1970 for special education. In 1970, she finally received a grant, and application was made to a special private school. She was turned down by seven schools and is today at Maple Glen, a child in need of supervision. At the inception of the application, the child was 6 years of age; she is now 13.

One mother made known to me, found her own solution, just as Mrs. Brown did at Paul Junior High School. When her child was having difficulties at school, and was being transferred from class to class getting low grades and failing, she conferred with the principal, learned that her child had no physical impairment or mental disease or defect, and embarked upon her own special education. Day after day, week after week, month after month, she followed her loved one from class to class. Little Johnnie soon shaped up; his grades improved, and he now has a chance to bring his academic level abreast of his chronological age.

As beautiful as this story is, we all know for practical purposes, it could never be the uniform answer. Too many students, and too many mothers. Moreover, present facilities are inadequate for students alone.

Oftentimes the tuition grant awarded by the Department of Special Education is insufficient to cover the tuition costs. When this occurs, parents are too often faced with the degrading choice of relinquishing physical custody of their children to the Department of Human Resources. For this, a petition, hearing, and judicial decree are necessary. Sometimes, children who are placed cannot receive the benefits of the special educational services because transportation is not available. This is a curent problem. I am advised that buses sit idly by, while some 70 children are daily in need of transportation for special education services.

In addition, too many children in need of special education are awaiting placement. Too many children diagnosed as profoundly uneducable are in need of rediagnosis. Too many students are in need of speech therapy, hearing therapy, as well as the basic principles of speech and composition writing.

With all the deficiencies allowed to exist in general education, it does not appear that we are interested in having black people of the Nation's Capital escape from grades GS 1 through 4, and embark upon life in the mainstream of our society, grades GS 7 through 18, and then in the executive levels. Any statistical report will reveal, that as grades ascend beyond grade 4, the fewer blacks are found employed. When the supergrades are scrutinized, blacks are conspicious by their absence.

In law we say "Eternal vigilance is the price of Liberty." In *Bolling* v. *Sharpe*, the Supreme Court, as previously noted, utilized "liberty" of the due process clause of the fifth amendment to overrule the "separate but equal" doctrine of *Plessy* v. *Ferguson*, 163 U.S. 537 (1896).

The bleak picture of quality education and special education in the District of Columbia leave the inescapable conclusion that even after the decree in *Mills* v. *The Board of Education*, we have not been vigilant. The decree of the court has not and is not being implemented, whether from the restricted view or the more appropriate broader view.

This vast and important subject could not be concluded without a plea that this subcommittee give strong attention and great consideration to the kind of relationship which exists between the client at school, his parents as guardians, and the persons with whom he confers and in whom he confides. Obviously, I am referring to the important but often overlooked doctrine of privileged communications.

There is a tremendous need within the discipline of education for students and parents to have their rights of privacy protected. Neither legislation nor judicial precedent offers this protection today. As we go about the serious business of protecting the confidential relationships between attorney and client, physician and patient, husband and wife, as well as between clergy and communicant, we must surely realize that the communications of students and their parents must be protected from improper disclosure by counselors and teachers, principals and administrators, as well as improper disclosure by nurses and secretaries, psychologists, and social workers. Several enlightened jurisdictions have enacted legislation which recognizes the existence of a confidential relationship between a student or his parent, and such school personnel, or persons acting in behalf of the school. Among

these States are Massachusetts, Michigan, New Jersey, and North Carolina. Pennsylvania recently joined these distinguished ranks, as the following report from the American Personnel and Guidance Association indicates:

> Privileged communication became a reality in Pennsylvania in January. School counselors, nurses and psychologists and their secretaries employed by school districts are prohibited from releasing any information received in confidence from their counselors unless given permission by the student if he is over 18 or by his parent or legal guardian if he is under 18. This includes all civil and criminal court proceedings. Excluded from privileged communication is information relating to cases of child abuse.
>
> Pennsylvania counselors as individuals and through the Pennsylvania School Counselor Association provided much of the impetus for passage of the bill along with the Pennsylvania State Education Association.
>
> In Pennsylvania the current legislative priority is to get guidance services required for all schools at all grade levels, with a ratio of 300:1 in secondary and 600:1 in elementary.

Let me insert here that the impetus for this legislation for the District of Columbia need not await the action of any educational or counselor association. None has been forthcoming. The need exists, especially is this true in the field of special education, where facts concerning the "exceptional child" make too interesting conversation.

Mr. Chairman, other distinguished members of the subcommittee, by virtue of having visited many of our schools, our jails, and cell blocks, and having spoken to countless of students and dropouts, youth and inmates, graduates, undergraduates, and graduate students, and from the appearance of a small number of students before me in court, there is no question but that too many of our citizens have been written off, with little or no chance at equal opportunity. This is so because the education which the victims have received has not been quality education; it has not been equal. And, as my 9-year-old daughter said some days before her expiration on February 8, 1973, "* * * it ought to be even." Just as methadone maintenance writes off people addicted to drugs, and as sure as the narcotic addict can never make it into the mainstream of society, so too is it true that people denied equal quality education are denied God-given constitutionalized rights and written off from the mainstream of "life, liberty, and the pursuit of happiness."

In summary, let me say that I have tried to outline for this subcommittee why quality education and special education are important; the necessity for improving the extent of special education, as well as quality education; the adversities that a denial of these services cause; the constitutional impropriety thereof; some of the unfortunate cases in special education, and the need for improving and extending special educational services. I hope to have been of some services to this distinguished body. If I can help further, please do not hesitate to call upon me.

At this juncture, I am reminded that in 1957, I appeared and for several successive years thereafter before the department of recreation, on behalf of several organizations pleading for recreational facilities in the Petworth area. None were forthcoming, although a 30 × 40 wading pool was placed at Parkview Elementary School. Meanwhile, Chevy Chase, Washington, received the most beautiful facility imaginable—the Chevy Chase Community Center.

Similarly, the public schools of the District of Columbia has established another excellent facility—also west of Rock Creek Park.

Rose School was established in 1971, for special educational services to "exceptional children" who possess perceptual and emotional handicaps. Rose is available only to those students who attend schools west of the park. No child can be bused to Rose School, even though busing does occur with respect to general education in other institutions west of the park. Needless to say, this kind of facility is needed in the three other mental health districts.

In closing, may I remind you of the January 1973 report of the United States Commission on Civil Rights, entitled, "The Federal Civil Rights Enforcement Effort—A reassessment." What the Commission stated is apropos to us, and to the subject to which we address ourselves, particularly if we ascribe to education the same importance and significance the Sureme Court did in its 1954 *Brown* decision.

In the report, the Commission declared:

> This latest Commission study has reinforced the findings of the three preceding reports that the Government's civil rights program is not adequate or even close to it. This matter is of critical importance to the Nation's well-being, for we are not dealing with abstract rights, but with the fundamental rights of all people—a decent job, an adequate place to live, and a suitable education. Everyone must have the opportunity to share fully in the bounty of our society—not as step-children or wards of the Government but as dignified citizens of this, the greatest Nation on earth.
>
> The federal Government's constitutional and moral obligations are clear. The long-term stability of this Nation demands an end to discrimination, in its institutional forms as well as in its overt individual manifestations. Yet large-scale discrimination continues.
>
> Our faith in the ability of even our imperfect democratic society to live up to its commitments when challenged to do so gives us hope that the future will be less bleak than are the past and present.
>
> That challenge can only come from the aggressive leadership by those in government at all levels who have taken a solemn vow to uphold the Constitution.

Finally, if I may remind you of the greatest success story of special education. I think of a little girl whose wealthy family, through their love and affection, but lack of expertise had caused their daughter to behave like a wild animal. A concerned teacher, when told, "God did not mean her to have the eyes you speak of," said, "I mean her to." No doubt, the child's father was wrong about God, because the concern, commitment, conviction, and courage of her teacher caused the life of Helen Keller to be one of the greatest success stories ever written, but even more important, ever lived.

What we need for our children then must be; more concern, more commitment, more conviction, and more courage. We need this from teachers, counselors, administrators, and all citizens interested in "equal justice under law." We can succeed. Miss Helen Keller and the last report from the Civil Rights Commission tell us how. *Mills* v. *Board of Education* can be implemented.

It must be! And as the Civil Rights Commission has appropriately cautioned, Id. at 11, "Time is running out on the dream of our forebears."

RECOMMENDATIONS

1. That Congress enact legislation to appropriate sufficient funds to implement the dictates of *Mills* v. *Board of Education*, in all areas of the decree.

2. That Congress enact legislation appropriating funds to establish the Rose School institution of area A, in areas B, C, and D.

3. That Congress appropriate sufficient funds to increase the number of counselors in the District of Columbia School System, and to increase the number of staff personnel so that counselors can be free to offer counseling services.

4. That Congress enact legislation recognizing the confidential relatonships between counselors and their clients, compelling a recognition of the counselor-counselee privilege.

We do not mean to suggest these are the only valid recommendations nor that we have covered the subject matter thoroughly. The subject matter before this subcommittee is a vast one. We appreciate the opportunity of having appeared before this distinguished body and hope we have been of some help.

I would like to introduce to the subcommittee those persons who have helped me in this undertaking after very short notice. To my right, Miss Christine Truesdale, the Probation Department of the Superior Court of the District of Columbia.

To my left, Mrs. Janet Brown, a social worker in the Foster Care Section of the Social Rehabilitation Administration, Department of Human Resources.

If we can assist the subcommittee by answering questions, we will be happy to do so.

Mr. DELLUMS. I would like to thank you and the two persons you introduced for producing a very powerful, challenging, thorough, and articulate presentation. I would further like to thank you for taking time out of your extended busy schedule as a judge in the community, to further demonstrate your commitment to the community in general and to the children of this community specifically.

Judge ALEXANDER. I would like to say on that note, Chief Judge Green has been very helpful. He has allowed me to be here on administrative leave for this very important matter.

Mr. DELLUMS. We extend our thanks on behalf of the chairman and the subcommittee.

I will now yield time to our distinguished colleague and member of the subcommittee, Mr. Taylor.

Mr. TAYLOR. Mr. Chairman, I have no questions. I think this is a very articulate and informative statement. I appreciate it and I will take the time to read it again.

Judge ALEXANDER. I would like to mention that Mrs. Alexander, who teaches at Justin Junior High School, and I might say with an unbiased view that she is a very dedicated teacher, she is here today and was allowed to attend your hearings yesterday.

Mr. DELLUMS. The Chair will now yield to Ms. Ruby Martin, counsel for education to the full committee.

Ms. MARTIN. As a part of this subcommittee's overall responsibility for oversight of the Waddy decree, is there a way we can work out a relationship with you, Judge Alexander, and perhaps some other members of the bench, who have day-to-day contact with victims of the Waddy decree, so that you can bring to the attention of this subcommittee those instances where you believe there has been a violation of the decree, or suspect, at any rate, that there has been a violation?

It seems to me as a part of this subcommitte's responsibility, trying to get a handle on some specifics, if we could set up some kind of arrangement whereby the judges in the District could bring to our attention instances, it might be helpful.

Judge ALEXANDER. I would think if this subcommittee addressed a communication to the Chief Judge of the Superior Court, as subcommittees and committees have done in the past, requesting desired information, I certainly believe Chief Judge Green would comply with this.

There are now 44 and soon to be 45 of us, so I would not recommend a request of each of these individual judges, but that one request be made to the Chief Judge and it can be all channeled through him.

Of course, you may ask any of us at any time to appear before your subcommittee and to bring evidence respecting the issue.

Ms. MARTIN. This clearly would not be any violation of anybody's constitutional rights.

Judge ALEXANDER. As you noted, I tried to omit names of persons involved. I think that should be done to protect the rights of individuals at all times. Even where first names are sometimes mentioned, I have sought to eliminate the use of the first name. However, files should be kept in order that one would know which particular case has been referred to, if additional information or inquiry might be developed or directed concerning that case.

Ms. MARTIN. The other thing that I would be interested in, on page 11 of your testimony you suggested that this subcommittee should scrutinize the tests and methods of assessment employed by the Board of Education. I just wonder whether you feel that this committee has the authority to do that, in view of the constitutional separation of powers, et cetera. Can this committee, constitutionally, get involved at that level with a school administration?

It is a fascinating idea and I just wondered what kind of trouble the committee could get into trying to follow up on your recommendation?

Judge ALEXANDER. I am one who believes heartily in the separation of powers. The first three articles of the Constitution, the legislative, the executive, and the judicial. I do not believe, however, that in oversight hearings when the purpose of this subcommittee and the Congress itself is to investigate in order to determine whether or not legislation is necessary in the field, that it is a violation of separation of powers between this legislative body and an aspect of the executive body, whether it be the Department of Human Resources or whether it be the School Board of the District of Columbia, for this subcommittee to request that kind of information. When it is subpenaed, it comes.

I see no reason why the subcommittee couldn't look at this.

Ms. MARTIN. I am sure Subcommittee Chairman Dellums will use that method if it is necessary.

Judge ALEXANDER. I have cases on appeal, too, and they haven't all been won. I give you this for consideration, however.

Mr. DELLUMS. The Chair would like to yield to the chief counsel for the minority, Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman.

Judge Alexander, I had a question with respect to the statement you made regarding the inadequacy of the present facilities. Do you think the official plan itself is inadequate? Is that your contention?

Judge ALEXANDER. I think it more appropriate to say, Mr. Hogan, that the physical plants are absent. Sharpe Health School is a very

fine institution for handicapped children. I have visited that institution. It offers great promise and hope for children with physical handicaps.

In areas B, C, and D, we have nothing comparable for the children who have impairments, mental and emotional. None whatsoever.

We spend a great deal of money sending children outside the city for private institutionalization. I think of one that Miss Truesdale reminded me of, where some $40,000 was spent for some 10 children, only to find in reality the school never existed. Children who had problems were allowed to run the streets at night and finally they were all sent back to the District of Columbia. To a great extent the money had been wasted.

In addition, parents are given money for education or tuition grants, and the grants are insufficient. They are told to find their own institution. The parents are given lists of institutions which the Department of Special Education has not even checked.

The fact that they use so much money sending our children outside the Nation's Capital indicates we do not have the facilities within our jurisdiction, or in Maryland or Virginia, where we have contracts.

Mr. HOGAN. Do you think it is a question of administration? Is it a question of setting aside a particular school facility or a portion of it for special education and for the school administration and the School Board to give greater emphasis to special education? Is that your position?

Judge ALEXANDER. First, I would say, sir, I would believe, as suggested in my statement by Mrs. Schreiber that where a child can be educated within a regular school program with supportive aid, if that would suffice, would be the better situation.

I would not like to think of establishing a great number of schools, first of all, which would not be necessary, and, second, which will be harmful to a segment of the children of our community.

I cannot say whether or not it is a budgetary problem, that we do not have the institutions in our city, or in the metropolitan area, and I am inclined to believe that it is that Congress has not appropriated enough funds to establish the kind of facilities.

As an example, the facility of a regular school established in the vicinity of Georgia Avenue and Irving, or close proximity, to me, is a disgrace. I believe it is Bruce Elementary School. It might be called a storefront school. There is no lawn. The building fronts the building line of the sidewalk and on all four sections of Georgia Avenue, and the other three streets with this facility buttresses, and we have allowed the School System to establish that kind of a school on a thoroughfare properly called the highway, utilized by thousands of drivers in the morning and thousands at night, for kindergarten children and children up to the sixth grade. Dangerous? No question. An improper facility in an improper place, no question. We don't even condemn enough property around that area to make that school something like a Chevy Chase Community Center.

I think a great deal of the problem rests with the lack of appropriation of funds by Congress.

I refuse to believe that funds are appropriated and these people have returned the money to the Treasury and refused to establish those kinds of institutions.

I do not have the proof of this, Mr. Hogan, but that is the only reasoning I can get from it.

Mr. HOGAN. The data the school has provided to the Nelsen Commission studying the school system indicates the amount spent per pupil in the District of Columbia compares favorably with other cities and even with the school systems in the surrounding jurisdictions. This doesn't pinpoint special education, but generally, on an average daily attendance basis.

The information also furnished indicates that projected in the next school year or possibly the year after that, which would be the school year 1974–75, there probably will have been in a 10-year period a 10-percent decline in the number of students in the District of Columbia school system.

I gather, in point of fact, that the principal decline is occurring in the elementary schools—that population in the elementary schools. I wonder if possibly some of the existing school facilities couldn't be utilized for special education programs?

Judge ALEXANDER. My offhand opinion would be that would not be the wiser thing to do for the simple reason that too many classes and too many schools today in regular—where there are too many students per teacher ratio, are we going to try to set aside facilities in these already crowded schools?

Then we are going to further encumber and endanger the possibility of quality education even in regular education.

Mr. HOGAN. I think the testimony here yesterday from Mr. Herr and Ms. Wald was the fact that the Board of Education had not as yet issued adequate regulations to implement the *Mills* decision. Do you know whether or not such regulation has been issue?

Judge ALEXANDER. Last evening I was able to obtain all of the pleadings filed in the case since the August 1972 decree. It would appear that that representation, of course—I know Ms. Wald and Mr. Herr—is exactly correct. The Board of Education has not completed what the decree has ordered them to do.

May I suggest, Mr. Chairman, that you take congressional notice as we take judicial notice of two articles that appeared in the Washington Post, one on yesterday and one this date, pertaining to problems in special education. It points up the problem all over the country and in our neighboring metropolitan area. Prince Georges County.

What I read with respect to Prince Georges County is about the same kind of picture we have in the District of Columbia. The committee might well wish to devote its attention, or recommend that another committee devote its attention, to the entire problem facing this country, since some 7 million children are involved in this very bleak picture.

Mr. DELLUMS. I thank the judge.

I will yield briefly to Chief Counsel for the full committee, Mr. Washington.

Mr. WASHINGTON. I have no questions, but I would like to commend the judge for a very thorough and incisive statement. Your points are well taken.

Mr. DELLUMS. Judge Alexander, I have one or two questions.

First of all, the Department of Human Resources was alluded to by several of the witnesses. There seems to be some discrepancy in terms

of what the decree meant with respect to the role that the Department of Human Resources will play within the framework of the decree. I am obviously taking advantage of your legal expertise. What do you consider as the role of the Department of Human Resources as we have determined, at least as of yesterday, that they have narrowly defined the role and have not seen a much broader role in facilitating the Board of Education in carrying out the decree.

May we have your opinion of the position of the Department of Human Resources within the Waddy decree?

Judge ALEXANDER. Let me first say I have encountered no problems with the Department of Human Resources.

The people with whom—as you can determine from the very fine communication sent to me by Mrs. Schreiber, and the relationship I have had with the people who have been assistants to me, has been on a very high plane.

If you would permit me, sir, I would have had other recommendations to this committee, but in my role, in my present occupation, it would be injudicious of me to specifically comment on the mention of Judge Waddy's decree with respect to the role that the Department of Human Resources should play, but let me say this:

What the Civil Rights Commission has shown in prior reports, as well as this reassessment, is that there is too much redtape; there is too much lack of concern. In some instances, there is too much petty politics existing between some agencies and individuals.

Those kind of things cannot be tolerated in an area so important as special education.

Beyond that, I would have to leave the very fine opinion of Judge Waddy to your own and your lawyer's suggestion of interpretation.

Mr. DELLUMS. I thank you and I appreciate that, Judge.

My final question is, it has been suggested that there are within the school population students who cannot function in the regular classroom or program, and that alternative programs must be established to meet the needs of these students. If sufficient guidelines are established to govern the ingress and egress of students in these programs, would you recommend such program or facilities?

The reason I raise the question is because, as I recall your earlier testimony, you have raised some question with respect to separate facilities for children in special education.

Judge ALEXANDER. The separate facilities referred to, Mr. Chairman, were in the nature of mental health facilities. I would be a bit leery and certainly very cautious about the establishment of schools for children of "behavioral problems."

The reason is, there is a tendency in some quarters and perhaps in many institutions, as I use the phrase, to write off children; to not cope with that behavioral problem.

It is far easier to send a child from mathematics to manual training than to have that child understand what discipline means. It is far easier to send a child from English to home economics, whether the child be male or female, than to try to teach something about discipline.

I am aware there are discipline problems. There always were. There always will be. But to write children off by denying them an opportunity to finish high school, in such a manner that if they or their parents elected, they could seek higher education, is a very serious thing.

I have found too many children in this city who have finished junior and then senior high school and never have been told that the educational process they had embarked upon or were forced into, would not allow them to attend anybody's university of higher education.

I am indeed concerned about the problem of behavior, but I am more concerned about a tendency, as we have done in the city for too many years, to write children off and deny them higher education.

Mr. DELLUMS. Judge, with that I would like very much to thank you on behalf of the Chair and members of the subcommittee for your very fine testimony, and we thank the persons with you for assisting in research and development of the testimony. We thank you very much for taking the time to come before this committee. We deeply appreciate it. Your testimony has made a great contribution to these proceedings. We will certainly scrutinize it very carefully and look very diligently at the recommendations.

Mr. DELLUMS. Our next witness this morning, Mr. Joseph Yeldell, the Director of the Department of Human Resources, District of Columbia government.

STATEMENT OF JOSEPH P. YELDELL, DIRECTOR, DISTRICT OF COLUMBIA DEPARTMENT OF HUMAN RESOURCES

Mr. YELDELL. Mr. Chairman and members of the committee, one of the most difficult tasks of Government in the District of Columbia, indeed throughout the Nation, is the education, training, and care of all children who fall under the category of "Special Education" as cited in the "Waddy decree." The decision in no way conflicts with the philosophy of the Department of Human Resources.

As Director of the Department of Human Resources, I am committed to the major thrusts of the Waddy decree and pledge the support of this department toward achieving its objectives—to the extent of our resources. There can be no argument that all schoolage children in the District of Columbia are entitled to publicly supported education and that the District of Columbia is legally responsible for the care and custody of children committed to it as dependents.

We can ill afford to engage in the tactic of one District agency accusing another of areas of responsibility under this decree, while through such definitions the gray area, where no one has responsibility, grows larger and larger.

The large increase in the number of recently discovered Special Education cases is no surprise to us; and the increase in number carries with it an increase in demand for education and support services. This demand for more resources, more services, more dollars is constantly with us as we strive to stretch our resources and develop innovative ways to solve our problems.

Much needs to be done by both the public schools and DHR if we are to truly achieve the goals outlined in the Waddy decree. Some of the steps DHR has already taken in this regard are as follows:

1. An action committee has been formed in the Department to develop a comprehensive child care plan which will include special education services to children. This group will devise a plan to maximize existing resources to the extent possible within existing rules and regulations. Moreover, where we find that there are legislative obstacles

to the development of a comprehensive child care plan, immediate action will be initiated to modify or repeal such legislation. In this regard, we certainly may require the cooperation of this committee.

2. Two day care centers in the Department of Human Resources for the emotionally and physically handicapped which had been funded under title 4A of the Social Security Act, have been shifted to funding under revenue sharing when money was no longer available to the city under title 4A.

3. Top administrators in the Department have been and will continue to be available to share resources with the District of Columbia public schools in this vital area of Special Education needs.

4. Despite severe budgetary constraints, $1 million of our base budget has been reprogramed to meet critical staffing shortages at Forest Haven. Such a move will greatly increase the educational and occupational training capabilities at this institution.

5. In a year in which positions are being lost to the Department through expiring grants, the Department of Human Resources has nevertheless committed 40 positions for school health aides as a priority under our welfare reform program. This training will get underway before July 1, with productive workers available to the schools shortly after the beginning of the next school year.

6. Established a high level screening team to medically determine placement for those children which the school's Department of Pupil Personnel Services found beyond its capabilities to determine.

7. Finally, with the cooperation of the public schools and a $200,000 grant from its division of special education, purchased two (2) mobile vans for sensory screening (visual and hearing) for preschool and schoolchildren during the academic school year 1974–75, and at other times for the promotion of the following school health services:

1. Sensory screening in neighborhoods;
2. Health screening sessions;
3. Educational screening sessions;
4. Precamp physicals; and
5. Immunizations.

Of course these steps take us but a small way toward the goal of successful implementation of the Waddy decree; however, they are significant steps by this Department. Much remains to be done and the Department of Human Resources, the Office of Youth Opportunity Services, the Department of Recreation, indeed the entire District government, are prepared to do all within their resources to help the public schools achieve what has always been their objective: Providing publicly supported education to all children of the District of Columbia.

Mr. Chairman, I would be happy to respond to any questions the committee may have.

Mr. DELLUMS. Thank you, Mr. Yeldell. We appreciate your coming before the committee. We realize you have an extremely busy schedule and we thank you.

It has been suggested the Board of Education be responsible for all education in the District, including those institutions under the jurisdiction of your Department. Would you like to comment on this proposal?

Mr. YELDELL. I would, Mr. Chairman.

The Department of Human Resources, in working with the school systems, particularly as relates to the Waddy decree, certainly has taken the position that where children are committed to us on a 24-hour basis, particularly in an institutional setting, it be regarded as a crucial ingredient to the total program of that child, and therefore the Department would be willing and indeed would prefer to assume responsibility for education in such settings; however, the Department is willing to and would encourage total cooperation with the public school system in the development of the curriculum, the strength or time of training that is involved and indeed, cooperation, with the schools functioning as a State agency, for the determination of the type of educational program that is necessary.

Now, I would say that this would have critical importance to us as far as a haven when we are dealing primarily with the severely mentally retarded child. It is less of a concern in the institutions for delinquent children. However, we find having two masters in the same institution functioning for specifically the same purpose is disruptive to the program and for that regard we would prefer to provide that education directly ourselves, but, again, recognizing the school system as a State agency for education and operating within the parameters as outlined by the school system.

Mr. DELLUMS. Do you feel that a greater degree of cooperation between your department and the social system would allow for better delivery of services to the children in the District?

Mr. YELDELL. I think undoubtedly that is the case. I would say, Mr. Chairman, we certainly are eager to and would encourage more participation between the school system and DHR. As a matter of fact, I would say that is happening. If there is a bone of contention, as I view it, it is primarily in the definition of the emotionally disturbed child.

I think where we are running into a problem is, the definition, as given to us by the school system, is perhaps leaning more toward the delinquent child than it is toward the disturbed child and in that regard I think it would be to everyone's advantage for the special committee that is set to review such cases, actually to get into operation so that where the Department of Personnel Services has a problem in determining the category of a child, that that special committee immediately can determine whether or not medically that child is emotionally disturbed.

The Department is extremely concerned about the labeling of children as emotionally disturbed or indeed retarded when in effect that really is not the case. But overall I would say that we would think there is much to be done in establishing this fine line of cooperation between the schools and DHR and I think we have an extra mile to go as well as the public school system.

Mr. DELLUMS. It was suggested in yesterday's testimony primarily school department personnel, school officials, that the Department of Human Resources has rather narrowly defined its scope of responsibilities within the framework of the Waddy decree. For the record, can you give us what you see as your responsibilities as defined within the framework of the decree?

Mr. YELDELL. I would certainly take issue that we have narrowly responded, first of all. I would say any limits put on the implementation of the Waddy decree has been clearly directed toward the area

of resources. Notwithstanding the intent of Judge Waddy, which says that these services are to be provided and that money is no excuse, I think we all recognize money is a limitation, particularly in the District government, so that is a problem.

I think that as far as we are concerned and as it relates to the Waddy decree, we feel, without equivocation, that any child who is a ward of the Department of Human Resources, that the Department has responsibility for seeing that that child receives all the services that any child in the city receives, including education, whether it be normal—if I could use the term—or special.

We feel in many cases our wards can and do participate in the normal school program.

Where the child requires some kinds of special consideration, the Department of Human Resources is prepared to pursue that type of education, whether it be in a residential facility or whether it is in an institution where we have to purchase such services.

In that regard we are prepared to meet the total cost for that child, as relating to that service.

There has been discussion with the public school system with regard to splitting the cost. That is, if a child must be placed in an institutional setting that the Department of Human Resources pay for the services to the child and the school system pay for the educational cost.

My own personal view to that, if it is a ward of DHR, we really ought to meet the total costs ourselves.

Frankly, I don't think it makes any difference. It is the same District dollar, just budgeted to one agency or another. I think it gives us continuity, followup, and everything else if we meet the total cost ourselves.

I would say further, Mr. Chairman, as it relates to the health of the children of this city, particularly as it relates to free screening, immunization, general health services, particularly in the early 8th or grades 3 through 5–6, that the Department has a broad responsibility for this, and under its new program starting July 1 of early screening and diagnostic that a much expanded program of cooperation with the public schools will take place.

There are limitations, however, by regulation, as to what we can do in other cases and these regulations generally prohibit services based on the economic status of the family in concern. There are glaring exceptions to some of this, I believe in the blind and the deaf, that these children are entitled to these services without limit, but there are other categories coming under special education in which the Department of Human Resources would be prohibited by regulation from providing free service and would have to bill the parent or the family if the economic status warranted such billing.

In summary, I think the Department recognizes it has a grave responsibility under the Waddy decree and that is to the extent of its resources it is prepared to commit itself to such responsibilities.

I think again if a limiting factor could be addressed, it perhaps is in the answer that the school system supplied to the court as its answer to the Waddy decree, which the Department failed to go along with, and we failed to go along with it simply because it proposed to provide such services to all children, an undefined set of children, without any regard to resources, and I must be concerned never to commit beyond the resources that we have because, notwithstanding a desire to provide the services, the District government is constantly faced with the pro-

vision of law that it cannot spend funds beyond its resources, The Anti-Deficiency Act. I could not commit the Department to any program that would say it would provide services without limit and that is where we have come in.

So, any limitations are solely based in dollars available and not on areas of responsibility under the Waddy decree.

Mr. DELLUMS. So you are saying that you see your responsibility beyond providing services solely to the wards of your department. You see it on a much broader basis than suggested and the only limitation is the limitation of dollar resources.

Mr. YELDELL. Very much so. I don't think the school system should be in the business of trying to determine if a child is severely emotionally disturbed or mentally retarded. Such a service is available through the Department of Human Resources. I do believe that pupil personnel services has the capability to screen a child under a normal set of circumstances and make determination where that child should be educated. It is our responsibility to move into those cases where there is a question, or where there is really need for medical determination.

I would say a further basis that the concern for the health of all the children of this city is our responsibility and we are prepared to do that. The commitment of the 40 school health aids, the fact that the school system is supplied with health services by the Department, all of these factors lend support to the fact that DHR has a broader responsibility than to a ward of the DHR.

Mr. DELLUMS. At this moment the Chair will yield to our colleague, Mr. Taylor.

Mr. TAYLOR. You have mentioned the problem you have in placing the child in the proper category. I certainly appreciate this regard for mental or physical incapability.

If you take a child who is delinquent and differentiate between that child and one with a handicap, do you agree this could be a greater disservice to the child?

Mr. YELDELL. I think that is true, Mr. Congressman. I believe that is where our greatest concern falls. In other words, there has been a pattern of labeling any child who has a behavioral problem which may be caused by any number of factors, as an emotionally disturbed child, a handle which follow him for some time, and this is a disservice to the child and should be discontinued. And, really, that such a label should be placed only by medical determination by both health and mental health points of view. We have committed top people from the community health and hospitals administration and from the Mental Health Administration to that kind of screening. I would hasten to say I would think many, many of the cases that have been so designated in the past have been falsely done.

Mr. TAYLOR. It would seem to me if we aren't making proper decisions in labeling the children, if we take all the problem children and put them in one category, we are not going to get to the root of the problems that particular child has.

Mr. YELDELL. I agree, sir.

Ms. MARTIN. Mr. Yeldell, you said that the Department of Human Resources failed to go along with the Waddy decree. I assume you mean the Departemnt did not enter into the consent order with the school board?

Let me ask you, do you believe that that makes the Department of Human Resources any less bound by Judge Waddy's decree, simply because you did not enter into the consent order?

Mr. YELDELL. No, and I didn't say we failed to go along with the decree. I said we failed to join the school system in its answer to the decree.

No, I don't think it makes us any less bound. As I said, my only concern about the answer filed by the school system—and this was done obviously in conjunction with the corporation counsel, is that it was asking for a commitment beyond available resources.

In fact, it was stating a commitment in the blind. It didn't know what those resources would be.

As the responsible department head, I would not commit to such a program. Certainly we have large responsibilities under the Waddy decree and many of these responsibilities should be in concert with the public schools. I do feel strongly that the public schools should be the lead agency as it relates to implementation of the Waddy decree because it seeks to provide education to all children whether they have a handicap or not, and whether that handicap is physical, mental, or other.

We are pledged to cooperate with the school system to the maximum extent possible. We are pledged to cooperate with the DHR to our own wards constantly in our care to provide such services, at our expense, again to the limit of our resources.

Were I to tell you all children in the District of Columbia who needed special education are receiving it, it would be false and if I were to tell you all kids who are currently wards of DHR who need special education are receiving it, it would also be false.

In fact, it would be false to tell you that we know at this point in time all the wards of DHR, as to their categorization for special education needs.

This is the kind of thing that has to be done and this problem has to be met as long as the resources will allow it.

I am not talking about the infusion of new dollars because we have met the commitment in our haven by reprograming in our own base budget $1 million.

Now, the Department is undergoing a zero-based budget review so it can shift dollars to where there is the most critical need and, as that review is moving along and as resources are identified, we certainly place a high priority on cooperation with the public schools in the provision of special education needs.

Ms. MARTIN. You said in some instances the Department's regulations prohibited you from providing free services to children that would be covered by the Waddy decree.

It seems to me that if your Department's regulations are inconstant with Judge Waddy's basic decision and that is that every child in the District is entitled to a free public education, when you go before the Appropriations Committees, those regulations are there and you cannot seek funds to comply with the decree.

You can set yourself up to attack by saying that your regulation prohibits you from complying with a constitutional order that appears to take precedence over any regulation you may have.

Mr. YELDELL. You are totally in error because I am not talking about my regulations. I am talking about existing Federal regulations found in congressionally passed laws.

Judge Waddy's decree does not take the same merit as congressionally passed legislation in which reimbursements are determined based on the eligibility criteria of such regulations.

I think you ought to further understand I am not trying to use that as an excuse. If you will note in my statement, in the very first point, in the development of a comprehensive child care system, I have addressed myself to the fact that there are regulations that are prohibitive and that one of the tasks of that committee is to so isolate that situation and let us move to seek legislation to modify or indeed amend, or destroy such prohibitive factors.

I think it is an unfortunate situation that we face in this country where, based on a certain economic level, services can be provided without cost.

It follows all through DHR and not just in the area of special education.

If I take a mother who is a working mother or who is on welfare and we move her to a working State, we can provide free day care, then we can continue to subsidize that day care until it gets to a $7,000 level. But the minute she earns over $7,000, she must pay the full cost herself.

The injustices follow throughout the system and not just in areas of special education.

I have said in this area as in the total area of the child comprehensive system, that those items must be addressed and must be presented to the proper body, and in this case the Congress, for modification.

If the Congress fails to do so, then we are bound by the existing regulations and they are not DHR regulations.

Ms. MARTIN. I have no further questions.

I would imagine that Judge Waddy believes that his decision takes precedence over Federal regulations.

Mr. YELDELL. I would have difficulty getting authorizations from HEW simply by following that.

Mr. TAYLOR. I would like to commend Mr. Yeldell for his testimony. I think it is very forthright and informative.

Mr. HOGAN. Mr. Yeldell, the school board testified yesterday that the *Mills* decision applies not just to children with mental problems, who are not now in school, but it also meant those children who heretofore might have been considered disciplinary problems by reason either because of things inherent in the individual, or because they are hyperactive, and a third category, which is the 3- to 5-year-old child.

Do you conceive the *Waddy* decision embracing all of those categories of children? Those who have not been in school, those who have disciplinary problems for one reason or another and the 3–5-year-olds.

Mr. YELDELL. I would say yes, with this understanding, that I understand it to basically say that all children in the District of Columbia are entitled to a public education, and that it should be done without regard to any handicap.

Now, we certainly recognize that as embracing all the categories that you have named, and I might say that the 3- to 5-year-old is a

particular concern to everyone because we recognized education is possible at a much lower age and that the District has committed $8 million of revenue sharing money to development of comprehensive day care programs.

Now, again we feel this ought to be done in close concert with public schools because they ought to have a heavy hand in the development of curriculums for those centers, so it can adjust early childhood education from K through 3 particularly so the impact of the earlier start will have its positive stance.

Mr. HOGAN. Do you happen to know how many children there are in the District of Columbia who, if they lowered the school age to 3 years, how many children that would encompass?

Mr. YELDELL. In the 1970 census, ages 0 through 5 indicated some 44,000 children in the District of Columbia.

I think further there were approximately 25,000 between the ages of 2 to 5.

As I understand this, to provide day care, whether it be in public schools or in publicly supported day care centers, to all of those children should they desire it at no cost, would be in the range of about $48 million.

Mr. HOGAN. When you get to the 3- to 5-year-old child, it seems to me you are in the area of, in some cases, either child care or education, depending on which approach you take.

H.R. 1, which was before the last Congress, I gather probably would have treated many of these children as child care children?

Mr. YELDELL. That is right.

Mr. HOGAN. And it would have been performed as a function of child care rather than education and would probably be funded through Human Resources rather than the school system.

Mr. YELDELL. I think that is correct.

Mr. HOGAN. Your price tag would estimate $48 million.

Mr. YELDELL. Just for that area. Of course, there is serious concern that has been raised by Senator Birch Bayh as to how much comprehensive day care is really needed and what the total price tag would be.

I am quoting these figures. I would make rather supply them in accurate terms for the committee's use, but I think they are fairly accurate. It is a prohibitive cost. With the $8 million revenue sharing, we are spending another $2 million in District or federally reimbursed funds, about $10 million for day care.

There are other centers funded totally from private sources which adds to the number available, but it certainly is far below the need that falls in this category.

Mr. TAYLOR. Could we obtain that data?

Mr. YELDELL. I would be happy to supply it to the committee.

Mr. HOGAN. In the fiscal summary for the District of Columbia put out by the Mayor, there is projected for prekindergarten students probably next year, if not this year, something like 3,000 children in prekindergarten classes in the District of Columbia. This is based, I gather, on the projection of a decline in the number of students in the public school system. Those prekindergarten students, as it were, would be led through the school system, I gather, and not through any child care centers.

Mr. YELDELL. I would say yes, without having reference to where those figures are found.

Mr. HOGAN. Let me ask you a further question. There was some discussion yesterday about the children under the Department of Human Resources programs. The children out at St. Elizabeths, are they all onsite?

Mr. YELDELL. I am familiar with that program.

Mr. HOGAN. How many children are involved, and where are they located?

Mr. YELDELL. At Forest Haven, we have about 1,400 residents. They run all ages. Most of them are, however, under the age of 18, but there are adults there who really are mentally the age of children as well.

Mr. HOGAN. And you have a professional staff out there teaching those children?

Mr. YELDELL. That is right.

Mr. HOGAN. Are there any other children in the Department of Resources that you have responsibility for teaching?

Mr. YELDELL. We have responsibility for teaching at the former District Training Center site. Those are the delinquent institutions of Cedar Knoll and Oak Hill, and there is supervision at Maple Glen. We also have the children from the Receiving Home though that has now been closed, and the children dispersed. There are then children in youth group homes and shelter homes throughout the community for which we also maintain responsibility. There are also children attached to the area mental health centers—areas A, B, and C—for which we have responsibility. The number of such children we have responsibility for really becomes an appreciable number when you consider those elements.

Mr. HOGAN. Do you know the pattern in other communities? Is the pattern such that the responsibility for teaching individuals such as those at Forest Haven and Cedar Knoll, is that a responsibility of the Department of which you are head under another name or a similar name?

Mr. YELDELL. At Forest Haven, you have severely mentally retarded children. This is a medical definition. It is run by the Mental Health Administration in the State wherever it is found. I think there is and should be close cooperation between the school systems as relates to that, but education there is a part of the therapeutic program.

There are some children at Forest Haven who are so severely mentally retarded that education, as we generally think of it, is not a possibility.

For instance, there are about 100 children there who are not only mentally retarded, but have severe brain damage, and are totally bedridden, and there is very little that can take place in terms of formal education for such children.

There are others at Forest Haven who shouldn't be there, but that is a part of the problem of Forest Haven having been a part of the welfare system, and that children were committed to Forest Haven as opposed to being medically diagnosed and being designated for Forest Haven.

There is a spectacular case of a kid who was adjudged by the court to be severely mentally retarded at age 5. That kid is now graduating from McKinley High School and going into American University in the fall.

In other words, the definition was totally in error and, after persistent work and all, the kid became a normal student in the school system. He is still technically committed to Forest Haven, I might say, but he obviously can perform as a normal child, and his problem was other than mental retardation.

Mr. HOGAN. As far as cooperation and coordination between the School System and the Department of Human Resources is concerned. I wonder if you can explain what that is and what efforts you have made to effect some type of coordinative action so that hopefully you have the educational aspect, or expertise of the District of Columbia School System, added to whatever resources you have.

Mr. YELDELL. Shortly after the Waddy decree was passed, Dr. Scott and I held a series of meetings with our top staff to hammer out a position as it relates to where the Department of Human Resources would assume responsibility and where the School System would assume such responsibility.

This started as far back as October of last year when we began to get heavily involved in the meetings ourselves. I think the answer is as it relates to what is happening now, the decision to set a joint screening team for medical determination, the heavy involvement of Dr. Blanche Borne and her unit in terms of community health, the decision by the Department of Human Resources to assume full cost of education for its words with us on a 24-hour basis and the establishment of an ongoing task force, if I can use the term, between District agencies led by the Department of Human Resources with the Corporation Counsel, the Department of Recreation, with a unit in the School System that would be the basic thrust undertaken to date.

I would say without hesitation that it certainly has not gone far enough and I think one of the basic problems is what I have alluded to in my statement. I think we are too busy as an agency talking about what responsibility I have and what you have without really considering the child as the primary ingredient and coming together recognizing we are all spending the same District dollar and go on about the business of implementing the Waddy decree as far as we can go. There is much that needs to be done.

Mr. HOGAN. Do you have any responsibility for fixing these regulations? Obviously the School System sees its responsibility of issuing the regulations or the code in implementing the Waddy decision. Mr. Herr and Ms. Wald said the School System today has not completed issuance of that code or regulation.

Do you have any responsibility for regulations concerning the Waddy decision?

Mr. YELDELL. I have none that I can think of. I think it is unfortunate the Waddy decree even had to take place as far as the human resources group is concerned.

Our responsibilities are to see that the situation is brought to bear on every child of school age needing such services.

Mr. HOGAN. I presume this has to do with providing an appeal procedure and so forth? Most of the children, if not all of the children, I assume, are under court order to one or another institution in any case.

Mr. YELDELL. That is basically the case.

Mr. HOGAN Basically they are under the supervision of a court, or an arm of the court.

Mr. YELDELL. That is correct. However, they would fall into the normal school program except that they are confined to that institution for detention.

I think that the problem and the code the schools are talking about refer more to discipline than to specific disability.

Mr. HOGAN. You indicated that you are going through a base budget review for the Department of Human Resources and you talk about your capability. You are under the same restrictions with regard to reprograming.

Let's assume you have established your budget for the current fiscal year and in December 1972 you saw a need for shifting certain dollars not to be used in another area, a need to shift them to another.

Do you have any idea how long it would take to reprogram that shifting of money?

Mr. YELDELL. The path it must follow is drafting the request to the Office of the Budget. It is sent to the Council. The Council will usually act promptly, almost at its next session in terms of hearing the reprograming request, and then it goes to the Hill where the Appropriations Committees schedule it as they see fit.

The reprograming request for this year in which we reprogramed $1 million for public assistance to day care has not officially been approved yet, though it was submitted in early April, I believe. So this gives you some idea of the time frame.

We really are left in the final analysis to the scheduling problems of the Senate and House District Appropriations Subcommittees.

We have achieved the reprograming I am talking about in 1974 by making it a part of the budget submission to the Congress. We are reprogramed $3.5 million. Tomorrow I have a meeting in which we are looking now at our 1974 budget as it was put in place, laying over that the budget cuts we are facing because of other factors that have occurred since the budget was submitted and will submit a reprogram request shortly after the budget is approved by the Congress, so that we will have the maximum part of the year in which to use those dollars in its preprogram sense.

Mr. HOGAN. Even as Congress is sitting, as the Appropriations Committee is sitting on the 1974 budget, you are going ahead with reprograming requests, looking ahead to some shifting of dollars by reason of your budget review?

Mr. YELDELL. That is correct. Every administration is to bring to me tomorrow in our executive staff its impact on the 1974 budget which has occurred since the submission of that budget, that is correct.

Mr. HOGAN. Would this be in a position so the Appropriations Committee could act on that without delay?

Mr. YELDELL. It would be to the point that we would be able to submit the reprograming request almost immediately after the budget mark is set for 1974.

We can only make certain assumptions now. That is that every dollar we have requested will be allocated. We may have to modify that by the final budget as it comes out, but we will have done the other work necessary.

Mr. HOGAN. You may well have programing authority for the fiscal year 1974 budget by reason of the fact that you have submitted your reprograming authority request perhaps in June of this year, 1973.

Mr. YELDELL. That reprogram request that already is there relates to the 1973 budget. We could not submit a reprogram request for fiscal year 1974 until after the budget mark has been set. But this will be ready to go.

Mr. HOGAN. As far as the Waddy decision is concerned, as I understand your position—and we had considerable testimony on this yesterday—if I understand your position, it is that the Anti-Deficiency Act prohibits the District government from spending more than it has. It is under a restriction for a balanced budget. It has no authority for operating funds to raise funds or come up with any deficiency of any kind. So if you are overexpended, you would be in violation of the Anti-Deficiency Act, which applies to the District of Columbia, and presumably you would be under criminal penalties. I think it is mainly criminal penalties in the Anti-Deficiency Act.

Mr. YELDELL. That is right.

Mr. HOGAN. As I understand your response to Ms. Martin, you feel the judge, in his decision, was not calling upon you to avoid the law, but wanted you to take care of the educational problems to the maximum extent possible with the resources available?

Mr. YELDELL. That would be our interpretation. We knew at the passage of the Waddy decree there was a need for additional professional staff.

The earliest point at which I can achieve that is through the 1974 budget, by redirecting the million dollars in the process. Given prompt passage of the 1974 budget, we will be able to hire the staff early in fiscal year 1974, but I would not have made that move to hire that staff without the funds to pay for that staff, irrespective of the judge's decree.

Mr. HOGAN. Mr. Chairman, it might be helpful to those reading the printed testimony that the capital improvement program for fiscal year 1974, as published by the District of Columbia, especially relating to the public schools, appears in B–4 and B–5 of the report, as well as section C, as it relates to education, and that perhaps could appear in the record of the hearings.

Mr. DELLUMS. The Chair will note that.

Mr. DELLUMS. Mr. Yeldell, I only have one additional question. Your responses lead me to raise this question: You spoke to the limitation, the Federal regulation limit that Mr. Hogan was referring to. It seems to me then proper to ask this question: Given the fact that you see the Federal regulation limiting your authority to comply with the Waddy decree, then do you see it as part of your responsibility or the responsibility of this committee to try to get those regulations modified, repealed, or changed, so that you can comply? That is, with respect to HEW.

Do you say we could not do this within the framework of law, that HEW would not reimburse, and since these are limitations on your compliance with the Waddy decree, have you made efforts to make changes and modifications, or do you see it as a legislative function of this committee?

Mr. YELDELL. I would say, Mr. Chairman, it is your responsibility and I would say moreover that we are not aware of all of those obstacles at this point, and that is why I said in my first statement that the unit developing the comprehensive child care program has a re-

sponsibility to outline all such obstacles and where legislative remedy is required we would not hesitate to recommend to the District that it ask for this change in the form of legislation by this committee and ultimately by the Congress of the United States.

Mr. DELLUMS. Thank you.

If you have any such suggestions and recommendations, we would appreciate having them.

I wanted to thank you very much for your forthright presentation. Again we thank you for taking time out of your busy schedule to appear at the hearings.

Mr. HOGAN. Mr. Chairman, before the witness leaves, it is my understanding that the Budget Accounting Act of 1925 applies to the District of Columbia and any appropriations which are enacted by Congress, that the Anti-Deficiency Act amended an earlier act—I don't know whether it was 1925 or not, but shortly thereafter—that all Federal agencies, as I understand it, and the District of Columbia is included in that enactment, so that it applies to all funds appropriated for any agency in any appropriation act, if there is any overexpenditure of funds or overobligation of funds for that matter, that that constitutes a violation of the Anti-Deficiency Act.

Mr. YELDELL. I think there are two attacks here. One is on the limitation of the provision of services. These are regulations that are established by the various Federal administrations and particularly HEW as it relates to allowable reimbursements.

There are some of these regulations which could be subject to question, particularly with the advent of Departments of Human Resources as opposed to Departments of Public Welfare which they have been primarily designed to deal with.

That is in the one category and that is what we are going to look at to look for legislative remedy.

As it relates to the Anti-Deficiency Act, we see no remedy possible. We understand we must stay within our resources no matter what those resources are in any area. So this committee will not address itself to that because there is no relief from it and indeed, there should not be because I don't know how the Congress would function if every agency could spend, simply because it wished to.

I think to divorce the two, my response to the chairman directed itself to the limitation on the provisions of services. These are many as they relate to children.

Mr. HOGAN. Thank you.

Mr. DELLUMS. Thank you again. I believe your testimony points up the obvious need for amending the Anti-Deficiency Act and, as I understand it, as the Appropriations Committee begins to address the whole issue of impoundment, that there are recommendations coming forward now to try to amend this act and hopefully those amendments will allow the Department of Human Resources and other agencies to proceed with compliance.

I think your testimony also points up the need to look at the funding of these programs and see how Congress funds these programs due to their gravity and need.

With that I thank you very much for coming before us.

The Chair would now like to recognize the presence of our colleague, Mr. Stark.

I would like to now call upon Mr. Norman Anthony, Council of School Officers, our next witness.

STATEMENT OF NORMAN ANTHONY, REPRESENTING COUNCIL OF SCHOOL OFFICERS, ACCOMPANIED BY SHIRLEY W. HAMMOND, PRINCIPAL, BROOKLAND-SLOWE SCHOOLS

Mr. ANTHONY. My colleague is Mrs. Shirley Hammond, principal of the Brookland-Slowe School. I took the liberty of asking her to accompany me to the meeting this morning. Mrs. Hammond did not have an opportunity to make a statement or prepare a statement. However, she is one of the officers who has the day-to-day responsibility for implementing the Waddy decree. I thought perhaps she, since she is actively involved in this kind of relationship, could give a very direct reaction to the implementation of the decree from the standpoint of an active officer.

She will be available to answer questions.

My statement is a very short one and if I have your approval, sir, I would just like to go through it quickly.

Mr. STARK. Please do.

Mr. ANTHONY. The Council of School Officers is grateful for the opportunity to discuss its concerns relative to the impact of the Waddy decree on the educational programs of children in the District of Columbia public schools.

The fact that Congressman Dellums is holding the hearings is an indication that there exists in the House District Subcommittee more than a casual interest in the affairs of the District of Columbia. This gives the school people in the District of Columbia much hope that our very real concerns will receive thought and consideration.

I would like to make a few remarks about the Council of School Officers, since this is the first time it has, as an organization, appeared in a hearing before a committee.

The Council of School Officers, local 4, AFL–CIO, has been in existence for 5 years. It is the organization which represents school officers (TSA) above the level of teacher and below the rank of Assistant Superintendent. The Council negotiated a contract with the Board of Education which was signed November 30, 1972, making the council the exclusive bargaining agent for officers.

The council is an affiliate of a national body, School Administrators and Supervisors Organizing Committee, AFL–CIO, and in 1 year will be a part of and international union.

Our major concern with the Waddy decree is that the Board of Education presented its position to Judge Waddy as a consent decree with no input from those officers and teachers who would be responsible for implementation. While we subscribe generally to the philosophy of the decree, we do not feel that the procedures as finalized, take into account the practical day-to-day operations of the local school.

The Board of Education has said, in effect. "We believe that each child has the right to an education in public schools of the District of Columbia." The council concurs with this. The problem as we see it is that the Board did not consider the "how," the "who," and the "where" of the application of its position.

In an effort to present some degree of a cross-section reaction from officers to the impact of the Waddy decree on the school system, the

council used a questionnaire to survey the experiences of these officers. A copy of this is attached to copies of our statement submitted to the subcommittee.

This makes no pretense at being a scientific survey. Time did not allow this. What we really wanted were some "gut" reactions from those officers who have had to live with practical applications of the decree on a day-to-day basis.

The reactions fell generally into the following categories:

A. Effect of the Waddy decree on the daily operations of the school.

B. Effect of Waddy decree on students other than those classified as plaintiffs.

C. Suggestions for improving the implementation of the decree.

The day-by-day operations of the school were affected to a degree by the Waddy decree as indicated by the items listed below:

A. Forced retention of disruptive pupils often resulted in an increase in disciplinary problems from other students.

B. Students return from suspension and repeat the same offenses with no apparent concern for discipline.

C. Resultant lowered morale of building staff because of frustration in dealing with disciplinary problems.

D. Increased clerical responsibilities on an already overloaded clerical staff.

E. Too long a period between a referral to the Department of Special Education and action taken by that department.

F. Principal's authority to deal with disruptive pupils is limited, with little latitude for action in an emergency.

An innocent victim of the impact of the Waddy decree is the child who is neither disruptive nor a serious education problem. In a class where two or three pupils need and demand special attention, the others get correspondingly less teacher instruction time. The gifted and the "normal" children are too often neglected.

When hearings on suspensions are held in the local school during the hours of 9 a.m. and 3 p.m., the classroom teacher of the child involved must attend. Unless adequate coverage for the class can be arranged, the pupils in that class experience a loss of teachingtime for that period.

The suggestions offered below would, from the officer's point of view, mitigate some of the difficulties encountered in the implementation of the Waddy decree in our schools. Some may be handled administratively. Others may need an additional plea to Judge Waddy for correction. Still others may need additional funding in order to bring them about. It is the latter group which, hopefully, could receive attention from the committee.

Suggestions for improving the implementation of the Waddy decree:

A. Provide special facilities and services designed to meet the unique needs of some of the pupils in our schools.

B. Assess the present process for awarding tuition grants to facilitate such placements.

C. Provide intensive training for hearing officers with emphasis on knowledge of schools and their operation.

D. Provide educational centers for both the educationally retarded and the disruptive pupils.

E. Provide additional and adequate supportive services and personnel such as teachers trained for working with children who have special problems; aides in all buildings to support the classroom teacher; clerical staff to handle additional paperwork; additional psychologists; resident social workers in areas where needed.

It is the hope of the Council of School Officers that this partial delineation of our concerns with the implementation of the Waddy decree, together with suggestions for helping to make it function as planned, will indicate to the members of the House District Subcommittee on Education that their assistance is desired and greatly needed. This is especially true in the area of provision of adequate funding to secure the services, facilities, and personnel necessary to meet the needs of our pupils.

The council is extremely happy to note the positive interest in and concern for pupils in the District of Columbia Schools as expressed by the members of the subcommittee, and offers to assist the committee and its chairman in any effort which will be beneficial to our schools.

Again, may I thank the chairman and the members of the subcommittee for giving the Council of School Officers this opportunity to share our thinking with you on this very important subject.

Mr. DELLUMS. We would like to thank you very much for a very thoughtful presentation.

We must now attend a vote of the floor and will return in about 10 minutes to proceed with the questions.

[Recess.]

Mr. DELLUMS. I would like to begin by asking one question, and I would like for you to elaborate on it.

Are there students presently within the school in need of services that are not receiving those needed services, and, if so, would you elaborate on that?

Mr. ANTHONY. The answer is yes, Mr. Chairman.

There are students determined as emotional and students determined educationally retarded. The major factor in the failure to receive services is predicated upon the lag between when the child has been so identified and the time such seervices can be provided by that department which has responsibility for giving these services.

I think there has been testimony today and perhaps before that a period of maybe 6 months to a year, and in some cases longer, may elapse before a child is identified in a certain grouping, before he is able to be given some kind of service.

My answer is yes, there are some students, and the major reason for their not being given the service they need is the fact that there is a timelag between the time of identification and the opportunity to give them these services.

Mr. DELLUMS. On page 3 of the testimony where you list the day-to-day operations that are affected to a degree by the decree, you list as item B, students returned from suspension and repeat the same offenses with no apparent concern for discipline. Are you suggesting there that the provision in the Waddy decree that provides for a review of suspension is something that needs to be corrected, or are you

saying that there are no services made available to students who are placed on suspension and returned to schools?

Mr. ANTHONY. I think it would be more the latter. We know that suspension is not the answer. We know that removing the child from the total classroom situation is not always the best way to resolve his problems. When a child has been placed on suspension, the 2-day kind of thing, he returns—and this is the feeling of many officers—he comes back with the feeling, "I have done my 2 days or 4 days or 6 days, and now I am back with the approbation of somebody."

In the case where he has gone through a hearing procedure, he comes back feeling that he has done his time and is ready to come back again and start all over again.

I think the problem is that there are few opportunities to give the child the kind of service, the kind of training, the kind of supervision that he should have.

I would like also to comment a little further that the Waddy decree addressed itself to the responsibility of the school in toto, and the school people accet this resonsibility. But we also feel that working with our pupils is a two-way street, that there should be some way to pinpoint the responsibility parents have to give the school the assistance the school needs to bring about the kind of changed behavior we would like to see in our students.

I am fully aware of the wide range of backgrounds from which our students come, but it has long been a feeling among many officers and teachers that if there was some way to pinpoint or focus, or to put a little—I hate to use the word—pressure, on the parents to make them recognize and accept some responsibility to work closer to the school, some of our problems—I say some of our problems—might be more adequately resolved.

Mr. DELLUMS. Would you recommend a change of the 2-day limitation to 5 days?

Mr. ANTHONY. I have to refer to my working colleague.

Not really, Mr. Chairman; as I said before, suspension is a temporary way to remove a child from a classroom situation, but we have never thoroughly agreed that it is the answer to a question. I would say no.

Mr. DELLUMS. Thank you.

Mr. HOGAN. Mr. Anthony, have you attended some of the hearings?

Mr. ANTHONY. I have only attended one, and that was for a short length of time.

Mr. HOGAN. Do some of them resolve themselves into almost an adversary proceeding between the student and the teacher?

Mr. ANTHONY. If I responded, it would be basically on hearsay.

Mr. HOGAN. Does Mrs. Hammond know?

Mrs. HAMMOND. Unfortunately, I have had no dealings with parents at all. We have been able to resolve our problems at the local school level.

Mr. HOGAN. I assume you represent the teachers?

Mr. ANTHONY. The officers. The principals.

Mr. HOGAN. If any of these individuals were involved in this kind of situation, I presume they would come to you. Do they get representation from the Corporation Counsel to assist them in a hearing

in the event that they foresee some adversary situation arising at a public hearing?

Mr. ANTHONY. Let me say this, sir: The representation that I, as the president of the officers group, can give is predicated on the violation of the contract.

In the case of officers who appear at the hearings, if there is a legal problem, it is assumed the Corporation Counsel will provide some guidance there, but basically the top administration provides that support at the hearing.

Mr. HOGAN. Let's assume you are a principal and there was a hearing with a pupil and the principal had suspended him and the situation arose where the principal said he would like to be represented at the hearing. He would like an attorney to represent him. Would he go to the Corporation Counsel?

Mr. ANTHONY. He can come to us for that kind of support. We do have a legal firm on retainer.

Mr. HOGAN. When you talk about suggestions for improving implementation, you say provide special facilities and services with regard to the Waddy decision.

What exactly do you mean by that? That could mean almost anything.

Mr. ANTHONY. It just about encompasses everything too, sir. It means, No. 1, services in terms of the kinds of help that the school-based person, officers and teachers, can get from additional staff people. Teacher aides. From clerical help. From trained personnel, psychologists. Even in some cases psychiatrists. Persons skilled in doing certain kinds of testing. These are the kinds of services to which I refer.

Facilities would mean possibly a center in a particular building where boys and girls who have shown they are not able to handle themselves within the confines of a normal classroom situation might be worked with, with someone, with special kinds of training and if this could not be handled or if the load was too great for a single center in a single building, we would suggest perhaps the establishment of a community kind of thing to which kids might be directed for short periods of time.

Mr. HOGAN. Have you indicated to the school administration your interest in this kind of thing?

Mr. ANTHONY. We have. We have on every opportunity indicated that we have some concerns; we are willing to work with the administration in any way possible.

Mr. HOGAN. Do you know of any particular school facility, a school building, where they have either on an innovative or experimental basis established a special room or service for handling let's say a disruptive student who does come back?

Assume you have a child who comes back and has been disruptive and this has resulted in suspension; he comes back and he has the same problem. I assume if you had a center—by a center I mean a room or something like that—where you could send the disruptive child again, or send him, rather than suspension, send him to that room. It seems that might be some help remedially to the individual and of some help to the classroom.

Mr. ANTHONY. There is a case where persons have certain types of training, school-based people who work with individuals on a 1-to-1

basis and sometimes 1-to-2. Onr concern is that this kind of service for funding reasons more than anything else is not available in all schools.

Mr. HOGAN. You also assess the process of awarding winning grants for facilitating placements. You mean grants placing a child outside of the public school system?

Mr. ANTHONY. Yes.

Mr. HOGAN. What is you position? It is not operating well now?

Mr. ANTHONY. The School Board itself had some problems with the way this is being done. At the last Board meeting there was some discussion as to the validity of the procedure now followed. There is some concern that those parents who have aggressiveness, the know-how, are able to push forward and make placements for their pupils over and beyond those parents who may not have the same kind of expertise. Our feeling is that it should not be totally predicated on a parent's ability to cut through redtape or find his way through the maze in order to get the kind of placement services for a child that are needed.

This is what I mean by assessing it and setting up a procedure whereby all parents, perhaps the Department could seek out the parents, bring them in and give them this kind of direction.

Mr. HOGAN. Who is serving as the hearing officer now? Is he especially designated and hired for this purpose?

Mr. ANTHONY. The hearing officers described in the Waddy decree are persons who are not a part of the school system. At the present time I am not sure from whence they are selected. They are employees of the District government, so they can be people from any kind of discipline. My colleagues have told me that those who have been in hearings have indicated that in some cases the hearing officers do not have enough background in school operation to give them the total picture.

Mr. HOGAN. As far as the hearings are concerned, might it not be better to have these after school, or on Saturdays or some time when there might more likely be parent participation?

Do you happen to know what percentage of parents attend the hearings and whether any consideration is given to whether or not the parent can attend? As I understand your testimony, you are interested in getting the parent to assume some of the responsibility and certainly you would want them at the hearing so they would know what the problem was if you wanted them to assume certain responsibility.

Mr. ANTHONY. My concern is not based on whether or not the parent is present because it is almost mandatory the parent be present. The hearings are developed with the intent to make it as convenient as possible to parents.

My concern in terms of the hearing from 9 to 3 is that the classroom teacher is involved.

Mr. HOGAN. I understand, but many of these people, I assume, they may be people on hourly incomes where if they have to take a half day or maybe a day off from work they lose an entire day's pay.

I was wondering if there is any procedure permitting hearings to be held in the evenings, Saturdays, or some other time convenient for the parent, which would probably assure higher attendance and hopefully have a better result?

Mr. ANTHONY. Again, this is based on hearsay from my colleague. Every effort is made to make the hearing time a convenient one for all concerned. I would assume if there is some problem with the parent

being present at a 9 to 3 hearing, it can be adjusted so the parent can be present.

Mr. CLAIR. Is it not true that within the decree the hearings must be held at a time convenient to the parent as opposed to the school administration?

Mr. ANTHONY. Yes.

Mr. DELLUMS. Before I yield to my colleague from California, Mr. Stark, I would like to raise a point. The discussion Mr. Hogan raises is a critical one. We had the case of our own child's experience upon entering school here.

Because of our concern over a deviation from his earlier behavior in California, we questioned what might be the reason for this. We took it upon ourselves, with our own resources, because none was made available to us by the school district, and determined that my oldest son, who went to school in Washington, D.C., had a mild form of brain damage commonly referred to as dyslexia. No one in the school ever checked that out. My wife and I had to find out on our own.

A child was being responded to as having difficulty in the school as opposed to the special problem he had.

When we determined he had dyslexia, we went into a series of conferences with the school administrator as to whether or not there are specific programs designed to met the need of a child with this particular form of brain damage.

No such resources available.

We then, on our own, found a school for a child, without any assistance in terms of identification of the problem, analysis of evaluation of the child, and third, resources in the community to deal with that problem. We had to do it ourselves.

My concern, coming from Mr. Hogan's question, is, with, hopefully, the educational sophistication and the sophistication of our community resources, if my wife and I had to find these resources for our kid alone, what happens to the parent who doesn't have that kind of time, who doesn't have that ability to maneuver around the community and who initially doesn't have the up-front capital to even have the child diagnosed thoroughly?

It was very frightening to me and one of the reasons for bringing the hearings to this point is, I imagine, that hundreds, even thousands of children, very much like my own son, who either will end up in Lorton or end up out of school, or end up in some other negative situation because there is no part of the school routinely takes care of such things and appropriates resources.

Am I correct this is a catch-as-catch-can situation, that less economically and less sophisticated people are thrown on their own and we have hundreds of people in the school district probably still being considered as discipline problems as opposed to children with serious learning disabilities because the schools do not have the resources to detect this situation?

Mr. ANTHONY. I would agree with that. This is a matter of great concern to administrators who have to work with students and possibly this is one of the reasons we were glad to have the opportunity to say this publicly and before this committee.

We talk in terms of how this is going to be done. In my own lack of sophistication in terms of physical responsiblity—my first thought is to say we need additional funds to do the kinds of things that you had

to do in a personal situation. This requires trained staff, adequate staff and resources which obviously are not available to all parants today. This may be an oversimplification, but we believe that if the funding were available then perhaps, just perhaps, this kind of thrust would be developed by the school system itself.

Mr. STARK. I would just like to ask either of the witnesses, if we assume there is a limit on funds, and if we assume also that the Waddy decree says that doesn't make any difference, the job has to be done regardless of whether there is money there or not, there seems to be two directions, and your recommendations cover both, although assuming we can't do them all.

One recommendation is to provide educational centers for retarded, education of the retarded or destructive pupils and the other would be "e" in your case, to provide additional supportive services to the classroom teacher who has to deal with those people in the classroom.

Given a choice, I would ask each of you, will you favor segregating the educationally retarded or those considered disruptive, or would you rather spend the money to provide additional training for the administrators and teachers who may not be equipped to deal with these children, which seems to be the case in taking them out of the classroom, and providing the aids to handle the additional paperwork.

I make this a hypothetical. Would you rather integrate these people into the normal classroom or would you rather separate them? Would you speak to that?

Mrs. HAMMOND. I feel very keenly this child should be—we are dealing in a very nebulous type of thing because you don't know what child you are really dealing with.

Just like the dyslexia child. I daresay very few systems in the United States know enough about dyslexia and certainly not the classroom teacher or the administrator, to pinpoint this type of child, so when you deal with a special child, we are talking about children with many types of problems and the learning process is such that we, as humans, are really unable to know how children actually learn.

But, in dealing with the children we are faced with every day, so-called labeled "special education" and I hate to put a label on children because this can follow the child who is labeled as mentally retarded and is on his way to college. But in dealing with these children, the average classroom teacher handling 28 children or more is unable to concentrate intensively upon a child who needs a 1-to-1 relationship.

I don't feel that these children should be isolated because they will be a part, one day, of the mainstream of life and therefore they have to learn to cope with other barriers they will meet through life.

However, there are children, for instance, on—and I have one in my school—in the kindergarten. This child had a behavior that deviated from what we called the norm by beating his head against the wall. Today he is in the sixth grade. His behavior is becoming more aggressive. He pulled a knife on me. He brought a gun to turn on one of the classroom teachers.

He is learning, you see. He is still in a situation in which his needs are not being met.

On the staff I have teachers who are trained, special education people who have degrees in special education but they too are unable—the child progresses educationally, as well as he can, but he is unable

to cope. This child needs to be excluded for a short period of time where he can get psychiatric teaching and then come back in. But you see, there is an age problem. The child that is from 11 to 13, the facilities in the District are such that these children's needs are not being met. Especially in the area where my school is located. There are no facilities for residential-type settings for children with needs, and emotional problems.

This city should be the model for the entire United States and it is inconceivable that a child is not in an area where he can get immediate help. Until he goes into the court, where then some judge will say, "Well, maybe in conjunction with the schools he needs help." But the facilities being supplied by the Department of Human Resources are not meeting the needs because you are putting children in with all types of children with various kinds of problems and it becomes the survival of the fittest.

I am not sure money is the answer totally. I think it should be a reprograming of monies on the basis of priorities, and just what we want to do with these children.

Mr. STARK. In the school that you are principal of, do you use noncredential or paraprofessional aides on a volunteer basis?

Mr. ANTHONY. No. My school is one caught in the squeeze of the compliance with Skelly Wright. We have a faculty of 23 permanent teachers. Therefore, we have no facilities for any outside help.

Mr. STARK. If one of the mothers of one of the children wanted to volunteer to assist, or one of the fathers, could you use him?

Mr. ANTHONY. Oh, certainly.

Mr. STARK. You would not prevent it?

Mr. ANTHONY. Oh, no. We have retired teachers who come in and tutor our children and work with the children but it seems to me that it should be a part of every school to have facilities for the children that have been labeled here as being disruptive.

There should be a place for this child. Sometimes it is a matter of just a conversation with the child.

Mr. STARK. Let's assume again that dollars implement some of these programs. I am trying to see, if given an either/or choice, of which direction we might pursue more vigorously toward outside facilities, let's say, special training facilities, or additional help to your own teachers on your own administrative staff. I think practically that may be the first step we will be able to attain. I am just wondering where you think the priority rests.

Mrs. HAMMOND. Considering the number of children in my specific area in my school that are in need of special help, I would be for training the existing staff with an additional staff of people who could work on a one-to-one basis.

However, this is not going to work in all of the schools by virtue of numbers. One of my schools has a population of 171 children which, you know, statistically will indicate your problems are going to be at a minimum in comparison to some schools who have a thousand or more children.

Mr. STARK. Would you comment on that?

Mr. ANTHONY. I would agree completely with Mrs. Hammond. I would hate to have the system faced with that absolute choice, but if the choice was there it would be better, in my opinion, to have opportunities for training people with the hope that administratively officers

might make some adjustments within their particular local schools to find space to use the trained people.

I think the first step is to find people and train people who can work with students and some more innovative people have used hall rooms or small rooms in some ways to relate.

Mr. STARK. Do you find that the atmosphere in the schools is such that this is encouraged? You are operating in an administrative atmosphere where this kind of "making do" could flourish. Or do you find bureaucratic redtape prohibits principals who are willing to use some initiative in an attempt to accommodate these problems to do it? That is a pretty general question, but could you comment?

Mr. ANTHONY. The local school officer in so many areas has a great deal of autonomy. Sometimes he has more than he realizes, and making do unfortunately has been synonymous with our School System. We have had to make do far too long.

But there is no barrier to an innovative officer and his teaching staff working out solutions to some of these problems.

Mr. STARK. Thank you very much.

Ms. MARTIN. I would like to address this question to Mrs. Hammond. This may not be a fair question, but I think the committee would like to know what the parents say about the Waddy decision? It seems to me that there are many children who don't get into special educational facilities and they could pose some problems within the regular school that parent out in the community doesn't understand.

I would be very interested to know, to the extent that you can answer, whether the parents of your children understand the Waddy decree and what Judge Waddy was trying to accomplish, et cetera?

Mrs. HAMMOND. To that question, Ms. Martin, some do and some don't.

When you bring in parents, you have parents of different natures. Some who are apathetic about it and have been—for example, the boy that I cited today, his father has been pushing—not really pushing, but he has recognized his child needed help.

When I said to him in October, "You need to go to the residential building, to the Department of Special Education, and just sit there and demand that your child be given residential treating,"—which this child has been judged by Hillcrest in need of, he said, "Well, I can't take off from my job."

The people who are really caught in the squeeze are not the extremely poor nor the people who can afford, but those who fall in between, who are not making enough money to pay for private residential settings because these schools run you $8,000 to $12,000 a year and it seems to me that the parents shouldn't have to have this role.

If they are entrusting the School System with their children, their greatest commodity, then it seems to me the School System, in conjunction with all other agencies, should be able to say, "All right, we have done this, this and this for your child. Your child is in need of this type of setting. Therefore, he will be placed here upon your approval."

But when parents are faced with year in, year out, their children not succeeding and nothing seems to be done—even though they were well acquainted, as we did in our PTA, with the Waddy decree, what the implementation of it consisted of, what the impact was—still you have two types of parents. There is the aggressive parent who demands

his child be placed immediately, and they get it. But I don't feel that the parent—if we are entrusted with the child, and this is our role, to make them a party to society, then it seems to me they should not have to have this as one of their active roles; that they should be able to say, "All right, here is my child. Do with him what he needs. Just so you can produce a citizen that can be a part of the community."

Ms. MARTIN. This committee is not in the business of affixing blame. Clearly I don't want to put you on the spot, but if you had to say who was most responsible for Waddy's decree not being implemented, where would you affix that blame?

Mrs. HAMMOND. I would have to assume responsibility along with the School System and the Department of Human Resources because I don't feel that we are implementing it. Of course, it is difficult to really say within a year, and when you look at what happened, when we come to school in September and are told, "Here is a court decree you are to implement," the people who were brought in to oversee the implementation are brand new to the system. The principals in our area last year spent a year in writing a proposal to have teachers who were interested and willing to work with children who needed special help to then be trained, on site. In other words, they would work with the children 4 days a week and the fifth day they would be released to work with various universities.

We went so far as to even identify teachers who were in the system, and what happened to our proposal we will never know. It was just put in someone's bottom drawer. But this was a working type of situation in which teachers, psychologists, counselors, principals, had all earmarked the need and how it could be implemented.

Ms. MARTIN. I think the committee would like to have a copy of that if it is available.

Mr. DELLUMS. We would appreciate it if you would submit that later for our permanent record.

[The information follows:]

PREPARED STATEMENT OF WILLIAM M. SIMONS, PRESIDENT, WASHINGTON TEACHERS' UNION

Gentlemen: I am William H. Simons, President of the Washington Teachers' Union. Accompanying me this morning is the Legislative Assistant of the Washington Teachers' Union, Mr. Barry Spiegel.

The matter before you is one of the many complex issues facing this city in general, and the school system in particular. On August 1, 1972, Judge Joseph C. Waddy of the United States District Court for the District of Columbia, issued a decree which ordered the Board of Education to provide the opportunities and facilities for special education of all children, including wards of the Department of Human Resources. This decision is one of the many which has had an effect on public education.

That the Board of Education had been derelict in its responsibility to meet the needs of all students cannot be denied. That Congress must bear some responsibility in this matter in its failure to provide adequate funding for the public schools, also cannot be denied. However, the solution does not lie in affixing the blame but rather in seeking ways to correct the situation so that all students may benefit from educational opportunities.

The quesion of how to provide equal educational opportunities for all students regardless of their problems is one which is causing much consternation throughout the nation. School systems are grappling with the problem of providing for the needs of all students without sacrificing one group at the expense of the other.

The concern of teachers insofar as the Waddy Decree is concerned is whether or not it hinders the performance of the teacher in the classroom. The chief issues

center around discipline and meeting the needs of the children with special problems. The overwhelming majority of teachers agree that educational opportunities should be provided for all children and that there should be procedures which protect the rights of the children. On the other hand, teachers question whether or not the pendulum has swung too far.

The problems which teachers face in the classroom mirror the problems which plague our society as a whole. As long as there is the persistent neglect or feeble attempts to correct the ills of society, there will be few, if any, changes in the classroom.

Information is being collected from teachers with respect to the effects of the Waddy Decree. At this time, that report is incomplete. It shall be furnished to the committee within the very near future.

In examining that which has been received thus far, the general theme seems to be along three lines:

1. The effort to keep as many students as possible in regular classes is working to the detriment of the majority of students.

2. The right of parental veto with respect to placement of the student even after a thorough assessment process is denying the student concerned the needed assistance.

3. The lack of facilities and assistance to deal adequately with the severe discipline cases, coupled with the limitation of the two day limitation imposed by the decree until the due process procedures are completed, has a decided adverse affect on the instructional program.

In analyzing the total situation, it might be pointed out that the difficulties encountered do not rest with the Waddy Decree per se. Rather it is a matter of being able to implement the decree in an efficient manner. As I have indicated, part of the responsibility lied with Congress in its failure to provide the funds needed. This is a matter which can be corrected by you. The other aspect deals with an in-house situation with the Board of Education. The Union will deal forthwith on that matter.

It is essential that all parties concerned move in concert in order that the maximum educational opportunities can be offered to all students regardless of their handicaps.

Mr. DELLUMS. Mr. Anthony, the committee would like to thank both of you for taking time out to come here today and contribute to these hearings. We deeply appreciate your testimony and recommendations.

Mr. ANTHONY. Thank you.

Mr. DELLUMS. Our next witness is Mr. William Simons, Washington Teachers Union.

STATEMENT OF WILLIAM H. SIMONS, PRESIDENT, WASHINGTON TEACHERS' UNION, ACCOMPANIED BY BARRY SPIEGEL, LEGISLATIVE ASSISTANT OF THE WASHINGTON TEACHERS' UNION

Mr. SIMONS. Thank you, Mr. Chairman and members of the committee. I have submitted my statement for the record. I would simply like to make a few comments with respect to the Waddy decree.

Mr. DELLUMS. Before you continue, I would like to note the presence of your colleague, Mr. Barry Spiegel, legislative assistant to you.

Mr. SIMONS. This is another classic example in our society of the lack of financial commitment, commitment with the lipservice given to the importance of education in our society. Until we get such financial commitment, I think we are going to be continually faced with the kind of problem that we are faced with today in terms of trying to provide the quality of educational opportunities for all students regardless of the handicaps, or lack of handicaps which they face.

Now, to give you an example of what I am talking about in terms of what I call a misuse of funds, we have problems in our schools with

respect to discipline. Now, what is proposed, instead of providing what I think would be the kind of help that we need, and that is in additional personnel, funds are being made available through LEAA to install surveillance equipment and to me this is a total waste of money and in the long run we are not going to get what we need in terms of making sure that we provide everything necessary in order to educate the students here in this Nation, and especially in this city.

They are moving ahead with making available such funds.

I would suggest that these funds could better be utilized in hiring people to work with people to meet the needs that we have.

Insofar as the Waddy decree is concerned, as I indicated in my statement, we are in the process of gathering information from teachers, but we thought we would wait until the end of the year—we have been asking teachers to submit to us information concerning how the Waddy decree has affected their operation in classrooms and as soon as we compile that I would be happy to submit a copy of this information to the subcommittee for its study.

Mr. DELLUMS. Thank you very much.

Mr. SIMONS. The three major areas of concern with respect to the Waddy decree by teachers is, the effort to keep as many students as possible in regular classes. This is working to the detriment of the majority of students.

It is not that teachers want to segregate or isolate students, but basically they are not equipped to handle the multiplicity of problems which are present in the classroom, under the current conditions.

We talk about meeting student individual needs, and we talk about the class size of 35, including the whole spectrum. That is totally impossible.

Another area of concern is dealing with the right of parental veto with respect to placement of students after an assessment has been made.

Now, there are two cases which have been brought to my attention, where the assessment has been made and students have been recommended for institutional placements and money was available for those students, but the parents said no, and the students remained in the regular classroom.

Now, fortunately in both situations, the student was not the kind that totally disrupted the class all day long. So it did not interfere severely with the progress of the class. Nevertheless, the teacher was concerned that she was not meeting the needs of the student. She couldn't. The principals of the schools in both instances were concerned because they couldn't do anything with the students. They wanted to. They did everything they could, but the parents said no and that is what happened.

That is one area we really need to take a look at.

I can understand the feeling of the parent, "No, I don't want my child away from me," but, on the other hand, we have to look at what is best for the child. Can the parent provide it at home? Can the school provide it? If not, I think we have to examine the interests of the child and do what is necessary in order that that child will have an opportunity to get the necessary education so that he, too, can become a part of the mainstream of society.

Then, of course, the question of dealing with the severe discipline cases, and what happens to a student after he has been suspended and he comes back and repeats the same offense, and you go through the process again? Yet there is nothing that is really being done to meet the needs of that particular student.

I would say this, that it is the feeling of the majority of the teachers that all students have a right to equal educational opportunities, and certainly students' rights should be protected, and there should be the due process procedures, the same as we might fight for them for teachers, for students.

Nevertheless, we feel that until additional resources are made available and until we can work with the Board of Education and the school administration in ironing out some of the bugs that are in the program from that standpoint, that we are going to continue to have the kinds of problems that many of the teachers face during this current school year.

Mr. DELLUMS. Mr. Simons and Mr. Spiegel, thank you very much for your testimony. There is a quorum call. I would like very much to try to finish today, so we will take a brief break.

[Recess.]

Mr. DELLUMS. I have one question that I put to an earlier witness.

On page 2, item 3, you raise the question of the limitation of the decree. Can you tell me if you are suggesting modification of the 2-day limitation to 5 days? Can you explain what that does in everyday terms from the teacher's point of view?

Mr. SIMONS. From the teacher's point of view, the student is suspended for 2 days. Then the student is brought back into the school. Then if you want to carry it further, then you go through the process of hearing.

At the same time, the decree says that even though the student may be suspended for a longer period of time, the student must be provided with an educational program.

Of course, this is an in-house problem that has to be worked out with the school administration as to who is responsible for that educational program. Is the teacher required to make up individual lessons for that student while that student is under suspension?

Let's say the student comes back in 2 days and there is no hearing; they don't follow it through, but then the student still does not conform in a manner that enables the teacher to work in the classroom and another 2 days begin.

I don't think it is a question of time, but it is a question of being able to provide for the needs of that particular student, or all of the students in the group.

Mr. DELLUMS. Counsel to the subcommittee, Mr. Clair, has a question on the special clarification of item 2.

Mr. CLAIR. Is it that the parent has veto power, or the parent has a right to review of the decision, the decision of the hearing officer, being final?

Mr. SIMONS. That is the way the implementation procedures read, but in the two cases that I cited, it is a question of not being able to track down the parent in order to move ahead with the procedure. The parent says, no, once the school assessment has been made. They tried to send registered letters which were never received; they never could

get hold of the parent, and the child simply remained in the classroom.

Mr. CLAIR. This decree, like so many other decrees now coming out, is based on the old question of the constitutionality of procedures in school.

In your opinion, do you feel schools can remain educational and constitutional at the same time?

Mr. SIMONS. I think they can remain both at the same time, but there are going to have to be a number of changes. The Waddy decree came about as a result of the long neglect by the system in dealing adequately with the needs of those students who had handicaps. There is no question about it that it wasn't done. So, therefore, I think the decision was correct based on the facts.

Now, what school systems need to do is to take recognition of that fact and at the same time a guarantee to all students of the right to equal educational opportunities.

Here again, I think it goes back to the major question of funding, and I can only cite the recent example in fiscal year 1972 when the additional money was made available for special education at the expense of the regular school budget, and then to look at the timing that the funds were made available at the end of December 1971. It was impossible for the school system to give up a program to utilize those funds, so at the end of the year they had $1.7 million that had not been expended in that category. They tried to do their best to get additional equipment and what-have-you, but it merely missed the thrust of providing for the students.

Mr. SIMONS. From he discipline side of the decree, where you must have a hearing with a population of approximately 144,000 students, can you adequately take care of their constitutional rights and at the same time carry on—I am saying, can you build a railroad and at the same time run one? I guess that is what I am trying to say. That is a question, but I would say I would lean heavily toward protecting the constitutional rights of students, the same way as I would lean toward protecting the constitutional rights of every young citizen, especially teachers.

You get the cry about incompetent teachers being kept on board. I say, well, we are not in favor of incompetent teachers being in the system, but we are going to insist upon due process for that teacher before you terminate the teacher.

I would say the same has to be done for the students, but I think we should be able to work out ways in safeguarding the rights of students and at the same time not impairing the educational program.

Mr. HOGAN. Are these the only two instances you know of?

Mr. SIMONS. These are the only two that have been brought to my attention. That is why I indicated we are trying to collect as much data as possible. There might be more.

Mr. HOGAN. Certainly there would be no violation of anyone's constitutional rights if the procedures were established so that the best effort was made to notify the parent such as a registered letter to the last known address and if there was no response they would go ahead with the hearing to determine whether the student should be placed in a special class. That could be done, could it not?

Mr. SIMONS. Possibly so. I am still trying to get the final details to determine what happened in these two cases.

Mr. HOGAN. Has the School Board established procedures to take care of this situation and couldn't they? Do you know of any reason why the School Board couldn't institute procedures that would take care of your No. 2 situation here?

Mr. SIMONS. I know of no reason why they couldn't take care of that situation.

Mr. HOGAN. I think you were here also, Mr. Simons, when Mr. Yeldell was testifying about the limited resources and all the work that could be done and I am sure he would like to have, for instance, a perfect health system in the District of Columbia, for which he is responsible, and probably a perfect delinquency program for the District of Columbia, but there are limited resources.

On the other hand, when you look at the District of Columbia and the resources they have and the money spent in relation to other cities and to the surrounding metropolitan area, the District of Columbia does compare quite favorably I think you would agree.

Have you seen the financial and statistical report of the District of Columbia that indicates, for instance, that the per pupil expenditure ratio in the District of Columbia compares quite favorably with about 11 or 12 other cities and that the number of teachers per total pupil membership compares quite favorably and that the classroom ratio compares quite favorably.

As a matter of fact, the information contained in the statistical report—I am sure there are instances where there are classes of 35 as you indicate; I certainly wouldn't dispute that with you. You are in a position to know, but the average statistics here indicate 24 and 25.

Mr. SIMONS. Like any other group of statistics, you can put them down and define in them what you want.

I would like to see the statistics apply to each individual class in the system rather than the average.

Mr. HOGAN. If there is 35 in one instance, there must be substantially under 20 in another in order to balance out to 24 or 25.

Mr. SIMONS. That might well be true, but that doesn't help the student who is in that class of 35.

Mr. HOGAN. That I understand.

Mr. SIMONS. Let me make this general statement:

Nowhere in this country do we have a favorable situation insofar as education is concerned so that what you are doing, you are basing it on something that is based on a false premise to start with, so that any figures that come up based on that false premise are still wrong.

Mr. HOGAN. The only problem is, it seems to me, in school systems as in everything, I presume we don't measure against an absolute unless every other city is going to measure against an absolute. In other words, if you want the tutorial system where you have one teacher to one or two pupils, I suppose that would be the ideal, but public school systems just can't operate that way so what you have is a relative system.

Your school system here is measured against that of other large cities or throughout the metropolitan area.

Based on the District's own statistics, they compare quite favorably. I am not saying they are using their resources to the optimum that they could; I am not suggesting perhaps they couldn't use some resources they are using in the regular classroom, transferring some of those funds over to special education, but by and large you have a figure here

as it relates to the number of teachers—and this is exclusive of special education—of approximately 8,000 teachers with less than 140,000, possibly 135,000 students.

Mr. SIMONS. That is taking into account all the people in TSA–15 including the counselors and the librarians.

The attendance officers, the school social workers, and what-have-you.

Mr. HOGAN Either they are using their statistics improperly or something then because when they have the classroom teachers, they call them, for 1972, they have 5,800. When they add in the special itinerant teachers to that, they have almost 6,700. When they add in the federally funded positions, they then come up to an even higher figure.

The footnote indicates that this does not include special education.

I don't know what the real situation is. All I wanted to point out is, everyone is in the same boat and, as Mr. Stark pointed out, what the committee is faced with is a Hobson's choice perhaps, but there are limits on resources and the committee is placed in the position of saying, what can they do, given the choices.

Mr. SIMONS. We have limitation of resources because we have a wrong set of priorities. If we changed our priorities, we could make more resources available to do the things that are necessary here on the Earth and not up in the sky.

Mr. HOGAN. You talk about the reprograming. Mr. Yeldell indicated here this morning that he is currently preparing some reprograming data to submit to the City Council, to the Mayor, and to the City Council, for 1974 budget. Once that mark is hit in the appropriations subcommittee, and the committee, then he has got that reprograming request ready to go. Couldn't the school system do this to some extent?

Mr. SIMONS. We program but the process of reprograming—I think Mr. Yeldell also pointed out he submitted a request back in April. This is June, and it hasn't been acted upon, you see. So that plays a major role in being unable to direct funds to an immediate need that is discovered.

Mr. HOGAN. I understand that, but, as I understood it, what he was saying is that he was at the same time preparing reprograming requests for 1974, that he is doing it right now. That he knew he needed reprograming authority and he had that request ready to go once that total mark was set for the District of Columbia appropriation, that he was ready to move on this and could move before July 1, before that 1974 appropriation took effect.

Mr. SIMONS. We don't know when the final budget will be approved. That makes a difference.

He can have everything ready and the budget is approved June 29, but then he has to go through the process again of getting the authority to use those funds in a different manner than the budget allows.

Mr. HOGAN. I understand. Let's assume that the school system, that they find out—now, they should find out within some limitation, they should know certainly by August whether they are going to attain the features they want to attain in particular programs they want to retain them in.

Couldn't they at that time, in order to start their reprograming request on track, as it were, so they get that request up to Congress as soon as possible and run it through—I am not saying that Congress

and perhaps some of the committee members would admit that the Congress itself acts slowly on the request, but at the same time they can't act on it until the District gets it up here and I am suggesting that maybe the District could move a little faster on it.

Mr. SIMONS. They could really know by August, if they knew by May 1, how much money they were going to have for the coming year so that by August they would know whether or not they were going to be able to get enough teachers. But that hasn't been the case. Last year is the first time in something like 12 years that the budget had been approved as early as it was last year. The high-water mark, of course, was in December 1971. That is almost 6 months after the fiscal year has begun, 3 months after the school year has begun, and you can't plan ahead unless you know what you have to plan with beforehand. That is the major problem. It is the same thing with the per pupil expenditure.

You have the figures on paper, but if you don't have that money available to use for the full year, you don't get the use of that money.

Mr. HOGAN. I understand, but even as far as 1971 is concerned, what you are talking about is the difference in the request; they had the continuing authorization in 1971 for the fiscal year 1972.

Mr. SIMONS. But they didn't have a continuing authorization for special education that was put in at the last minute with an additional $2 million.

Mr. HOGAN. What I am suggesting again is that perhaps that additional $2 million request should have gone in earlier.

Mr. SIMONS. Over the years they had requested money for special education. Planning had been done and each time the budget was finalized and there was nothing, so you get tired of planning in an abstract. That is a very serious problem.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. DELLUMS. I have just one additional question. Several times today we heard about the favorable nature of the per capita expenditure on the part of the District, compared to other districts in the area and around the country. Can you tell us for the record whether or not those figures are in fact true figures, or are there any factors that distort that figure so that one has to look beyond simply the total allocation per pupil against the total—I am sorry—the total appropriation per pupil in the District as opposed to the total appropriation per student in other areas. Are there factors that make this figure an untrue figure?

Mr. SIMONS. I think there are factors because I think there are additional funds in States that go for auxiliary services for students that are not reflected in the school budget. It is the same kind of problem I think that was pointed out before the committee. We get a student for institutional placement. What part of the cost should come from the school budget? What part of that placement should come from some other budget?

As it is now, total funds come from the school budget. In other areas this is supplemented. The District has to take up everything. We have no additional State funds.

Mr. HOGAN. Mr. Chairman, the information in the statistical summary here published by the District government is, I believe, the information provided the District by the school system, and I might just

add it is directly in accord with the information provided the Nelsen Commission, which is contained in its report. That comparison of per pupil expenditure was compiled for the Nelsen Commission by the school system itself. If there were some factors that called for some distinguishment as between one figure and another, I would imagine the District school system would have indicated that.

It is not my intention here to distort the figures. All I am doing is deciding from the statistical report and from the information provided the Nelsen Commission——

Mr. DELLUMS. I think your point is well taken. However, on numerous occasions people have said to me, Mr. Dellums, the per capita cost per child when compared against others is not reflected. I wanted to determine whether the ineptness or the oversight on the part of the school district itself more truly reflected the problems it has, and the drain on the dollars here, that might be different from other places. I just wanted to determine whether that was correct.

Mr. Simons, thank you very much. We deeply appreciate your continued interest. I am sure your presentation will facilitate our hearings.

Mr. HOGAN. Mr. Chairman, I might point out Mr. Simons appears before you as a newly elected president of the Treachers Union and should be congratulated.

Ms. MARTIN. Newly reelected.

Mr. DELLUMS. And by a wide margin.

We thank you.

Our next witness is Ms. Ada Cooper of the students advisory council. If you will come forward, we will appreciate it.

Ms. Cooper, if you have a prepared statement and would like to make some opening remarks, we would appreciate it.

STATEMENT OF ADA COOPER, REPRESENTING STUDENT ADVISORY COUNCIL, D.C. PUBLIC HIGH SCHOOLS

Ms. COOPER. I would like to tell you something about our committees. We are supposed to be representative of all the student councils in all the high schools in the District of Columbia public school system. It has been recent we have been concerning ourselves with the Waddy decree, and with this we formed committees to work specifically on that.

Within the committee they pinpoint three specific points; one, which was taken from this document, *Peter Mills* v. *Board of Education*, which Mr. Clair did, and from that I cited the points in question.

One is No. 4, regarding the findings at the end of the trial.

> Defendant shall not suspend a child from public schools for disciplinary reasons for any period in excess of two days without affording him hearing pursuant to the provision of paragraph 13, and without providing for his education during the period of any such suspension.

I have heard other witnesses speak of that particular point.

During our meetings in our committee, we have students who bring up a protest on how that particular point is being used in their schools.

Students are still being suspended for more than 2 days, and there is no hearing or any notification to the responsible people downtown on behalf of the principals, or any other thing in that respect.

What we have been trying to do, as far as meeting the students and all the schools' needs, is to try to form an office within the Board of

Education ourselves, where we have students to call in, or administrators to call in, notifying us of certain issues of this type.

I will go on to No. 5. This has to do with the second part of this question, which states:

> With regard to children who later come to the attention of any defendant, within 20 days after he becomes known, the evaluation, case study, below, shall be completed and within 30 days of the completion of the evaluation placement shall be made so as to provide suitable education to the needs.

What we have been doing with regard to this particular point is, we have members in Sharpe Health School and we listen to their views of such instances, where they know of other students in need of this help, they came to us wanting to know what they can do.

The same type of thing with students at the schools who need this type of help and do not know where to go. Our main problem with the Waddy decree is that so much interest has been shown that this should be expressed to administrators and teachers and not to the students themselves. There is no way that the students can be informed of what the decree says, so they are being denied their rights.

I am just exploring certain parts of it. The most important part of the decree, we feel, is the hearing procedure which is something all students should know and we have been trying to develop sheets or anything that can be given out to groups of students at any given time, within the school, or any committee, or student group there.

There were a few things within that hearing procedure which I would like to mention and that is part D, which deals with the right of the student not to be suspended or transferred without the consent of the parent or guardian. That is something else.

"E." Whenever defendants take action with regard to a child's placement, denial of placement or transfer as described above, the following procedure shall be followed, and they go through procedures and that is something we thought was important.

13(f) has to do with the hearing. It shall be at a time and place reasonably convenient, and may other things to this effect.

I hope that I will be able to make provisions for students to be able to learn what the Waddy decree says and how to use it for their benefit. Within the committee we have been trying to get provisions from the Board of Education to develop our office, for No. 1, and to develop a booklet for students at the beginning of the year, or some type of way that the students can have access to this information and to other information.

I think I should have told you a little bit more about myself. I think I avoided that.

I am cochairman for high school student advisory councils. There is a cochairman for junior high schools. His name is Earl McKnight. There is no cochairman because we tried to develop a system of councils of students from each ward, one from each ward.

We were sworn in as a committee of students before the Board of Education on December 20, 1972, and the committee beforehand had been working as an ad hoc committee, dealing with the needs of the students on spot, as they came into the meetings.

Since then we have been trying to work as much as we can with committees such as this, with the Superintendent and with the Board members.

Our sponsor is Father Raymond Kemp. I am a student at Dunbar High School.

Are there questions?

Mr. DELLUMS. Thank you very much. I appreciate your testimony and I do have a few questions. Mr. Clair.

Mr. CLAIR. We have heard disparaging remarks about District of Columbia schools and students. I would like to note I have known the witness for some time. She has received a full scholarship to Mount Holyoke College in Massachusetts and will attend premed summer school at NYU with all expenses paid.

Mr. DELLUMS. How did you become aware of the provisions of the Waddy decree? How did it come to your attention?

Ms. COOPER. This information came from Father Kemp in his office. It was something he thought I should know and something the students might be interested in. At the time it was in a format of legal terms that many of us could not understand. With this I did approach Mr. Clair, hoping that we could find more suitable language.

Mr. DELLUMS. Put it in everyday language so all the students could understand?

Ms. COOPER. That is right. We got it from Mr. Clair.

Mr. DELLUMS. The students in the school system who do not know about the Waddy decree, what percentage would that be in your opinion?

Ms. COOPER. Many students know there is a Waddy decree but do not know what it will do for them. I feel that within my own school there must be 98 percent, maybe more; because of the fact there isn't any way they can find out this information without reading it in the paper, the newspaper, or something.

Mr. DELLUMS. Do you have any knowledge of, or can you speculate about whether or not the parents of the students know and understand the provisions of the Waddy decree?

Ms. COOPER. Recently I went to a meeting at Sharpe Health School. They were working on the Waddy decree and chapter 3 of the rules of the Board of Education. This committee was set up by Father Kemp and law students from Georgetown University, and members of other committees, the Teachers' Union, administrators, and the Superintendent's office. This was an open hearing and they found that many of the parents knew that there was a Waddy decree, but they didn't understand what it meant and they were wondering just when the Board of Education would make provisions for them to learn more about it. There were not many parents present at the meeting but those there did not know hardly anything about it.

Mr. DELLUMS. Other than the meeting you just alluded to, are you aware of any effort on the part of any teachers and/or administrators in the District of Columbia schools who have either discussed this in classrooms or had special assemblies in order to familiarize the students with the provisions of the Waddy decree? Have there been any special assemblies or any classroom discussions of this matter?

Ms. COOPER. No; not on a general basis. There are a few schools that come to mind that did have asemblies with regard to suspensions, as stated in the Waddy decree. But many times what the principal was trying to point out to the students didn't come out clear and they had different ideas of what was being said.

Students other than that had no information.

There were circulars that many times administrators obtained from the Board of Education. These circulars, we felt, as students, should be put in a place where students can have access to them. We feel that circulars and this type of thing should be within reach so we could learn more about it. There hasn't been any kind of information given to students other than that, other than those two I cited.

Mr. DELLUMS. You mentioned in your opening statement that you are gathering information, or have gathered information that leads to the conclusion that students are still being suspended for more than 2 days. Can you tell me if you have any idea about the number of students still being suspended for more than 2 days without a hearing?

Ms. COOPER. I can't give you the number. It would be bad if I cited some schools. Within our committee we have 20 to 30 people who attend the meetings, most of whom are of junior high school age or grade, and they come to the meetings complaining about the fact that their classmates or they themselves have been expelled and have been out for 3 or 4 days.

The problem is that we aren't all sure whether or not the students have just stayed out an extra few days on their own or if they were really asked to stay out by the principals. We felt that the principals should have done something to find out whether or not those students were back in school within the 2-day limit.

Mr. DELLUMS. There is a vote on final passage of a bill. We will have to vote on it and will come right back.

[Recess.]

Mr. DELLUMS. The hearing is reconvened.

Mr. HOGAN. Mr. Chairman, I have no question. I think this young lady is to be congratulated for her achievement and we appreciate her remarks.

Mr. STARK. I just wanted to thank the witness. I came in during your testimony and was sitting in the back of the room. I very much appreciate your coming to speak with us today and giving us your insight.

Mr. DELLUMS. The Chair would also like to join my colleagues in thanking you very much. We deeply appreciate your testimony and we wish you great success in the future. Giving the nature of your concern, we are sure you will go very far.

We want to thank you very much.

Before our next witness, the Chair would like to read into the record a communication received today from one of my colleagues, Charles Vanik, a Member of Congress.

U.S. HOUSE OF REPRESENTATIVES.

DEAR CHAIRMAN DELLUMS: Yesterday before your subcommittee you listened to very distressing testimony concerning the denial of educational services to handicapped children in the District of Columbia.

It is true that on August 1, 1972 District Court Judge Joseph C. Waddy ruled that every school age child in the District must be provided with a free, publicly supported education suited to his needs, and that the plea of lack of funds was no excuse for not providing such service. But it is also true that 10,000 handicapped children in the District still do not go to school.

Outgoing School Superintendent Hugh J. Scott told your subcommittee that Congress has increased spending for special education by $3.3 million over the past two years by taking funds for elementary and secondary education. Mr. Scott made the statement, "we can't continue to finance special education by

robbing Peter to pay Paul." This is a shocking disclosure as to the direction being taken in the implementation of these court decisions.

Mr. Chairman, unfortunately the denial of educational service is not confined to the District of Columbia, but is a telescoped view of the entire nation.

We need more than a spot appropriation bill for the District—a legislative fulcrum is needed to provide corrective pressure across the country. I have introduced such legislation, enttiled "The Education for the Handicapped Amendment" of which my introductory remarks and a copy of the bill are enclosed.

It is my hope that your subcommittee in your future efforts would adapt the bill so that it would be made applicable to the District of Columbia—leading the way for national application of this concept to guarantee education for all children.

CHARLES A. VANIK,
Member of Congress.

I would like to submit this statement and a copy of his speech on the floor of Congress entitled "Education for Handicapped Children a Bitter Nightmare for Millions of American Parents."

[The document follows:]

[From the Congressional Record, Apr. 11, 1973]

EDUCATION FOR HANDICAPPED CHILDREN A BITTER NIGHTMARE FOR MILLIONS OF AMERICAN PARENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, the President's veto of the Vocational Rehabilitation Act was a shameful and cruel decision. He has allowed the "budget axe" to strike down the hopes of millions of children.

I fully support the need to streamline the budget and eliminate needless spending. This must be done. But it all boils down to priorities. We could strip the Federal Government of needless burdens—subsidy programs that only serve to line the pockets of a few at the expense of many; the counter-productive agricultural subsidies that cost the taxpayers billions of dollars to keep the farmers from planting certain crops, should be in the bullseye of the President's budget guns. The administration has clearly made its choice in eliminating "people programs." The handicapped children of our Nation have become "political expendables."

THE EDUCATION FOR THE HANDICAPPED AMENDMENT

An estimated 4½ million handicapped children of school age are excluded from public schools in America. This shocking figure represents approximately 60 percent of all school-aged handicapped children in the entire United States.

The Congress must recognize the dimension of this educational crisis and seek corrective action—in spite of recent setbacks.

Today I am introducing the "Education for the Handicapped Amendment" to guarantee that every handicapped child is provided "educational service" at least equal to expenditures for other children in that school district.

If a child is not receiving "educational service," his parent—under this legislation—may institute civil action against the local school district. If the court decides that the school district is in violation, then all Federal financial assistance to that school district would cease, if within a 1-year period from the day of the court's initial decision the school district does not correct the problem.

Parents who file these civil action suits will not have to pay legal fees unless so designated by the court. This provision will allow parents to file civil suits or class actions without the fear of "bankrupting legal fees."

EDUCATIONAL CRISIS FOR THE HANDICAPPED

State and Federal authorities were able to identify, counsel, and place in educational facilities only 40 percent of the handicapped children under 21 years of age in 1971.

Sixty percent of all handicapped children are ignored, unidentified, and untreated. Parents who seek counseling for these children are placed on long waiting lists. The child seeks an education, and is denied access to a public edu-

cation or is virtually barred from private schools due to prohibitive tuition rates.

In most cases, the handicapped child is excluded from schools because the States are either unable to define and deal with his illness, or care is so shoddy that the problems are multiplied. When the handicapped child is accepted in the classroom he is shunted about until he becomes a failure or a dropout. Then he is declared to be untrainable, to spend the rest of his life without training, stimulation, or care—to be of little use to himself or society.

Although exclusion of handicapped children is illegal in some States, the States plead lack of funds. At the same time there is no motivation to develop programs. Statistics concerning State care of the handicapped are shocking. They range from the California rate of providing for 54 percent of the handicapped children in the State, to Vermont's rate of approximately 22 percent.

The following statistics concern the number of handicapped children served and the numbers not served in the 50 States. It must be kept in mind that the children mentioned in the served column are those who received any sort of care or placement by their States. It does not mention the quality of that care—generally poor—or in terms of school years, the years of education and training that those children received.

The following statistics from the Department of Healh, Education, and Welfare can only serve to remind us that we have failed in the area of care and education for our handicapped children:

ESTIMATED NUMBER OF HANDICAPPED CHILDREN SERVED AND UNSERVED 1971–72

[Aged 0 to 21 years]

State	Total served	Total unserved	Grand total
1. Alabama	22,384	88,765	111,149
2. Alaska	1,875	3,175	5,050
3. Arizona	12,678	27,318	40,059
4. Arkansas	12,492	109,173	121,665
5. California	321,765	219,320	541,085
6. Colorado	37,566	38,289	75,855
7. Connecticut	35,544	54,332	89,866
8. Delaware	8,351	7,371	15,722
9. District of Columbia	9,568	12,334	21,907
10. Florida	105,021	34,822	139,843
11. Georgia	65,061	64,803	129,864
12. Hawaii	9,106	10,484	19,590
13. Idaho	8,395	28,166	36,561
14. Illinois	180,877	74,504	255,381
15. Indiana	86,599	58,492	145,091
16. Iowa	36,521	58,210	94,731
17. Kansas	27,713	26,853	54,566
18. Kentucky	24,336	54,050	78,386
19. Louisiana	45,056	77,288	122,344
20. Maine	6,758	23,985	30,743
21. Maryland	66,259	57,380	123,639
22. Massachusetts	63,460	45,152	108,612
23. Michigan	165,018	123,279	288,297
24. Minnesota	70,423	52,242	122,665
25. Mississippi	16,587	99,479	116,066
26. Missouri	65,110	156,468	221,578
27. Montana	5,358	18,242	23,600
28. Nebraska	23,734	69,834	93,568
29. Nevada	6,300	7,340	13,640
30. New Hampshire	6,070	13,304	19,374
31. New Jersey	99,189	131,866	231,055
32. New Mexico	8,655	44,471	53,126
33. New York	221,219	151,592	372,811
34. North Carolina	73,739	98,841	172,580
35. North Dakota	89,470	38,268	47,215
36. Ohio	175,300	160,578	335,898
37. Oklahoma	23,746	120,840	144,586
38. Oregon	26,274	21,770	48,044
39. Pennsylvania	156,830	108,619	265,449
40. Rhode Island	13,475	26,000	39,475
41. South Carolina	38,275	68,230	106,505
42. South Dakota	4,414	13,381	17,795
43. Tennessee	49,173	82,730	131,903
44. Texas	175,622	602,069	777,731
45. Utah	27,079	17,100	44,179
46. Vermont	4,612	16,019	20,631
47. Virginia	44,768	101,980	146,748
48. Washington	64,223	15,071	79,294
49. West Virginia	15,161	65,400	80,561
50. Wisconsin	66,230	89,583	155,813
51. Wyoming	5,665	12,810	18,475

OHIO

According to figures of the Department of Education, my own State of Ohio is denying special education services to 160,578 handicapped students.

Even though Ohio serves only 52 percent of our impaired children, we still have a much better record than most States. But while the State as a whole serves 52 percent of the handicapped children overall, individual counties, in some instances performed worse.

Brown County—serves only 424 children out of a possible 906.

Trumbull County—serves only 2,964 out of a possible 6,275.

Every county in Ohio provides classes for the educable mentally retarded; 44 counties—50 percent of the State's counties, do not have classrooms for the hard of hearing, deaf, crippled, visually handicapped, neurologically handicapped, or emotionally disturbed children.

Many of these children would be capable of working, utilizing a skill obtaining employment, and paying taxes, if he received the proper education and training. Over 32,000 students in Ohio participated in the work study program for the

educable mentally retarded. In 1970, they paid an estimated $282,000 in Federal income tax. They paid an estimated $50,303 in State sales taxes. Of the 1,522 graduates of the program in 1969–70, 82 percent or 1,230 are currently employed full time.

TAXATION WITHOUT SERVICE

Our Federal, State, and local governments tax handicapped people, their parents, and relatives, but fail to provide services for them. Parents pay school taxes yet cannot send their disabled children to public schools. They pay Federal taxes, but how much effort is made to educate the handicapped child through ESEA—the Elementary and Secondary Education Act—impact aid, and other programs? Programs provided by the Federal Government almost never make provisions for the handicapped.

PARENTS BEGIN TO FIGHT FOR THEIR CHILDREN'S RIGHT TO AN EDUCATION

"Right-to-education" law suits for the handicapped are pending in about half of the States. An attorney for one of those suits in the State of Hawaii, Vincent Yano said:

We've been begging for years; we don't intend to beg anymore.

On October 30, 1972, Judge Joiner, of the U.S. District Court of the Southern District of Michigan, handed down a landmark ruling. This civil action focused essentially on whether children who have learning, social, mental, physical handicaps had as much right to participate in and receive the benefits of a public education as other children. Judge Joiner ruled that providing education for some children while not providing it for others is a denial of "equal protection" under the 14th amendment.

In *Brown* v. *Board of Education* (1954) and again in *Rodriquez* v. *Texas* (1973) the court stated that—

In these days, it is doubtful that any child may be reasonably expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all children on equal terms.

These principles will continue to be cited again and again throughout the United States as decisions are handed down on the more than 20 pending "right to education suits" in Federal district courts. These civil actions are the spearhead of a movement designed to alter the disgraceful status of education for the handicapped in America. It is very clear that these cases represent a growing concern—but these cases do not provide a much needed national approach in solving the problem.

The "Education for the Handicapped Amendment" introduced today will provide a vehicle that will demand action. Direct pressure on school districts and the Federal Government will translate the principles being set forth in the courts across the land into action, insuring that every child is provided a chance in school.

Now, it is administratively impossible to demand that every school district provide services for every type of handicap in that school district. It is my recommendation that the U.S. Office of Education, Bureau of Education for the Handicapped, recommend a series of joint educational ventures, pooling funds proportionately from several school districts to provide needed facilities. Under this legislation the details of educational services for the handicapped will be determined in light of local needs, with the flexibility needed for efficiency. But educational opportunity will be required for every child.

The veto of the Vocational Rehabilitation Act and the apparent cutbacks in certain programs for the handicapped demand that this amendment be adopted. The administration's position on impoundment and vetoes leaves no other alternative but "pressure point funding" for which this legislation will pave the road.

Ms. COOPER. One problem I had with regard to the Waddy decree is that of the age limit of the students, which the Board of Education is responsible for, which is 7 to 16, and the one that the Waddy decree referred to in the District of Columbia court, which was 3 to 21.

What I was thinking is, what about those handicapped students who are over 21 who still need that type of help? This is a problem that we, as students in the student advisory committee, have been trying to concern ourselves with, and bringing this interest to members of the Board

of Education, the Superintendent's Office or staff and recently I have been trying to talk to others.

I wanted to ask you a question about the age limit of 21.

Mr. CLAIR. I think that is one of the things we have been trying to address ourselves to. At what point would the school system stop serving the needs of these individuals and when would other agencies start serving that individual. We will have to work that out.

At some point the school system will step aside and some other agencies will address themselves to the needs of these individuals.

Ms. COOPER. As I said before, we had some students in Sharpe High School and these students were around the age of 19. They had serious problems in being able to talk and in walking and in controlling the body. They were at an age where in a few more years I felt I could see no great change in their physical well-being. After the 3 or 4 more years, they would not have the Board of Education to help them. That is the problem that I had and I wanted to know if anybody else had been thinking about it. We have been working with it as students.

Mr. CLAIR. We are aware of that problem.

Also there has been a suggestion that something be done about the District of Columbia Code.

Mr. DELLUMS. Ms. Cooper, before you leave, Mr. Stark does have one additional question and then our next witness will be Ms. Rosa Idarola, Council of Exceptional Children.

Mr. STARK. I wondered if you could explain to me a couple of things I think I missed in your earlier testimony. About how many are there on your advisory council?

Ms. COOPER. We have representation from 47 schools. We were supposed to have one student from each student council. During the past 2 months our committee is going down. I would say from 30 to 35 students.

Mr. STARK. Did you council decide—when there is an issue that concerns you, do you talk to the School Board or the Superintendent's Office? With whom do you communicate within the school hierarchy, as it were, to make your wishes known?

Ms. COOPER. I communicate with several people, I go to the person, depending on what I know they have to give to me. Usually the people I have been working with are people in the Research and Evaluation Department. The Deputy Superintendent's Office, we work with them with regard to suspension and problems of promotion and things of that nature.

Staff development is another one I have been working with. Also the vocational high school department. Just recently members of the Special Education Department. Also with secretaries in offices under the Board of Education.

Mr. STARK. Do you feel if a really important measure came up, do you feel your group would get a fair hearing? Do you think you can have some important impact on the decisions, say, that the Board of Education makes, or do you feel they put you off in one corner and don't pay much attention to you on big issues?

Ms. COOPER. I don't think they have done that. They have not shut me out.

I have tried to be appointed to certain committees and within the committee there are people outside of the school system who can help.

With that information that I receive from them, I use that for my committee, if not from the Board of Education. I have not felt that they have shut me out.

Mr. STARK. Are there any members of your student advisory council who are 18 or will be 18 by next November?

Ms. COOPER. Yes.

Mr. STARK. Are any of them thinking of running for School Board next November?

Ms. COOPER. None of them.

Mr. STARK. You might take that idea back with you.

Thank you very much again for being here today.

STATEMENT OF ROSA IDAROLA, REPRESENTING COUNCIL OF EXCEPTIONAL CHILDREN

Ms. IDAROLA. I am representing the District of Columbia Association for Retarded Children.

Before I read my prepared statement, I have been listening to the testimony presented throughout the day and made some notes. I thought this subcommittee would like very much to know that much of the snowballing that is taking place in the area of special education in the District of Columbia had been prompted by the parents themselves. I don't think many people are aware of the fact that it was parents who got the first school for trainable retardants going in the District of Columbia, and the Military Road School. Way back in 1952. I may be off a year or two. That school only held 40 children. Two of the classrooms in the upper floor were condemned by the fire marshal. The parents got together and, through the press, through their own pressure, brought attention to that fact and from that point on became so incensed over the lack of facilities and the closing of further facilities to that limited number of children that they began to present testimony before Congress on the needs of the retarded.

They went year in and year out before Congress for additional funds to take care of retarded children on the waiting list.

Finally, in 1963, Senator Byrd—I don't know what happened, but he finally listened and assured the representative from this parent group, Mr. Bostick, that funds would be made available to cover the children on the waiting list. Mr. Bostick was well prepared with the number of children who needed to be served. At that time it was something like 600 children. Sure enough, within the administrative processes of budgetary matters, a year after that there were funds appropriated for the children on that waiting list.

That is why today you see a viable program for trainable retarded children in the District school system. Not because the school system saw the need, but because the parents had the need for their children.

There is much that needs to be done in the existing program. Many of the children are offered outdated buildings, untrained teachers. I won't go into details, but there is one school right at this moment that needs drastic changes in order to bring education to those children. Career development, vocational training is lacking on a large scale to those children in the trainable retarded class.

I also made a note here. I learned about a year ago—I don't know whether there is any truth to it or not, but you might like to inquire

about it, that when you hear that there is a 28-to-1 teacher-pupil ratio in a classroom, it means that they are counting counselors, physical education teachers, art teachers, music teachers, the whole gamut of services in that figure. Which explains to me why—I know there are classes with 35 and sometimes even more children in a classroom to one teacher, so there is where statistics have been twisted perhaps.

Also I heard Mr. Yeldell say this morning that a million dollars was coming out of revenue-sharing funds and going into Forest Haven. That million dollars wasn't going there out of the total consideration of the Department of Human Resources for the needs of those children. That million dollars was reprogramed because parents last year focused attention on the horrible conditions at Forest Haven. If you remember, that program that Crawford sponsored last year or the year before, showed you the terrible conditions that some of those children live under for all of their lifetime. That is why the million dollars is going there.

The Administrator asked for $5 million. He got $1 million.

I have a retarded child who is now 15. I have a retarded brother who is 42 who was institutionalized at Lynchworth Village in New York. When my child was 2, I realized there was something wrong. When he was 3, I had him tested. My pediatrician told me I was an overanxious mother. I knew there was something wrong. I had a brother who was retarded. There were certain signs. The testing showed that he indeed was retarded, that he would need special education, that if he got it early in life it would maximize his limited potentials.

I set about trying to find a program as early as 3½. I was able to get him into the District of Columbia Recreation Department's program, a preschool program, and thank God for that program. I had him tested again at the age of 4. Get him into school as soon as you can. When I checked with the public school system there was no program. My husband and I became frantic because we knew we really couldn't afford private education, but we had to do it. What would you do if you had a child that needed education and you had to pay for it? You squeezed, and scrimped, and saved, and managed it.

OK, we got private education for him. Our family grew, our needs grew. By the time our child was 9 years old, we could no longer squeeze the dollars out. We had been receiving a partial scholarship from St. Johns, which is one of the private institutions that is now used by the public school. And let me say, I don't know about other areas, but in the area of retardation if there hadn't been two or three private schools in the District of Columbia, available to children like mine, they would have had no place to go, so don't rule them out.

When we looked around, checked back with the school system when our son was 9 years old, still there were no programs. That really got to me. I began to realize that I was a taxpayer, that if my child was normal he had a right to receive at least that amount of money that it cost the school system to put that child in school if he was normal and that is what I went back to the school system to ask for.

I couldn't get it, but they said tuition grants were only available to the deaf, the blind, and the severely emotionally disturbed.

I went home and started stewing about that. Why? Why?

So I began to go to work. Parents were finally mobilized. They forced, through pressure and also through the willingness of the board

to recognize the need, that these tuition grant policies should be extended to cover any child that the public schools had no program for. That was one victory.

Besides the previous victory I talked about for classes for the trainable.

We also realized that the Department of Special Education, which was normally always under the Department of Pupil Personnel Services, had no way of making its own budget, had no way of making its own decisions in recommending specific programs, so that we got that department separated from Pupil Personnel Service. It took us 2½ years, but it was separated. We got the funds in the budget for the rank of an Assistant Superintendent in that job. The job went unfilled for 2 years and when Dr. Scott came onboard we were one of the first groups of parents to go to visit him. He was very solicitous. He hired Dr. Johnson. Some action took place.

Along in here there have been many reports, many task forces. In 1966, under Adam Clayton Powell's Education and Labor Committee I believe it is, someone headed a committee who did some investigating in this area. There is a report that is very interesting. In it is contained a budget that Dr. Hanson was asked to make for the committee regarding education of the educable retarded child, which may have gone into effect, but didn't because along came Hobson's suit in 1967 and Hobson tried to do some of the things that were needed through this suit.

What the handicapped child got, what the retarded child got through Hobson's suit was the program meeting individual needs daily, which meant nothing to most children.

What I am trying to say is that parents have had a great deal to do with the movement for obtaining services for handicapped children. Parents whose children have cerebral palsy, who are retarded, learning disabled, minimal brain disfunction, the whole gamut of physically impaired, hearing impaired, visually impaired, and don't think it is an easy problem to worry about the multiple handicaps that my child—he not only is retarded, he has malformation of the cleft palate. He is hyperactive and he is under medication. You will find this is true of many a handicapped child, that they have not one handicap, but several handicaps that need attention, which is why the Department of Human Resources and the public schools have to work together.

Excuse me for getting excited, but let me read my statement the way I have it.

The District of Columbia Association for Retarded Children, now designated a "State" Association by its national, is glad to have this opportunity to comment on implementation of Judge Waddy's decree. We have been witnessing its implementation this past year, through working with parents whose children are in need of special education.

The decree represents a real breakthrough for the handicapped. Our District government has a mandate to deliver appropriate education, training and care to all children, as their constitutional right.

So far, the public school's answer to this mandate has largely been to institute the school based program. Their aim is to have a school based person in virtually every school. It would be the duty of this person to work individually with each child referred by the regular classroom teacher and principal; determining the child's strengths and

weaknesses and working out a program for each child that can be utilized in the regular classroom by the regular teacher. Even the most devoted, best qualified school based person does not have the amount of time necessary to cope with the number of children referred and with the individual needs represented in these referrals. Nor does the school based program have the time to followup on the capacity of the regular classroom teacher to implement the educational program prescribed for each child. The result is that the spirit of the decree is not satisfied as too many children with special needs are receiving a very limited degree of education—in quantity and quality—not an appropriate education as the decree mandates.

Then, too, comes the question of an appropriate level of funding for an acceptable special education program. Judge Waddy says that lack of funds is not to be used as an excuse for lack of programs. Nowhere in fiscal 1974 does there appear an increased request for special education funds as represented by the increased demands placed upon the school system through this decree. A request for additional special education funds was indeed made by the Assistant Superintendent of this Department for services to approximately 800 children and for additional placement officers to facilitate placement of children into suitable programs, plus funds for teacher training. We assume that the Mayor's request to all Department heads in the city to maintain the same level of funding as last year was responsible for the fact this increase never reached the Mayor's office. Therefore, it will never reach Congress. How can this sweeping mandate be implemented without funds? We urge that a separate system of funding be established for special education and that it be earmarked for the handicapped; that these funds not be in competition with the regular school budget and that these funds be sought from Congress. Many States handle education of their handicapped, which can be costly in some cases, by setting aside funds based on a unit or per person formula.

No effective alliance seems to have taken place between the public schools and the Department of Human Resources to satisfy the spirit of this decree in the delivery of needed, cooperative planning of services to the handicapped other than education, such as screening, and other health and social supportive services. We wish this subcommittee will question, closely, the Department of Human Resources, about their role in the implementation of the decree; and how they propose to fulfill it.

We would also like to know how the hearing officers are selected? What qualifies one to be a hearing officer? What constitutes their training? In this respect, some parents need to have the advice of or presence of a lawyer or qualified advocate at hearings—they have no one to turn to. A lawyer and supportive staff, independent of the District government, would be most helpful not only in these instances but also as an overseer of the implementation of the decree.

Parents whose children's educational placement has been changed, receive now, under due process, a letter which tells them they have 5 days to either accept or object to this placement. The educational program is described to them in this letter. No opportunity is made available to the parent to observe the program offered—to witness the performance level of the teacher in relation to the special needs of the child—to find out the qualifications of the teacher or what the curricu-

lum encompasses. How can a parent make a decision about the appropriateness of the program being offered by the school system under these conditions?

There should also be an opportunity for parents to object to current placement if their child is regressing or not learning. Recently, we learned of a parent whose child is with a resource teacher because of some minimal brain dysfunction. The parent is pleased with the teacher she does not want her child to regress and since she can afford it, she has arranged for a private tutor to supplement the public school's offering. What about that child who is regressing or who is in the wrong program for lack of something better and whose parents cannot afford a tutor? Or what about that parent who leaves it up to the school system to provide the right program? Who is accountable for providing the right program to each special child?

We have heard principals complain that this decree makes it difficult for them to do anything about that child who is disrupting education in the public schools because of his behavior. It is not the decree that is at fault, it is the school system and the Department of Human Resources that are at fault for not providing alternative programs. Suspension without education is no longer possible and can no longer be the easy way out of a difficult situation for all concerned. Who will implement these programs—when will they be available?

The spirit of the decree mandates that any educational opportunity which is availab e to the normal child should also be made available to the handicapped child. Profound results for the handicapped individuals concerned and for the city as a whole, are possible, if preschool education and vocational training of the handicapped became a large reality. Presently, these programs are practically nonexistent for the handicapped in our school system.

Our organization, comprised of many parents having retarded children, along with friends and other concerned individuals, takes seriously its duties to keep parents informed of their rights under this decree and does and will continue to help parents attain these rights for their retarded children. These rights are simple—an appropriate education for all children—and that includes the most profoundly retarded to the borderline retarded.

Mr. DELLUMS. We deeply appreciate your earlier comments and your prepared testimony.

I do have three questions I would like to ask.

Based on your long involvement with special education in the District, have you seen a significant improvement since the introduction of the decree and what are some of your recommendations? How might it be improved?

Ms. IDAROLA. Well, I don't know how to answer that. I have seen more concern on the part of more people in the school system because they have been forced to pay attention to it now. The decree I don't think, as Mr. Simon said, would ever have had to be made if parents, professionals, too, had been listened to 5 or 6 years ago.

I really feel that the Department of Pupil Personnel Services, which I haven't mentioned anywhere in here, has a great responsibility in what happens to a child that has special needs. This is where the testing gets done.

I know that many times in this department, concerned, intelligent people who have tested children who have been referred to them, either

by a principal, a teacher, or counsel—or have tested children, have made—in the past they have made recommendations about placement. I don't think they do that any more. They test the child, and if they feel the child needs to be referred to special education, they send the papers over to special education, and then special education makes the determination as to which program the child goes into. Hence the request for additional placement officers.

But this part has always bothered many of us parents, the testing. How do we know that all the components in the school system are there to do the kind of testing that is needed for the children who now are coming before the school system, children with very delicate problems, multiple problems sometimes. Is the proper testing being done? Does Pupil Personnel Services have personnel to do it with?

We also fought at one time to have testing taken out of Pupil Personnel Services and turned over to the Department of Special Education, but it was pointed out to us that Pupil Personnel Services handles many problems with no bearing on special education in particular; that children must be tested for many different kinds of reasons, not just because they are handicapped. OK. Fine.

If Pupil Personnel Services can do a good job of testing and if they are not limited when they are doing this testing by the knowledge that "if I say this child has this kind of a handicap, and I send him to Special Education, what the blazes is Special Education going to do with these papers, these mountains of papers, if they have no program for this particular kind of handicap"?

So maybe what we fear happens sometimes is that Pupil Personnel Services may be thwarting the true facts in some manner. Some examination must be made of the relationship between Pupil Personnel Services and the Department of Special Education, because if they are not linked properly, no child with special problems is going to get what he needs.

Mr. DELLUMS. Thank you.

My second question. There is a requirement for periodic review of the students. Is this a standard operating procedure?

Ms. IDAROLA. I don't think it is, no. It is hit or miss. There is no personnel, no time to do a really thorough job.

Mr. DELLUMS. You have listened carefully to all the testimony. You have noticed during the course of the questioning we have raised an issue with respect to separate facilities. My question very specifically is, what are your thoughts on isolated special education children in special programs or facilities?

Ms. IDAROLA. Well, having a child with a handicap who attends Kennedy Institute, simply because I fought for the inclusion of the retarded in the tuition grant policy, I felt if my child was placed in a school-based program in a program or in a school that had a very large population, in a school where I was not sure that the regular classroom teacher had the training to take care of my child's needs—well, I know that my child could not fit into a school-based program, and I know that there are some children in that school system, in the school-based program who need more than what they are getting.

I would very much like to see my child associated with normal children. I will do everything in my power to see that he does. A camp here in the District with normal children has been taking my child

for the past 3 years, out of the goodness of their heart, really, and they have done a lot for him.

On the other hand, I wouldn't want him in the mainstream if he is going to get torn—and he will—if he is not going to get the program, curriculum, and attention that he is getting now. I know he wouldn't get it.

You see, this is a dilemma for me, too, as a parent. If society works in an ideal fashion, the mainstream would be wonderful, but we all know the society is not ideal. We are all human beings. So that measures somewhere in the school system have to be taken to give the child what he needs; whether it be mainstream or special facilities, that there has to be a way of moving the child after he has had what he needs in perhaps a special facility, into the mainstream.

It takes a lot of expertise. I don't feel that the school system has that expertise at this particular time in its history. Thank you.

Mr. DELLUMS. Mr. Stark.

Mr. STARK. I have no questions. I would like to thank the witness for coming today.

Mr. DELLUMS. Mr. Hogan.

Mr. HOGAN. I have no questions. I think that parents who share the problems that you have owe a great deal to you and people like you who have fought for this kind of program. But it isn't just their problem; it is the problem of the entire community, and I think the entire community owes a debt of gratitude to people like you who will keep working to correct some inequities that need correction.

I think the problem the committee has is how to address, or redress, the problem. I asked earlier the question of Mr. Yeldell and Ms. Mason as to how they saw the decree, as to whether the decree as they viewed it called for, in effect, prekindergarten, 3- to 5-year-old training in schools, because if there were to be done across the board, I think it would be a very costly project, and Mr. Yeldell asked if I thought as much as $48 million, and I think, as Mr. Stark indicated, you know, they have to make some difficult choices as Congressmen as to what they can fund and what they cannot fund.

Could you be of any help to them? Do you think, for instance, that good programs for children, let's say when they become 6 years of age to a certain age, is of a greater priority, of a greater need, than handling a wider spectrum of children in, let's say, the 3- to 4-, or 4- to 5-year-old educating period?

Ms. IDAROLA. We were speaking with Mr. Yeldell this morning and his comment about this. I really feel the younger you can aim appropriate education at the handicapped—I remember Dr. Sessions, a Board member, saying if you don't get a deaf child as early as 2 years old, much of the future learning that would be aimed at this child might not have the benefit that it should because you haven't aimed it at him early enough.

What I am saying is if children are screened as early as between 2 and 3, and those who are found to have obvious handicaps are programed for in the school system on an educational basis, with augmented medical and health facilities furnished by the Department of Human Resources in a cooperative, coordinated effort, I think that would be the most moneysaving, peoplesaving kind of way to approach it.

You heard someone else here this morning say that a child—I think it was the woman who accompanied Norman Anthony, one of the teachers in his schools, say that a child from kindergarten up to sixth grade was in school and did not receive any education and at the age of 13 had become some kind of a delinquent or a problem.

I think that you would find you are saving money in the long run, but it would have to be a good program, total commitment; not make do.

Mr. HOGAN. What you are saying, if I understand you correctly, is that there would be screening then of the 3- to 5-year-olds. Not a general education program that would put them all into the school system, or all into the child care system, but a screening of the children at that age to insure, or select out those who should be the subject of the special education program. It would be a substantially smaller segment of the school population than the entire spectrum of those in the 3- to 5-year-old category. Even according to Mr. Yeldell's testimony, that would not come anywhere near a $48 million program. I think he was talking about educating the entire school population in the 3- to 5-year-old category.

No, do you think that that is what Judge Waddy was talking about? Do you think he was talking about selecting out, as you are talking about selecting out, these handicapped children in this 3—starting at the age of 3, select out those who have these handicaps or special problems and starting to treat them at that early age?

Ms. IDAROLA. I personally feel that is what he meant.

There are programs available to treat 5-year-olds in the District. The recreation department runs, I think, a very good preschool play program for children in each of the neighborhoods. Perhaps some are better than others, depending on the cooperation of the parents because it is a cooperative movement. But I do feel that in the case of the handicapped this would be most beneficial at that age level.

Mr. HOGAN. Thank you very much.

Mr. DELLUMS. The Chair would like to now acknowledge the presence for the record of our distinguished colleague and member of the subcommittee, Mr. Breckinridge, and the Chair will now yield to him.

Mr. BRECKINRIDGE. I want to thank the witness for her very substantive and penetrating testimony. I agree with everything I have heard said by you without knowing the applicability of the specifics in the local school situation.

There is no question but what the handicapped in the broader connotation, however you wish to define that phrase, would still be locked out of the school system of these United States were it not for the parents and their efforts over the period of the past 15 years or so.

I am sensitive also to the problems that confront our school administrators and the frustrations that confound our parents in attempting to resolve these problems.

I want to make reference again today, Mr. Chairman, to a particular portion of the court's order which I would like to use as the basis for a question or two, if I might, Ms. Idarola. That is found on page 25 of the court's opinion in which it is stated that the District of Columbia shall provide to each child of school age a free and suitable publicly supported education. Regardless of the degree of the child's mental,

physical, or emotional disability, or impairment, and then getting to a point that has been raised earlier this afternoon, "furthermore, the defendant shall not exclude any child resident in the District of Columbia from such publicly supported education on the basis of a claim of insufficient resources."

Now, I take that very simple and clear language to mean a very simple thing, both to the school authorities and to the Congress. That is, namely, that every child is entitled to that degree of education which it is capable of receiving, and a claim of the absence of the necessary resources shall be no justification for the denial thereof.

Now, having said that, I get into the area that always troubles me and that is of bringing to bear the expertise which you refer to as being absent, bringing to bear the knowledge and experience of the thousands of school districts throughout the country that are confronted with the same problem, or bringing to bear the coordinated rather than the sometimes, I am afraid, competitive challenge and energies of the volunteers consisting of the interested parents and experts seeking out, in the larger context, for local application those conditions that are available, but for some reason, school system by school system, we insist on overlooking in order that we would, almost, it would appear, on purpose, making our own mistakes.

I wonder, without any purpose other than seeking information, to what extent the various volunteer groups—you have named many of them, the all deaf, the cerebral palsy, the mentally retarded; we could go on and on—to what extent are they united in a concerted drive on the resolution of this problem; to what extent are there national associations making available to us here in the District in this school system and to our school authorities and responsible officials, their expertise and their advice in terms of bringing to bear their knowledge in solving these problems, or at least some suggestions. To what extent does the Federal Government contribute?

Ms. Idarola. I can only speak from my own experience. I have been a member of the Developmental Disabilities Council, well, before it was that. It was the Mayor's Planning and Coordinating Council, which had been given about $250,000 to plan—to coordinate and plan for the needs of the retarded of the District almost 7 years ago. I have a lot of papers but nothing else to show for that $250,000, and more important, for those man-hours of going to meetings. Not just my man-hours, but the man-hours of over 600 people, I believe.

The Federal Government has issued much legislation aimed at getting these services to the handicapped. One of them was the Developmental Disabilities Act which was issued in October 1970, I believe. Its main purpose was to bring together those public-private facilities within a State that were delivering services to the handicapped. They were to formulate a State plan devised from the information of the people, the expertise of the people on that Council, and bring together the funding that would come to the handicapped and list priorities and, in other words, set up priorities.

This is a tall order and it is one which has to be made by the States and the Federal Government. I appreciate the Federal Government wanting to help, and it got into the picture because the local levels were insensitive in the main to the needs of the handicapped. But something has gone wrong. There were too many acts, too many papers, and very little, as far as I am concerned, which trickled down

to that kind or that adult Ms. Cooper referred to—what happens to him after he is 21 and he leaves the school system? Very little trickles down to that young child or young adult.

Somewhere the money and the services get dissipated.

In the District around 1968 there were paraprofessionals all concerned about services to the handicapped who gathered together under an organization called Concerned Citizens for Exceptional Children. DCARC became a member organization and worked very diligently and considered themselves a cofounder of that group.

We were very united. We had Columbia Lighthouse for the Blind—all of the agencies represented in that group. We were responsible for getting the increased funding in the 1972 budget from Congress because we brought to bear on both Houses of Congress in 1971 all the needs. I think we did a good enough job so that Senator Inouye realized we needed more money. We have heard about it for the past 2 days. Instead of giving special education, the $2 million above and beyond the regular budget, he asked the school system to take it out of the regular school budget, thereby creating many difficulties, and I think a little bad blood.

But we have been overworked, and at this point in our history we are united in a, let's say, handful of people un-united. We need some new blood locally on the parent level, and in the unified picture. This is the truth. What else did you ask me?

Mr. BRECKINRIDGE. I wanted to elicit any observations concerning the structure as it exists and the history of this effort, and any recommendations you might have that might be helpful to the committee.

Ms. IDAROLA. I really feel that funds must be made available for teacher training.

If you establish a really good special education department within a school system, you will attract qualified teachers to your system. They are not going to come here with the mess we have now. Many of them have left.

Many parents, both black and white, with handicapped children, have moved to Montgomery County and Prince Georges County because of the lack of service.

Mr. BRECKINRIDGE. Did I understand you to say there is no formula or unit approach to the budgeting or pricing out of special education in the District now?

Ms. IDAROLA. No. This is something that I know plagues many professionals throughout the United States, as well as myself, but is special education supposed to take care of the needs of those handicaps that are medically identified as being specific handicaps, or is the role of special education to take care of every problem that the school system has with the nonlearning student? What is the role of special education? I don't think anybody has really answered that here in the District yet.

They have got to have more money; they have to have commitment from the entire school system. They can't go off into a little corner and call themselves "Special Ed." If they are going to be "Special Ed" and have limited funds, then their areas of serving has to be prescribed. I don't know what the answer is.

Mr. BRECKINRIDGE. I don't either, but again I like the broad and nonparticularized language that Judge Waddy uses in his decree.

That leads me to another question as it relates to the local school system. We are accustomed to the history of the area identification of "the blind" as a special category, and the deaf and the schools for the deaf.

Now we find in State and Federal legislation language such as you were using, "emotionally disturbed" and "developmentally disabled" and "neurologically impaired," "educable" and "trainable," and then we come to that larger statement of yours: Are those definitions as they are now applied in the District of Columbia School System in any way indicative of the delivery of services to any category of identifiable children?

Ms. IDAROLA. Well, I feel they are. I don't like labeling. I don't like stigmatizing, but I think in the District of Columbia in particular, because of the racial makeup, there is a sensitivity about the label of retardation, and yet I hate to see a child who is really retarded not giving him something because they don't call it what it is. If you have cancer, you don't want to be treated for heart disease. Right? Maybe I am oversimplifying it.

You know, I am just a parent. I know my child is retarded. I want what he needs to become a person in this community, and I don't want anything less, and I don't care if you call him retarded as long as he gets what he needs.

Mr. BRECKINRIDGE. I think your point is very well taken, and I think it would be safe to say that children of a generation ago were hidden in closets, basements, and attics because of the old adage about the sins of the fathers and the third or fourth generation. It no longer embarrasses us because we know of the problems of prenatal birth situations and so forth.

It is nothing that should be in any way personally embarrassing to anyone. I am not concerned about names. I am concerned about the use of legal definitions, that delimitation of the delivery of services. I am concerned about hiding one category of children under one label and then thereby disallowing them services because that label doesn't fit them in a given school system.

I suppose my question went to the use of these legalities or legalisms in the District of Columbia school system to exclude categories A, B, and C of chidren, whatever that category designation may be.

Ms. IDAROLA. I don't know how to answer that. I really don't. I think that the school system is trying at this particular time to give children what they need regardless of their handicap, but I know they are limited in the kind of programs they are aiming at these children.

Just a look at the budget shows that the majority of children being served—and they represent all kinds of needs: learning disabilities, retardation, what-have-you—the 1974 budget, as it is printed, shows that 9,000 children are in the school-based program. That is the bulk of special education children being served in the District school system.

Now, I have described that program to you. It needs a lot of bolstering; it needs a lot of work before it can operate as it ideally should be operating.

I hope it also has connected with it the kind of mechanism that can move a child out of the school-based program if he is not getting what he needs.

Flexibility is the only thing that I can see that can answer it.

It is not the handicap of the child, as long as the program has the flexibility and the expertise to provide the assistance.

Mr. DELLUMS. I would like very much to thank you for your testimony. We deeply appreciate it, Ms. Idarola.

[Recess.]

Mr. STARK. The chairman asked if I would temporarily chair the meeting.

We express our apologies to Ms. Clark for keeping her waiting so long.

We have a copy of your testimony, which you may proceed to present.

STATEMENT OF MARY ELLEN CLARK, REPRESENTING D.C. CITIZENS FOR BETTER PUBLIC EDUCATION

Ms. CLARK. I appreciate being here to hear the testimony of other witnesses. I realize what a dilemma this subcommittee faces in trying to evolve a positive approach toward this complex subject. Almost every witness came with a bias and a strong familiarity with one aspect of the Waddy decision.

Ms. Idarola was very eloquent on the subject of retarded children, and I enjoyed that testimony very much.

Mr. Yeldell would like to limit the definition apparently, of the exceptional child, to avoid getting involved with the delinquent child. A very interesting theory, which I wonder whether Judge Waddy had in mind. It certainly tidies up the responsibilities of the Department of Human Resources if it is constructed that way. I don't suppose any of us is under the illusion that children in the educational settings provided by the Department of Human Resources has the access to the due process rules that is being promulgated in the schools of the District of Columbia.

Judge Alexander, on the other hand, would like to expand the definition of the exceptional child to include the nonachiever, so you have a real job on your hands.

I would like to tell you what my bias is before I go on with my statement. I am biased and so is my organization, to promote the welfare of the normal child at the same time that the needs of the special education are met within that system.

I believe if a separate system for special education were to be accepted, that you would lose one of the great valuable things that is present in the District schools today, and that is the attempt to treat special education within the mainstreams of society.

Now, I will try to skip around a bit.

My name is Mary Ellen Clark, and I am representing D.C. Citizens for Better Public Education. We are grateful to the committee for providing this opportunity for the citizens of the District to comment on the Waddy decree and its implementation.

The Waddy decree responds to a problem not unique to the District of Columbia. It is part of an effort everywhere to protect the rights of all persons in our society—part of a mental health movement, as well as a civil rights movement. it is important, therefore, that we not look at the effects of the decree in isolation.

The court decreed that every child has a right to a free, public education. It is hard on the face of it to understand why a court case was re-

quired. Perhaps because society has been willing to ignore or exclude certain of its members, schools generally have been permitted to ignore or exclude them also. In the District, and increasingly in other jurisdictions, schools may no longer do this. But schools and other city agencies are going to need help.

1. The decree puts new burdens on the school system which it perhaps should have been carrying before, but was not. The schools are now required to provide suitable education for every child. For handicapped children, this will mean imaginative and costly programs, requiring new kinds of teachers and teaching materials. Second, the schools cannot suspend or expel students without first a due process procedure which protects the rights of children. In addition, they must provide an alternative education for them. The schools can no longer merely send disruptive, unruly students out into the streets. This part of the decree will be the most difficult for the schools to reply to. It has already caused a great deal of misunderstanding and antagonism between teachers, principals, students and parents regarding discipline. The schools badly need a handbook of rights, responsibilities and procedures for students, parents, and school officers. The Board of Education is working on it. We hope this committee will support this effort.

The greatest help that this committee can give is to provide the Board of Education with the authority and powers it should have in order to meet these needs. For example, the schools are being asked to gear up new types of classes and services quickly, yet they are constrained by a very limited authority to reprogram funds. This limitation of $25,000 is barely the cost of two teacher salaries, yet if the schools wish to move that amount from one program to another, they are required to send a request through the District budget office and the Appropriations Committees. Why is that kind of preauthorization required? Its principal effect is to give the schools an excuse for not acting quickly, or not acting at all.

The schools must contract for a great many special education services, tuition grants to private institutions when the child's needs cannot be met within the system, training of teachers, et cetera. Why do the schools not have their own contracting authority? What does the Bureau of Material Management of the District know about educational capabilities of contractors, or of special needs of the children and schools? Ultimately, adequate controls are available through the election of the Board members. The present system of control of contracts by the city leads only to lack of responsibility by school officials, inordinate delays in services, and frustration to schools, children, and parents.

2. The Waddy decree involves not only the schools, but the District Government. Coordination between District agencies has never been particularly good, and it does not seem to have improved, in spite of the admonition of Judge Waddy that such cooperation is essential if suitable education is to be provided for all children. It is our opinion that the Department of Human Resources is not dealing with its share of the problems surrounding the education and care of handicapped children who require placement in institutions or in other special programs. Perhaps new formal relationships need to be established among the schools, DHR, and the courts—for example, some kind of interagency organization. The decree has established new responsibilities. We can't assume we can meet them with old tools.

There is a widespread impression that principals have their hands completely tied in dealing with violent and disruptive students. The decision actually states that where a child presents a danger to himself or others, the principal may keep a child out of school prior to a hearing, provided that child is given an alternative education. A clarification of this provision is necessary—what situations present sufficient danger, and what constitutes alternative education. Again this is an area where other agencies of the city might be needed to assist the schools.

We would like to raise a major question about the procedures of the Department of Human Resources. Is it constitutional to require parents to give up legal custody of their children in order for DHR to assume the costs of residential care? Do you know that parents are required to name their children as wards of the District in order to recover costs of residential care? We find that medieval and inhuman; and counterproductive if the aim of our social policies is to encourage family responsibility for children.

3. Finally, although we realize that this committee is not responsible for providing funds for the schools, we suggest that actions by this committee can help to create the atmosphere in which responsible budget action can be taken by other committees and by the schools. Everyone agrees that all children should receive educational opportunities which will equip them for life to the best of their abilities. But agreeing with this and issuing a court order is only the first step in the process. Meeting these needs will cost money.

But this is not a simple question of counting "special" children and multiplying the number by a dollar figure. To serve as many children as possible in the regular classroom without separating off the "special" child means that new ways must be found to organize and support the regular classroom. Otherwise, we will end up by creating more "special" children. This new approach to special education blurs the lines between regular educational expenditures and special education expenditures.

Yet, last year the Appropriations Committees added funds to the school budget for special education, took these funds out of other school funds, and ruled that they could be spent only on special education. We know that this committee does not have power over funds, but perhaps it can have an influence by helping to make clear the results of such budgetary action. The large amounts which were turned back to the Treasury, because for various reasons they could not be spent as ordered, could have enhanced the prospects for success for the special children who had been placed in the regular classrooms. Smaller classes, classroom aides, and staff development for all teachers are just a few ways that money could have been widely utilized by the schools for the benefit of all children. Congress should be aware that unless programs for all children are adequate, the number of handicapped children can only increase.

The Board of Education must be permitted to make these budget decisions. It is the Board which is accountable to the citizens of the District, and the Board which can make administrative people accountable to them. When Congress gives "dedicated funds" to an administrative officer in the school system, it is weakening the very structure it should strengthen. This Committee must evaluate the

powers of the Board of Education and make certain it can be judged really responsible for the education provided District of Columbia youngsters. Unless the Board has those powers, citizens and Members of Congress cannot expect it to do the job they are asking it to do.

Mr. STARK. Thank you, Ms. Clark.

For the benefit of the Chairman, I would like to summarize the introductory remarks in which Ms. Clark pointed out we have heard different testimony which I think I could say takes a different approach as to how far the Waddy Decree will go. All the way from including underachievers, as Judge Alexander mentioned, or limiting it, which is Mr. Yeldell's approach. It think it would be safe to say your approach is that we provide for the handicapped and exceptional children within the mainstream of our education and I think repeats testimony we have heard before on this committee, that, without authority to control their own budget, you have a rather emasculated school board and the superintendent's office which cannot really operate effectively.

The Chairman may have some questions. I know he has read your testimony earlier.

Mr. DELLUMS. Yes.

Ms. Clark, I am sorry I was not here at the beginning of your testimony, but I did read your testimony prior to leaving.

During the opening statement you stated that you objected to a separate budget for special education. Are you saying that the present system of funding special education, which can lastly be called and was referred to as robbing Peter to pay Paul by Dr. Scott, is an acceptable method and was that the intent of your statement or was the intent of your statement going in another direction?

Ms. CLARK. I am glad you asked that question so that I could clarify it.

I was one of the first, I believe, to point out the error that had been made in creating a large new program in special education which had to be taken out of the base budget. Dr. Simons was eloquent on that point, I think, in telling you that the budget passed in December 1971 was halfway through the fiscal year with a new program for special education in the amount of $2 million, which had not even been requested by the School System and therefore in its place was a $2 million spending program of some other sort.

It meant that the Board had to revise the base budget to the tune of $5 million in the spring, in a very hasty and rather radical way that caused a lot of soul-searching and hair-splitting in the Franklin Building.

I did not mean to imply that the funds for special education should not be incorporated in the budget. I meant to say only that additional funds should have been supplied when a new program in special education was ordered, and they should not have had to come out of the hide of the regular system.

My other point is, as Ms. Idarola said, that she hoped special education would have a separate budget, and it is to that point I was alluding. I would hope that that would never happen, that a separate budget for special education would be submitted and would become a yearly affair.

It seems to me that the approach that the school system has taken, that special education is an integral part of the process of

educating all together is the right one, and both special children and the normal child benefit by an amalgamation of the budget into a single document.

Mr. DELLUMS. My question is, do you see a role to be played by the courts in further carrying out the mandate of the *Waddy* decree, and can you define what you foresee in that role?

Ms. CLARK. That is really a little out of my department, but I will rally my resources as a citizen. I would hope the courts would not intervene any more than they have to. I think that court intervention is by and large a very disruptive process. It is often ordered by people who do not know the full facts or who are not current with the facts. It often has a very staggering effect on the administration of a large system.

I hope, however, that what will come of it is a positive program which will be carried out in an orderly manner, and I believe there is much good in it. The due process provisions are necessary, long overdue. There are arrogant people in the school system who have paid no attention to the rights of children. Those people ought to be governed by a body of rules.

I am largely in favor of a broad recognition of the needs of the exceptional child. I think that the urban child himself is an exceptional child. I am somewhat in sympathy with what Judge Alexander said, that you should be able to include compensatory and remedial education in the resources that are granted to special education.

However, as a practical matter, I think you can redefine your terms every day in life. My hope would be that they would get a limited, practical, positive program, and then that the courts would not be required to interfere again.

Mr. DELLUMS. Thank you.

I have just one other comment. In reading over your testimony, you make several points that come to grips with the role of the Board of Education, the need for the Board of Education to have clear independence and authority to carry out its mandate so that people in this community can pinpoint responsibilities in a clearly defined fashion

I will just say to you, as I said several times before, the Self-Determination Act, however it comes out of this committee or indeed comes out of the Congress, is not going to include initially a section with respect to the role of the Board of Education. It will simply allude to a statement that this subcommittee will assume the responsibility of developing, drafting, and presenting an acceptable piece of legislation with respect to the role of the School Board.

We will be holding hearings in the very near future to determine what kind of legislation, and the degree to which we must go in that legislation in order to allow the School Board to do exactly what you alluded to so eloquently in your written statement.

We certainly will be calling upon you at that time any additional specific recommendations beyond the ones you have already made, and there will be more than ample time for you to do that.

Ms. CLARK. We will be glad to have that opportunity.

Mr. DELLUMS. Mr. Stark?

Mr. STARK. I have no questions, Mr. Chairman.

Mr. DELLUMS. Mr. Breckinridge?

Mr. BRECKINRIDGE. I have no questions, Mr. Chairman. I want to thank Ms. Clark for her testimony. I think what I understood her to say was consonant in large part with what Mrs. Idarola had to say with reference to the structuring within the administrative part of education on the one hand and then the proper treating of the problems of the special education student population and the regular student population as a totality and applying thereto a formula with a per person or unit approach to budgeting which will recognize the additional cost imposed on the educational structure and, in addition thereto, dissolving the cannibalization process we have been following.

Ms. CLARK. We need a more flexible budget to enable them to allocate funds. We will be very eloquent on this subject in the hearings on the Board of Education. We believe that the line budget makes our people irresponsible; it makes for bad planning and avoidance of responsibility.

Mr. DELLUMS. Mr. Hogan.

Mr. HOGAN. When you provide this information for the committee, if you are suggesting the Board of Education should have its own budget and its own contract authority and its own maintenance authority, building maintenance, should you not also provide some kind of provision for its own taxing authority? If you can come up with that, you will be doing a great service to the committee.

As you probably know, the Nelsen Commission tried to come up with something along this line. They were unable to do it. They had the same problem that apparently exists now with the Waddy decision, as it relates to cooperation and coordination of programs. This has been lacking for some time.

I am sure there must be a solution. I don't know what it is. If you people have it, I am sure it would be welcomed by the committee.

I have just one other thing.

In listening to the testimony, you know, different people perceive the decision as doing different things. Some of them see this thing almost as broadly stated as some of the provisions of the Constitution. Others see the decision as rather narrowly confined. I think that is part of the problem here in discussing the thing.

If I understood Ms. Mason yesterday, she was indicating that she thought the Waddy decision embraced a program for all children 3 to 5 years of age. I find it difficult, in reading the decision, to embrace that large a spectrum of the school population. I could more easily rationalize the decision in the approach Ms. Idarola was taking here, that it is more a problem of getting in and touching those individuals who are 3 to 5 years of age, who may become, or perhaps are already identified as special students. Then I could understand. If that problem alone is $48 million, it is a great problem for this committee and the Appropriations Committee as well.

Ms. CLARK. As I understood Mr. Yeldell, he was referring to that figure as being the cost of providing the day care setting with an educational component for children in that age range. That was 2 to 5.

The whole question of the desirability of educating the preschool child is another subject. That is the Waddy decision as I understand it.

It is an interesting question of desirability of preschool education—that is one question. There is the question of the compulsory age of

attendance, which is another large and interesting question, and then the question of picking up the handicapped child, the potential candidate for special education at an early age, that is a third question.

I sympathize with the desirability of a special effort to identify children at an early age as in need of medical, particularly, help.

One of the startling findings of Head Start, which I am sure you know about, is the number of physical disabilities that turned up. I was involved in that program. I don't think there was a single group of 15 that I saw in a group that didn't have one rather serious medical problem.

Now, that tells me a lot about the deficit situation you are getting into if you wait until the age of 6 to encounter a child.

I believe in early education. This system has been committed to it in theory, but has never given the resources to it. Then, even though it committed itself to preschool education, it never applied the resources to strengthen the kindergarten year. The kindergarten year is still a very weak year.

Only 5 years ago, when I had a child in kindergarten, the kindergarten children quite normally had two classes of 38 or 40 children, one in the morning and one in the afternoon. That is a very old-fashioned and lamentable situation.

I would argue that this is an area for commitment for system.

Mr. HOGAN. In reading the decision and in reading Judge Waddy's introduction to his findings, and finally his conclusions, one wonders whether it corresponds to the relief asked by the plaintiff. The problem here in his case, in his decision, I assume was similar to that brought in many States, which had to do with handicapped individuals. The introduction to his opinion seems to indicate that.

Now, when you get down to the thrust of what he is setting up here, it seems to me what you have to ask is whether the relief given, as interpreted by some, goes well beyond the relief asked. Many of these issues were not addressed in the petition, were they?

I imagine, as Mrs. Idarola says, this is basically the individual who was the retarded kind for whom relief was sought.

Now there are other problems, there is no question about that, and I think the chairman has identified some of these, but it does seem to me that the decision may be narrower than interpreted by some.

Ms. CLARK. I suspect there is still room to define the exceptional child. That is, maybe Judge Waddy should be requested to be more specific about what he means by the exceptional child.

It seems to me too that it goes beyond the traditionally handicapped child in the tone of the opinion.

Mr. HOGAN. It brings up those problems Judge Alexander referred to. I don't say those aren't problems and problems the committee should go into, but it seems to go well beyond the handicapped child, which is what the plaintiffs were, I gather. Do you happen to know whether the individuals were handicapped children?

Ms. CLARK. So far as I know, they were.

I would like to express one short point of view and that is I think there is a role for the Department of Human Resources to play, a positive role, and that is in the development of new resource facilities which are aimed at the child who becomes a problem in school. That is, there should be mental health facilities, recreation facilities. These

are things short of institutionalization, but which I think are part of the responsibility of this new approach to Human Resources which is supposed to be part of our city government.

He sounded like the old Welfare Department Director to me. I don't think that is what we need right now.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. DELLUMS. I would like to thank you very much, Ms. Clark, for your presentation. It was very thoughtful and carefully drawn.

I also thank you for your patience. I know you spent the whole day here to help us as we deliberate in a difficult subject area in determining what role we might play in facilitating the decree.

I would also like to take this opportunity to thank all of the members of the subcommittee and certainly the staff, as well as the witnesses, in setting up these hearings. Specifically, I refer to Joseph Clair and Mr. McKinney in helping us set these hearings up. I also indicate for the record I never fail to be amazed at Mr. Hogan's level of competence and preparation and very penetrating questions. He has to do this on every subcommittee and each one seems to be the one he is expert in. I thank him for staying with us all day.

Mr. Hogan, you raised a very interesting point in your colloquy with Ms. Clark. What we hope to do when the record is printed is to send a copy of it to Judge Waddy, with a list of questions that raises a spectrum of interpretation to see if he will answer those questions, and perhaps clarify some areas and then hopefully follow up with off-the-record discussions, if we could have an opportunity to meet with him and subcommittee members in chambers someday to discuss some of these matters informally.

I think Mr. Hogan has raised an interesting point. I think we should try to get some responsive writing on the record and then perhaps off the record we might be able to discuss some of these matters.

Mr. HOGAN. Mr. Chairman, I think perhaps for the record I should indicate that I was not in any way being critical of Judge Waddy. He is, I am sure, a fine jurist.

Mr. DELLUMS. I didn't say that. I think all day, both days, have contained some areas of interpretation where you have raised appropriate questions and we haven't the answers and I think until such time as we have the answers, we can't move expeditiously. That was the only point I raised.

I would also like to thank the reporter for his diligence and patience. We thank you very much.

With that, these hearings are adjourned.

[Whereupon, at 4:30 p.m., the subcommittee was adjourned.]

UNIVERSITY OF THE DISTRICT OF COLUMBIA

MONDAY, JULY 1, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EDUCATION OF
THE COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 1:45 p.m. in room 1310, Longworth House Office Building, Hon. Ronald V. Dellums, chairman, presiding.

Present: Representatives Dellums and Diggs (chairman of the full committee).

Also present: Robert Washington, chief counsel; Ruby Martin, associate counsel; John E. Hogan, minority counsel; Leonard O. Hilder and Ralph Ulmet, professional staff; and Joseph Clair, counsel to subcommittee.

Mr. DELLUMS. There is a vote occurring right now. The chairman of the full committee, Mr. Diggs, had indicated his desire to lead off these hearings today and so we are simply waiting for him. We are trying to determine whether he will come shortly. If not, we will just proceed without him, unless he shows up.

These hearings will come to order.

Good afternoon, ladies and gentlemen. Today we will consider H.R. 15643, a bill to create a University of the District of Columbia.

[The bill referred to follows:]

[H.R. 15643, 93d Cong., 2d sess. by Mr. Diggs on June 26, 1974]

A BILL To reorganize public higher education in the District of Columbia, establish a Board of Trustees, authorize and direct the Board of Trustees to consolidate the existing local institutions of public higher education into a single Land-Grant University of the District of Columbia, direct the Board of Trustees to administer the University of the District of Columbia, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—SHORT TITLE, PURPOSES, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "District of Columbia Public Higher Education Reorganization Act".

STATEMENT OF PURPOSE

SEC. 102. It is the intent of Congress to authorize a public land-grant university through the reorganization of the existing local institutions of public higher education in the District of Columbia.

DEFINITIONS

SEC. 103. For the purposes of this Act—

(a) The term "Trustees" means the Board of Trustees established under title II of this Act.

(b) The term "President" means the chief executive and administrative officer of the University.

(c) The term "University" means the University of the District of Columbia authorized and directed to be established under title II of this Act.

(d) The term "Provost" means the academic and administrative head of each of the several colleges of the University.

(e) The term "Mayor" means the Mayor of the District of Columbia established by section 421 of the District of Columbia Self-Government and Governmental Reorganization Act.

(f) The term "Council" means the Council of the District of Columbia established by section 401 of the District of Columbia Self-Government and Governmental Reorganization Act.

(g) The term "Board of Higher Education" means the Board of Higher Education established under section 102 of the District of Columbia Public Education Act (D.C. Code, sec. 31–1602).

(h) The term "Vocational Board" means the Board of Vocational Education established under section 202 of the District of Columbia Public Education Act (D.C. Code, sec. 31–1622).

(i) The term "Board" means the District of Columbia Board of Education established under section 303 of the Elected Board of Education Act (D.C. Code, sec. 31–101).

(j) The term "financial institution" means an insured bank as defined in section 3 of the Federal Deposit Insurance Act, or a savings and loan association as defined in section 401 of the National Housing Act.

TITLE II—BOARD OF TRUSTEES

MEMBERSHIP

SEC. 201. (a) There is hereby established a Board of Trustees, which shall be an independent agency of the District of Columbia government, consisting of fifteen members selected according to the provisions of this section:

(1) Twelve members nominated by the Mayor, one of whom shall be a full-time student at the District of Columbia Teachers College, or the Federal City College, or the Washington Technical Institute. Except for the student member, the nominees under this subsection shall be subject to Council confirmation.

(2) One member of the Trustees appointed by the Alumni Association of the District of Columbia Teachers College, with notice thereof to the Mayor within forty-five days after the effective date of this Act.

(3) One member of the Trustees appointed by the Alumni Association of the Federal City College, with notice thereof to the Mayor within forty-five days after the effective date of this Act.

(4) One member of the Trustees appointed by the Alumni Association of the Washington Technical Institute, with notice thereof to the Mayor within forty-five days after the effective date of this Act.

(5) In the event the alumni associations referred to in subsection (2), (3), and (4) of this section fail to submit an appointee within the time specified, the Mayor shall make the appointment.

(6) As the initial terms of the alumni members expire, the three alumni trustees shall be appointed by the Alumni Association of the University of the District of Columbia or the Mayor if no alumni association of such University exists.

(b) All nominations and appointments under this section shall be made not later than March 2, 1975. The terms of the members of existing Boards shall terminate on March 2, 1975.

(c) The Trustees shall hold the first meeting no later than April 2, 1975. The first meeting of the Trustees shall be convened by a member of the Trustees designated by the Mayor.

(d) Except as provided in subsection (f), each nonstudent member appointed to the Trustees shall serve a five-year term of office and each such member may be reappointed to one successive term.

(e) Each student member appointed to the Trustees shall serve a one-year term of office.

(f) Of the members first appointed to the Trustees—

(1) the student member shall be appointed for a term of one year;

(2) three shall be appointed for a term of two years;

(3) three shall be appointed for a term of three years;

(4) three (including one alumni member) shall be appointed for a term of four years; and

(5) five (including two alumni members) shall be appointed for a term of five years.

(g) Any Trustee selected to fill a vacancy shall be selected only for the remainder of the term for which his predecessor was selected and in the same manner as the original selection. A Trustee may serve after the expiration of his term until his successor has qualified to take office.

(h) A Chairman and Vice Chairman (1) shall be selected by the Trustees from among the District of Columbia resident members, (2) shall serve a one-year term as Chairman or Vice Chairman, (3) may be reappointed, and (4) cannot serve in such capacity beyond their term as member.

(i) All members selected to the Trustees shall have been domiciled in and residents of the District of Columbia for the twelve consecutive months preceding the date of their selection except that the Mayor may nominate not more than two persons to the Trustees who are not residents of the District of Columbia if, in his judgment, their nominations would enhance the Trustees.

(j) Members of the Trustees may be employees of the United States or of the District of Columbia Government.

SUSPENSION AND REMOVAL

SEC. 202. (a) Any Trustee shall be automatically suspended from serving as such member after he has been found guilty of a felony by a court of competent jurisdiction. Upon a final determination of his guilt, the term of such member shall automatically terminate.

(b) The Mayor shall have the power to remove any Trustee, after notice and opportunity to be heard, at any time for adequate cause which relates to his character or to his efficiency as a Trustee.

COMPENSATION

SEC. 203. Trustees shall serve without compensation, but may be reimbursed for their travel expenses, including per diem in lieu of subsistence, at the maximum rate equal to the daily equivalent provided for by grade 18 of the General

Schedule established under section 5332 of title 5 of the United States Code, with a limit of $4,000 per annum, while actually engaged in service for the Trustees.

THE UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 204. The Trustees shall, within one year after its first meeting, consolidate the existing three institutions of public higher education in the District of Columbia into a single university to be called the University of the District of Columbia, with several schools, colleges, campuses, and units that offer a comprehensive program of higher education. The institutions of public higher education in the District of Columbia existing immediately prior to such consolidation shall be deemed abolished on the effective date of the consolidation. Thereafter, any reference in any law, rule, regulation, or other document of the United States or of the District of Columbia to such institutions shall be deemed to be a reference to the University of the District of Columbia.

DUTIES OF THE BOARD OF TRUSTEES

SEC. 205. It shall be the duty of the Trustees to—

(a) Consider the existing institutions of public higher education with respect to (1) accreditation, (2) present programs and functions, and (3) actual and potential capabilities. Those institutions and programs within such institutions that are determined to be sound and valid shall be used as a basis for the several schools, colleges, campuses, and units of the University of the District of Columbia, which shall include but not be limited to colleges of science and technology, liberal and fine arts, education and professional studies, including graduate programs, and postgraduate programs.

(b) Establish policies and standards governing admissions, curriculums, programs, graduation, the awarding of degrees, and general policymaking for the units of the University.

(c) Prepare and submit to the Mayor, on a date fixed by the Mayor, an annual budget for the fiscal year beginning after the first meeting of the Trustees. Such budget shall include a proposed financial operating plan for such fiscal year, and a capital improvements plan for such fiscal year and the succeeding four fiscal years for the University. In reviewing the annual higher educational budget, the Mayor and Council may not specify the purposes for which such funds may be expended or the amount of such funds which may be expended for various education programs.

(d) The Trustees may transfer, during the fiscal year, any appropriation balance available for one item of appropriation to another item of appropriation or to a new program, in an amount not to exceed $200,000.

(e) Enter into negotiations and binding contracts pursuant to Council regulations regarding contracting with the governments of the United States and District of Columbia and other public and private agencies to render and receive services.

(f) Enter into negotiations and binding contracts pursuant to Council regulations to perform organized research, training, and demonstrations on a reimburseable basis for the United States and the government of the District of Columbia and other public and private agencies.

(g) Fix tuition for students attending the University with tuition charges to nonresidents being fixed as far as is feasible in amounts comparable to nonresident charges made by similar institutions.

(h) Fix fees, in addition to tuition, to be paid by resident and nonresident students attending the University. Receipts from these fees shall be deposited in a revolving fund in a financial institution in the District of Columbia, and shall be available for such purposes as the Trustees shall approve, without fiscal year limitation.

(i) Accept services, gifts, or endowments for the use of the University. Such money shall be deposited to the credit of the particular college in the District of Columbia Higher Education Fund established in such amounts and in such manner as the Trustees may determine.

(j) Select, appoint, and fix the compensation for a President of the University and Provosts of the colleges in the University, and appoint and compensate such other offices as it deems necessary.

(k) Procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at daily rates for individuals not in excess of the maximum daily rate for GS–18 of the General Schedule under section 5332 of such title.

(l) Perform such other duties as may be necessary to carry out the purposes of this Act.

PERSONNEL SYSTEM

SEC. 206. (a) Notwithstanding any other provision of law, the Trustees are hereby authorized to establish, not earlier than one year and not later than five years after the effective date of this section, a personnel system (setting forth minimum standards) for all employees of institutions, facilities, and programs of the University of the District of Columbia, including, but not limited to, pay, contract terms, leave, residence, retirement, health and life insurance, employee disability, and death benefits, all at least equal to those provided by legislation enacted by Congress, or regulations adopted pursuant thereto, and applicable to such officers and employees immediately prior to the effective date of the system established pursuant to this section. Any provision in the personnel system established by the Trustees under this section requiring employees to be residents of the District of Columbia shall apply only to employees hired after the effective date of such system.

(b) Personnel legislation in effect prior to the establishment by the Trustees of such system, including without limitation, legislation relating to appointments, promotions, discipline, separation pay, unemployment compensation, health disability and death benefits, leave, retirement, insurance, and veterans preference applicable to such employees, shall continue to be applicable until such time as the Trustees shall, pursuant to this section, provide for coverage under a new personnel system.

(c) All actions affecting such personnel and such members shall, until such time as a personnel system is established by the Trustees superseding such laws and establishing a permanent personnel system for all employees of the University of the District of Columbia, continue to be subject to the provisions of Acts of Congress relating to the appointment, promotion, discipline, separation, and other conditions of employment applicable to officers and employees of the District government, and where applicable, to the provisions of the joint agreement between the Commissioners and the Civil Service Commission authorized by Executive Order Numbered 5491 of November 18, 1930, relating to the appointment of District personnel.

TRANSFER OF FUNCTIONS, ASSETS, AND LIABILITIES

SEC. 207. The Board of Higher Education and the Vocational Board shall be abolished on the day the Trustees hold their first meeting. Except as provided by this Act all functions, powers, and duties of the Board of Higher Education and the Vocational Board under the

District of Columbia Public Education Act of 1966 (D.C. Code, title 31, sec. 1601 (80 Stat. 1426)) shall be vested in and exercised by the Trustees. All employees, property (real and personal), and unexpended balances (available or to be made available) of appropriations, allocations, and all other funds and assets and liabilities of the Board of Higher Education and Vocational Board are authorized to be transferred to the Trustees.

ESTABLISHMENT OF LAND-GRANT UNIVERSITY

SEC. 208. (a) In the administration of—

(1) the Act of August 30, 1890 (7 U.S.C. 321–326, 328) (known as the Second Morrill Act),

(2) the tenth paragraph under the heading "Emergency Appropriations" in the Act of March 4, 1907 (7 U.S.C. 322) (known as the Nelson amendment),

(3) section 22 of the Act of June 29, 1935 (7 U.S.C. 329) (known as the Bankhead-Jones Act),

(4) the Act of March 4, 1940 (7 U.S.C. 331), and

(5) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), the University shall be considered to be a university established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (7 U.S.C. 301–305, 307, 308) (known as the First Morrill Act); and the term "State" as used in the laws and provisions of law listed in the preceding paragraphs of this section shall include the District of Columbia.

(b) In lieu of extending to the District of Columbia those provisions of the Act of July 2, 1862 (7 U.S.C. 301–305, 307, 308), relating to donations of public lands or land script for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated to the District of Columbia $. Amounts appropriated under this subsection shall be held and considered to have been granted to the District of Columbia subject to those provisions of that Act applicable to the proceeds from the sale of land or land scrip.

(c) In the administration of the Act of May 8, 1914 (7 U.S.C. 341–346, 347a–349) (known as the Smith-Lever Act)—

(1) the University shall be considered to be a university established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (7 U.S.C. 301–305, 307, 308); and

(2) the term "State" as used in such Act of May 8, 1914, shall include the District of Columbia, except that the District of Columbia shall not be eligible to receive any sums appropriated under section 3 of such Act.

(d) In lieu of an authorization of appropriations for the District of Columbia under section 3 of such Act of May 8, 1914, there is authorized to be appropriated to the District of Columbia such sums as may be necessary to provide cooperative agricultural extension work in the District of Columbia under such Act.

(e) Four per centum of the sums appropriated under subsection (d) for each fiscal year shall be allotted to the Federal Extension Service of the Department of Agriculture for administrative, techni-

cal, and other services provided by the Service in carrying out the purposes of this section.

(f) The second sentence of the first section of the Act of August 11, 1955 (7 U.S.C. 361a–361i) is amended by inserting "(including the District of Columbia)" immediately after "the several States".

STATE CONSENT

SEC. 209. The enactment of this Act shall, as respects the District of Columbia, be deemed to satisfy any requirement of State consent contained in any of the laws or provisions of law referred to in section 209.

TITLE III—AUTHORIZATIONS

SEC. 301. (a) There are authorized to be appropriated out of any money in the Treasury to the credit of the District of Columbia such sums as may be necessary for carrying out the purpose of this Act.

(b) The President is authorized to provide for the expenditure in amounts not to exceed $25,000 of funds for such purposes as may be deemed necessary. The President's determination thereof shall be final and conclusive, and a signed certificate shall be sufficient voucher for the expenditure of appropriations made pursuant to this section.

TITLE IV—MISCELLANEOUS

MEETINGS

SEC. 401. Meetings may be called by the Chairman or a majority of the members of the Trustees. No official action may be taken by the Trustees except at a meeting of the Trustees at which a quorum is present. Eight members shall constitute a quorum but a lesser number may hold hearings. Each meeting of the Trustees shall be open to the public and held in the District of Columbia with appropriate notice of each such meeting given to the general public.

ADVISORY COMMITTEES

SEC. 402. The Trustees may appoint such advisory committees as necessary to advise on educational policy. Such advisory committees may consist of members of the Trustees, students, parents, governmental, business, industrial, and community representatives.

DISTRICT OF COLUMBIA HIGHER EDUCATION FUND

SEC. 403. There is established in the Federal Treasury, without fiscal year limitations, the District of Columbia Higher Education Fund. There shall be deposited in such fund all gifts, contributions, funds in receipt of services rendered, and all other moneys not included in the annual operating and capital improvements funds appropriated by Congress. Such fund shall be administered pursuant to the provisions of the Budget and Accounting Act. Moneys deposited therein shall be available for investment in interest-bearing Treasury notes and bonds and shall be distributed in such amounts and in such manner as the Trustees may determine.

ANNUAL REPORT

SEC. 404. The Trustees shall make an annual report to the Congress, Mayor, Council, and the general public, on November 1 of each year, on the operation of programs and the expenditure of all funds for public higher education in the District of Columbia.

NEW AUTHORITY GRANTED BOARD OF EDUCATION

SEC. 405. (a) The Board may transfer, during the fiscal year, any appropriation balance available for one item of appropriation to another item of appropriation or to a new program, in an amount not to exceed $200,000.

(b) The Board may enter into negotiations and binding contracts pursuant to Council regulations regarding contracting with the governments of the United States and District of Columbia and other public and private agencies to render and receive services.

AUTHORITY OF COUNCIL

SEC. 406. Notwithstanding any other provision of law, or any rule of law, nothing in this Act shall be construed as limiting the authority of the District of Columbia Council to enact any act or resolution, after January 2, 1975, pursuant to the District of Columbia Self-Government and Governmental Reorganization Act with respect to any matter covered by this Act.

EFFECTIVE DATE

SEC. 407. This Act shall take effect January 2, 1975.

Mr. DELLUMS. Before proceeding I would like to simply read to you an abstract of the bill that addresses itself to the purpose, history, and provisions of this act.

PURPOSE OF BILL

First with respect to the purpose of the bill; it is to authorize a public land grant university through the reorganization of the existing local institutions of public higher education in the District of Columbia.

HISTORY

On March 23 and 30, 1974, public hearings were held, sponsored jointly by the Boards of Higher, Vocational Education, and the Committee on Education, Youth Affairs and Manpower of the City Council. These hearings were held by request of the Committee on the District of Columbia to consider a bill to create a Board of Regents that would have jurisdiction over all public education in the District of Columbia. As a result of these hearings, the hearing report indicated that the creation of a University of the District of Columbia should be considered.

PROVISIONS OF THE BILL

The provisions of the bill may be summarized as follows:

1. Establish a 15-member Board of Trustees, appointed by the Mayor and confirmed by the City Council, with the exception of the

student member. The Board of Trustees will have one student and three alumni members. Two members may be nonresidents of the District of Columbia.

2. Authorize and direct the Board of Trustees to consolidate the existing institutions of public higher education—Federal City College, Washington Technical Institute, and the District of Columbia Teachers College—into a single land-grant institution called the University of the District of Columbia.

3. Direct that the units of the University of the District of Columbia include, but not be limited to, College of Science and Technology, Liberal and Fine Arts, Education and professional studies, including graduate and post-graduate programs.

4. Authorize the Board of Trustees to establish the policies and standards governing admissions, curricula, programs, graduation, the awarding of degrees, and general policy-making for the units of the University of the District of Columbia.

5. Authorize the Board of Trustees to reprogram funds up to $200,000.

6. Authorize the Board of Trustees to enter into negotiations and contracts pursuant to City Council regulations governing contracting for services with public and private agencies.

7. Authorize the Board of Trustees to establish a personnel system for all employees of institutions, facilities and programs of the University of the District of Columbia.

I would simply add that our distinguished Chairman of the Full Committee, the gentleman from Michigan, Mr. Diggs, saw fit based on the findings of the initial hearings on March 23 and 30 addressing itself to the question of the establishment of the Board of Regents for Higher Education, saw fit to submit the bill H. R. 15643. And further, thinking that given the prospect of impeachment on the House side and the potential trial on the Senate side, thought that if this Committee were going to do anything with respect to the question of establishing a University of the District of Columbia, it would have to do it in the very, very near future.

The Chair would like to apologize to those of you who are here at very short notice. The problem is that we are at this point in an extraordinary time bind.

I would like at this point to yield as much time as the gentleman would consume to the Chairman of the Full Committee, to Mr. Diggs, who has held such interest in this bill.

STATEMENT OF HON. CHARLES C. DIGGS, JR.

Mr. DIGGS. Thank you very much, Mr. Chairman. Your own initiative and committment to the question of education nationally and in the District of Columbia particularly is very reassuring to us, who consider this subject to be the number one priority beyond home rule. And it is in recognition that this subject is in good hands that we join you this afternoon with a great deal of anticipation as we process the bill in question.

Mr. Chairman, in its 1972 comprehensive report on the public higher education needs for the District of Columbia, the *Arthur D. Little Report* states:

A Comprehensive Plan for Public Higher Education in the District should be based on the premise that every District resident should be afforded the opportunity to attain the highest level of education of which he is capable or she is capable. Consequently, universality of and equal opportunity for access to post-secondary education for all District residents must be fundamental to this mission statement. This new emphasis is amply justified by the long history of large numbers of District residents being denied access to opportunities to obtain higher education commonly afforded residents of other major cities and states in this country.

Every State in the Union, Mr. Chairman and, indeed, our Trust Territories of Guam and Puerto Rico, have public universities that offer the widest possible variety of undergraduate, graduate, and postgraduate educational opportunities for their citizens.

H. R. 15643 is designed to bring the District's higher education system into the mainstream of higher education in our society. Mr. Chairman, while I do not necessarily agree with everything recommended in the *Arthur D. Little Report*, I certainly agree with its analysis of the value of a formal higher education. The *Report* succinctly states:

—Contemporary America is largely a credentialed society. And, higher education is the principal means for obtaining credentials, which, no matter how criticized, serve as tickets to opportunities for a more satisfying life.

And this bill, contrary to some charges that have been leveled, is not about bricks and mortar, nor does it contemplate the construction of a $300 million physical plant, which is another wild rumor running around the community. It is not that at all. Rather, it is about consolidating the existing local institutions of public education into a cohesive unit, to combine the art of pedagogy, liberal arts, and all of the components of a traditional educational institution so as to bring about this cohesion in a much stronger way than they can possibly be brought about on an individual basis. It is about the kind of unification and financial and fiscal stability for public higher education in the District of Columbia that every other state has. It is about affording to the residents of this city new program offerings that will both improve the quality of life for the citizenry in general and provide career opportunities for individual residents.

The fact that five fine universities are located within this city is of little comfort to the residents who are repeatedly reminded that these five institutions are national and some international, both with respect to student body and thrust.

I recall at our hearing this morning for example, in connection with the dental and medical schools, Mr. Chairman, that out of, as I recall, 160 slots at one of the institutions, only 12 of them are held by local residents.

No one would argue that because you have a Harvard and a Radcliff in the Boston-Cambridge area that you don't need a publicly-supported University of Massachusetts in the same city. The same is true of my city. Just because you have the University of Michigan doesn't mean—and also other institutions—doesn't mean that Wayne State, which is the principal publicly supported university in my area, is not needed.

Every major city in this country, except Washington, has both public and private universities located within their political boundaries offering comprehensive programs of study.

Finally, I do not believe that anyone thought in 1966 that by establishing Federal City College and Washington Technical Institute

we had completed the process of providing the citizens of the District equal access to higher education. Our action in 1966 was a start and not the end, and authorizing the establishment of a local public university with a Federal charter seems simply the next logical step in the process. And only Congress can give it a Federal charter. And I might add, and I might make that point because there are those who would argue in view of the home rule, that it should be left up to the new Mayor and City Council to decide what to do about public higher education.

In addition to the Federal charter, that only Congress can provide, I would also think that in terms of priorities, that whether we are talking in the field of education, about elementary or secondary or higher education or anything else, we have to consider whether or not the city will make this one of its highest priorities since it has so many other pressing problems and that certainly is worthy of speculation.

I would also urge those who say we have no business legislating in this area to read the record of the community hearings that were held on this issue that past March and April. And I might add that we referred the matter to the community for hearings as an indication that we did want to get the views of the community and that they did have a right to participate in those decisions. We didn't have to do that, but we did it in that fashion.

In those hearings, the citizens of this community spoke loud and clear. They want, in my view, the same kind of publicly supported higher educational opportunities that are available to every other citizen in our Nation, and they want it now. It is my view that they deserve those opportunities and they deserve them now.

And it is my hope, Mr. Chairman, that this Committee will concur and that the Congress will concur in that view. Thank you very much.

Mr. DELLUMS. I would like to thank the Chair for his opening remarks and we are deeply appreciative of the fact that you are here to help us to begin these hearings.

I would like to ask Mr. Hogan whether he would like to take a few moments to make an opening statement?

Mr. HOGAN. No, thank you Mr. Chairman. The members of the Committee, Mr. McKinney for instance, is out of town and expected momentarily and maybe he will be at these hearings. He will be here as soon as his plane lands. Mr. Landgrebe regrets he cannot be here.

Thank you, Mr. Chairman.

Mr. DELLUMS. The Chair would simply make one procedural ruling. We have tended in the past to be as flexible as we can. But we have an extraordinary amount of witnesses this morning and in order to complete it, we will try to stay in the five minute rule certainly realizing, if no members show up on the minority side, that the Chair would certainly be willing to give Mr. Hogan ample opportunity to question the witnesses.

Now our first witness this afternoon will be Dr. Marjorie H. Parker on behalf of the District of Columbia Government, the City Council.

We welcome you, Dr. Parker, and you may proceed in any fashion you would like.

STATEMENT OF MRS. MARJORIE H. PARKER, MEMBER, DISTRICT OF COLUMBIA CITY COUNCIL, ACCOMPANIED BY EDWARD WEBB, JR., SECRETARY TO THE CITY COUNCIL

Mrs. PARKER. Thank you, Mr. Diggs and gentlemen and ladies. I am very pleased to say to you this afternoon that I present a very short testimony which is the official action of the District of Columbia Council. In a meeting of the whole this morning, this testimony, which I am about to give, was approved by the Council and I would say that the spirit of our testimony echoes the very fine statement that has been made by Diggs. And we appreciate that very much.

I am deeply appreciative of this opportunity to testify on behalf of the District of Columbia City Council on proposed legislation to authorize a public land-grant university through the reorganization of the existing local institutions of public higher education in the District of Columbia.

Earlier in the year, as has been said, public hearings were held at the invitation of Congressman Charles C. Diggs, Chairman of the House District Committee, by a Joint Committee of the Board of Higher Education, the Board of Vocational Education and the Council's Education, Youth Affairs, and Manpower Committee on a "Rough Discussion Draft to Reorganize Public Education in the District of Columbia."

A majority of those who testified supported the concept of a public university system in the District of Columbia. The results of those hearings and a revised draft bill were transmitted to the Chairman of the House District Committee as well as to the Subcommittee on Education by the Joint Committee which conducted the hearings.

The Council believes that a university system would provide a legal mechanism within which greater coordination and unification of public higher education could be accomplished. Additionally, this legislation could be expected to further cohesiveness of purpose and of goals with maximum and equitable utilization of funds and resources.

A university system as conceived in this bill, with distinct colleges and schools, including graduate programs and postgraduate programs, will provide a wide range of opportunity for all residents of the District of Columbia. Students with varying abilities, and I might say varying interests, but who for financial reasons cannot take advantage of the programs offered by the many fine universities in the area will have access to a multiplicity of opportunities with the envisioned public university.

Some issues were raised during public testimony concerning elements of the Committee's Rough Discussion Draft which are not resolved by this proposed legislation, but which possibly can be addressed by the soon-to-be elected City Council. Therefore, the present Council are pleased to see that this legislation contains a provision (Section 406) which provides authority to the City Council to consider those issues and possible solutions.

In conclusion, the Council urges your Subcommittee to move expeditiously in bringing forth this legislation to create a public land-grant university in the District of Columbia.

Mr. DELLUMS. Thank you very much, Mr. Parker, Mr. Diggs?

Mr. DIGGS. No questions.

Mr. DELLUMS. Mr. Hogan?

Mr. HOGAN. Thank you, Mr. Chairman.

Mrs. Parker, is there any indication of what is projected on into the future? I mean is there any indication as to what the cost would be of operating a system such as that recommended by the Little Study, by the *Arthur D. Little Study*, which I gather this legislation would help effect?

Mrs. PARKER. I don't have any such projection. I don't quite agree with you that this legislation does establish the entire system that was projected in the *Arthur D. Little Study*. It is my understanding and it is the position of the Council that the basic thrust of the present legislation is a consolidation of existing units of higher education in the District of Columbia which of course would entail a consolidation of present support and present revenue.

I think that there would of course be expansion of some expenditures on the one hand but on the other hand there would be definitely some savings and I think it is an economically sound move.

Mr. HOGAN. Well, Mr. Chairman, I have here the District Government's statement of February 1 of 1973 which I would like inserted in the record and which gives an analysis of *Arthur D. Little's Report.*

Mr. DELLUMS. If no objection, so ordered.

(The document dated February 1, 1973 entitled An Analysis of A Comprehensive Plan for Public Higher Education in the District of Columbia follows.)

AN ANALAYSIS OF A COMPREHENSIVE PLAN FOR PUBLIC HIGHER EDUCATION IN THE DISTRICT OF COLUMBIA; REPORT TO THE DISTRICT OF COLUMBIA GOVERNMENT, BY ARTHUR D. LITTLE, INC.

The accompanying report was delivered to the District of Columbia Government on December 19, 1972. It is in two parts—the complete report in 352 pages, and a 59 page Summary. The study was begun in April, 1971 with a time schedule of eight months. However, the Contractor initially encountered some delays in obtaining necessary data, and thereafter, a painstaking review of each preliminary report was required of the Contract Administrator and the Liaison Committee who monitored the study on behalf of the District Government. The Committee and other District officials working with them, who are listed in the beginning of the report, found it necessary to spend many hours reviewing and commenting on the quality and contents of the report, and meeting together, and with the Contractor, in order to insure that the terms of the contract were complied with and that the report reached its present level of quality. This protracted, but necessary, review process resulted in final delivery being delayed until December, 1972. (The dates of May and June 1972 in the reports refer to the delivery of the *drafts.*)

The study includes sections dealing with an analysis of the mission of public higher education in the District of Columbia, discussion of needs for public higher education, and of its recommended structure and governance under Arthur D. Little's plan. Enrollments, in total and by program are projected, followed by the resources (facilities, staff, finances, etc.) which will be required to accommodate the projected enrollments, and methods of financing these resource requirements. The means of transition to the recommended public higher education system are also discussed.

MAJOR RECOMMENDATIONS AND FINDINGS

1. Arthur D. Little recommends a structure of four (or possibly three) institutions offering, among them, a fairly comprehensive range of academic and occupational programs at appropriate student levels. These institutions would be governed by one board of trustees, whose chief executive officer would be a chancellor to whom each institutional president would be responsible. The recommended four institutions are: a) a four-year comprehensive college; b) an institute of

technology; c) a university center, and d) a comprehensive multi-campus community college. The alternative recommendation for three institutions would be: a) a four-year comprehensive college; b) a university center; and c) a multi-campus community college, the difference being that under the latter system the one and two year programs of the technical institute would be offered by the community college, and its baccalaureate and masters degree programs by the four-year college.

Arthur D. Little does not recommend which of the existing institutions should become each of the proposed new institutions, but suggests that: a) the District of Columbia Teachers College become the new four-year comprehensive college; b) Washington Technical Institute become the new institute of technology; c) the university center be established as a new institution and d) Federal City College become the comprehensive multi-campus community college.

2. Arthur D. Little projects three possible levels of enrollment demand by 1985—16,600, 22,300 or 27,600 full-time equivalent students. The two lower projections are based upon different statistical methods utilizing expected student demand; while the projected level of 27,600 full-time equivalent students is based upon the expectation of participation in public higher education in the District reaching parity with the United States by 1985 with respect to undergraduate attendance at public institutions as a proportion of 18–21 year old population. A further alternative is based upon the District reaching U.S. parity by 1980, and then continuing at the national rate through 1985.

3. Operating costs (in 1972 $'s) for the projection requiring 1985 parity are calculated at $49m–$55m for 1975, $70m–$79m for 1980, and $92m–$104m for 1985. If U.S. parity were obtained in 1980 instead of 1985, operating costs would increase by approximately $3m for 1975 and $8m for 1980. The accumulated capital value of required facilities for the 1985 parity projection (in 1972 $'s), includin parking and site development, would be $159–$179m in 1975, $223m–$253m in 1980, and $282m–$320m in 1985. (This assumes all new facilities, and does not take into account the value of current facilities which would be usable).

4. Based on its analyses of current funding patterns in higher education, Arthur D. Little recommends that operating expenditures be financed as follows: 59% District appropriation, 30% Federal grants, 1% earnings, 3% student tuition and fees, 5% private gifts, and 2% miscellaneous. The portion from student tuition and fees is much lower than the national average, but Arthur D. Little believes that the continuation of the low tuition policy in the District is essential. The recommended Federal contribution is near the upper limit of the range nationally and considerably higher than average, but is considered to be appropriate and necessary.

All of these recommendations and findings, and others included in the report, require *very* careful study and evaluation before any final determination of the future of public higher education in the District can be made. In the judgment of the Liaison Committee and the Contract Administrator, the following are additional areas which would receive particular attention and perhaps further, more detailed study:

1. While a moderately comprehensive range of academic and occupational programs is recommended, at certificate, associate, baccalaureate and graduate levels, no graduate-professional programs of law, medicine or dentistry are recommended. Arthur D. Little believes that the District cannot afford to establish professional schools, that substantial numbers of District residents can be accommodated at existing private institutions in the District, and that lower level programs should receive first priority. However, others may believe that the citizens of the District should be provided professional schools under their control and responsive to their particular problems and needs just as are available to residents in all other states.

2. The report clearly indicates the disastrous impact upon public higher education in the District which would result from the maintenance of a constant operating budget level. Such a course would alow only 5,342 full-time equivalent students to be enrolled by 1985.

3. The report recommends a near-term enrollment goal of 14,000–15,000 full-time equivalents by 1975 (from 10,800 full-time equivalents in 1972), and that planning should begin immediately for generating the required operating revenues of $49m–$55m (or $58m–$65m inflated at 6% annually) and for the development of accumulated capital facilities valued at $133m–$146m at that time.

4. The report projects a sharp decline in enrollment at the proposed technical institute-from 4,818 full-time equivalents in 1975 to 2,414 full-time equivalents in 1980. This decline would be caused by the establishment of the community

college. However, consideration must be given to the means by which the resources which would have been developed for the technical institute prior to the enrollment decline would be assimilated.

5. The proposed 30% Federal contribution to operational financing is exceptionally high. Posible alternative methods of financing should be studied in the event that this level of Federal contribution is not forthcoming.

6. The proposed method of transition from the present three institutions to the proposed four institutions does not discuss the effect of the transition upon the accreditation or expected accreditation of the institutions. This must be considered and discussed before any transition takes place.

7. The report projects program enrollments which in some cases are not consistent with the District's projected share of occupational demand for matching occupations in the metropolitan area. It must therefore be considered whether the proposed programs are adequate in size and scope.

The District of Columbia Government recommends that all persons and agencies involved or interested in public higher education in the District carefully review this report. The Division of Educational Affairs, Office of the Assistant Director for Planning, Department of Human Resources may be contacted by any persons having questions or comments concerning the report.

Mr. HOGAN. Now is there any indication of what the cost of that would be looking into the future?

Would the District Government be able to project what expansions they might have in mind if there were to be any?

The summary of the bill indicates that there would be colleges of sciences and technology, of liberal and fine arts, educational and professional studies, including graduate and post-graduate programs, but that the University of the District of Columbia would not be limited to that. Now does the Committee have some idea as of what is contemplated, as of what the costs will be let us say of ten years in advance?

Mrs. PARKER. Now you are referring to a statement prepared you say by the District of Columbia government?

That did not come from the Council. I would not be prepared to give you that testimony. I think perhaps some of the other witnesses who will testify and who have worked in that development of that projection might be better able to answer that.

Mr. HOGAN. Thank you, Mrs. Parker.

Mr. DELLUMS. Would you like to follow up on the question?

Ms. MARTIN. I would just like to reemphasize what Councilman Parker has said that is the bill that we are discussing today is not to implement the *Arthur D. Little Report* which talks in terms of granting new expensive units. But the basic thrust of this legislation as Dr. Parker has said, is to reorganize the existing three local public institutions of public higher education.

I think perhaps by inserting in the record what you are proposing, that you may somehow confuse everybody when we come to writing the report and I would just like the record to show that.

The Chairman, Mr. Diggs, stepped out of the room but he wanted to emphasize that the thrust of this legislation is not to implement the *Arthur D. Little Report* which I agree with minority counsel is very expensive.

Mr. DELLUMS. I have a couple of questions. One issue that Mr. Diggs has addressed himself to, and this is one potential criticism, is that at a time when we are talking about implementing the principle of self-determination in the District that perhaps the Congress should not be acting to develop a brand new institution in this community without

allowing the City Council to do it itself. Now one major argument that has been raised is that greater status, prestige, and perhaps other benefits that would accrue would accrue by virtue of the Congress doing it; in order to develop a federal charter as opposed to a city charter in the development of the University of the District of Columbia.

I would like you to comment on that.

Mrs. PARKER. Well, I think that the Chairman made the point very well that a university in the true sense of the word does require a federal charter. Now it may be that some persons would feel that what should happen is that this action that we are talking about now should be delayed until the soon to be elected City Council could develop such a proposal as we now have before us and to move this through channels until it came before the Congress which I would presume at the earliest would be a year and one-half or two years from now. I don't agree with that. I think that what we have now is a very officious time to take a giant step forward in the improvement of the delivery of a quality level of higher education for the students of the District of Columbia.

I think personally that it is very confusing the way people use the home rule independence and self-government rhetoric to suit their own purposes. I thought that one of the comments that the newspapers made in reporting the very happy accreditation of Federal City College over the weekend was that the Board of Trustees of Federal City College was criticized as was the city government for its control of the budget of the institution of Federal City College as a college.

Now it seems to me that if you are going to argue for self-determination that in a city you would refer your budget for higher education to your City Council rather than to some other agency. I would not be swayed at all by an argument that this particular attempt at this time would detract in any way from the validity or the strength of the forward thrust of self-government that has come into our city at this time.

Mr. DELLUMS. Thank you. I have one other question.

One of the provisions of the act establishes a 15-member Board of Trustees appointed by the mayor and confirmed by the City Council with the exception of the student member. The Board of Trustees would have one student and three alumni members. Would you comment on the question of whether you believe that one student member on this 15-member board of trustees would be adequate representation of the student body given the fact that there will be three institutions that would be coming together?

Mrs. PARKER. Personally I think that one student would be representative. I think that what we are talking about is a board of trustees that will manage a university and we hope this will be a unified university. I have reservations about the efficacy and the value of student management on boards of directors and boards of trustees.

I think that the student point of view is absolutely vital. It is completely necessary. It is unfortunate however that the students who are the students in the true sense of the word don't really have time and don't have the experience to be contributing and fully participating members of boards usually.

I think that the wise choice of alumni trustees is the key to the close ties with the student population and I think that that is a very strong

point in the bill. And I believe that three of the 15 who are alumni trustees and who must be alumni trustees—and this does not preclude the fact that there may be other trustees appointed who would be alumni of the new university or its predecessor institutions—would be sufficient.

And so I think in that way there would be a close relationship to the needs and the input of the student body.

Mr. DELLUMS. Given the fact that consolidation of the three existing facilities would mean essentially three different sets of interests—

Mrs. PARKER. Three different sets of what?

Mr. DELLUMS. Of interests.

Mrs. PARKER. Oh, interests?

Mr. DELLUMS. In other words, the student going to Western Technical Institute is interested in a particular course of action affecting his or her future and the student going to Federal City and/or D.C. Teachers College may be going in a different direction and have different needs, different programmatic needs. And the question that I have is: How do you appoint one student in order to deal with all of the concerns and aspirations, programmatic and policy considerations of the students coming from a variety of different institutions that are more heterogeneous than homogeneous?

Mrs. PARKER. I am not sure that I would accept your stipulation 100 percent, Congressman. I think that what we are talking about when we get to the responsibilities of Boards of Trustees and the management of a complex university system, is I think we would hope that we would have trustees who could take the broad view.

I don't think it would be possible to expect that each one of the separate special interests that would be evident in a multifaceted university could be directly represented on the board.

And you see if you are going to suggest that only a student can represent the interests of students and only a student of education can articulate the interests of education and only a student in technology or computer science can articulate the interests of those students then I think you are moving yourself onto a treadmill that would lead you to an unfortunate attempt to provide your Board of Trustees by quotas and categories and other kinds of labels. And this I don't think we want to do.

I think that a student representative on the Board of Trustees is a good thing but I would expect that the student representative would be as articulate of the employees, of the faculty and so on needs as he would be of the student needs and I would certainly expect that other members of the Board of Trustees would be able to do the same thing.

I don't think there is any point in putting a student on the Board of Trustees if all the student is going to address himself to is student concerns like football games and the canteen and the parking places on the campus. But I think that the student if he is going to be a real 100 percent bona fide member of the board of trustees has to be a representative of the entire student body.

Mr. DELLUMS. I would agree with you at one level. I am simply making the assumption that with student representation that you simply are attempting to elicit their prospective?

Mrs. PARKER. Yes.

Mr. DELLUMS. And obviously the student would be concerned with a whole range of issues and all of the policy considerations and that I agree with you.

It is just that in establishing a board that makes policy within the framework of a democracy we try to make that representation as fair as possible.

And all I was trying to raise was not so much that I thought that one student at WTI could not address himself or herself to issues that affect everyone but there are some specific concerns that they as representatives of their particular body would reflect at the policy level so that the will of the entire body could act on it, but at least the input was there.

And my concern with just one student would be: how do you choose that student? Do you decide one year it is going to be from WTI and one year from Federal City and one year from D.C. Teachers?

How do you establish a student mechanism that allows the students to be in direct communication with that one student even though you are talking about more than one campus?

Just the logistical problems alone would create a problem.

Mrs. PARKER. Let me differ with you, Mr. Dellums in this way.

I am not sure I would agree with you as to the role you are assigning the student member on the Board of Trustees. Now the current policy of the board of higher education—and I speak about this because this is something that I know—is that the concerns of the institution are articulated to the Board through the President of the institution. There is a non-voting student member from D.C. Teachers and one from Federal City and there is also a faculty member on the Board from D.C. Teachers and one from Federal City. And now what I am saying is that the actions that might come through the Senate of D.C. Teachers and through the faculty organization of Federal City, Mr. Dellums, come through the Board and not through the faculty member of the Board or the student member of the Board.

They come through regular, established, and recognized channels, in other words. And somebody I am sure will correct me if I am wrong in this but it is my feeling that no matter what the basis of the choice, that I think the person who once takes his seat as a member of the Board of Trustees is obligated by his professional requirements to give due and just consideration to the matter on its merits and not just on his own personal vested interest.

I think that the line of reasoning that you are following would mean that if the Mayor-Commissioner should appoint say two members from out of town that these out of town people would be limited to representing the interest of nonresident students.

Mr. DELLUMS. That is not what I am saying. You can pursue that of course but that is not what I am advocating.

Mrs. PARKER. Well, then I misunderstood you. I am sorry. But you did say that you thought the student was there to represent the student body and therefore that with a division of student interests that the difference of background between students in the three institutions would cause a difficulty just to have one student represent all three.

Mr. DELLUMS. Yes, and the point I am making is that the proposal advocates one student.

Mrs. PARKER. Right.

Mr. DELLUMS. And over the past several years across this country black, brown, red yellow and white students have been in serious confrontation with administrative personnel as well as policy making bodies around the question of representation, of direct input to policies that affect their immediate lives and their futures. And since this bill opens that door up and puts one member and agrees that one student member ought to be on the Board, then I am saying: Does that not open us up to the consideration of—and, one, we have agreed that a student ought to be on it but now the question I am raising is whether one student can effectively deal with the issues that have certainly been raised all over this country with respect to direct involvement of students in the issue of policy making which has been of national concern certainly over the past five or six years where students have actively and diligently and in some instances militantly pursued that question?

Mrs. PARKER. Well, I think that if you follow your line of reasoning then if you are suggesting that do I think that one is not enough and that there should be other or larger numbers of student representatives I would certainly have no objection to that. But I come back to my original point. I don't believe that a board member ought to consider himself as a delegate from his constituency once he takes his seat on the board. He is a board member. And I don't think that a board member is the one who presents the concerns of the group from which he was picked. I think that he is there because he is better able to help other board members interpret problems but he is not there as an advocate for the special interests.

Mr. DELLUMS. If there are no other questions from the panel, Dr. Parker, I would like to thank you but before you leave I would appreciate it deeply if you would identify the gentleman accompanying you.

Mrs. PARKER. This is Edwin Webb, who is the Secretary of the District of Columbia Council and I appreciate your allowing me to introduce him.

He is here in addition to being my personal legal counsel but also here to help me because I have a broken foot.

Mr. DELLUMS. Well, we thank you and deeply appreciate your coming and hope you will get well soon.

Mr. HOGAN. Mr. Chairman, I think the minority side would have concern as you have concern with the question of whether the newly elected government might perhaps be the best one to address this issue. And along that line I would like to put in the record a memorandum of May 14 from the Joint Committee of the Board of Higher Education, Board of Vocational Education, and D.C. City Council Education, Youth Affairs and Manpower Committee.

Mr. DELLUMS. Without objection, so ordered.

(The document, dated May 14, 1974, from the Board of Vocational Education and the Washington Technical Institute, follows:)

BOARD OF VOCATIONAL EDUCATION,
WASHINGTON TECHNICAL INSTITUTE,
Washington, D.C., May 14, 1974.

To: Hon. Charles C. Diggs, chairman, District of Columbia Committee, U.S. House of Representatives.

From: The Joint Committee of the Board of Higher Education, Board of Vocational Education, and D.C. City Council Education, Youth Affairs and Manpower Committee.

Subject: Public Hearings on Discussion Draft: Reorganization of Public Education in the District of Columbia.

Pursuant to request of the Chairman of the District Committee of the House of Representatives, 93rd Congress, Second Session, city-wide hearings were conducted by joint sponsorship of the Board of Higher Education, Board of Vocational Education, and the Committee of Education, Youth Affairs and Manpower, District of Columbia City Council, at the City Council Chambers, March 23 and 30, 1974.

The hearings included testimony from forty-one (41) representatives with a constituency of 28,483 persons. An analysis of the testimony is attached.

The Committee concluded that with respect to higher education there was overwhelming support for the creation of a single land-grant university of the District of Columbia, and is herewith the recommendation of the Joint Committee.

In view of the diversity of opinion expressed at the hearings relative to the elementary and secondary education provisions of the Discussion Draft, the Joint Committee recommends that the soon to be elected City Council be provided the opportunity to review in depth the issues delineated in the Draft. The highlights of the hearings would suggest that such a review by the Council be completed and acted on by 2 January 1976, with an appropriate report to the District of Columbia's Committee of the whole.

We do not conclude that these recommendations militate against the earlier understanding that public education legislation as a part of the self-governance legislation would be treated separately; rather, this approach provides a creative opportunity for legislative initiative at the local level by the Council at an early point that addresses a vital and substantive issue affecting most of the residents of the Nation's Capital.

Mr. DELLUMS. The next witness is Ms. Flaxie Pinkett, President, Board of Higher Education.

STATEMENT OF MS. FLAXIE PINKETT, PRESIDENT, BOARD OF HIGHER EDUCATION, ACCOMPANIED BY DR. WENDELL RUSSELL, PRESIDENT OF FEDERAL CITY COLLEGE AND OF D.C. TEACHERS COLLEGE

Ms. PINKETT. Dr. Russell assumed the position of president of those two institutions this morning so you are among the first to meet him.

Mr. DELLUMS. Glad to met you and thank you very much for being here.

Ms. PINKETT. On behalf of the Board of Higher Education, which is the Board that has jurisdiction over two of the present institutions of higher education in this city, namely Federal City College and D.C. Teachers College, I would like to thank the Committee and its Staff for the bill H.R. 15643 both from the standpoint of the procedures

which the House District Committee followed in bringing this bill into being and from the tremendous support that the committee has given to the voice of the citizens of the District of Columbia. There are matters in this bill that I personally do not agree with. There were matters in the rough draft that I personally did not agree with but I support the concept that the citizens of the District of Columbia should have the opportunity to speak their piece and have input in matters of this type. And so I was a part of the group as was my Board, that sponsored public hearings. The preponderance of the evidence was developed into a bill, a suggested bill that was sent to Mr. Diggs and to you, Mr. Dellums.

There were matters in that proposed bill that again I did not personally agree with but I can truthfully say that the bill sent to you along with the transcript of the public hearings certainly set forth what the majority thinking—and I think it was the overwhelming majority thinking—of the members and the persons who testified on the bill gave.

And the persons who testified, to the largest extent, Mr. Chairman, testified as representatives of groups, of organized groups. So that in the public hearings we did get the flavor of what many, many thousands of citizens thought.

I congratulate you on having stuck very closely to that citizen opinion report in the development of this document. It is heartwarming to see that even without home rule, we are working with the Congressmen and women who have become sensitive to the fact that the people in the District of Columbia do care and are interested in their city and their children and their schools and I am thankful you are giving us a chance to speak up and listening to what we have to say.

And it was because of the thinking of the majority of people that testified that the Board of Regents and the superstructure over the public schools of the District of Columbia was inappropriate that we imparted that to you and this draft deletes that entirely. And on behalf of those citizens I thank you.

I would like to speak to several items in this bill. My concerns are for the most part simply for clarification but where they go further than that I will certainly make it clear. I would like to begin with page 8 and line 5.

This is section 204 and it says—and this is spreaking of the University of the District of Columbia:

> The trustees shall, within one year after its first meeting, consolidate the existing three institutions of public higher education in the District of Columbia and I would recommend that the number of institutions be deleted and instead it would say The trustees shall, within one year after its first meeting, consolidate the existing institutions of public higher education in the District of Columbia.

I say this because as some of you know in accordance with a Congressional mandate and in accordance with what the present Board of Higher Education feels is in the best interest of public higher education in this city, we have begun planning the merger of D.C. Teachers College with Federal City College. We fully expect that that merger, the main part of it, will have been completed by the beginning of the academic year in September of 1974.

We recognize and we will protect the rights that we feel that faculty of an institution of higher education have as regards to changes in curriculum offerings. We have at the District of Columbia Teachers College four course offerings that are not now provided at Federal City College. We have now at Federal City and in its teachers education program, four courses that likewise are not offered at the Teachers College. So you can see that we have a very serious duplication.

And this is one of the reasons and perhaps the main reason that our Board action was unanimous that the merger should take place. However, one institution is on a quarterly system and one is on a semester system, and to change that, there would be the necessity for some indepth revamping of the offerings.

And to that end we feel that certain things such as commonality of calendar, opening, closing, registration, graduation, commonality of the student body should be done. We have the same president for both institutions, and we will have in very short order the same official vice presidents for the institutions.

We are consolidating that administrative support services as of today. And that was decided and requested by the teachers college in January of this year.

So that in other words, there are many parts of the merger that will be completed by September of 1974. There are other parts that will take longer. And when the faculty of the two institutions come back in full force, their right to deal with the curriculum offerings will prevail, and they will have that opportunity to do so.

So that part of it will take longer but there will be one institution come September of 74, and we believe that the bill would be stronger if it said "existing institutions" rather than just indicated three.

Mr. DELLUMS. The thrust of your statement is that the two institutions that we are talking about when we come to "three institutions" would be two rather than three?

Ms. PINKETT. That is right. Just say "the existing institutions".

On page 9, line 9, this is a statement that says—and it is still talking about the trustees of the university—"prepare and submit to the Mayor, on a day fixed by the Mayor, an annual budget for the fiscal year" and technically, Mr. Dellums, the trustees should not and they do not prepare the budget.

We have a very strong feeling that the budget of an institution of higher education should be prepared by the faculty and the administrators of that institution. They are the people who have first hand knowledge of what is needed and we think that they should prepare the budget.

So that I would suggest that we change the statement "prepare and submit to the Mayor" with reference to the budget, that we change that so that it will be crystal clear that this bill does not intend to give to the trustees the authority to prepare a budget.

I am sure that the administrators of the institutions would be quite upset about that, and frankly the trustees are hardly in a position to prepare the budget. The budget is prepared by the institution and submitted to the Board.

Mr. DELLUMS. Well, I appreciate the statement you are making but I assume that in the preparation of this bill that the statement here

simply reflects the fact that as a Board of Trustees, active as the governing body for the institution and capable of directing the staff to prepare a budget, that the budget cannot go directly from the staff to the Mayor's office, and it goes from the staff to you for your review and your final deliberations and then to the Mayor.

So the statement here does not preclude precisely what you are saying and that is that you, the Board of Trustees, direct your staff to prepare your budget. And the assumption then is that you, as the Board of Trustees City Council person and school board persons or otherwise would make a determination as to whether or not you approve that budget for submittal to the Mayor's office. But I appreciate the statement you are making.

Mrs. Martin?

Ms. MARTIN. Yes, it is a function delegated.

Mr. PINKETT. All right. On the same point I would like to direct your attention to the timing. This statement, line 9, says "prepare and submit to the Mayor, on a date fixed by the Mayor, an annual budget for the fiscal year beginning after the first meeting of the trustees."

Now, elsewhere in the bill it requires that the trustees must hold their first meeting no later than April of 75. The first fiscal year after that would be 1976, would be fiscal 1976. I have some concern about the time frame.

I would like to know if really you intend that persons appointed by our elected officials next year and who have to meet as trustees by April should have the responsibility of developing the budget with the institutions and submitting it for fiscal 1976?

I ask the question because very frankly the procedure that has been used in the District government to date and that as far as I know would be used for fiscal 1976 is that in September of 1974, which is a few months from now, the colleges involved will have to prepare and send to the Mayor-Commissioner their budgets for fiscal 76.

By December of this year, those institutions will have fought with the Mayor-Commissioner's budget office on those submitted budgets, and the Mayor will have given what we call The Mayor's Planning Mark.

In late December, those 1976 budgets go to the City Council, and the City Council holds hearings on them in January of 1975. Now, I know there will be a problem, but I am just concerned that a new Board of Trustees would not have, if it is the fiscal 1976 budget that you are talking about, in my judgment, adequate time to become completely informed by the Presidents of the colleges on the 76 budget. In fact, I am wondering if it wouldn't be too late—well, you see, in April of 74 we had presentations on our budget before the Congress and——

Mr. DELLUMS. Could you advise the Chairman and the witness on the question raised, Mrs. Martin?

Ms. MARTIN. Well, the language on page 9 that the witness refers to is consistent with the language in the home rule bill. Every agency will be under the same kind of mandate after January 2. My only response is that the first thing that the trustees would have to do is within a year consolidate the existing institutions of higher education and is to develop a plan outlining the kind of fiscal reporting or budget preparations that would best suit the purposes for which they are functioning.

And it would seem to me that the responsibility for developing a budget would remain with the two institutions, would remain with the boards of the two institutions that presently exist, until such time as the trustees are prepared to implement their provision.

Otherwise, I don't know how to deal with it and not be inconsistent with the home rule bill.

Ms. PINKETT. My concern, Mrs. Martin, was that actually this bill requires the trustees to consolidate the existing institutions within one year which means the consolidation could take place as late as April of 1976.

Ms. MARTIN. It would be January of 76.

Ms. PINKETT. It says "within one year after its first meeting" and that trustee board could hardly meet in January of 75. It would be more than likely April of 75. And the consolidation of the existing institutions would actually take place in April of 76 or not later than that.

Ms. MARTIN. No later than that?

Ms. PINKETT. And they are almost then at the end of a budget year or fiscal year. So I was wondering if instead of preparing a budget for the fiscal year beginning after their first meeting you did in fact mean for the fiscal year beginning after the consolidation of the institutions?

I didn't know and that is why I asked.

Mr. DELLUMS. That is the recommendation you are making?

Ms. PINKETT. I wanted clarification. It seems to me that is a more realistic approach to have the trustees working for a year on a budget projected for this University of the District of Columbia.

Mr. DELLUMS. Once the consolidation has been accomplished?

Ms. PINKETT. That is correct.

Mr. CLAIR. With respect to that point, Mr. Chairman, the anticipation would be that since the budget process if already operative by December, the existing procedures will prevail and the new Mayor and the Council might want to make changes, but that is a decision that this bill would leave the new body.

Since as you will know, the process has already started to establish the achieval mark by December or at least by the time the new government in fact picks its feet——

Ms. PINKETT. But I wished to raise——

Mr. CLAIR. And I think you have to understand this language is consistent. There is enormous flexibility with respect to whether or not they want to adopt——

Ms. PINKETT. Well, I know that there is a tremendous amount of work that will be required of both the trustees and this consolidated university system's administration and I just thought that the time frame was pretty tight, and I wanted to be sure that you meant exactly what you said which is that these new trustees in April are to prepare a budget or submit a budget and defend a budget for fiscal 76?

And that would be a budget for still more than one institution of public higher education.

Mr. DELLUMS. The Chair might say I think you raised an interesting question and certainly one that we need to think through and I would suggest to you that if you could get to us in writing at the earliest possible date your best thinking on this matter, we would appreciate it.

Ms. PINKETT. I would be glad to, Mr. Dellums. And I would suggest that it might be clarified some if we charge the trustees of the University of the District of Columbia with the preparation through their delegated representatives of a budget for fiscal 77 and required the consolidation no later than June 30 of 1976.

So that the consolidating institution would start off with its own budget and not have to depend on what is left from what several institutions have had and have spent, do you see?

I think it puts the new consolidated institution in a much better position. I will be glad to prepare some written information on it.

Mr. DELLUMS. Thank you. The point you make will certainly be taken under advisement by this body.

Ms. PINKETT. Thank you. I would like to call your attention to page 13, lines 5 and 6 and 7. Here again we have a hiatus of governing authority that I think can be easily clarified. We abolish the Board of Education and the Board of Vocational Education on the first day that the trustees of the university meet.

I think that is appropriate. Yet, on page 5, line 18, we eliminate those two boards on March 2. And that is not consistent because the trustees of the university may under this regulation not meet until April 2 of 1975, which is realistic because I know our elected government is going to have a number of things to do and the appointment and confirmation of these people may take some time because there are many people that are going to have to be appointed for many areas of service in the government. I think then that we need to amend or change page 5, line 17, and make the term of the existing Boards expire or terminate on the day of the first meeting of the new trustees.

I think that would simplify it and clarify it. And again on page 13, on line 8, and this is the section on transfer of functions, assets, and liabilities. And the Board of Higher Education presently performs some State functions and one of which is licensure.

We have the responsibility of evaluating each institution that receives a charter under the District government, that wants to give a degree. We not only have to evaluate that institution and determine whether or not it is to be licensed and granted a license, but we have the responsibility for a continuing amount, at least every five years, of time to review that institution.

This is a very heavy responsibility both in terms of the number of institutions that are getting licensed in the district and of charters in the District and which we are trying to do something about because we are of the opinion that our city might be headed toward becoming a charter mill.

So we are trying to do something about that to reduce the number of institutions. And we know that it must be easy to get a charter here because institutions from all over the world wouldn't be getting their charters here if this weren't one of the easiest places to get one.

We have before us now an institution of India, I think it is. We've got to send somebody to India. They pay the transportation but we have to pay the consultant's fee to evaluate that institution, and it has a charter in the District.

So while you don't specifically say the licensure function, by transferring all the functions you are in fact transferring the licensure function to this university Trustee Board.

And our Board recommends very strongly that you not burden the university trustees with that licensure function. We would recommend that that function be performed by a commission that comes right out of the Mayor's office and that would have the time to follow up and get the type personnel and consultants that are needed. Because it depends on what the scope of the operation of the institution is as to what type of person you need to go to evaluate it.

This is not an accreditation, but it is evaluation and they are not too far apart.

So it is a tremendous job. It is very time consuming and it has been burdensome. We would think that it might best be handled by another group.

Now on page 17——

Mr. DELLUMS. I would just say that the point is well taken and in markup we will certainly address ourselves to it.

Ms. PINKETT. And we have plenty of material on the licensure function and all that it involves that we can make available to you if you would like.

Page 17, line 1——

Mr. DELLUMS. The Chair might say I would appreciate it if you would give us in writing the information that you have on licensure function.

Ms. PINKETT. Be glad to. On page 17, line 1, it says: "Each meeting of the trustees shall be open to the public" and we have no problem with that except that it says "each meeting" which in my opinion means just what it means and that is each and every meeting.

Now, there are responsibilities. There is one in particular, and which is the major responsibility of the Board of Trustees of this university and that is that it will have to soon after it comes aboard select a president or a chancellor or whatever you want to call it. And it seems to me inappropriate to discuss certain types of personnel problems and matters in the public arena. In so doing you cannot give the protection to the confidential information that has to be considered as to the persons that are being considered.

And our board has just finished an intensive search for a President. I am therefore very familiar with some of the types of information that you have and the number of people. We had 135 men and women who applied for the Presidency of Federal City College and we narrowed that down to 14 and then down to five and then down to one. Many of those people had top notch positions in the communities in which they come from. It could have been very embarrassing and damaging to them if that had been aired in the public arena. I would recommend therefore very strongly that there be a condition attached to this that would allow the discussion and consideration of personnel matters to be done in Executive Session and I think that is almost mandatory.

I say "almost" but I think it is mandatory.

Mr. DELLUMS. I would just say in the State of California all of our public institutions operate within the framework of a law referred to as the Brown Act which simply says that whenever a majority of the public body group meets that they must meet in public and the exception is that they can choose to go into Executive Session to deal with sensitive matters such as personnel issues, grievance problems and what have you and we will take judicial note of the point you are

making and explore whether or not that could be handled within the framework of the legislation itself or the record or the legislative record accompanying the legislation which could spell that out.

Ms. PINKETT. Yes, I will have to amend my statement that I would recommend that this bill allow executive session for personnel and other sensitive matters.

My colleague has just remined me that there are matters with regard to the acquisition of property that might be adversely affected if they were aired in the public arena during the consideration.

But I think that with us—and when I say "us" I am talking about we the citizens of the District of Columbia, Mr. Dellums—but I think with us having home rule for the first time that our documents ought to be as clear as possible. And I would not like to see the university trustees labeled as not meeting the letter of the regulations because they had an executive session.

So I would like to see that type of thing clarified.

Now there is one other item and it is back on page 4 that I need clarification of. And depending upon what the clarification is I might have no more to say about it.

On page 4, line 10, under the membership of the Board of Trustees it says—and this is section 201—that: "There is hereby established a Board of Trustees, which shall be an independent agency of the District of Columbia government" and my question is what does "independent agency" mean?

I am very, very anxious to know because our Board has since the spring of this year been working very hard to implement recommendations and requirements of the accreditation association.

I want to be sure that our University of the District of Columbia which I heartily support gets off on the right foot and is going to be able to get accreditation from this same association.

They have been very explicit about what they call "the District agency syndrome". Your bill certainly shows that you have given some thought to the type of autonomy that an institution of public higher education must have and yet it is a part of our city government and we expect that it will have to comply in certain ways.

And I would therefore like very much to have a definition of "independent agency" and I would strongly recommend that that definition be added to section 103 which gives definitions for purposes of this Act.

Mr. DELLUMS. The Chair would like to yield to Mrs. Martin for clarification on this point.

Ms. MARTIN. Well, pursuant to the home rule act "independent agency" means that an agency, while an agency of the District government, is not subject to the policy direction of the Mayor the same as independent regulatory agencies, that is, not subject to the day-to-day kind of supervision and policy directions and decisions that are made.

I don't know whether that will deal with the specific issue that you raised. It was the intent of the legislation to deal with the issue you raised and if there is more language that is better clarifying I suspect we would like to have that.

Ms. PINKETT. Would you deem it inappropriate to list that definition under definitions?

Mr. DELLUMS. I don't think so.

Ms. PINKETT. I would certainly urge that be done. I think what Ms. Martin has said speaks to the real problems that we have had and are having and I think that that definition would meet the requirements. Is it defined in the home rule bill itself?

Mr. CLAIR. No.

Ms. PINKETT. Well, when it isn't defined it leaves it into the interpretation of many people and I would hope that we will ensure that this university will get off the ground and be able to move without the kinds of problems that can accrue when everybody and anybody and even the elected officials may not agree on what an "independent agency" is.

It is terribly important. The Board of Higher Education has been required to release certain information about students and faculty because we were a District agency and we protested and begged that it be subpoenaed and we were told that we were a District agency and the office of the Corporation Counsel had the right to every and anything that we had.

Now when institutions of higher education have got to follow and compete with the type of procedures that other recognized institutions of higher education have, and we just feel that regardless of what the District's agencies' rules and regulations are, that when they start meddling with the institutions of higher education—and I don't want to use the word "meddling" because that belongs to a friend of mine—but when they start interfering with institutions of higher education and requiring that information that the colleges have, just because they are District agencies, become the property of another District agency just because that agency happens to need it, it puts us in a very embarrassing spot. And I had some pretty rough experiences along these very lines. Because we feel and we insisted on protecting what we thought were the rights of faculty and students. And it became crystal clear in our efforts to do it that we were breaking regulations of the District, which we don't want to do.

And I don't want to see the University put in that spot. So I want to be sure that it is crystal clear what "independent agency" means and that some of the types of sensitive problems that are peculiar to institutions of higher education are not interfered with. I think definitions would adequately cover it if it was included in there.

Mr. DELLUMS. You raised a very sensitive question and the Chair would yield to Mr. Washington, the Chief Counsel of the Full Committee.

Mr. WASHINGTON. Specifically on section 422 of Self Government it says "All the executive power of the District shall be vested in the Mayor" and specifically subsection 4 says that the Mayor shall through two heads of administrative boards, offices and agencies, supervise and direct the agencies of such boards, offices and agencies except section 495 and that would establish "independent agency" which as Mrs. Martin indicates are not subject to the supervision and direction.

And there are at the present time such agencies as the Board of Zoning, Public Services, Board of Education, and so on that are not subject to his supervision and direction.

And by doing this we would amend that section to have 496 which would set up the board of trustees as an "independent agency" a fertiare, not subject to his direction and supervision.

But it is a word of art too, "independent agency". And it is more of a word of art.

Ms. PINKETT. Well I would like for it to have some meaning, Mr. Washington.

Now let me give you an example——

Mr. WASHINGTON. I thought that it had.

Ms. PINKETT. Let me give you an example. Our board has a request from some senior citizens and it has support from our Institute of Gericology at Federal City College and it has support from the administrators of Federal City and the Board itself feels that it is appropriate that we give consideration to waiving tuition at the college for senior citizens. We are told that as a District Agency that we can't do it. All right. I wouldn't like the University to have that kind of response.

We have a very beautiful report from support staff at Federal City College asking and urging that tuition either be waived or reduced for job oriented or job related study of staff development.

We're told that as a District Agency that we cannot do this. Our Board thinks well of it and there are 40 states in this country out of the 50 plus the District so out of 51 then who do make either a complete waiver or an exception or a reduced tuition fee for staff in job related course offerings. So if we are hamstrung at every turn of the road—well, no, I don't wish to imply we haven't had cooperation, but the Board of Trustees has a tremendous job to do and it is going to be working with three fully accredited institutions that have tremendous potential. And if it can't build on that and move forward then we are not doing the fair thing.

And I just urge very strongly that we make it crystal clear that it is an independent agency and spell out to the extent that we can what "independent agency" means.

Mr. WASHINGTON. Well, it goes on——

Ms. PINKETT. So that the Board doesn't have to be lawyers, Mr. Washington, to understand what they can and cannot do.

Mr. DELLUMS. I would like very much to pursue this in a moment. There is a vote on the Floor that demands the presence of Mr. Diggs and myself and we will suspend for ten minutes.

(Brief recess.)

Mr. DELLUMS. Ms. Pinkett, have you concluded your presentation?

Ms. PINKETT. I think I have, Mr. Dellums and I will say for the record that Mr. Washington has clarified some other points, some of the points made by telling me that when you say "Board of Higher Education" regarding this transfer that you are talking about the corporate body. Is that right?

Mr. WASHINGTON. That is correct.

Ms. PINKETT. And in the order section you are talking about the members. So that separates that although I don't think that most lay people such as I would understand that.

Mr. DELLUMS. Well, we will try to make the legislative record clear enough so that you will be able to interpret those sections of the act.

Ms. PINKETT. I would like, if I might, to have one more minute.

I was asked by some of the faculty at our institutions and the administrators to suggest that it might be quite appropriate for the University of the District of Columbia to have its own legal counsel rather

than use the Corporation Counsel, which would be a part of the District Government. There have been times in the past when the Corporation Counsel had the difficult assignment of representing both the Board and a District agency that brought charges against it. I guess that could happen any time two District agencies got into a problem and the Corporation Counsel would have to represent both of them.

But more important than that is the fact that the higher education structure in our society is pretty well defined. As you know, it is many, many years old. And we have agencies such as the American Association of University Professors that have very specific guidelines about rights of faculty in institutions of higher education.

It is difficult for an office such as the Corporation Counsel's office to keep aboard a person, one or more persons, who is in constant touch with the changing trends and guidelines in the higher education structure. And this sometimes could put the University of the District at a disadvantage.

It might be helpful if some thought were given to having a legal counsel for the University of the District and perhaps the Board of Education might like to use that same person.

I thank you very much.

Mr. DELLUMS. Mr. Clair, counsel to the Subcommittee, would like to respond on that question.

Mr. CLAIR. I don't know how we did it, but the precedent has been established where the Board of Education now has a General Counsel to the Board and I am sure using that same precedent, you could use the same thing for the University.

Ms. PINKETT. Well, I will be glad to fight it out for the few months I am going to be aboard but I would like very much and am very much committed and so is my board to the University of the District having the best possible opportunity to move forward without conflict in developing this university. So that maybe it should set forth in here that that is something they could do.

If not would you please make available to me the data that shows how this can be effected?

Mr. CLAIR. Even if you got your legal counsel, final approval would still be subject to the Corporation Counsel and——

Ms. PINKETT. Well I don't want to suggest we haven't had cooperation with the Corporation Counsel. We have had tremendous cooperation.

But I am suggesting that a legal counsel for the University Trustees might be a very helpful and important thing to have.

Mr. DELLUMS. Mrs. Martin?

Ms. MARTIN. I just wondered if you meant independent and separate from the Corporation Counsel? The school board, as Mr. Clair suggested, does have its own counsel but when it comes to litigation in the courts or going into court, the Corporation Counsel then does make the final determination of what the position of the Board is going to be and I think that is something that probably demonstrates clearer than anything else the final authority.

I just wondered what kind of legal counsel are you talking about? Are you talking about separate and independent from the Corporation Counsel or available for advice and consent on a regular basis housed with the Board of Trustees, etc?

Ms. PINKETT. I would think Mrs. Martin that as long as the Board of Trustees of the University of the District of Columbia did have the right to access to and funds for legal counsel that they ought to be able to work out with the legal counsel and Corporation Counsel the problems that they have. But it is very difficult to get the professionalism in the field out of the Corporation Counsel's office.

Mr. DELLUMS. Well, thank you. I just have one question. You were present when I engaged in the colloquy with Dr. Parker on the issue of the level of representation of the students and I won't repeat that except to you, do you have any opinion on that?

As you know, the bill establishes opportunities for one student to be a member of the Board and I would like to know if you have any feelings about whether that is adequate, about whether he should be there or whether it should be even broader than one?

Ms. PINKETT. I have had the experience since 1971 of sitting on a Board for two colleges that have by invitation of that Board two students and two faculty members elected by their peers. I have seen in both the faculty members and the student members excellent participation from some and absolutely no participation from others.

I am sold on the fact that a faculty representative or a student representative is helpful to a Board of Trustees or Board of Directors when that individual is able to rise above the problems and concerns of his or her peers and think in terms of and work towards the resolution of policy matters that are pertinent to the overall institution.

This was particularly a good test because our Board had two institutions plus licensure and there were some students who were interested only in what concerned their institution. There were others like Mr. Seoul, who is presently serving who participated fully in not only what happened to the college he went to but the college and not only what happened where students were concerned but he was interested in the whole area of the Board's problems and duties including licensure.

So I would say that I feel that value and the importance of a student representative lies in getting that representatives input which comes from the student body. No one representative is going to be able to represent all of the interests at an institution like Federal City College that has five major divisions and will soon have a couple of more.

You would have to get a student from each division, do you see?

So that I think that it depends upon the student and I do believe that there is one student that could be identified and that would come in and really bring something worthwhile to the Board.

And frankly we are only talking about one year from April of 1975 to April of 1976 which is the length of time, which is the term that that student can serve because by April of 1976 there will not be two, three, or four institutions. There is going to be one institution and I would like very much and would support the idea of having one student from one institution.

I think it is going to be important towards the really coming together in spirit of these various institutions and I think that the requirement about the alumni is good also because while I don't feel that in the next four to five years these alumni groups will be working together, the alumni groups do maintain their autonomy.

And I think—well, a year ago I recall the folks that were alumni from Central High School, which is now Cardoza High Schools, had a reunion. So that alumni groups act a little differently from student groups.

But I can foresee a unified student body in the University of the District of Columbia and I think that is the way we want it to be. I would recommend that one student certainly could bring the student point of view to the board and that I think is the value of having a student.

[Subsequently Mrs. Pinkett's correspondence with the chairman dated July 24, 1974, and from the Federal City College, dated July 26, 1974, were received for the record, as follows:]

DISTRICT OF COLUMBIA BOARD OF HIGHER EDUCATION,
Washington, D.C., July 20, 1974.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, District of Columbia Committee, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have just examined H.R. 15643 as reported out by the House District Committee. I approve in general the marked-up bill and hope that, with certain modifications, it will receive favorable consideration during this session of the Congress.

I endorse the Committee's intent as set forth in the statement of purpose, that vocational and technical training be given a high priority, on a par with the funding given other programs within the University. I also understand why it may be necessary specifically to guarantee such a high priority status to these programs in order to allay any fear that such programs might be subordinated or lost within a larger university structure. However, it is my strong belief that, in providing this guarantee none of the other important programs of the proposed university be subordinated.

For a public university to serve the residents of the District of Columbia adequately, it must provide a variety of educational opportunities to its students. I have in mind such programs as those in the liberal and fine arts, the natural and applied sciences, in business and public administration, and in teacher education, each of which must be integral parts of a university program in an urban setting.

I am deeply concerned that the "statement of purpose" in the legislation would appear to deprive the proposed university of flexibility in the use of both appropriated and land grant funds.

With respect to appropriated funding, I would strongly urge that the words "if not exceeding" contained in Line 14 of Page 19 of the mark-up be deleted so that *all* programs of the University are assured proper funding on the basis of their requirements.

With respect to land grant funds, it was a great advance when the Congress determined that the District of Columbia's postsecondary institutions were entitled to receive such funds to support broad-ranging programs to meet urban needs. I believe the "statement of purpose," as written, would restrict the use of these funds by channeling them exclusively to the vocational and technical training entities of the University. That restriction should be eliminated and the companion provisions contained in Section 208 adjusted accordingly.

I will be happy to provide any further information that may be required in clarifying the language of the marked-up bill.

Sincerely,

FLAXIE M. PINKETT, *Chairman.*

[From the Washington Star-News, July 20, 1974]

VOCATIONAL "CORE" FOR UNIVERSITY OPPOSED HERE

(By Diane Brockett)

Federal City College's new president, Wendell P. Russell, says the idea of centering a university for the District around a vocational institution, as proposed in a bill now before Congress, is not "what the citizens have in mind."

Such a move would be so unusual "that it is not within my frame of reference," he said in an interview yesterday. He said he would support the bill; however, several high administrators and faculty members at Federal City have begun actively lobbying against it.

The bill, written by the House District Committee, would combine Federal City, D.C. Teachers College and Washington Technical Institute into a single university. Board of Higher Education Chairman Flaxie Pinkett and Cleveland L. Dennard, president of WTI, wrote to the District Committee to say that WTI, the District's vocational school, would provide the core curriculum for the proposed university.

Mrs. Pinkett has been a major backer of the bill.

Russell said that when he was hired, the "plan was pretty well along and, I must admit, a probability, so any thoughts I would have had would have been pretty irrelevant."

Asked what he would have preferred, Russell said he would have favored a merger of Federal City and D.C. Teachers to form the core of the university, adding whatever programs WTI has "of a nature appropriate for a university" but keeping WTI as a separate vocational school.

Federal City administrators close to Russell said the stand by Dennard and Mrs. Pinkett forced the school "to fight the bill." They said Russell "came to FCC with the reasonable expectancy of being considered a candidate to head the university," but the Dennard-Pinkett letter means the institution is being set up for the WTI president to head.

Along with putting Russell in an "impossible situation," the sources charged, Dennard's concept of the university is "diametrically opposed to what a university is. When you say vocational teaching is the central core of a school, you have destroyed something very essential to higher education—inquiry."

The sources said that Federal City personnel also are opposed to the bill, because Dennard "is a vocational educator, not a university educator."

They said the effort to subordinate Federal City is representative of a "feeling by some people on the Hill that FCC is not an appropriate way to educate black people, that vocational education is appropriate."

Dennard said his letter which suggested WTI's technical curriculum would provide the core pointed out that such a practical approach would be in the true spirit of the original land-grant colleges which were funded for agriculture and mechanical arts.

Such a school, he said, would help fulfill the purposes of home rule by providing graduates who have the skills necessary for government and industry which make up the city's economy.

Mrs. Pinkett could not be reached for comment.

THE FEDERAL CITY COLLEGE,
Washington, D.C., July 26, 1974.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, District of Columbia Committee,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Recognizing that a university is an institution with needs different from an agency of the District of Columbia, I as Dean, School of Education, Federal City College, and as Acting Director, Cooperative Extension Service, Federal City College and Washington Technical Institute, find that parts of HR 15643 give me great concern because of their effects on citizens and students now and in the future.

It is recommended that Section 101 should be changed to read the "District of Columbia Public Higher Education Reorganization Act." If we are creating a university system, let us create such a system. The term "postsecondary" does not imply higher education. Let it be known that what is being created is a land grant institution of higher education with graduate school, undergraduate schools, and a technical institute, not something less than a university.

There are serious limits to any school, college or university that the trustees will have to face in developing the university system, and if I read the statement on pages 19–20 correctly that no money can be spent on any unit unless equal money is spent for the vocational and technical unit, even though circumstances and programs may not warrant such expenditures, this language does, in fact, remove for future time from the Board of Trustees, the Mayor, the City

Council of the District of Columbia the right to make independent judgments based on facts and on the educational needs of the citizens of the District of Columbia or the demands placed on the university by major professional groups such as the Federal Government.

I must also raise a very serious issue as Acting Director of Cooperative Extension Service of the District of Columbia concerning the channeling of Cooperative Extension funds through the university to the vocational and technical entity. I have no objections to a vocational and technical institute or a Washington Technical Institute receiving funds as it does now. But, again, this is not in keeping with the concept of the first land grant college whose responsibilities, innovative teaching, programming, and problem solving go far beyond vocational and technical training. Land grant funds are normally given to the university for general teaching purposes and off campus extension educational activities. Then the university through its officers and trustees make the determination as to how to use the monies. Under the Committee's statement of Congressional intent, it is conceivable that if these monies were not used properly or fully by the vocational and technical institute, the university would be forbidden from rechanneling them. I must also point out that to my knowledge both as Dean, School of Education, and as Acting Director, Cooperative Extension Service, that no land grant monies are given to any two year vocational or technical institute anywhere in the United States.

Under Section 205, Duties of the Board of Trustees, and beginning with line 12, I must take serious issue with the attempt by the Congress of the United States to accredit and validate programs in an academic unit such as Washington Technical Institute. With all due respect, I doubt if the House of Representatives or the Senate of the United States is qualified academically to evaluate and accredit programs of a technical institute or of any other academic institution. Rather than singling out the Washington Technical Institute and stating that its programs are "hereby determined to be sound and valid and shall be used as the basis for a unit of the University committed to furthering job oriented courses of study," it would seem to me that if the Congress wished to determine that if there were to be a vocational and technical institute attached to the university that the Congress should so state that alone. The validation and accreditation of programs should then be left to the recognized and established accrediting institutions (e.g., Middle States Association of Colleges and Secondary Schools), and the programs of the institute should be determined by the needs of the citizens of the District of Columbia and by the trustees to be appointed to oversee the university system.

In closing, allow me to reiterate my opening point that if there is to be in the District of Columbia a university system, let it be known that what is being created is a land grant university of higher education with graduate school, undergraduate schools, and a technical institute of which the Congress, the citizens of the District of Columbia, and the student both now and in the future can be proud. It would seem to me that Congress after having established the land grant university system for the District of Columbia free of governmental and fiscal restraints and guaranteeing a technical college as a part of the university should leave the details of the university system to the District of Columbia under the Home Rule Charter which you have established.

Sincerely yours,

JOHN M. JENKINS,
Dean, School of Education and Acting Director, Cooperative Extension, Service for the District of Columbia.

Mr. DELLUMS. Well thank you. Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman. On behalf of the minority members who unfortunately cannot be here, I am sure that I can express their congratulations, if I may, to Dr. Russell and welcome you both.

Ms. Pinkett, you served on the Joint Committee, did you not, that considered the question of the regency bill?

Ms. PINKETT. I served, yes, sponsoring the bill. Yes, I did sir.

Mr. HOGAN. Mr. Chairman, at this point I would like to insert in the record the recommendation of the Nelson Commission, if I may?

Mr. DELLUMS. Without objection.

[The recommendation of the Nelson Commission was not received in time to be included in the record.]

Mr. HOGAN. Did you consider the recommendation of the Nelson Commission which would have established a Commission on Higher Education and that would have effected, probably according to the testimony, virtually the same results that the University?

The testimony indicates that the principle thrust of the bill is the effect economy and uniformity and to get some commonality of forces——

Ms. PINKETT. And strengthen the structure.

Mr. HOGAN. And strengthen the structure and direction and planning. And the recommendation of the Nelson Commission was that there be established a Commission on Higher Education. It would have substantial planning authority and authority to do some of this directing towards commonality of courses and tuition and fees and other administrative procedures. Has the Committee given consideration to this proposal at all?

Ms. PINKETT. The public testimony on this bill, that is the rough draft of the bill, was confined more or less to the rough draft bill. And no formal consideration of the Nelson Commission recommendations was given. However, the Board of Higher Education in March and April and May of 1973 gave very serious and careful consideration to the recommendations of the Nelson Commission as it did to the recommendations of the *Arthur D. Little Study.*

There were some areas in which our Board was unanimously in agreement for or against the recommendations in those two documents or reports, but what our Board decided to do and did in fact do was to develop what it saw as a viable structure for public higher education in this city and I am pleased to say that the structure that we developed is very very close to the structure that this bill recommends or creates.

Now specifically in terms of the Nelson Commission and its overall body to coordinate education, I personally thought that was excellent. My Board did not support it. The majority opinion was not for it. And certainly the overwhelming public testimony on March 23 and the 30th, was given against it. That is why I can sit here and in clear conscience say thank you for recognizing the thinking of the people of the District of Columbia because I have learned, although we haven't had self government, but I have long since learned to work with and support the majority thinking.

But this is what the people in the District could agree on and did think was worth while, and while I felt that there were other aspects that strengthened the overall educational picture for our city, the people that supported my thinking were in the minority and less than five percent. So that I am glad that this piece of proposed legislation does transfer to the City Council, to the elected City Council the opportunity to give some more thinking to this. And I am sure they will and I am sure something constructive is going to come out of their thinking and deliberations.

But the actual Nelson Commission per se was not the subject matter for the public hearing.

Mr. HOGAN. For the joint hearing?

Ms. PINKETT. Yes.

Mr. HOGAN. Just one question as to the independence of the Board as you view it. Now would the mayor set the mark for the budget, set the budget mark for the Board of Higher Education, for the Board of Trustees?

Ms. PINKETT. Well I assure you what has happened in the past will happen. The Mayor-Commissioner has set the budget mark.

Mr. HOGAN. I understand that but as an independent agency do you believe the Mayor would have the authority to set the mark for the independent agency or would they set their own mark?

Ms. PINKETT. Well I don't really know but for practical purposes he might as well set it since he is going to have to approve the budget.

In other words, the fact of the matter is that the Congress will be setting it because the Congress is going to have the last say on what this institution of higher education—can get or cannot get in terms of funding. I would think—and I will check quickly to see—but I would think that the Mayor and the City Council would have a great deal of input and I think all of the input that they had in the past, that they legally had in the past, they would have.

Now this bill does, and I think rightfully so, does spell out what the public law that we operate under now implies. And that is that the trustees of the institution determine educational policy and thereby determine how the money would be spent and how much for research and how much for institutional programs and how much for academic support, et cetera. But we really already have that, right?

So as far as the budget is concerned, Mr. Hogan, I don't see that this bill really gives the University of the District of Columbia any more freedom or leeway in its budget.

Mr. HOGAN. The only reason I ask that, Ms. Pinkett, in the Nelson Commission, one of the principal objectives of that Commission was to bring together and to centralize authority in the Mayor and to do away with some of the independent Commissions.

Some of the independent commissions are being transferred to the Mayor such as the Redevelopment Land Agency and so on. And I just thought it would be helpful to have your view as to how this would operate.

Thank you, Mr. Chairman.

Mr. DELLUMS. Thank you, Ms. Pinkett. We deeply appreciate your coming this afternoon and we appreciate your articulating your views and your detailed presentation. And I would say on behalf of myself and certainly the members of the subcommittee and the staff to Dr. Russell that we appreciate your being here and wish you a long and illustrious career. Good luck to you.

Mr. HOGAN. Mr. Chairman, I have a note that Congressman Landgrebe expresses his regret for not being able to be here but requests that he have the right to insert a statement in the record.

As a member of the Education and Labor Committee and the Subcommittee on Education he would like to have his statement in the record.

Mr. DELLUMS. Without objection, so ordered.

[The statement of the Honorable Earl F. Landgrebe was not received in time to be included in the record.]

Mr. DELLUMS. Our next witness is Dr. Samual Nabrit, president, Board of Vocational Education.

Dr. Nabrit, since we don't have a formal statement from you, you may proceed in any fashion you choose and I would like it very much if you would identify for the record the gentleman accompanying you this afternoon.

STATEMENTS OF DR. SAMUEL NABRIT, PRESIDENT, BOARD OF VOCATIONAL EDUCATION, AND DR. CLEVELAND DENNARD, PRESIDENT, WASHINGTON TECHNICAL INSTITUTE

Mr. NABRIT. Mr. Distinguished Chairman and Chairman Diggs of the District Committee, it is a pleasure for me to have an opportunity to appear before this Subcommittee on Education for the District of Columbia.

The "District of Columbia Higher Education Act" authorizes a public land-grant university through the reorganization of public higher education in the District of Columbia.

The trustees of the Vocational Education Board through a joint effort with the City Council and the Board of Higher Education participated in sampling the opinion of the District through public hearings. The Task Force assigned to evaluate the results of the hearings presented to the Board of Vocational Education the results of the hearings and the Board has concurred with its findings.

Previously, our Board has indicated that a common board of trustees whose function was to provide governance for the new public institutions of higher education could best serve the interests of the District and provide leadership in higher education in the District.

The Board of Vocational Education recognizes that in providing for more effective governance and less competition among these presently existing institutions it would lose the special relationship to the White House and become appointees of the District government along with those trustees now serving the other institutions. We accept this change in the spirit of progress toward greater autonomy for the District.

As a member of the Commission appointed by President Kennedy to study the higher education needs of the District of Columbia and as Chairman of the Board of Vocational Education since the beginning of Washington Technical Institute, I would not affirm or support any measure that I considered deleterious to the interests of citizens of the District. I do affirm and support this measure which is designed to provide a more integrated managerial concept to the needs of higher education of the District.

That is the end of my formal statement.

Mr. DELLUMS. Dr. Nabrit, I thank you for your opening remarks.

Do you have any specific comments with respect to the provisions of the bill?

Dr. NABRIT. Well in general I agree with the statements made by Ms. Pinkett.

However, in regard to her statement concerning the trustees and their role and their authority, I disagree in that all authority for governance and for operation of the college has to be reposed in the trustees. They in turn delegate to the faculty and to their administrative staff those things that they wish to delegate. It is common practice in this country for boards of trustees to delegate to the administration

budget making and things of this sort. But the ultimate responsibility reposes in the Board. And the Board is responsible to the District government for carrying out its mandate and for the management of that institution.

That is not what the faculty or students wish to do in that institution. The final authority rests with the board.

Mr. DELLUMS. Thank you. You know one question that has been raised by some and a couple of our witnesses already have responded to it, and that is the question of whether at this moment this committee should undertake the development of the establishment of the Universiy of the District of Columbia. Do you concur in the thought that by the Federal Government establishing the Federal Charter that this would provide greater prestige, greater status for the University or do you believe that it should be carried out by the City Council who would then have the ability to establish a local charter for such university?

Mr. NABRIT. I believe that having assessed the feelings of the community of the District of Columbia through public hearings that we have the best of both worlds. And that we are representing the will of the people of the District and at the same time providing them the benefit of the greater canopy of the federal charter. We ask you now to prevent any further delay in the formation of a single institution.

Mr. DELLUMS. Thank you. My second question is, do you have any opinion on the makeup of the Board of Trustees?

Mr. NABRIT. Yes, I do. This is being debated today a great deal. As you probably know, the Carnegie Commission headed by Clark Kerr sort of turned thumbs down on the idea of student representation on the Board. In reality there are other ways in which students can have more effective representation in decision making in a college than being on the board. In reality they are greatly diluted in numbers where they exist on the board.

And in the final analysis in general they tend to lose standing with their own student body by virtue of the fact that they are not able in their small numbers to be really effective instruments in changing policies of the institution.

However they are very effective in terms of communication links between student bodies and the Board of Trustees.

For example at Washington Technical Institute every board meeting is open to everybody and a student representing the student government association is officially designated to attend the Board meeting. And he always is given a place on the agenda to make any presentation that he wishes.

There are other institutions in which students sit on the administrative council where their input is more direct to changes in operation of the institution than it would be at the Board of Trustees level. This might be a more effective mechanism other than simply being on the Board.

I don't believe that it is necessary to have a student to represent each segment of the university or all of the constituent institutions that now exist. In reality I think that what you are talking about is trying to get some idea of student opinion and student goals and objectives rather than simply a place to air particular beliefs that a student might have some particular teacher in his particular department or in his segment that he doesn't like.

There is one other point that I would make in regard to Mr. Hogan's suggestion about ultimate cost——

Mr. DELLUMS. But before we go to that can we pursue this for a moment?

Do you agree with the recommendation that one student be on the Board?

Mr. NABRIT. I agree that one student may well serve the interest of the Board provided that he is carefully chosen to represent the students through a mechanism that has not yet been devised.

Mr. DELLUMS. Do you have any particular suggestions on that mechanism?

Mr. NABRIT. I would assume that ultimately it could be achieved. The first year it would be difficult.

Mr. DELLUMS. May I just say that one of the reasons I raise the question is not frivolous. I just want to say I wonder how that one student would be picked? That is my point.

Mr. NABRIT. Well the first year it might be difficult and it will not be representative because you will be dealing with two or three entities.

Thereafter once you get a university the chances are you would have a student government canopy that would represent all segments of the university and then out of this and then out of the general popularity, you could say, and leadership of the people known to this group, an adequate representative could be chosen.

Mr. DELLUMS. Thank you.

Mrs. Martin, do you have any questions of the witness?

Ms. MARTIN. Well, I would just like to comment that I think the legislation indicating that the Mayor shall appoint one student did not intend to limit the number that he would appoint but gave an indication that there would be at least one student appointed and I think there is flexibility within the appointment authority of the Mayor to appoint more students if he elects to do so but he must select at least one student as a representative. I just want to make that point.

Mr. DELLUMS. Mr. Hogan?

Mr. NABRIT. May I say I was going to reply to the question about cost.

In reality no one in initiating an enterprise such as a university or even a group of separate colleges suggests what the ultimate outlay would be. This is determined in reality by many things.

In general in State colleges in the United States we have public education providing for higher education for approximately 3 percent of the population. If you were to do that in the District of Columbia you are talking about approximately 24 thousand people. And that ultimately would be making the District commitment to higher education for its citizens equivalent to that of other states.

Now then it is your per capita costs that you must consider. When you begin to get into that as to how much you would begin to spend for each of these because this varies tremendously throughout the country but approximately about 12 percent of the state budget is represented.

Mr. HOGAN. I don't know what the full-time equivalent is in Federal City College now and perhaps you know?

Ms. MARTIN. 5500.

Mr. HOGAN. 5500? I understand there are approximately 2500 District of Columbia residents attending your former institution, Howard institution?

Mr. NABRIT. Not my former, my brother's.

Mr. HOGAN. I'm sorry. It is your brother's institution. And then I don't know how many there are at DC Teachers. The reason I raise the question is that the District government's statement accompanying the Little report indicated that they assumed or they projected that the District Government would pick up 70 percent of the costs, which were escalating as they projected, of the enrollment up through 1985 and that the federal government would pick up approximately 30 percent or something like that.

That was the reason I raised that particular question.

One of the things I think that relates to this matter is this. If under this bill the Board of Trustees wishes to have one or two community colleges they could branch out into that kind of authority under the provisions of the bill. Now I realize they would have to go to the appropriations committee ultimately to have that funded but the authority is there, is it not in the bill as you read it?

Mr. NABRIT. I believe that in general that is true as it now stands in terms of programs.

Most community colleges as you know do not restrict themselves to a single campus anyway. They are community oriented and special service oriented. So for instance at the present time Washington Technical Institute is serving the Armed Forces in Germany and in France and also England and these are programs that are really designed to assist the serviceman in order to get him ready for return to civilian life or rather they are job oriented. So that whenever the District has had requests for special programs, we have tried to provide those programs where they centered near the population to be serviced.

And I would assume that this would be the goal and the purpose of any sort of a program designed primarily at the community college level.

Mr. HOGAN. Are you familiar with the Nelson Commission recommendations?

Mr. NABRIT. Yes.

Mr. HOGAN. Are you familiar with the recommendation for the Commission on Higher Education?

Mr. NABRIT. I believe that in the original form Washington Technical Institute was highly pleased with the concept of a higher commission of education but we believe that we were defeated in this. We accepted it in terms of what the general public of the District felt.

But the idea, Mr. Hogan, was that some sort of coordinated mechanism is now emerging and all higher education in the United States and institutions are not left to simply rival each other to see how big they can get or how far they can go in terms of their programs.

And all of the institutions in the Nation naturally have the desire to be everything to everyone.

Mr. HOGAN. Thank you, Mr. Nabrit. I am sure that the minority members would be especially happy to be here to welcome Dr. Dennard. There is a great respect for him and for you amongst them.

Mr. DELLUMS. If there are no further questions, I would like to ask the witness if you have any additional statements you would like to make at this time?

Dr. DENNARD. Mr. Chairman, I would just like to refer back to the question of the role of the Congress in the process of these hearings. Separate and apart from the significance of the federal charter it seems to me that the only entity that could deal with the question of land grant status would be the Congress.

And on two previous occasions, since the enabling legislation of public law 89791, the Congress has acted back in 1966 the 90th Congress created the Public City Colleges of Agriculture and Mechanical Arts and then during the 91st Congress it extended the same benefits to the Washington Technical Institute.

And an action herewith by the Congress would simply be to pass a third piece of legislation that consolidates those two. And no one else could assume that responsibility pursuant to the 1862 Act and the 1887 Hatch Act and then the 1914 Corporate Extension Act.

So that this in effect would be an action on the part of the 93rd Congress—no, on the part of the 92nd Congress consolidating the two previous pieces of legislation that it in fact enacted including the two institutions into one, and neither being colleges but one university.

Mr. DELLUMS. Thank you. So what you are suggestng is that consideration of this bill by the Congress itself is not simply a question of providing a Federal charter versus a District of Columbia charter and it is not simply a question of whether the Congress is evading the concept of self-determination as established by the home rule bill but as you perceive it we are the only people at this point who can do it by virtue of the previous laws establishing land grant colleges.

Dr. DENNARD. Absolutely.

Mr. DELLUMS. Thank you. Any additional questions?

Mr. HOGAN. There is a statement here on behalf of Mr. Charles McDougall, who I assume is the President, as to the land grant funds.

And he says that under the provisions of H.R. 15643, the federal funds existing only account for one half of the expenditures for cooperative extension work and under H.R. 15643 this would be eliminated.

He recommends that there be a sharing in cost rather than having the federal government pick up the entire bill on that.

Do you have any comment on that?

Dr. BENNARD. What page are you on?

Mr. HOGAN. I am on page 3 of Mr. MacDougall's statement.

Dr. DENARD. But under Section 109, as I recall, Title 3 (a) and 3(b) you say——

Mr. HOGAN. There is a sharing of the costs, as I understand it.

Dr. DENNARD. Is Mr. MacDougall in the room? Mr. MacDougall, do you recall the exact location of that in the bill?

Oh, oh page 15 following item (d) and technically following item (e), within line 922, there should be an insert which in effect says that no more than one half of such cost of the cooperative extension program funding would be made available from that legislation.

That would be consistent with the Act of 1914.

Mr. HOGAN. And, Doctor, just a clarifying question. Under a university concept, the University would only act as a conduit for the funds, I take it under this land-grant act? The funding presumably would then be going to that arm of the university that would be administering funds. So that while it is true that the Congress might have to act, there could be in the current legislation, if the local government wanted to act, a university and certainly they could do that and Congress could act to amend the land-grant college act to accomplish that particular feature since the District of Columbia in effect is the real recipient, is it not?

Dr. DENNARD. That is correct.

Mr. HOGAN. Thank you.

Mr. DELLUMS. Thank you, Mr. Hogan. We would like to thank you very much, Dr. Nabrit, for your presentation. We deeply appreciate your taking the time, both of you, to come this afternoon.

The next witness is Dr. John Whalen, President, Consortium of Universities.

STATEMENT OF REV. JOHN WHALEN, PRESIDENT, CONSORTIUM OF UNIVERSITIES, WASHINGTON, D.C.

Father WHALEN. Mr. Chairman, I don't have a prepared statement.

Mr. DELLUMS. You are welcome, Father, to proceed in any fashion you would like to.

Father WHALEN. Thank you. It is with great pleasure that the Consortium of Universities enthusiastically supports this bill. I would like to clear up a misunderstanding that apparently has been brought and that I perhaps caused with regard to the draft legislation involved in this bill which I took to be the beginnings of the implementation of the *A. D. Little Study*, some parts of which I didn't agree with.

This bill is clearly not that and is separable from that. And it occurs to us in the Consortium that it does begin to implement what now seems to be our national policy with regard to education in the United States in the language that Mr. Diggs used at the beginning of these hearings, and that is that every student, that every citizen, has a right under Public Law 92–318, Section 1203, to the level of education of which he is capable, and which he desires. That is not only the public policy, and the public law of the United States, but it is an end devoutly to be desired and implemented by all of us engaged in the higher educational enterprise.

It is our feeling that this bill is completely in keeping with that objective and we thoroughly support it.

We are in favor of consolidation of the existing institutions. We feel that there can be a great deal more achieved with no more cost we presume or perhaps greater cost as the University of the District begins to grow.

We welcome the existence of the University of the District of Columbia as a peer to the existing institutions in the city and we look forward to working with them intimately.

We approve very much of a single board with a single purpose, which we take to be an improvement over the awesome responsibilities that the Board perhaps would have had under the draft legislation.

We do hope that the new Board will have the opportunity to cause to be created for academic administration accounting procedures that

are not inconsistent with the National Association of College and University Business Officers. We think that is important for comparability between the new University of the District of Columbia and other existing institutions, distinguished institutions.

I do have one question as to the makeup of the Trustees and I don't know whether this has been under consideration or not. That is a question as to why the new president of the University of the District of Columbia is not singled out for ex officio membership on the Board, which seems to be customary practice in administration of higher education?

In the Consortium we have learned over time that it is almost impossible for a given university to be everything to all people. And as a caveat, that comes from long and bitter experience on our part and the result of burned fingers in the process and we hope that there would not be unnecessary duplication of either facility or of academic programs.

Now some duplication is not unnecessary. Some duplication is necessary as to the basic core programs. But we have come to the conclusion that our own experience over time has shown that it is not necessary to have five departments of Mesopotamian History in any given city and perhaps it is only necessary to have one such department east of the Mississippi River. On the other hand it is necessary to have excellent departments of humanistic studies, of professional schools and departments and the rest and we very much support that for the District of Columbia.

We think that it is high time that this consolidation has been achieved and we support it.

And as to the question of whether or not we feel it appropriate that the Congress do it at this point or whether it should be left to the newly elected City Council and Mayor, we very much encourage you to proceed with all haste to do it because the newly elected City Council will have many, many problems on its hands and this may be delayed for a long time if the Congress doesn't do it at this point.

The Consortium stands ready to be of every assistance that it can to the President of the University and for the District of Columbia and to their trustees and we look forward very much to working with them.

Mr. DELLUMS. Thank you. We appreciate your presentation. The Chair would say we will certainly take into consideration the point that you raised with respect to the President's ex-officio member, and that certainly can be handled up in the markup of the bill.

Mr. Diggs?

Mr. DIGGS. Mr. Chairman, thank you. We certainly appreciate the statement coming from Father Whalen.

Father, there were reports in the press earlier that the consortium had some serious problems with the prospect of the University of the District of Columbia. Some press reports indicated that probably they were very, very much opposed to it. Was there any truth to those press reports, and does this mean a change in attitude on the part of the consortium or would you make some comments on it? Because I think it is important to indicate if there has been a change and why there has been a change.

Father WHALEN. Right. I think there has been no change as to the provisions of this bill, Mr. Diggs. I think our testimony earlier had to

do with perhaps what might have been a misconception on our part, that is, that all of a sudden we would see, as you mentioned earlier, bricks and mortar springing from the head of Zeus at a cost of $300 million which was the only figure we could find from the *A. D. Little Study*, and it would be under the direction of a board of regents, that had responsibility not only for the whole of the higher educational enterprise, which you well know, and God knows is complicated enough, but also for an elementary and secondary school system.

We thought that that sort of government together would not allow them the time to carefully prepare for the kind of university system in the District of Columbia that we very much want to see and we do think that this bill provides management for.

So there hasn't been a change of heart as to the existence of a university in the District of Columbia. It is only as to the overall management structure of it and what we perhaps mistakenly consider to be, as I said earlier, the full implementation of the *A. D. Little Study*, which clearly it is not.

Mr. DIGGS. Well I particularly appreciate that comment, Father, because there have been many misconceptions. And for the Consortium to have made an independent judgment of those original concepts and to have concluded that the concept of the university is one that they could support speaks well for it.

There are other people in the community, not many, but there are people in the community who have concluded right from the beginning—and have concluded it based on rumors—right from the beginning that this concept is not a viable one or who for other reasons have indicated disapproval but who have not had enough independent judgment, once points have been clarified, to say, we have taken a new look at this matter and we have now concluded that our original concept may have represented some misunderstanding, and now we support it.

So it is within that spirit that I particularly appreciate your comments.

Mr. DELLUMS. Father, I would like to ask you: how do you handle the issue of student participation in the policymaking of the institution?

Father WHALEN. That is a hot one as you gathered from everybody who had spoken on it so far. I can remember a few years ago when I was acting president of a university that we had many discussions in the academic senate as to whether or not there should be student representation at the senate and not the board of trustees at all.

Some of my people went abroad to look at what was happening at other places and came back with the report that here we are fooling with academic representation in the senate whereas in the University of Rome there is a student strike asking for 55-percent representation of the students on the trustees.

My feeling about student representation on trustees is that I think it is necessary. I think it is more necessary than it is valuable for the management of the institution. I think it is good for the students to feel that they do have representation. I do share the conclusions of Dr. Nabrit that the students, not being able to accomplish in the Board of Trustees everything that the student body wishes, sometimes lose heart and sometimes do lose faith with their peers.

Mr. DELLUMS. So not only Members of Congress have that happen?

Father WHALEN. Not only anybody in this world, I guess. But I do think that representation of the students on the Trustees is necessary these days.

I don't think that any student can represent the entire student constituency. I don't think that is possible.

Mr. DELLUMS. May I follow that particular up?

Father WHALEN. Please.

Mr. DELLUMS. It is placing undue burden or pressure in focus on one student representative on a 15-person board? That is the point that is going around in my mind. But as we began to talk about it this afternoon, my feelings weren't hard and fast on the subject except they are hard and fast that I agree with you that I think a student ought to be represented on the Board of Trustees.

But my question is: if there is one student there with all of the politics that go into that and all of the points you raised and Dr. Nabrit has articulately raised, is it fair? Well, let me not put it that way. I think that is not an appropriate question.

But what is your view of having one student given the thought that you have just laid out?

Father WHALEN. I think it is better than having two and I will tell you why. The student has to report back to his constituency. There are interdynamics among the students as there are in every other body of men and women. If there were two students, there would be divergent reports and there would be the need for self justification on the part of one or both. There might be some falling out. There might be some difficulties of reporting. There might be all sorts of things.

I have never found it to be my experience that student interests or student desires didn't reach the Board of Trustees. They do. They reach them through the standing committees on student life and the Board of Trustees ordinarily has standing reports from their standing committees. If a student has a complaint, you can be sure that the complaint can be voiced and appropriately so. And it will come to the attention of anybody who has to deal with it.

And if it is an important enough complaint or important enough interest, it will reach the Trustees.

Customarily this has been done in the past through, as I said, through standing committees that make reports to the Trustees for their consideration. I don't think that it is necessary to have any more than one student, but I do think that these days it is perhaps needed to have one. But I think that one could perhaps represent the constituency better than, as I say, two or three.

There is just no way to represent it altogether, you know. The history major is going to have different concerns from the economics major and from all 50 or 60 different departments.

But nevertheless, I think a student can, if he is chosen properly, bring a breath of fresh air, to I think—and I think Ms. Pinkett would agree—to meetings that could otherwise be rather deadly.

Mr. DELLUMS. Thank you very much. I appreciate your response.

Mr. Hogan?

Mr. HOGAN. Thank you, Mr. Chairman.

Father Whalen, the Consortium represents all the universities here in the District, correct?

Father WHALEN. Five universities, yes.

Mr. HOGAN. In the District of Columbia?

Father WHALEN. In the District of Columbia.

Mr. HOGAN. That is both the graduate schools and the undergraduate schools?

Father WHALEN. Right.

Mr. HOGAN. I attended the University of Minnesota, and I don't know whether you have information from the universities, but the information I have from the University of Minnesota is that there will be significant enrollment drops commencing in the 1980s. What is the history or what is the projection here locally for the universities in Washington? I presume the University of Maryland is not a member?

Father WHALEN. It is not a member of our group, no.

Mr. HOGAN. Or Virginia?

Father WHALEN. The history of involvement trends in the District of Columbia has deviated just slightly from the national trends. It has been just slightly above it, because apparently students like to come to Washington to study. So that while trends are levelling off and have started down again nationally, which academic administrators call "stability" and which isn't that at all because we would like to see them continue to rise, but the enrollments in the Consortium universities has increased by about one and one-half percent over this past year.

We are expecting about a percent and one-half rise during this coming year. We don't anticipate that these growth curves will continue upward. We think that there will be a levelling off very soon and then a reduction in numbers of students.

We are at a particular disadvantage as to recruiting students because of the high tuitions that we have to charge to try to pay the bills. These tuitions don't begin to pay the bills.

But this is one of the reasons why this bill really warms my heart because it is a consolidation that can result in a dimunition of unnecessary duplication, which is really what the Consortium is about too.

We now currently run about 15,000 courses during the course of a given semester, and any student enrolled in the Consortium can choose from any of those courses so that it is not necessary for us each to have a full blown program in Japanese or a full blown program in graduate mathematics.

As a matter of fact, we started a study just today to see how we can consolidate a number of departments of several universities into one Consortium department.

But, Mr. Hogan, your observations are quite right. We are very fearful about enrollments for the future.

Mr. HOGAN. Well one of the bases for the Nelson Commission recommendation for a Commission on Higher Education was that there would be some efficiency in minimizing duplication of courses and it went to the diversity of courses or diversity of location of virtually the same course. Now wouldn't that have the same thrust in the Commission of Higher Education where you can do this kind of planning, as a university, to do this coordination?

Father WHALEN. Yes. As a matter of fact, just recently Mayor Washington appointed a commission in Washington that he is calling the District of Columbia Commission on Post-Secondary Education, and that is broadly representative of the educational constituencies in the general public to look at facilities on a constant year-by-year basis,

and to look at facilities, course offerings, and everything in the academic bag of tricks to see how they can be offered better and to more people without duplication of facilities and so forth.

And this is to implement that national policy I mentioned earlier which is to provide for adequate education for all of the citizens of the United States who can profit from it and desire it.

Now the Commission has just been established, and it is provided for by the Higher Education Amendments of 1972 under Section 1202. And it hasn't had its first meeting yet, but it is to meet shortly after the first of July.

Mr. HOGAN. Will it be eligible for these planning funds from the Office of Education, such as the Commission on Higher Education?

Father WHALEN. Yes, the planning funds provided this year for fiscal 1974 are only $3 million, only a $3 million spread across the entire country, but it is felt that this is just a beginning. Moreover, this Commission will be the distribution commission for existing funds under Title 1, which is Community Service and Continuing Education, as well as Titles 6 and 7, which would be Undergraduate Equipment and Academic Facilities for Undergraduate Work. It is expected that this Commission will be a very important state planning commission in all of the states that have it and I understand that 44 of the states have now indicated their desire to have it and have filed their membership with the Office of Education.

Mr. HOGAN. Thank you, and thank you, Mr. Chairman.

Mr. DELLUMS. Thank you. I would just like to ask Father one additional question as an offshoot of the question raised earlier by Mr. Hogan. Now would you concur in the notion that because of the effects of inflation, that many middle class families, which traditionally educated their children in private institutions, are no longer able to do that? And you have coupled with that the fact that private institutions are having to cut back on their enrollment as well as their programming because of the difficulty in enrollment, and then because of the fact you had to begin to increase your tuition in order to sustain the program, that this also cripples to some extent your recruitment so that over the next several years the greatest competition on the part of students for higher education will be in public institutions?

Father WHALEN. I am delighted that you asked that. I think your observation is absolutely on target. Private education in this country is in jeopardy all across the country and partly because of certain funding provisions that have been cut back.

And we are somewhat fearful about that, about what revenue sharing might do if it goes to education as well as other areas. We are somewhat dismayed about the Basic Educational Opportunities Grants Program that is provided for in the 1972 Amendments and which attempted to have a grant last year that was totally inadequate to let a student begin to think about going to a private higher educational institution, which is effect limits the accessibilty of these institutions to those students. And I am talking particularly about the middle class families now.

There is a danger that access to private higher education in this country can be afforded only by the extremely poor and extremely rich because the program that made up the difference for middle class families with large numbers of students all approaching college age

at the same time was the supplemental educational opportunities grants program, which has been severely cut back.

As you know better than I, there are hearings going on now as to federal provisions for student support in the future.

But in response to your question, yes, it is difficult for middle class students to go to private educational institutions these days and there is a danger that the diversity of our educational system might suffer thereby.

I think in Washington the private educational institutions have been so large that we have here in this city a different problem, and that problem is to give access to higher education to the actual citizens of the District of Columbia. Because as I think it was Mr. Diggs who indicated at the beginning of this hearing, all of the universities in the city are national universities. And unless there is some sort of scholarship program that would permit a student to attend them from a middle class family in Washington, it is as tough for them to do it as it is for anybody else in the country.

It means that there might be a significant social change as to where people go to college in the future, and that concerns us, and we have it under study.

Mr. DELLUMS. Thank you very much, and I deeply appreciate your taking the time to come before us this afternoon. If there are no other questions——

Mr. HOGAN. Mr. Chairman, I might just make the observation that I assume one reason the projected drop is projected may be a reason, which your church has been imminently involved in, or at least the Pope has made some statements about, and I imagine the population projections alone are causing some decline.

Father WHALEN. If I might respond to that? There was a point in the Roman Catholic Church when the Pope came out with this encyclica Humanae Vitae that prevented birth control for Catholics where we had a large number of priests asking for priests to have permission to marry. So we thought at one point that we might end up with a married clergy and a celebate laity.

Mr. DELLUMS. Well thank you very much.

The Chair would like to call two witnesses now, and that is Mr. Charles McDougall, Deputy Administrator for Operations, Extension Service of the U.S. Department of Agriculture, accompanied by Dr. Thomas S. Ronnigen, Assistant Administrator for Cooperative State Research Service, U.S. Department of Agriculture.

STATEMENTS OF CHARLES McDOUGALL, DEPUTY ADMINISTRATOR FOR OPERATIONS, EXTENSION SERVICE OF THE U.S. DEPARTMENT OF AGRICULTURE, AND DR. THOMAS S. RONNINGEN, ASSISTANT ADMINISTRATOR FOR COOPERATIVE STATE RESEARCH SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. MCDOUGALL. Mr. Chairman and members of the Committee, if I may, I would like to read a short statement?

Mr. DELLUMS. You may proceed.

Mr. MCDOUGALL. A portion of H.R. 15643 provides for Coooperative Extension work in the District of Columbia. Such work was first

authorized by the Congress for the District of Columbia in 1968 in the District of Columbia Public Education Act.

Initially, the Cooperative Extension Service programs were carried out solely by the Federal City College. In 1972 the Congress authorized Washington Technical Institute to share along with the Federal City College funds appropriated to carry out the Cooperative Extension program in the District of Columbia.

Since 1972 each of the institutions has been conducting Cooperative Extension programs through a Memorandum of Understanding between the two institutions.

The bill would establish a single land-grant institution to be known as the University of the District of Columbia to administer the Cooperative Extension program currently shared by Federal City College and the Washington Technical Institute.

The Department of Agriculture believes this would be a desirable arrangement for the following reasons.

One, it would eliminate the division of funds between the two institutions and thereby reduce the amounts necessary for administrative, supervisory and other duplicate costs necessary under the present situation.

Two, resources of the institutions could better be utilized for planning and conducting programs for the benefit of the citizens of the District of Columbia.

Three, because of the size and population of the District of Columbia, its citizens can best be served by a program operating under the administrative direction of one institution.

Currently, the Cooperative Extension Service conducts programs in home economics, nutrition, 4–H youth development, community problems and home horticulture. The work is designed to meet the expressed needs and concerns of the citizens of the District.

In FY 1974, $800,000 was appropriated pursuant to the authority under Section 109 of the District of Columbia Public Education Act to carry out Cooperative Extension work in the District of Columbia. The provision for the authorization of appropriations for Cooperative Extension work is provided for under Section 208(c) through (3) of H.R. 15643.

At present Section 109(b) of the District of Columbia Public Education Act, as amended, which authorizes appropriations for extension work in the District of Columbia provides in part:

". . . and for each fiscal year thereafter such sums may be used to pay no more than one-half of such cost. Any reference in such Act (other than Section 3 thereof) to funds appropriated under such Act shall in the case of the District of Columbia be considered a reference to funds appropriated under this subsection."

Under this provision federal funds only account for one-half of the expenditures for Cooperative Extension work. H.R. 15463 would eliminate this requirement. We believe that sharing costs is a desirable feature and should be retained.

In addition we believe the current language making reference to the Act, which is the Smith-Lever Act, should be retained to protect the integrity of the program.

We also suggest that in the authorization for appropriations in Section 208(d) of the bill the phrase "to the District of Columbia" should be deleted. This would be consistent with the manner in which authorization is made in the Smith-Lever Act.

We believe Sections 107 through 112 of the District of Columbia Public Education Act, as amended, would have to be repealed.

Mr. DELLUMS. Thank you. May I ask a question? The language suggested by Dr. Dennard on page 15 following line 22, now would that handle the problem?

Mr. MCDOUGALL. Well Section (d) on page 15 really excludes Section 3 of the Smith-Lever Act from being a part of this bill because that is a formula governed by the amount of rural population, and the number of farms within the state, and it goes back to the old Smith-Lever Act. By taking out Section 3 and possibly using the same language that is in section (b), that is under Part (b), under Section 109 of the District of Columbia Public Education Act, that would carry through the need for matching or would be no more than half the cost.

Mr. DELLUMS. Thank you.

Mr. MCDOUGALL. Dr. Ronningen is here and he is Associate Administrator of the Cooperative Research Service. He will provide additional testimony with respect to 208(f) of this bill.

Mr. DELLUMS. Before Dr. Ronningen makes his presentation I would like very much if you would submit to us specifically your recommendation with respect to the language that should be inserted and/or deleted on page 15. We would deeply appreciate that.

Dr. RONNINGEN. Thank you. I appreciate this opportunity to speak to one of the provisions of H.R. 15643, which Mr. McDougall referred to.

On page 15 of this bill, now this section would make the University of the District of Columbia eligible for research funds under the Hatch Agricultural Experiment Station Act, referred to in the bill as 7 U.S.C. 361(a)–361(i).

My testimony, or my remarks today will be very similar to that presented in August 28 of 1967 in response to the proposal to make the Washington Technical Institute eligible for participation in the Hatch Act.

Subsequently to those hearings, Title 2 of the District of Columbia Higher Education Act was amended to include Extension participation but did not include participation in the Hatch Act. I would like to refer to some of the constraints and limitations as we see them to application of the Hatch Act to the District of Columbia, which would be equivalent of a state to be served by the research as defined under the Hatch Act.

The Hatch Act provides for research to meet agricultural and rural needs of several states. The District of Columbia is neither rural nor agricultural. It is entirely urban. We believe that the District of Columbia could not share in most of the funds distributed under the statutorially prescribed formula.

Section 3(c)(2) of the Hatch Act provides that 52 percent of the sums provided by the Congress shall be made available to each state on the basis of its farm and rural population as a proportion of the national total of such populations.

The Department has used U.S. Census figures for farm and rural population, which would exclude the District of Columbia because of its being a part of a standard metropolitan statistical area. We believe that the District of Columbia could share in the 20 percent of Hatch funds which would be distributed equally amongst the states, but these have to be matched equally with non-federal funds.

The District would receive $90,000, which does not require matching with non-federal funds. If the Congress permitted the consolidated institution in the District of Columbia to conduct research on urban problems, we believe that there are still two difficulties which would remain: one, we would have a situation where one state, the District of Columbia, would be encouraged to work on urban problems and the rest under the same Act would be statutorially limited to rural and farm programs; and secondly, it would be difficult for the consolidated institution to participate in regional research in which 25 percent of the funds made available by the Congress for cooperative research, in which two or more States agricultural experiment stations are cooperating and which, as I quoted from the Act, "shall be used only for such cooperative regional projects." Well, it would seem difficult for an urban oriented experiment station and one or more state stations, restricted to rural or agricultural problems, to conduct cooperative research under a common project.

In summary I might read the summation statement from the 1967 testimony which is similar to our views now: "If benefits comparable to those derived by the states under the Hatch Act are to be extended to the District of Columbia, we recommend that it be done by some method other than through the agricultural experiment station structure."

Thank you.

Mr. DELLUMS. Thank you very much.

Mrs. MARTIN. I have just one question. If the District of Columbia could make a case for participation in the 20 percent non-matching part of that Hatch Act program, don't you believe that we ought to leave the provision in, just in case they are able to make a case rather than excluding them now and preventing them from ever even trying to make a case?

Dr. RONNINGEN. Well, first of all, I need to make one small correction. The 20 percent of the funds appropriated by the Congress, that is divided equally amongst the states, must be matching.

Mrs. MARTIN. Well, I'm sorry, but my question is still the same. Do you think that we ought to exclude the District from ever trying to make a case and participate in that part of the program?

Dr. RONNINGEN. Well I would have difficulty speaking to a single provision of the Act as being desirable or not. I can see how this 20 percent of funds that are distributed equally could be usable, but there are substantial portions of the Act which seem to us to not be usable by the District of Columbia, and——

Mrs. MARTIN. Well I am suggesting that administrative decisions could be made in the Department of Agriculture in reviewing the application. They would make the decision in deciding whether to make the funds available or not, but if you build into the legislation that they are absolutely excluded from participation, then you never open the door to them. I mean, we don't know in the next three or four years

if maybe the University of Maryland may very much want to deal with the District of Columbia in developing—well, I don't know what.

But all I am suggesting is that if we exclude this, we are forever excluding the District of Columbia from even the possibility of participating in this program, and I am suggesting that maybe the way to deal with your concerns is to let an administrator of your Department of Agriculture—and I use that in the best sense of the word—make the decision as to whether or not this is a viable application in view of all of the restrictions and restraints that go with that particular program.

Dr. RONNINGEN. Well this is not a decision we in the Department would make. If the Act is passed as written, then the Department would act accordingly, and relate as much as is legally possible of the Hatch Act to those programs that are developed by the eligible institution in the District of Columbia.

Mr. DELLUMS. Thank you.

Mr. Hogan?

Mr. HOGAN. Thank you.

Dr. Ronningen, I don't believe we have a copy of your statement. Could you leave a copy with us?

Dr. RONNINGEN. Well, I don't have a prepared statement.

Mr. HOGAN. I see.

Dr. RONNINGEN. My involvement in these hearings came rather late in the fiscal year, and last week was the end of the fiscal year. I developed the statements over the weekend and cleared them informally, but there wasn't time to develop a prepared statement.

Mr. HOGAN. Well thank you.

Mr. McDougall, as far as the land grant funds operate in most states, is it not true that they go through either some institution in the state or through a university and then they are picked up and used by the technical schools or the vocational schools?

Mr. MCDOUGALL. No, that is not true.

Mr. HOGAN. How do you do that?

Mr. MCDOUGALL. The monies are appropriated to the institutions which have been selected by the state legislature to receive these funds to administer the Cooperative Extension work within the state and each state has enabling legislation allowing for this purpose of this Act.

But the monies that are used for vocational purposes are under another act in HEW.

Mr. HOGAN. And how does that operate? Does that operate differently from this?

Mr. MCDOUGALL. I am not thoroughly acquainted with it, but I do believe the monies under the Vocational Act do go to the vocational board of education or whatever agency within the state is named by the legislature to receive those funds and they are used appropriately throughout the state to carry on vocational technical work throughout the state.

Mr. HOGAN. Well now, what is the general case or the general rule in most of the states? Are the liberal arts colleges, such as Federal City College, are they utilizing the land grant funds, or are they basically being funnelled through them to the technical and vocational part?

Mr. McDOUGALL. Our monies now are being funnelled through both the Federal City College and the Washington Technical Institute.

Mr. HOGAN. I understand that, but in most States?

Mr. McDOUGALL. In most states that is not true.

Mr. HOGAN. How is it done in most states?

Mr. McDOUGALL. In most states there is one institution, which is the land grant institution, which has a college of agriculture, an experimental station, which handles the funds to carry out the work of the Cooperative Extension work at the county level.

Mr. HOGAN. But in those states, isn't the land grant college the university normally and doesn't it just act as a conduit for those funds going through to the school of agriculture or the technical schools and vocational schools so that they utilize it and then the overall accounting might be said to rest with the university?

Mr. McDOUGALL. That is true.

Mr. HOGAN. You see the problem, Dr. Ronningen, is that some five years ago the language of theexisting law said the Federal City College and the Federal City College took all the money and didn't funnel it through to the Washington Technical Institute. Then the law was changed so it read both the Federal City College and the Washington Technical Institute.

Now if we put in a university, how do we assure that the Washington Technical Institute side, which is the vocational side, receives it? Will we just trust them?

Mr. McDOUGALL. Well if we carry out what I believe Dr. Dennard has indicated to me informally, we would have a director of the Cooperative Extension Service representing both institutions, and it would eliminate the need for perhaps dividing it in half so to speak, but would utilize these funds to gather the resources that are needed to carry out the work within the District of Columbia from this one institution.

Mr. HOGAN. They were getting more money under your provision?

Mr. McDOUGALL. They wouldn't get necessarily more money.

Mr. HOGAN. They would just go to the one institution then?

Mr. McDOUGALL. They would go to the one institution and be administered by the director of the Extension for the institution.

Mr. HOGAN. Now it is still administered by the director of the institution, but——

Mr. McDOUGALL. But the monies are divided equally and shared equally, yes.

Mr. HOGAN. And he administers both?

Mr. McDOUGALL. Has an amount for administrative purposes, yes.

Mr. DELLUMS. Mr. Washington is counsel for the full Committee, and you are recognized.

Mr. WASHINGTON. I am just perplexed by your testimony. You aren't ruling out the possibility that at some point in the future the District might qualify for an agricultural program? You aren't ruling that out, are you?

Dr. RONNINGEN. No.

Mr. WASHINGTON. So then, it would follow logically that it would not be unwise or unjudicious for Congress to keep this provision in

the bill since you are not ruling out that possibility. Is that your testimony?

Dr. RONNINGEN. Well, you are asking me what I am not authorized to do.

Mr. WASHINGTON. We don't really have an answer from you. You are saying something, but then you are not saying something.

Dr. RONNINGEN. My only purpose for appearing is to point out some of the constraints and difficulties in applying the Hatch Agricultural Experiment Station Act to a university in the District of Columbia, and I want to be careful that I am in no way discouraging the concept of the university as proposed in this act.

It is the characteristics of the District of Columbia that make it difficult to apply the provisions of the Hatch Act.

Mr. WASHINGTON. So then, it is fair for the record to reflect that the gentleman is saying that the decision of the Congress, since we cannot know what is going to happen in the years to come not being seers, would not be injudicious for this Congress to keep that provision. That is what I take from his statement.

Mr. DELLUMS. I don't think that is what the gentleman is saying, though. I think the gentleman is simply pointing out what the limitations are and has given us his objective view as to those limitations. And it is up to the wisdom or lack of wisdom of the members of the Congress as to whether we want to leave it in or not. That is the decision we have to make based on the testimony that he has given to us.

I don't think we need to put him in a position on that. We can simply take his objective decision and we can decide whether to act on it or whether to take another course.

Mr. WASHINGTON. But that is not what I meant. I am simply to trying to put a handle on the testimony——

Mr. DELLUMS. Well I don't think it is necessary to keep pressing the issue. That is what I am saying.

Mr. HOGAN. Mr. Chairman, I might point out that within the next few days there wil be some cotton growing on the Mall so we may be able to claim some farmland down on the Mall.

Mr. DELLUMS. Yes.

Mr. Washington, the point I was trying to make——

Mr. WASHINGTON. I understand your point.

Mr. DELLUMS. Well I would like to express on the part of the members and the committee the appreciation for your coming. We know it was very short notice, and the Chair apologized earlier for all of you for this short notice.

We know that as members of the federal establishment that you do have to check out positions, and we appreciate this time you have given us to at least come before us for some informal agreements and representations for this committee, and we would like to offer that special thanks for your coming. We appreciate both of your coming.

The Chair would now like to call Mr. Robert Kirkwood, Executive Director, Federation of Regional Accrediting, Commission of Higher Education.

Mr. Kirkwood, you may proceed any way you wish.

STATEMENT OF ROBERT KIRKWOOD, EXECUTIVE DIRECTOR, FEDERATION OF REGIONAL ACCREDITING COMMISSIONS OF HIGHER EDUCATION

Mr. KIRKWOOD. Thank you, Mr. Chairman. I don't have a prepared statement, but I was asked if I would comment on two or three aspects of the bill proposing for a unification of higher education in the District of Columbia.

And since I represent the Regional Accrediting Commissions of Higher Education in the United States, the first question that was asked me was: what effect such a consolidation of the three existing public institutions would have on their accredited status?

The District of Columbia Teachers College has long been accredited by the Middle States Association Commission on Higher Education. The Washington Technical Institute was accredited a year or 2 ago, and the Federal City College has just achieved its accreditation with the Middle States Commission.

In the event that this consolidation should occur, it is my understanding that the accrediation would then be transferred to the University of the District of Columbia, that is, the institution would not undergo a period of nonaccreditation. However, it would be in all likelihood viewed by the Commission on Higher Education of the Middle States Association as a very substantial change in the overall nature and structure of these institutions. And so I think you would understand that within a reasonable period, and probably about two years or so, the Middle States Commission would then ask for a review of the university of the District of Columbia in order to ascertain whether indeed it was fulfilling the objectives and purposes for which the consolidation had taken place.

The other part of the bill I think perhaps might bear some comment because I do think the other parts would be of concern to an accrediting commission, and I suspect that at least one part of the bill on which I will comment is perhaps the most delicate and difficult to deal with part, and I will get into that later.

But I speak here not on behalf of an individual accrediting commission, but as one who has dealt with a great many educational institutions over the years, and many of them developing institutions, newly established institutions that were trying to formulate their bylaws, their operating procedures, their governing structure.

And what I say here is based on observations of well over several hundred institutions, many of them public institutions. And what I say is something that I think has been of concern, not only to accreditation but to the higher education community generally.

I think you are well aware how sensitive the educational community is to the whole question of political control and political interference or intervention. Oddly enough there is no place in the proposal here where the subject of academic freedom is mentioned or where any provision is made to guarantee academic freedom or the freedom of research or of educational endeavor. I think this is an oversight which might well be rectified.

In the matter of governments on page 4, title 2—board of trustees, I think to begin with you are in a curious position, because you are es-

tablishing a board of trustees as an agency of the government of the District of Columbia rather than an institution. And it seems to me really that you should be establishing an institution, which is the agency of the government of the District of Columbia, in providing for a board of trustees, which shall be the governing board.

I think this would be a more advisable way in which to frame the statement there which begins with Section 201. I have some suggested wording which I have noted on my copy of the bill. I just got this copy of the bill at the last minute, so I have not had a chance to develop any of this in writing, but I would be glad to give Mrs. Martin a copy of the bill with my notations on it, if that would be desirable?

Mr. DELLUMS. We will deeply appreciate that.

Mr. KIRKWOOD. May I suggest that the whole process of boards of trustees would better be dealt with if it were talked about in terms of election rather than selection and appointment? I make that point because in the first place, you have a provision on line 13, part 1 of section 201, which provides for the nomination by the Mayor of 12 members of the board, which is of a 15 member board. So of that 15 member board, four-fifths are to be nominated by the Mayor and then subject to confirmation by the council. This means then that in effect the selection and appointment of trustees of this institution would become a political process. These people would be very much involved in the political affairs of the area.

This is further complicated by the fact that the chairman of the board of trustees shall be a resident of the District and only two members of the board will be permitted to come from outside of the District.

So that in effect, this whole process of board selection almost guarantees that it will be a political process. Now I say this without any relationship whatsoever either to present or potential members of the District of Columbia government. I say this largely because in the experience of most educators and most others concerned about the integrity and the independence of higher education that the more it becomes politicized the less effective it becomes.

So I would suggest then, that rather than the Mayor being responsible for nominating so many members of the board, that is, four-fifths of the board, that the Mayor shall nominate a much smaller number and preferably a minority. At most, I would suggest that not more than one-third of the membership should he select and that the board itself shall be the body responsible for electing these nominees to membership on the board rather than having the Council confirming these members.

I can see initially why nomination by the Mayor and confirmation by the Council may be necessary, Mr. Chairman. It is simply expedient because of the need to get this thing underway. But I would hope that once established, the board of trustees would be an electing board; that is to say, the members would be electing its members and the nominations then could still be made by the various groups as delineated in the bill with the exception that the Mayor would have less responsibility for nominating than now appears.

Mr. DELLUMS. Would you yield at that point?

Mr. KIRKWOOD. Certainly, sir.

Mr. DELLUMS. You mentioned that it is your thought that the Mayor should not be in a position to nominate more than one-third

and you pointed up the expediency of the need for moving the whole thing forward. How do you propose that the first 15 members get to the board in very specific terms?

Mr. KIRKWOOD. That would be the expedient part as I see it. In that case the Mayor might nominate the number indicated here and the Council might confirm that in order to get a board which would be a working board. But beyond that, but thereafter, the responsibility for replacing members of the board would then be the board's responsibility and not subject either to the confirmation of the Council or to the number of nominees suggested here by the Mayor.

Mr. DELLUMS. Right. I am trying to understand the point you are making about the Mayor not being able to appoint four-fifths of the board. At what point do you bring in the limitation that the Mayor be recommended to appoint not more than one-third?

Mr. KIRKWOOD. I would say that once the board takes office, it is specified here that the trustees shall hold the first meeting no later than April 2nd of 1975, and at that point then the board would assume responsibility for electing its future members in accordance with the nomination procedures outlined in the bill.

Mr. DELLUMS. As you know, in some areas they are pretty much confined to community college systems where they actually have an election process, but you are not recommending that where people would actually run for seats?

Mr. KIRKWOOD. No, I don't recommend that because on the basis of my observation, Mr. Chairman, very few of the elected board of community colleges have worked out very satisfactorily.

Mr. DELLUMS. Your experience is that they become so highly politicized and that the people function as part of the politics of the community rather than dealing with the educational issues that should be dealt with by a policymaking body?

Mr. KIRKWOOD. Yes, sir.

Mr. DELLUMS. Thank you. You may proceed.

Mr. KIRKWOOD. Now if I may turn to page 6, the bottom of page 6, line 20 and 21 and 22 and 23, it states: "A Chairman and Vice Chairman (1) shall be selected by the Trustees from among the District of Columbia resident members" and I would urge that there be deleted that, because you would eliminate very seriously the opportunity to draw upon the talents of the board. It is entirely possible, for example, that outstanding citizens might be residents of just across the border in Maryland or just across the river in Virginia, yet by virtue of that fact, yet they would be excluded from serving as the Chairman or the Vice Chairman of the Board of Trustees.

And indeed I would urge that the restriction that only two members of the trustees may be from outside the District also be stricken.

It seems to me that this is not only unduly restrictive, but this would further subject the university to local political pressures, and it would seriously exclude outstanding alumni and other citizens who might be eligible for service on this board were this provision not included.

I think it is fully understood that in a world as mobile as ours is today you cannot expect that all of the outstanding alumni of the University of the District of Columbia are going to settle themselves here in the District of Columbia. I would hope that, for example, and just a very simple example, let us say one of the alumni of the Uni-

versity of the District of Columbia becomes the next governor of the Virgin Islands and then by virtue of his residence he would be excluded from serving on the board of trustees, yet he might be one of your most distinguished alumni and could make a great contribution to the ongoing progress of the institution.

There are many examples of similar nature which could be cited, but I think the point is quite clear.

I would suggest further on page 7 in line 16 that here again you have a suggestion of political interference by saying: "The Mayor shall have the power to remove any Trustee" and I would strongly urge that the board of trustees have the power to remove any trustee, because once the Mayor has that power then inevitably it can be exercised for political purposes.

On page 9, at the top of page 9 on line 2, I would suggest that you delete, "colleges of" because you may want to organize your units in somewhat different patterns than traditional colleges. For example, you may want science and technology; liberal and fine arts; and so on.

Oddly enough some vocational and technical programs are missing from this listing, and I think you would want very much to include vocational and technical programs. But you may well want to reorganize I think some of the patterns of educational organizations, which are beginning to show the strains of wear and tear and time. It may be desirable to establish different units of organization.

Also I think by eliminating "colleges of" you relieve that responsibility while noting the essential disciplines and other subjects to be covered and——

Mr. DELLUMS. Are you suggesting the language be, "units of"?

Mr. KIRKWOOD. Well, it could well be units of, but that is provided at the bottom of page 8, line 25, where it states: "The University of the District of Columbia, which shall include but not be limited to colleges of science and technology, liberal and fine arts," and so on that I was referring to.

And further down on page 9, the middle of the page at line 13, having to do with the budget, I would suggest that: "such budget shall include a proposed financial operating plan for such fiscal year, and a capital and educational improvements plan," and so on.

I suggest that because too often in the past we have focused entirely and often times with almost myopic tenacity on purely capital developments and translated that to buildings and bricks and mortar. I think a capital and educational improvements plan would be a much sounder approach. We may find that we don't need all of those buildings anyway and we can do things in other ways.

And I would hope that that would be part of the vision behind this particular bill.

I would also suggest on line 20 that: "The Trustees may transfer, during the fiscal year, following duly established procedures for review, any appropriation balance available for one item," and so on. Unless you have specified procedures for review, this might be done whimsically and I think you can see the dangers in that.

Moving on then, if I may, to page 11, to line 3, talking about the Board of Trustees and its powers and it states: "Select, appoint and fix the compensation for a President of the University and Provost of the Colleges in the University," and I suggest adding: "and approve

the appointment and compensation of such other officers as it deems necessary", rather than: "and appoint and compensate."

I think when you get below the level of top eschelon, the Presidents and the Provosts, then to have the board appointing is getting the board too much involved in administrative procedures. And all the board has to do is to approve. If it disapproves, of course then an undesirable person will not be appointed. But I think the approval is all that is necessary rather than having the board reviewing and appointing every single person and the appropriate compensation therefor.

On page 13, here I happened to come in just about the times Ms. Pinkett was testifying, and I can only second her point on page 13, because it is not clear, beginning on line 7, whether the Board of Higher Education is indeed having its functions separated from the Board of Trustees of the University of the District of Columbia. I would suggest that this ought to be explicitly stated so that there is no question about which board has the responsibility for the University of the District of Columbia and which board has the responsibility for chartering or licensing post-secondary educational institutions in the District or under the District's jurisdiction.

As Ms. Pinkett pointed out, there are several institutions, there are at least three that I am aware, aboard and all of them chartered currently by the District of Columbia. This is, as she pointed out, a heavy responsibility, and one which I think should be the responsibility of a separate board.

Now there is one further point with respect to having a separate board of higher or post-secondary education or a commission of higher or post-secondary education. This might also then serve as the 1202 Commission for the District of Columbia, which as I think you realize, is going to be an increasingly important body in dealing with various aspects of federal legislation related to education.

So I would urge that the separation there of the Board of Higher Education and the Board of Trustees of UDC be as explicitly provided for as can be.

And then one final major point, is the point again that I think Ms. Pinkett raised on page 17, line 1, where it states: "Each meeting of the Trustees shall be open to the public and held in the District of Columbia," and I think here, unless some provision is made for closed or executive sessions, there could be occasions where serious embarrassment or serious impairment of the freedom and flexibility of the board to operate could result.

I fully sympathize and support the idea of openness, and I think openness should be as much a standing rule of the board of trustees of this institution as it should be of any public institution and even private institutions, for that matter too, but I think unless there is some way legally for a board of trustees to have private hearings or private meetings, its position at times could be certainly compromised or embarrassed.

These are the major points. I have made a number of editorial suggestions, which I am glad to share with you. But if you have any questions, Sir, I will be pleased to answer them.

Mr. Dellums. The Chair would like to thank you for your presentation and certainly your very detailed recommendations with respect to how to strengthen this legislation. I am sure by virtue of your last

couple of comments that you were in the room when Ms. Pinkett raised the question of how the board of trustees would function as an institution of the District of Columbia.

She pointed out, for example, where they would like to either remove the fees or reduce the fees for certain special categories of people and that because of the recent situation, they are not able to do that. Do you have any suggestions on how we might handle it in such a fashion that you would maintain the integrity of an institution of higher learning in this rather unique situation we find ourselves so that the government of the District of Columbia could not impose traditional rules and regulations that they apply across the board to an agency of the District of Columbia?

Like she mentioned, for example, that they are not able to do certain things because the government promulgates rules and regulations that prevent them from functioning as any other institution of higher learning around the country.

There are certain kinds of autonomy and certain decisions they want to make.

Mr. KIRKWOOD. Well, Sir, I don't have the legal terminology and here I reveal my lay background, so I speak only from the very practical approach. And it seems to me if you go back to the point I made initially, Mr. Chairman, that what is being established is the University of the District of Columbia as an independent agency of the government of the District of Columbia and if then in turn you establish the board of trustees as the governing board of that agency, then I think you can get at the question that you raised and that Ms. Pinkett raised more effectively than this legislation as it is now written can do.

I think realistically—and I think here is what she was saying—you have to acknowledge the right of the government, of the Council or of the Mayor, at certain points either to raise questions or to raise objections or to overrule. But this is in the nature of the political process.

But I think safeguards can be built in which would limit that kind of intervention sufficiently to assure the public and the educational world and the Congress or whomever else is concerned, to assure them the integrity of the institution is respected and remains intact.

Mr. DELLUMS. I have two other questions. One, do you have specific language that you could recommend to this body to deal with the question, and the very important question, of academic freedom. You mentioned that is not included in this draft of this legislation.

Mr. KIRKWOOD. I don't have it here, Sir, but I can provide you with such.

Mr. DELLUMS. Thank you. I would like to draw upon your broad experience with other institutions and raise the question I have raised with several people, and that is: what has been your experience with respect to the question of the representation of the student community in policymaking boards, and what are your thoughts in respect to the proposal here before us today?

Mr. KIRKWOOD. Well I share your dilemma, Sir, because the problem of how you get representation, which is in effect real representation, is a difficult one. I think perhaps we have become overly concerned about the question of representation and have lost sight of what I think is much more important, namely that effective channels of communication must be available to the constituencies of the institution

so that the students, the faculty, the alumni, the community, the trustees, all have an understanding of the ways in which communication is passed back and forth and the ways in which requests and responses are passed back and forth.

I think very often we have assumed that all we have to do is name a student or a faculty member to a board of trustees and we have accomplished that eternal and universal problem of communication.

This simply is not so. I am not objecting to the idea of having students or faculty members as representatives on a board of trustees. There are cases on both sides where either the representation has been very effective or has not been effective or has been negligible.

I think Ms. Pinkett pointed this out rather well today. But I think the important point, as I would say, is not representation. If you have one student, fine. If you have one faculty, fine. But you can still have division and a great deal of dissatisfaction by such representation unless the more important problem has been dealt with, namely, the problem of communication back and forth.

So I place less stress on the importance of representation than perhaps others. I place much more stress on providing adequate channels and clearly established and clearly defined and known to everybody channels and clearly accessible channels, which permit effective communication and response.

Mr. DELLUMS. Well I thank you very much. I know that there are certainly some questions from both counsel on the majority side as well as the minority side. I do have a vote. We will suspend for ten minutes. We would appreciate it if you would stay.

When we come back, the Chair would make some determination as to how we will handle the balance of the witness list due to the lateness of the hour, and we will determine that when we get back.

We have established and set aside Wednesday to hear traditional witnesses and it may be that we will have to carry over because there are still an extraordinary number of witnesses who do wish to appear and we would like to give them ample opportunity to present their views and give ample opportunity for the members to question them. So I will make that ruling when we come back.

(Brief recess.)

Mr. DELLUMS. The Committee meeting will reconvene.

Mr. Kirkwood, before we begin to question you, the Chair would like to say that a few people approached me in the hall and indicated that they were well down on the list and had other things to do. I learned that at this moment there is no business scheduled on Wednesday for the House, which means that we could conclude these hearings on Wednesday without my intermittent trips over to the Floor.

And if there are persons who would like to stay to testify today, our staff has polled some of the persons, and it appears that some people would not mind testifying as a panel, then please feel free to stay.

I am going to have to be here for a while today so I would be more than happy to stay for a while if you want to try to go on and see where we get maybe at 6:30 or so. Then the rest of the persons that we are not able to get to today, I would simply extend my apologies and we would reconvene in the same room at 1:30 on Wednesday and try to accommodate all of the witnesses who have not had an oppor-

tunity, but we will stay as long as we can and try to take as many witnesses we can who want to testify today.

Now we will go back to Mr. Kirkwood, and would yield to Mr. Hogan.

Mr. HOGAN. I assume that there are a number of recommendations that the Accreditation of Middle States Association made with respect to the Federal City College in their examination which has just taken place. Is that a fair assumption?

Mr. KIRKWOOD. Yes, that would be a fair assumption because it is in the nature of the accrediting process. And when an evaluating team visits an institution, one of its major purposes is to assist the institution in identifying areas where perhaps questions need to be asked or approaches need to be re-examined or where possibly there are alternatives that might be considered in order to improve the total operation of the institution.

So by its very nature, an evaluation team would make a series of recommendations and this was true in the case of Federal City College.

Mr. HOGAN. Does the college have a certain period of time in which to respond to the recommendations?

Mr. KIRKWOOD. Usually there are various specifications. Every institution must report annually to an accrediting commission on its progress, on its current status. If specific problems have been identified, the accrediting commission may request a progress report within an extended period of let us say two years in addition to the annual report and the accrediting commission may also request that a visit be made to review the progress in the particular institution.

No institution can go longer than five years without a full report on its current status, which would include all of the responses made to recommendations, suggested or offered by an evaluation team.

Mr. HOGAN. Will that be available to the Committee in a short time, or do you know when that report will be coming out?

Mr. KIRKWOOD. The report has been submitted to the institution. The institution, if it so chooses, can make it available to the Committee. That is the prerogative of the institution.

Mr. HOGAN. Thank you, Mr. Kirkwood. Thank you, Mr. Chairman.

Mr. DELLUMS. Mrs. Martin?

Mrs. MARTIN. Yes, I would just like to ask one question and that is, whether you recommended a self-perpetuating board? In a sense that is what it is. And I wonder what is the preponderance or the predominant situation with respect to public institutions and private institutions with respect to how boards are constituted? Is it self-perpetuating? Are they elected? Are they appointed? And if appointed, they are appointed by whom?

Mr. KIRKWOOD. I can't answer categorically. I can only say that the great majority of institutions do have self-perpetuating boards. The private institutions invariably have self-perpetuating boards.

The pattern does vary. I shouldn't say the "great preponderance" because I was omitting the two-year colleges. But anyway, I know of very few boards that are elected in public elections for post-secondary institutions.

In the secondary and elementary schools boards of education which deal with those institutions are sometimes elected. But in post-secondary institutions, I am not aware of many that are elected.

The process for appointment often times in public institutions goes through the Governor of the state, but this again has resulted many times in questionable appointments. The only way in which that kind of appointment can be considered desirable and apolitical is by having some kind of a public panel of screening; by having a screening board in a sense which would serve as a selection board for candidates who would then be appointed by the Governor.

Some States have done this sort of thing. There is no universal pattern, though.

But I think you would find that sentiment certainly supports the self-perpetuating idea, because self perpetuation does lend itself to the greatest independence of action.

Mrs. MARTIN. To your knowledge has any institution of higher education either lost its accreditation or been threatened with the loss of its accreditation because of political interference that would relate to the way the board is constituted? I am wondering if this is an accreditation concern that the Committee ought to be aware of as it tries to come up with the best possible language.

Mr. KIRKWOOD. Well as you ask the question, I would have to say, no, that I am not aware of any institution whose accreditation has either been removed or threatened because of the structure of the board. But in some cases, the actions of the board have involved political relationships which did result in challenging the accreditation of the institution.

Perhaps two of the most famous cases are those which occurred in Mississippi and in North Carolina where boards of trustees were so political and their actions were so outrageous that their accreditation was threatened very seriously.

Mr. CLAIR. On behalf of the Chairman, who had to dash out to the Floor again, we would like to say thank you very much for your statements and at this time, we would like to call our next witness.

Our next witness is Dr. Paul Cook, President, District of Columbia Teachers College.

Might I just say while Dr. Cook is approaching the stand, that we have taken the liberty, because of the list of witnesses that we have and because of the desire to get past this stage as rapidly as possible and move to the next stage and get to marking up and getting a bill on the floor, that we have noticed that there are faculty representatives from each of the three institutions, and also alumni representatives from each of the three institutions, so we are wondering if you would not be opposed to the faculty people simply approaching the table together?

You will make your independent statements, of course, and then we will put our questions to you as a group rather than simply repeating the questions over and over again. We will do the same thing for the alumni.

Dr. Cook, thank you very much for approaching the table. At this point, Dr. Cook, you may proceed in any manner you would like to.

STATEMENT OF DR. PAUL COOK, FORMER PRESIDENT, DISTRICT OF COLUMBIA TEACHERS COLLEGE

Dr. COOK. Thank you. In addressing the Subcommittee I must identify myself differently from what is on the list. I am not President of the District of Columbia Teachers College but——

Mr. CLAIR. Right. And let me just say before you go on that I did have a problem in putting the list together. I put the list together when you were still President of the District of Columbia Teachers College.

Dr. COOK. I am speaking as a private citizen, but I am unquestionably speaking from the background of experience of 30 years of being with the District of Columbia Teachers College. I am also authorized to speak for the American Veterans Committee which for these many years, after World War II has taken the position of citizens first and veterans second, and has been concerned with public education and with higher education. And I speak also as a former National Chairman of ABC.

I would like to make five points and then briefly support them: (1) that the District of Columbia needs the University of the District of Columbia. It is mandatory in my judgment that we establish this public higher education; this University of the District of Columbia.

(2) That one board is absolutely necessary in place of what is now in existence and that is a Board for Higher Education; a Board of Vocational Education.

(3) In the development of an academic structure, the University of the District of Columbia, the District of Columbia Teachers College should be one of the three colleges that will constitute the basic structure to which other institutions or units or schools or colleges might be added.

(4) The 15 member board could include a student. In fact, it ought to have a student and an alumni and a faculty member.

(5) The establishment of a public institution like the University of the District of Columbia is not a threat to private higher education in the District of Columbia.

Now as to the need for the University of the District of Columbia, first, in February of 1970 when testifying before the District of Columbia City Council I recommended then to the Council that they support the concept of the University of the District of Columbia. I suggested the name Federal City College University and urged one board and urged that the three existing institutions, that is the Teachers College and the Technical Institute and Federal City College, constitute the core of a city university.

And in these four years I had not concluded that there was any reason to take a position other than in support of a University of the District of Columbia. One board is necessary. We cannot continue in this city having two boards operating higher education.

There was liaison in 1969 and 1970. The college presidents, the board chairmen, and indeed the Superintendent of Schools and the Chairman of the Board of Education met in liaison to reduce the unnecessary duplication, to increase articulation between public elementary and secondary schools and to improve and expand the program, and while at the same time—and I repeat—reduce unnecessary duplication. And that liaison has not taken place now in four years.

And the move of the Committee in this bill to establish one board of trustees for higher education is very important. I regret that it could not establish a board that would have indeed articulated all of public education from pre-kindergarden through graduate school, but that is not to say that this is wrong because it does not include more than it does include.

I believe this is important that we have a board of trustees even though a goal in the future would be a board that brings together entirely the public education for the city.

I still think of the 13th and 14th grades in public high school as actually being a part of post-secondary. And the practical training of nurses in the 13th and 14th grades, the advance work done in the vocational trades, these would be what ordinarily are called "public secondary schools", but actually overlap post-secondary work. So it is still an important goal of the Committee, I believe, or of the local government should it be the subject for local government, as it was a matter of discussion in the Committee rough draft discussion.

And I believe that the student makes a contribution when he is on the board. I have seen our students with the Teachers College—and there are three of them now—for the last four years serve on the board. And I never met with a group of students yet that I didn't learn something. I don't believe they are the controlling vote or should be, however.

But I do think in an advisory capacity they bring a viewpoint that many times administrators and faculty and older people do not see and so there is a place for a student.

There is a place for a faculty member on the board in my judgment. I have seen three faculty members from the Teachers College operate to the benefit in my judgment of the board in the last 3 or 4 years. And in a 15-member board, certainly there is a place for a member of the faculty from the University of the District of Columbia.

And I see a place for an alumni. I don't believe any of these people can exercise a vested view simply because he is a student and therefore has a vested interest in the academic interest or is a faculty member and therefore has a vested interest in personnel problems, and so forth. They cannot exercise a controlling position, but they can always provide an advisory view, which in my judgment, is very important in the overall mix that goes into arriving at decisions that boards must make, especially with respect to policy.

The last point that I was making in the substantiating briefly of these five points is, I don't see in the years that I have been around, in the 30 years that I have been in public higher education in this city and the several years now on the Consortium because the District of Columbia Teachers College is a member of the Consortium and it has associate member status because it doesn't have a graduate program, but anyway, in working in the Consortium and with all of the other institutions that are private universities or colleges—and Father Whalen was here earlier speaking for the Consortium—I cannot conclude that the establishment of a University of the District of Columbia is any substantial threat to a reduction in enrollment of these national and indeed, although Father Whalen didn't say it to these institutions which are international in character.

Howard University, for instance, is an international university, and certainly national and so are the rest because they get their students from around the world and around the nation. And I do not believe the establishment of the University of the District of Columbia is a substantial threat to the reduction of program or enrollment in the private universities and colleges in this city.

The need for cooperation is clear. I expect that Federal City College will become a member of the Consortium very shortly. I have seen our students in the Teachers College going to George Washington and going to Howard and taking microbiology at Catholic University because of the strain on our budget to provide microbiology for a few students in developing a biology major.

And because that strain is too demanding, we are very pleased to be a part of the Consortium and to see students from George Washington and Georgetown and Howard coming to the Teachers College to get what they can from the major Teacher Preparation Institution.

And that simply reassures or confirms in my mind the value of the Consortium and the unlikelihood that a University of the District of Columbia would cause problems with this great number of people—and incidentally, Sam Nabrit used the 3 percent figure when he spoke about educational requirements and he referred it to the 3 percent figure used nationally for higher education as meaning 24,000 in this city and so there is a great untapped group of adults and older citizens, as well as people who have dropped out, who would constitute this base and would not normally be going to American University or George Washington or other universities.

Mr. Chairman, these constitute the five points that I wanted to bring to the Committee. I would like to leave the Committee a written statement, but in my present status, I couldn't have the facilities to duplicate the statements and to get it typed up, and so I had to bring it orally. I would bring you a recorded statement. I would be pleased to answer also all questions you have.

Mr. DELLUMS. Thank you very much, and we certainly will look forward to that submission.

I would yield to Mrs. Martin.

Mrs. MARTIN. Just one question. I was just wondering about the timing, Mr. Cook. And following up on the questions that the Chairman has been asking other witnesses in terms of this Committee waiting for the newly elected City Council to act, now as the former President of one of these institutions involved, I would just like your reaction to the timing involved?

Dr. COOK. I see no reason for the Committee not to act. I have been here too long in Washington, and it is always "let's wait a little longer." It is always "we are going to have the Nelson Commission and let's wait a couple of years," or "wait a little longer and the Arthur D. Little report is going to come out," or "wait a little longer for Home Rule."

I don't think we ought to be waiting constantly. I have been waiting since the Strayer survey in 1949 looked at teacher education and higher education in the city, and am still waiting for the results from the Strayer study. I am still waiting for the results from the Pascow survey.

No, I don't think you ought to wait. There is plenty for the City Council to do under Home Rule and I don't think this Committee is

assuming the City Council's responsibilities. There is just plenty for them to do.

I don't believe you ought to wait. I think one of the reasons you ought to move is because if you don't move now, you will squeeze the Teachers College out of it. And I think one of the three colleges in the University of the District of Columbia ought to be the D.C. Teachers College.

But the way the timing is going now—and to use your term, Mrs. Martin—the "timing", if you wait much longer, there won't be any Teachers College that will be a part of the University of the District of Columbia. And I have no vested interest any longer, not being president. But I still think that it would be a serious blow to the beginning of the University of the District of Columbia not to have that; not to have, as Dr. Kirkwood said, just preceding my testimony, the long accredited service of the Teachers College in the preparation of teachers.

So I know of several reasons why I think the Committee ought to move ahead. Does that answer your question?

Mrs. MARTIN. Yes, and thank you.

Mr. DELLUMS. Mr. Hogan?

Mr. HOGAN. If the Congress were to move now, might not the local government take the position that it's an obligation of the Federal Government and therefore not one of the local government's obligations?

Dr. COOK. Well, it is always going to be in this city in part an obligation of the federal government. In the first place, there is the federal payment and there is the federal interest in this city because it is the nation's capital.

I can never see, as long as this is the nation's capital, that there isn't a federal interest in maintaining the highest level of education, public education both in the common schools and in the secondary schools and in higher education.

So yes I think there is a federal interest and a federal obligation, and I think the federal payment ought to be sufficient to maintain a reasonable quality and a reasonable level of excellence in education in the city. So I don't argue that. I think that is a reasonable position to take from the beginning.

It is in part a federal obligation while at the same time the city has an obligation to develop and maintain a tax structure and other means of revenue gathering to undergird all of its services. But again, yes, it is in part federal.

Mr. HOGAN. Thank you, and thank you, Mr. Chairman.

Mr. DELLUMS. Thank you, Dr. Cook. Now Dr. Cook, as a former president of one of the colleges, I would like very much for you to comment on the question of the composition of the board. And if you will, please comment on the selection criteria of the members of the board. I would appreciate it.

Dr. COOK. Well, first I would repeat, I do believe that a board ought to include—especially when it numbers 15 members—at least one student. I believe a student makes a firm contribution.

The whole question of whether he can represent all 10,000 or 15,000 I don't think can ever be answered, but he does make a contribution.

I think the alumni have an interest in the college and can make a contribution on the board of trustees.

Again, I believe there is a place for one faculty member; for at least one faculty member. But certainly the faculty ought to be represented on the board. It cannot maintain, as I said, a vested interest. It doesn't have the votes. It cannot maintain a vested interest. The faculty member is going to have to work for the whole good.

So out of that composition of 15 persons, I do think three certainly might come from that segment, which is from the institution, which is kind of an institutional segment.

And I think limiting it to only two from out of the 15 from out of the jurisdiction is too small. I think it could be three or four. But on the other hand, I don't think it ought to be a kind of board which Maryland and Virginia and the other States control as to what goes on in the District of Columbia.

The people who live here and who have been living here all these years and have continued to live here, even those who move back to the city, ought to have the major say in what goes on. So I do think two members is not enough and I think it could be three or four from out of the jurisdiction.

I might say also that it isn't all racial. As I look at the numbers of faculty members in my college living outside of the city, I am always struck by a substantial number of Negro or black numbers living outside of the city, too. So it isn't totally a racial matter at all, not that it necessarily has been suggested as a racial matter.

But the question is: how many people ought to live in the city for the control of the particular services that are in the city and primary services? So that I think two is too small.

Now selection? I don't object to the Mayor selecting, believing that under the private university system, the self-perpetuating board is understandable, and it is customary, but in the public sector, it seems to me the board is in some way responsible to the people. In this city the Mayor will be elected by the people so there is some control over the Mayor by his election. He then in turn nominates, and I don't think it necessary to go to the City Council. I would be satisfied as a taxpaying citizen, having lived here for more than 50 years, with his naming the board and not just nominating for presentation to the City Council, but I do not object to that feature either.

I think I have answered the aspects of the composition or the components of the board as well as the selection or the nomination and selection of the board members.

Mr. DELLUMS. Thank you. Mr. Clair, any questions?

Any questions, Mrs. Martin?

Mrs. MARTIN. I was wondering if that is a quorum call?

Mr. DELLUMS. No, that is adjournment.

Well, Dr. Cook, we would like to thank you.

Dr. COOK. May I add one other thing? I am a little concerned about the merger. I have opposed the merger as you well know. I have written to your Committee to that effect. I do not believe it is in the best interest of the city to merge Federal City College and Teachers College at this time.

I am concerned too about the legal route that is being taken. I don't believe that an institution established by the Congress, which is the organ that established the Teachers College in 1929, should be abolished other than by the same organ that established it in 1929 and specifically, it seems to me, if the District of Columbia Teachers Col-

lege is to be abolished, then it should be abolished by the Congress of the United States which established it.

I use an analogy. The board could not establish the Masters Degree in the Teachers College because it was the Congress that had the authority to establish the Masters Degree. It was the Congress that removed the authority to grant the Masters Degree in 1959. So the conclusion was it was the authority within the Congress to award the Masters Degree, and therefore, by analogy, Mr. Chairman, it is within the authority or only within the authority of the Congress to remove the College altogether; that is, to end the existence of the College as a charter.

H.R. 15643 does specify the abolition of the Teachers College to develop it into the University of the District of Columbia. And if it doesn't take place that way, it seems to me that it is not legal to abolish the Teachers College.

I know that your Committee is not considering that except obliquely because one of the clauses in the bill is to end the Teachers College, but to end it for the purpose of making it a part of the University of the District of Columbia.

I would like to leave with that point with you.

Mr. DELLUMS. I might say in response to that—and Mr. Natcher and Mr. Mahon have raised this routinely when both institutions have gone before the appropriations committee for funding—that in 1968 when Congress passed a bill that brought Federal City College into existence, it was the intent of Congress at that time that Federal City and D.C. Teachers College merge. And every year since the enactment of the legislation bringing the FCC into existence as I understand it, and a couple of those years I was not around here—but the question has been put: when are you going to merge?

Because as I understand it, as I understand the legislative history, this was the intent of Congress. And——

Dr. COOK. I couldn't agree with you more, Mr. Chairman. All I say is, if it is to be merged, it is your responsibility as a Congressman to do it. I am not arguing what the intent of Congress was or is. I am not arguing that throughout these years the appropriations committee has not raised the question. I don't believe your Committee has raised it. I don't believe the House District Committee has raised it.

I have never seen it at least raised in the Committee constituted by the Congress to legislate for the District of Columbia and not the Committee constituted by the Congress to appropriate money for the District of Columbia. So that is another matter.

But this Committee has been constituted to legislate. So I am not arguing what the intent of Congress was. I am not arguing that the merger shouldn't take place because maybe it should and maybe that was the intent. I am arguing that the organ that was intended to do it, ought to do it. That is my point. Do you follow me?

Mr. DELLUMS. Yes, sir. And I appreciate that, and we will certainly take judicial note of the point you raised and we have an able staff that would look into the matter. I would like to thank you very much for coming.

Dr. COOK. May I thank you for the interest you took in your letters to the teachers, and not the Teachers College, when they were inter-

ested in future staff development and the question arose whether their opportunities were limited by the funding.

And you acted to raise the question with the Corporation Counsel very kindly, and you very kindly sent me a copy of the letter. I thank you for that and for the interest you have shown in Staff development. That is one of the major factors in my judgment of making a good, solid scholastic system; developing the teachers to the highest level of their competence.

Mr. DELLUMS. Well, I appreciate that very much and thank you.

The next panel of witesses will be representatives of the faculty. We have Dr. Sarah M. Pereira, President, Faculty Senate, District of Columbia Teachers College; Mr. Casey Mann, Chairman, Steering Committee, Faculty Association, Federal City College; and Mr. Earl Coblyn, Chairman, Faculty Organization, Washington Technical Institute.

Now if all three of you would come forward? Would you all introduce yourselves?

STATEMENTS OF DR. SARAH M. PEREIRA, PRESIDENT, FACULTY SENATE, DISTRICT OF COLUMBIA TEACHERS COLLEGE; CASEY MANN II, CHAIRMAN, STEERING COMMITTEE, FACULTY ASSOCIATION, FEDERAL CITY COLLEGE; DR. WILLIAM MANDLE, AFT OF THE AFL–CIO UNION, DISTRICT OF COLUMBIA TEACHERS COLLEGE; MS. AMELIA GRAY, FACULTY MEMBER, DISTRICT OF COLUMBIA TEACHERS COLLEGE; AND LISA SNYDER, ESQ., STAFF ATTORNEY, NATIONAL EDUCATION ASSOCIATION

Dr. PEREIRA. May I yield the floor immediately to Dr. Mandle, who is the President of the local AFT of the AFL–CIO Union on the Campus of Teachers College. Sitting to my left is Amelia Gray, who is speaking as a citizen, but who has been intimately involved in this. We would like to put her on our panel, too.

Dr. MANDLE. Thank you very much most Honorable Mr. Dellums and Committee. I appreciate the opportunity to speak at these hearings.

For the purpose of your edification, I am President of the D.C. Teachers College Faculty Federal Local 2251, American Federation of Teachers AFL–CIO.

I am Vice President of the College's Committee of Concerned Faculty and Co-Chairman of the Legal Aid Subcommittee of the Committee on Resolutions and Due Process; and Committee elected on May 29, 1974 by the Teachers College faculty.

I wish to state that I am in favor of the establishment of a university of the District of Columbia with the continued existence of the District of Columbia Teachers College as a precondition of that establishment.

When the Congress proposed the merger of the District of Columbia Teachers College and the Federal City College in Public Law 89–791, I am sure their intent was not to abolish the District of Columbia Teachers College, which is an institution with a history of over 100 years of service to education.

The District of Columbia Board of Higher Education has mandated the merger of the District of Columbia Teachers College with Federal

City College. Dr. Cook has elegantly pointed out what he believes and I also believe to be the responsibility of Congress in this matter. I urge that your Subcommittee, Mr. Dellums, consider a moratorium on any merger at this time. And I offer the following shortcomings of the present bill, which I hope among other conditions which exist at the present can be remedied:

First, Section 206 does not provide specifically for collective bargaining. My recommendation would be to adopt the District guidelines for Labor Relations, Chapter 25–A. If any other guidelines are adopted they should have at least minimum guarantees to labor provided by the District Guidelines.

In March of this year at the District's public hearings, several groups called for the adoption of the District Guidelines. The Board of Trustees of the new University of the District of Columbia should not be allowed to prevent or delay collective bargaining, which I might add parenthetically has been a condition which we have had to face with the current Board of Higher Education.

Secondly, the concept of the governed is not implied in section 206, personnel section. The language of the section implies an autocracy and not a democracy. To remedy this the section should include provision for the inclusion, as binding, faculty developed policies now existing at the three constituent institutions and not limited to but including policies on the tenure, leave, promotion, salary schedule and so forth. Furthermore, the membership of the Board of Trustees should be comprised of at least on faculty and student representative from each of the three institutions.

If there were room for it, a member of the alumni association I think would be in order too.

Again I urge this subcommittee to declare a moratorium on any merger at this time.

In closing I wish to thank the Congress for its past support of the teachers college. Would that this Committee or the Congress of the United States were our Board of Trustees.

Mr. DELLUMS. Thank you. May I ask, Dr. Mandle, when you speak of calling a moratorium, you mean on the merger between FCC and D.C. Teachers College?

Dr. MANDLE. That is correct.

Mr. DELLUMS. The Chair would simply state in all honesty that I will have to look into the legal aspects of the question raised and the jurisdiction of this Committee.

And when I say "This Committee" I mean the Full Committee of the District of Columbia because I derive my jurisdiction from the Full Committee's charge and responsibility. But we certainly will look into this matter to determine what our role is in this situation.

Dr. Cook has raised the question and others have raised the question and we will look into it and try to get an answer to it because I obviously cannot operate outside the framework of my jurisdiction.

So we will try to look into the question and see what our options are in this area.

The point that you are trying to make is that in a merger then D.C. Teachers College no longer operates as an entity?

Dr. MANDLE. May I add one——

Mr. DELLUMS. And I might say——

Dr. MANDLE. May I add one point?

That is correct. That is absolutely correct, Mr. Dellums. I might add that the faculty at our college is very much concerned that the memorandum of understanding according to one attorney's opinion at least might not hold for us in the event that our institution goes out of existence. It is a question of legality there too that we question.

Mr. DELLUMS. Well, this is one of the issues that concern the Chair and we certainly would look into it. We have no desire, speaking for myself and the members of this Committee, we have no desire to ramrod a piece of legislation through without having carefully looked at all of the critical issues that are involved and we have tried diligently to stay out of politics of the District because I would think that is not what our business is to be about.

I think we ought to be legislating in the best interest of the people consistent with the concept of self-determination.

So we will take the point that you raise also under advisement and we will make judicial note of it and we will explore the question and hopefully it will be prior to the time that we mark up this legislation that we would have some kind of answer.

With respect to the other comments that you raised, I deeply appreciate that. I would just like to ask you this. You are suggesting then of the 15 member board that nine people be related to the University either as alumni or students or faculty?

Dr. MANDLE. And alumni, student, faculty, yes.

Mr. DELLUMS. I raised this question earlier about the notion that there are three entities and the statement was made well, in the very near future there would only be two. You are suggesting that the three entities cannot effectively be represented without having their own specific constituents to represent them on that board? And the question I am raising is: would that make it so fractualized that it would just mitigate against any kind of a broader policy being made?

Dr. MANDLE. I think you have had enough responses perhaps showing the pros and cons, but one thing has not been mentioned and I call your attention again to the concept of the governed. I call again the attention of you, Mr. Dellums, to due process.

I think that if some people are going to not live up to their responsibilities as members of a Board of Trustees, they should get their just desserts coming to them. But the privilege of asking in the process of governance, well, the process of due process of the governed should be included. And I think it is important to have an organizational structure there.

Mr. DELLUMS. What do you feel about the selection process itself and the point about nomination?

Dr. MANDLE. I think that these three people from each of the three institutions should be elected by their own institutions. In other words, the faculty organization of the one college would elect their faculty member and the student government group would elect their student representative and the alumni association would elect its alumni representative. I think this is a function of government and should be carried out surely in an institution of higher education that should represent the strongest ideal of what we have going for us in this country.

Mr. DELLUMS. And those elections to be ratified by the City Council with confirmation by the Council once the persons have been elected from their various campuses?

Dr. MANDLE. I would leave that to the discretion of the Committee. I am not that familiar with the politics of Washington. I am a 2-year resident of this area. I have my thoughts about what might work but I think that the election of the three members from each school is important and whether it is confirmed by some higher official or not I don't care. I think the fact that they are members of a body that is going to govern a group of people well, I just think it is very important that they be elected and that those constituent groups pattern their representation in that manner.

Mr. DELLUMS. May I ask simply a procedural question? Dr. Pereira, are you making the testimony for all of you or do you all have statements?

Dr. PEREIRA. Yes, separate statements.

Mr. DELLUMS. Well why don't you go ahead with the other statements and then we will question all three of you?

Dr. PEREIRA. Thank you. I wish to acknowledge the presence and my appreciation for the interest of Mr. Hogan, Mr. Clair and Mrs. Martin.

My name is Sarah Pereira and I speak on behalf of the faculty of the District of Columbia Teachers College and as President of the Faculty Senate and as Chairman of the Division of Foreign Languages and as Chairman of the Colleges Ad Hoc Task Force on the merger of D.C. Teachers College and FCC and also as a member of the Committee of Concerned Faculty for the Future of the District of Columbia Teachers College which is a committee elected by the total faculty last year. Also I might add I speak as a former nonvoting member of the Board of Higher Education in that I was elected as faculty delegate and served 18 months. Up until March of this year.

We wish to go on record as supporting full heartedly and wholeheartedly the new bill which this Subcommittee proposes for the establishment of a public university of the District of Columbia. It is very much needed to meet the growing demands for higher education by the many young people of the District of Columbia. Their efforts at mobility, at upward mobility should be encouraged.

I was interested especially in the question raised by Mr. Hogan earlier with regard to the trend towards lower enrollment figures in many of the colleges throughout the country. But this Committee for the concerned Faculty of the District of Columbia's Future Teachers College engaged in a very serious and detailed study last year to note the projected population growth rate of college age youth, that is, of 18 to 24 years of age. This study was conducted by the Institution's Researcher, Dr. Martin Davis and it came up with some interesting conclusions. Namely that the District of Columbia is an atypical city in its growth rate insofar as college age population in concerned. It is also an atypical city because of its predominantly black population.

The national enrollment statistics reveal that while the percentage of white students seeking higher education may be declining, the percentage of black students is increasing rapidly. One may assume

that as long as upward mobility is a value in our society, the percentage of blacks seeking higher education will increase steadily.

It is atypical as well because of the manpower situation in the District of Columbia, which is a city with light industry, a city in which white collar jobs dominate the employment field. Higher education is necessary for competition in the job market. And because of this same job market, individuals are more likely to remain in the inner city and then commute to school from their residences. On the national level enrollment figures indicate now more students are choosing institutions of higher learning located in urban centers. Furthermore the average income family member is turning to the state supported institution as tuition rates in private colleges and universities continue to rise above his needs. So that all factors considered, the demand for higher education in the District of Columbia may be expected to reach explosive proportions in the next few years.

A statistical report indicates that for example in 1970 in the United States and throughout the Nation the population growth rate of college age students—and this is 18 to 24 years olds—was 23,698—Oh, no, was 23,698,000 whereas in the District of Columbia it was 110,000. In the United States by 1975 it will be 26,962,000 and in the District 131,000.

So I could go on with this figures through 1980 and 1985 to show that the increase is by 5 percent more in the District than it is in other parts of the Nation.

So I think there is no doubt that there will be an increasing demand for public higher education in the district and we commend this subcommittee on the draft of the bill.

We note particularly that in the bill there is evidence of the fact that the Congress did not, after exercising its considered judgment, and its farsighted concept of the university system for public higher education, did not see fit to have the intention to totally dismantle and annihilate the quality education programs for the training of teachers that exist at the D.C. Teachers College. We will that the bill gives evidence—and of course we would like to have this substantiated if perhaps I am wrong in this interpretation—but it seems as if the bill gives evidence of wishing to give equal rights, equal opportunities, and equal responsibilities and privileges to each of the publicly constituted colleges, the three of them, now working in the District.

If so, then these promises inherent in the language of the new bill are real and definite and then what could possibily be the reason of the Board of Higher Education's recent mandate that the District of Columbia Teachers College be merged immediately or absorbed is a better word, be absorbed into the Federal City College within the next 60 days? That is a deadline which has been given to us by the Board of Higher Education, namely, September 1 of 1974. Now we feel that any one closely associated with the educational processes and with the procedures at a college, at any kind of a college, would know that such consolidation process cannot take place with justice and with studied preparation within 60 days. And I had hoped that Ms. Pinkett would remain for my particular statement because I was so pleased to hear her say that she wished to commend this subcommittee on providing for public hearings so as to feel the pulse, as it were, of the

citizens of the District, which privilege the Board of Education did not permit the citizens of this area when it considered the merger and when it passed the merger of District of Columbia Teachers College into the FCC.

Now I wonder how one could admire this process on one hand and then avoid it in a more personal way?

And I think also that it is very important that we appeal to the sense of justice that we are convinced exists in the Congress and particularly in this Subcommittee so that we can hope that they would search for ways and means of protecting this more than 100 year old institution which is famous for its quality teaching and for its service given to the District through the years through its excellent products in educational service.

We would hope that this Subcommittee referring to its total committee would then find a way to protect us from this submersion inasmuch as it seems as if it is most hasty, most precipitous, most ruthless, most inconsidered, most unprofessional, and without cause and without justification inasmuch as it would amount to putting the District of Columbia Teachers College through a very difficult ordeal of readjustment, or reorganization, of loss of its structure, of loss of recognition of its professorships and chairmanships because of the manner in which the steering committee and the ad hoc task force of the Board of Higher Education is at present going about its business to effect the merger without recognition of the Democratic process, without the willingness to hear and to give time and to give attention and to give a listening ear to the claims and the wishes of the people who are to be affected by this merger. It seems that if we have this one opportunity, for which we are very grateful, we would plead with this Committee to give an opportunity for sufficient time, such as was requested in a resolution sent from the faculty senate to the Board of Higher Education on May 30 asking for at least one full academic year during which time this precipitous manner of merger could be smoothed, during which time the wheels of the merger process could be oiled and the frustrations and the conflicts and the tragedies that are consummated with this kind of haste then could be avoided.

So that in closing this brief statement I wish only to say further that it is in the opinion of the faculty organizations at the college that only as a matter of fairness something be done and we appeal to your wisdom to determine whether it is fairness or justice for all parties concerned to permit this one college, that is D.C. Teachers College, to stand intact as long as the other two colleges stand intact so as to avoid a second reorganizational shuffle within the year after the passage of the bill.

We trust that the bill will pass and we very much deplore any suggestion of its possible failure which would be expressed it seems to us, in the rushed merger of the two institutions that—that is, of D.C. Teachers and FCC—while leaving FCC and WTI intact.

It seems as if it is an unfair approach and a prejudicial attitude and one which is of course all the more surprising as a mandate because it comes from a Board of Higher Education, which should have in our humble opinion, have supported and recognized the wishes of one of the colleges over which it governs.

Mr. DELLUMS. Thank you. We would like to move to Miss Gray and then to Mr. Mann and for the record I would like very much if you would introduce the lady at the end of the table.

Mr. MANN. This is Lisa Snyder from the National Educational Association.

Mr. DELLUMS. Before we go to Ms. Gray I would say I know in the three and one half years that I have been in Washington that this is a very explosive issue. For some reason this Subcommittee manages to get in the middle of explosive conditions and in the District of Columbia the most recent one is the teacher pay bill. So we have been up to our middle with that.

And at one level, just without dealing with political considerations but just the logic of it, it would appear as if this particular piece of legislation, if it were enacted, would negate the need for merger.

However, the preliminary discussion around the issue of the merger has, as I said before, the origin of it came about, as I understand it, in the 1968 Act that created Federal City College. And as I understand it it was in fact the intent of Congress that the two colleges merge.

Now the issue has been raised again and rather than me trying to handle it as a political question, and I think that serves no useful purpose and that is not our function, but rather we should look at it as a legal question and find out if in fact the Board of Higher Education because of the 1968 Act has the legal right to do it and if they then have the legal right to do it then it would seem to me that if you are concerned with respect to the procedural issues, that is, how the decision was arrived at, because you did make some very serious allegations here that there were no public hearings and no input from a variety of people, and if these things are all true and the 1968 Act gives them the authority to do it, then I think the case where that fight has to be worked out and resolved is in the local community rather than in the Congress. But we will try to find out what the legal answer to the question is.

But as I said before, for everything that we have learned and what we have been given from counsel, they are perfectly within their right because it was in fact the intent of Congress to merge these two schools.

But as I said, as a logical matter if we are going to talk about the University concept with several campuses, then at one level maybe it becomes a moot point. I just don't know. But I understand there is tremendous feeling in the community about this. It is an old institution on the one hand and there is a tremendous feeling also about FCC as an emerging institution, feeling it has the legal mandate to merge these two schools.

So you've got both of these strong feelings. So the only way I can resolve it is to look at the legal question as to whether or not the Congress did in fact give to the Board of Higher Education the responsibility and mandate to merge the two schools. If the latter is in fact correct, then it would seem the grievance with respect to the procedure is best directed at the local level rather than here.

If there is no legal mandate then it seems to me we have to look at other possible options. But from everything I gather from counsel the 1968 legislation does in fact set in motion the procedure by which the two schools are merged into one. And we will try to look at it from that standpoint. And at the time we have markup—and I plan to hold markup in public session--we will try to make a statement on it.

Dr. PEREIRA. Thank you.

Ms. GRAY. My name is Amelia Gray and I am a faculty member of of the District of Columbia Teachers College. I am a member of the faculty senate and a member of the American Federation of Teachers Local 2251.

I would like to say that I support the bill creating the University of the District of Columbia. I look forward to the day when the tourists in the nation's capital will visit not only the memorials to the dead but the institutions for the living and I think that education and educational institutions in the nation's capital ought to be a showplace and a model for this country.

And it gives me very much concern that it seems that the impetus behind the bill from some points of view in Congress is a fiscal one. You know, let's streamline the budget type thing. And we all know that the economy is shaky. But it seems this is the concern rather than from a concern for quality education——

Mr. DELLUMS. I'm sorry, but you said that the impetus for this legislation was fiscal?

Ms. GRAY. Yes.

Mr. DELLUMS. I might say I can appreciate your statement but I might just say that even though I did not sponsor the legislation—and it was got up by Mr. Diggs and his staff with input from the hearings and the recommendations made by the City Council—but certainly those motives cannot be attributed to the group that wrote the legislation.

I think there are some places in this legislation where there are some omissions and there are some things that desperately need to be changed but I honestly cannot say that the impetus was purely an economic one. As a matter of fact, the pressure for us to move on this bill was precisely the point you raised and that is to try to develop an institution that would enhance the quality of education in a community that is predominantly black, that has a very large number of low income people and where other private institutions of higher learning in this area either are not fulfilling their responsibility or the students do not have the economic capability to get into those schools.

I just say that, but I understand the point you are making. In many other areas of the Congress I think it would be a point well made and well taken. But at this particular point, I would suggest the latter was the case rather than the former.

Ms. GRAY. Thank you. But we are concerned that in the creation of the University of the District of Columbia that there remain options, that there remain choices for students in terms of programs, that we do not create a monolothic structure that means a student would have to travel from one point of town all the way across the other to get a liberal arts program.

And Congress always says "well, I don't think that that is a matter for us to legislate"—and in fact it is not, Mr. Chairman—but when we go to implement any of the plans we do have to come to Congress for the money. So in a sense Congress is still a policy maker. When it provides building funds for one branch of the institution and not for another, it is a policy maker.

In terms of the concept of the University, Mr. Chairman, we would like you not to abrogate your responsibility and pass it back to the

District. In that sense I am saying: please don't try to talk your way out of it.

Mr. DELLUMS. I am having difficulty following the logic of your statement and I am not trying to interrupt.

Ms. GRAY. Okay. I am simply saying this because many times when we as a District resident, as a citizen, when we appeal to Congress, they will say "well, gee, the District didn't recommend that for you" and then we go to he District and the District says "well, Congress won't allow it and they cut the appropriations."

So that many times we feel we are like a football in between these two horses. But still the budget has to be approved by Congress for Congress still is maintaining even with home rule a great deal of the power.

Mr. DELLUMS. Sure. But what I said when I said I had difficulty following the logic of your statement, what I mean was let's first say that there is a Board of Trustees and let's say for the moment that it is composed of persons that you would recommend.

So let's say from your vantage point that it is a perfect board in terms of representation. And if that is the Board that governs the University, then that Board establishes policy for the entire university and for that one body. The resources then would be directed at the various campuses from one body establishing one set of policies to affect everybody. And hopefully the resources would be directed where the need is and based on hopefully some kind of comprehensive plan for higher education. And the reason I ask the question, you said that Congress would appropriate some money for this institution or that institution and does have the power but what it seems to me what we are talking about in this bill is one institution where the focus is on one institution to establish the policy for all the campuses. That is why I was having difficulty in understanding the statement you were making. If we were establishing a board of trustees and if the board of trustees were a representative body governing the entire apparatus and then the recommendation from that body goes to the Mayor and the City Council, then ostensibly you would have control because the people would elect them to office. And if they don't function, you could get them out of office.

Ms. GRAY. In terms of the composition of the Board, I would like to suggest that the alumni members be elected by the alumni associations and not appointed by the Mayor.

And we would hope to have faculty representatives on the Board. Currently we have non-voting faculty representative to the board and I think it would be wise to have a faculty member as a full fledged voting member of the Board.

Mr. DELLUMS. Are you suggesting the same recommendation of the first speaker and that is one faculty, one alumni, one student from each of the three entities alluded to in this bill?

Ms. GRAY. Yes, I think at the initial stages yes. I think that once the real University really comes into being then we can have one faculty representative.

Now whether or not you give the faculty representatives one whole vote or whether they have one third a vote, per faculty representative or per student representative I don't know. But I do think that the faculty needs a voice and the students need a voice.

And we would like to have one——

Mr. DELLUMS. Does that conclude your statement?

Ms. GRAY. Yes.

Mr. DELLUMS. Thank you. We will come back to some more questions.

Mr. Mann?

Mr. MANN. Mr. Chairman and Members of the Committee:

My name is Casey Mann, II, Assistant Professor and Chairman of the Planning and Community Development Department at Federal City College. Accompanying me is Lisa Snyder from the National Education Association. I am here today as the Chairman of the Federal City College Raculty Association, the faculty union. The Association represents 60 percent of the Federal City College faculty and is affiliated with the National Education Association. The purpose of the Federal City College Faculty Association is to protect and promote the interests of the faculty in all matters relating to the terms and conditions of their employment.

The Association endorses the concept of a university for the District of Columbia. We believe the university would significantly enhance higher educational opportunities for the District. However, regardless of the structure of any higher education institution, our members are concerned with the rights which will be afforded to them. Our members believe that the right of faculty members to a meaningful voice in the determination of their wages, hours and conditions of employment is of paramount consideration. It is in this respect that we will address House Bill 15643.

We wish to specifically call your attention to a serious defect in this Bill. Section 206 empowers the Board of Trustees to establish a personnel system for all employees of the university. This personnel system would set the pay, contract terms, leave, health and life insurance, disability, and other fringe benefits for university employees. That is, under Section 206, the trustees are authorized to determine, unilaterally, the wages, hours and working conditions of the faculty and staff. This authority would seemingly deny the faculty and staff the right to engage in collective bargaining and negotiate regarding these issues. Section 206, as drafted, can only perpetuate the existing situation in the District of Columbia which has left the FCC faculty voiceless and subject to the arbitrary decisions of the Board of Higher Education. It is significant to note that the Board is one of only two agencies in the District which have failed to adopt or develop a labor relations policy permitting collective bargaining. While virtually all city employees have the right to engage in collective bargaining through a representative of their choosing, the faculty at FCC is left to accept whatever terms are unilaterally adopted by the Board. This position as a group of second class citizens is not due to lack of interest or desire on the part of the faculty members. Both the Federal City College faculty and the faculty at the District of Columbia Teachers College had designated organizations to represent them. Both organizations have demanded recognition from the Board of Higher Education and an opportunity to bargain about those matters which vitally affect employment of their members. Although union recognition has been a pressing issue since last November, the Board has refused to deal seriously with the question. The Board has refused to adopt the existing D.C. labor relations policy, claiming it to be inappropriate for

the colleges. Only very recently has the Board taken any steps to study and consider drafting its own policy.

The Board's posture on labor relations can best be exemplified by its position on the planning and implementation of the merger of FCC and DCTC which is to take place on September 1, 1974. We have repeatedly requested that the Association be present at all planning sessions regarding the merger and be entitled to input on the matters of concern to its members such as tenure, academic due process and class assignments. Yet, the Board, in an apparent attempt to preserve its sovereignty, has allowed faculty input only on a limited individual and voluntary basis, and the organization which represents a demonstrable majority of the faculty has no standing whatever to give its recommendations or to protect the interests of its members.

We believe that Section 206 of this Bill will perpetuate this pattern on behavior on the part of the governing board of the proposed university. Decisions on all matters affecting the faculty will be made by administrative fiat rather than through bilateral negotiation. Because this type of decision-making process is no longer acceptable to the faculty, we propose that Section 206 be substantially revised to incorporate a procedure which guarantees the right to negotiate regarding matters of mutual concern.

Specifically, we ask that Section 206 be amended in the following manner. First, all references to the Trustees' authority to establish a personnel system should be deleted. Second, in place of the deleted language, a provision should be inserted which would guarantee to the faculty and staff of the university those rights which have been guaranteed to the overwhelming majority of other District of Columbia employees through the labor management relations policy of the District, more commonly known as Chapter 25–A of the District Personnel Manual. We recognize the operational need for the proposed university to function independently of the government of the District of Columbia. This independence was specifically recommended in the report of the Federal City College Accreditation Evaluation Team. Chapter 25–A, however, would not prevent this independent operation.

We believe it is imperative for the Act to speak directly to these rights and to require the Trustees to recognize these rights, not merely authorize the Trustees to grant such rights if and when it desires to do so. History teaches us that authority is seldom relinquished without a struggle and it is unrealistic to expect the Trustees to adopt, on their own volition, an adequate labor relations policy. We also note that in Section 205 of the Act, affirmative duties of the Trustees are listed. These duties include such responsibilities as the negotiation of contracts with agencies for research, the acceptance of endowments for the university, the selection of a president and the procurement of advisory services. Certainly the duty of Trustees to negotiate with representatives of their employees is of no less importance than these activities, and, for that reason alone, the obligation of the Trustees towards the employees should be expressed in the Act.

For the purpose of this Act, these guarantees should be implemented on the effective date of the Act, not one year or six months or even 2 weeks after the effective date. There can be no justification for any delay in this matter.

In conclusion, we realize that House Bill 15643 is far from being law at this time. The Association will continue to represent its mem-

bers, and will continue to seek recognition as the bargaining agent of the faculty by any appropriate means. If and when this bill becomes law, we hope that the rights of employees have been given sufficient consideration.

Thank you. And now Lisa Snyder of the NEA has a brief statement.

Ms. SNYDER. Mr. Chairman and Members of the Committee:

My name is Lisa Snyder and I am a staff attorney for the National Education Association of the United States. We are appreciative of the opportunity to address the Committee regarding House Bill 15643.

We think in 1974 it should be unnecessary to debate at length the question of whether or not faculty members should have the right to engage in collective bargaining with colleges. For almost 40 years employees in the private sector have had the right to bargain with their employers. More than 30 States have enacted legislation providing for some type of bargaining between public employees and their employers, so therefore almost all of the private universities and the public universities are obligated to bargain with their employees. And yet, there seems to be some hesitancy on the part of the authors of this bill to recognize the legitimate interests of employees and the faculty. And this insensitivity to the rights of employees we believe should be remedied.

The last 10 years have demonstrated that the desires of public employees for collective bargaining is more than a passing trend in this Nation: It is a movement not unlike the labor movement in the early part of the century.

We think it would be tragic for this committee to take one step forward in creating a new university and take on step backward in denying or at least ignoring the rights of the faculty members for collective bargaining.

We don't maintain that the faculty of the University should have this right simply because they want it. On the contrary, it is essential in light of the changes in higher education in the District of Columbia. The problems facing education are many and complex. If they are to be successfully resolved, it will be necessary to involve the faculty who, because of their background and training, have a special knowledge and competence which enables them to make a valuable contribution. We think collective bargaining offers the most effective vehicle for such involvement. The statement of the Federal City College Faculty Association demonstrates the need for collective bargaining at this time and the NEA supports its affiliated Association's request for a revision of the Act to reflect this need.

Mr. DELLUMS. Does that conclude your remarks?

Ms. SNYDER. Yes.

Mr. DELLUMS. Thank you. The Chair might say since the question of collective bargaining has arisen, that certainly it is of interest. Because the Chair is thoroughly committed to the process of collective bargaining. In the past several weeks certainly with respect to D.C. Teachers employed in elementary and secondary education, we have been working very diligently to protect that process. That is why we have enacted the Teacher Pay Bill.

Ms. SNYDER. We understand.

Mr. DELLUMS. And one of the purposes for holding hearings on pieces of legislation is to do precisely what you are doing and that is to call the attention of the Committee glaring omissions or places

where it can be strengthened. The Chair would simply say to those of you at the table and hopefully it will be reassuring that we are committed to the concept of collective bargaining. What we will try to do is take your specific recommendations and try to translate them in terms that reflect exactly what it is you are saying. Because of the ignorance that I have in this area, it certainly was not known to me that the Board of Higher Education would not engage in the same process that the Board of Education is engaged in and that is collective bargaining. And I apologize for that ignorance. I think that staff and I and the rest of the Committee can certainly work with this particular language so that it reflects the notion that you are making because I think that you are right. I think that in 1974 the whole concept of collective bargaining is important and the right of people to bargain and the circumstances around which they shall or shall not have that right is important. That is an inherent right in this country. And I would just say that by the time we finally pass this legislation out of this committee, that it certainly will not be inconsistent with those rights. I would like to ask Mr. Mann if you concur in the statements made by Ms. Gray and Dr. Mandle on the question of representation, on the three roles of representation, the faculty, the student, the alumni, and that they would be reflected from the present campuses of FCC and DC Teachers College and WTI?

Mr. MANN. We do not specifically address that particular question but after sitting through the hearings I do have an opinion on it. First of all I do not think that any sort of representation on the Board is in any way a replacement for collective bargaining. It is not a replacement for the ability to do that. But as to the question of one student or one faculty member from each of the now existing institutions I think that beyond the collective bargaining question that members from each of the institutions could facilitate the beginnings of that Board but I do not want that to be construed in any way as a replacement of collective bargaining.

Mr. DELLUMS. The point you are making is that in collective bargaining you come to grips with what are a variety of issues, including salaries, wages, and hours, policy, fringe benefits——

Mr. MANN. Conditions.

Mr. DELLUMS. —conditions of employment?

Mr. MANN. Right.

Mr. DELLUMS. Mrs. Martin?

Ms. MARTIN. I just have one question and that is I had assumed that faculty members at FCC were covered by the Mayor's Executive Order regarding the right to enter into negotiations and collective bargaining. Is that not the case?

Mr. MANN. No. Chapter 25–A has not been adopted by the Board of Higher Education at this time. They are considering some labor policies but they have not adopted Chapter 25–A.

Mrs. MARTIN. Does Chapter 25–A deal with the issues that you are concerned about?

If the Committee for example made reference to that or adopted that as a part of this legislation, would that take care of the problem?

Mr. MANN. Yes, that would substantially cover our needs for collective bargaining.

Dr. MANDLE. If I may help you, Mrs. Martin? The way the legislation was drawn up, the Board had the option voluntarily to come

under the Labor-Management Guidelines. You see the Board of Higher Education was not under and it was given that liberty. I think that was a mistake. And it took from the time of our request which was in November of last year until April of this year for the Board to even decide whether they would adopt the District Guidelines or develop their own. Of course they decided in April they would develop their own and nothing since then has happened. I might say we have both tried—that is, both NEA and AFT to move the Board in this direction but unsuccessfully and would appreciate any support.

Mrs. MARTIN. You said——

Mr. MANN. Before you leave that point let me also suggest that the Board might be somewhat hesitant because they are trying to shed their "DC syndromes" as an agency and as I indicate, Chapter 25–A would not prevent in any way the independent action or operation of the University of the District of Columbia or any of the other existing institutions as they exist now but there is a need to operate as institutions of higher education rather than another line agency of the local government.

Mr. DELLUMS. Mrs. Martin, just in talking with Mr. Hogan right now, who is minority counsel, on this whole question, we were engaged in a brief colloquy about the precedent for Congress putting into specific legislative language the issue of collective bargaining and I would like very much if he would just comment on that?

Mr. HOGAN. Well, to my knowledge I don't believe that has been done for the federal employees and it is my understanding that Senator Kennedy I think made an attempt in the early 60s to come up with something along these lines and instead took the Executive Order route and put it into Executive Order. That has been followed by President Nixon, who again rewrote and reissued the Executive Order and I think it is dated 1970 or 71. Now in the Executive Order authority there was authority that the District of Columbia could issue its own Executive Order. And the Mayor issued his own executive order and he in turn took the position that the Board of Education would have its authority to issue its own Executive Order or its own regulation I should say, governing its own employees. And I think in the interim there really was a period when there was some organizations, as far as DC teachers are concerned, when there wasn't actual regulation and——

Mrs. MARTIN. Excuse me, the testimony was that the Mayor's Executive Order, as I understand the testimony, is such that it is not mandatory but the Board of Higher Education could or could not choose to be governed by the Executive Order.

Mr. HOGAN. That is correct. There is no question about that.

Mrs. MARTIN. And that they are in the process of developing since April, their own set of regulations.

Mr. HOGAN. The question, as I understood it, addressed to me is: what would the Committee do in the way of language? And the answer I think and I would be happy to have someone air it, but the answer I think is that Congress has not in legislation addressed this issue and I think it is an open question as to what could be done because we are talking about something to my knowledge which the Congress has not particularly taken up. I am not positive on the Senate side of whether any legislation was introduced over there and taken up on the floor

but to my knowledge on the House side I don't think there has been anything.

Mr. DELLUMS. The Chair would like to simply say that as a result of the testimony on this question of Section 206 and this colloquoy, I would like for the counsel on both the majority as well as the minority side to prepare a memorandum that would deal with recommendations since it is an open question of how we might handle this matter. And since we are talking about recommendations, I would also like it if the majority as well as the minority would prepare a brief memorandum for the Subcommittee on the question also raised with respect to the merger question, which was raised by Dr. Pereira for consideration of the Chair and the other members of the Subcommittee as soon as possible. These are two areas where serious legal questions have been raised and I would like to know what our broadest possible perameters are in terms of establishing legislation particularly in the former area.

Ms. SNYDER. I would like to point out to the counsel that right now in the House post office and civil service committee I think there are three bills pending on legislation for federal employees to replace the federal executive order that you are referring to. And this is chaired by Mr. Henderson. And in the labor subcommittee, in the Subcommittee chaired by Mr. Thompson, it is considering a bill for federal legislation for state and local employees. So you might look to those two committees and the bills in those two subcommittees.

Mr. HOGAN. Yes. Well I would hasten to add that there have been all kinds of bills on both the House and Senate side. But what I am talking about is has there been actual legislation in this area? And to my knowledge there has not been. Maybe the committees are about to act. Do you know? Have they held hearings on this?

Ms. SNYDER. They have held hearings.

Mr. HOGAN. Have they moved to report out any bill?

Ms. SNYDER. I don't believe so.

Mr. DELLUMS. Well I would appreciate it if you would prepare a memorandum giving us your best recommendations. I think the questions that have been raised are serious questions with respect to the whole issue of collective bargaining and I would like to know what our broadest possible leadway is in this matter. So if there is any way we can rewrite section 206 to accommodate the concerns of the witnesses, then I would like to know that.

Mrs. MARTIN. Might I just ask the same question so that I have the answer in mind? If there is a reference in section 206 to Chapter 25–A, the personnel manual, tying somehow that section of the manual to this provision, does that deal with your problem?

Mr. MANN. Yes.

Mrs. MARTIN. Thank you.

Mr. DELLUMS. Mr. Clair?

Mr. CLAIR. I would like to go back to a statement I think Dr. Mandle and Dr. Pereira referred to earlier. In your opinion has there been significant faculty and administration involvement in the two institutions in the proposed merger of these two institutions?

Dr. PEREIRA. No, there has not been. I would say there has not been much to our dismay. There has been a claim and a stated intent in print that faculty and administration and students and a broad base of citizens—and I think that is how the terms were—would be involved in the merger process. But up until this time, although those intentions

are clear, they have not been implemented. And yet the Steering Committee and Ad Hoc Task Force Committee on Merger for the Board have both gone into the process of making recommendations without having given the DC Teachers College structure or organization or Chairmen or representative persons a chance to speak. Now one of the statements, when this was pointed out at the last meeting of the Steering Committee two Saturdays ago, not yesterday but the Saturday before that,—and Dr. Whitehead was on this Committee and Mr. Loughton was on this Committee and these are people from DC Teachers College and each of them had to raise their hands and say "But don't include my name because I was not invited to the Committee meeting so I had no input in this progress report"—and then the statement was made by a representative from Federal City College "we were told that you would not be available until after July 1."

And yet we have sent letters to the board and to the Steering Committee indicating that we were on hand and we were waiting to be called into the process of planning.

Dr. MANDLE. And might I add to Dr. Pereira's testimony the fact that the Steering Committee was appointed by the Board. It was not duly elected by D.C. Faculty representing our institution.

I wanted to just throw in one other thing. I don't know what the intent of the Congress was and I wasn't here when it happened and I didn't witness the hearings, but when you investigate the intent of the Congress as to the merger, would you please keep in mind the similar words, and which are quite different in meaning, "merging, consolidation, and absorption"?

Now what the board has done today by the very testimony of Ms. Pinkett, by changing three institutions into two institutions is to "absorb" D.C. Teachers College into Federal City College and I repeat I do not think it was the intention of the Congress to abolish the District of Columbia Teachers College. That is the point. That is the question that I want to have you consider if you would please?

Mr. DELLUMS. We will. I would like to have——

Mr. MANN. May I add to that point? We did write the Board in an effort to present to them an organized way for our faculty to participate in the merger effort. It just so happens one of the persons that they asked to volunteer was also a member of our association and we felt most knowledgeable and capable of spearheading our organized representation in the effort. Unfortunately the board wrote us and said that only faculty was being invited on an individual and volunteer basis only and that this particular person could not represent the faculty association in the merger effort.

And we feel that a thing as important as the merger or some of the other terms that have been used, Mr. Chairman, must have due process by which the faculty and all members of the institutional community can participate in a meaningful kind of way.

Individual volunteerism I don't think is the best way to go about that.

Mr. CLAIR. Could I follow that up?

You used the term "volunteer". Now do you mean that they would not get additional compensation for working on the steering committee or are you suggesting that just anyone could walk in and say that I want to volunteer some of my time?

Mr. MANN. No. First of all they have an ad hoc committee which sort of meets on Saturdays. Anyone of the college community cannot go to those meetings. They are closed. Now in addition to that, Mr. Clair, faculty and other interested people can participate on task forces, removed from the Saturday meetings, on an individual and volunteer basis. In other words, there is no organized approach for the different various components of the existing institutions to participate in the planning and merger effort as it is currently organized.

Mr. CLAIR. If I might ask another question? Who in your opinion is planning and spearheading the merger of the two institutions? Who is doing the actual work?

Mr. MANN. Well certainly no organized effort of either of the faculties of the two are involved in a substantive kind of way that would reflect their acquired expertise from such an effort. That is not being done on any kind of organized fashion.

Dr. PEREIRA. Could I support that statement of Mr. Mann's with the further explanation that there seems to be evidence of a contrived and studied desire on the part of the Board of Higher Education to avoid the structure and the presently elected representatives of each college? So that when they ask for individual voluntary responses, this in a way you see simply defuses the possibility of organized reaction. It denies the faculty senate of the opportunity to develop a position and then present it but rather it picks individuals of their choice because everybody who volunteers may not be used and they still have to be invited by name by the board. So they handpick the people and perhaps those that did not have organizational experience or organizations behind them.

So there seems to be a studied desire to dismantle the structure and the organization and the faculty representation and the democratically elected representatives and to deny them the privilege of input.

I wondered if I could, Mr. Clair, and Mr. Dellums, just call your attention once more to section 204 on page 8 of the bill and to recommend very strongly, if I might, that you keep the wording, you keep the language of that section, namely, that "within one year after its first meeting" the trustees shall consolidate "the existing three institutions of public higher education in the District of Columbia into a single university to be called the University of the District of Columbia". Because as I said before, if we are denied input as an organization, as a unified group, I think the university will be the weaker for that deprivation.

Mr. DELLUMS. Ms. Gray?

Ms. GRAY. And to second what Dr. Pereira has said, I would like to add that we are talking about three institutions, right? And why do we begin a process with two and then have to pick up a third later?

Would it not be more equitable to establish some mechanism for input from all three institutions and create this university of the District of Columbia in an organized fashion?

Mr. DELLUMS. Well as the Chair said and I would hazard an opinion, quite apart from all of the political considerations or the emotional considerations or historical considerations and just dealing with it as a logical proposition, it would seem to me this bill would negate the need to do that because this bill would in effect consolidate all the existing institutions into one university capable of serving a broad

range of people and so you mitigate against the need for competition amongst the struggling and developing institutions as to who gets X number of dollars in the budget and so on. So it is a very difficult thing. That is why, since you raised it, we will certainly look at the question. I would just say, so that we can summarize for the record, then it is all of your statements that one, that the Board of Higher Education in attempting to effect the merger between the two institutions had not held any public hearings, and secondly, has not solicited the participation aggressively on the part of organized groups of faculty persons or schools or community people?

Dr. PEREIRA. Or Chairmen of Divisions.

Mr. DELLUMS. Or Chairmen of Divisions and it is further your testimony that the merger that was announced earlier today at these hearings in your estimation these hearings have not included any kind of serious involvement of the people, of due process and significant participation on the part of the people affected by the decision?

Dr. PEREIRA. Yes.

Mr. DELLUMS. Thank you.

Any further questions by the members of the staff? Mr. Hogan?

Mr. HOGAN. No thank you. I think, Mr. Chairman, you may want to get out of here before midnight.

Mr. DELLUMS. All right. I thank all of you very much for your eloquent testimony and your very precise testimony and we will take judicial note of all the points you raised. Staff, you will prepare recommendations in the area of legal questions you raised for us so that the Chair and the Subcommittee and the Full Committee can be guided in the spirit of justice and mercy.

Dr. PEREIRA. Thank you.

Mr. DELLUMS. Are there any alumni members still here who wish to testify?

Come forward.

STATEMENTS OF JOSEPH WEBB, PRESIDENT, ALUMNI ASSOCIATION, DISTRICT OF COLUMBIA TEACHERS COLLEGE, AND CARROLL GREEN, PRESIDENT, ALUMNI ASSOCIATION, FEDERAL CITY COLLEGE

Mr. GREEN. I am Carroll Green and with me is Mr. Joseph Webb, President, Alumni Association, District of Columbia Teachers College.

Mr. DELLUMS. Is Mr. Robert Wigglesworth, President, Alumni Association, Washington Technical Institute, here?

Well, Mr. Webb, you may proceed in any fashion you choose and to be followed by Mr. Green and then the Committee will ask questions.

Mr. WEBB. With the Chair's consent I would like to yield to Mr. Green to speak first.

Mr. DELLUMS. Fine.

Mr. GREEN. Mr. Chairman and members of the staff, on behalf of the alumni association of Federal City College I would like to express our gratitude for the invitation to appear before this body. However we would like to respectfully request that on any future matters pertaining to higher education in the District that an effort be made to notify us in a timely fashion. We only received the invitation at 10:30 this morning.

Mr. DELLUMS. The Chair would like to apologize for that. You may have been here before when I stated my apologies. We are very sensitive to that question. In our normal course of action we would have given plenty of notice because it gives you an opportunity to prepare your statements in writing and then we have a chance to read them prior to your presentation so that we can prepare questions. The problem for us is that we find ourselves in a rather unique situation of contemplating the future of the President both in the House and perhaps in the Senate and we are also up against a June 30 deadline for appropriation bills. So I again sincerely give my apologies. Your point is very well taken and I would like for you to know that this is really an exception rather than the rule and we certainly appreciate your responding in such an immediate fashion.

Mr. GREEN. Thank you. I would like to further add that I am the past president of the student body at Federal City College in addition to the President of the Alumni Association. And I would also like to point out that I am also a candidate for office for the upcoming City Council elections. However, I am appearing on behalf of the Alumni Association today. I would like to refer specifically to various parts of the bill. And I think the very first instance would be on page four, line 9, which has been alluded to earlier where we have the statement of a "independent agency". We also support and take note of the fact that the middle states accrediting association has recommended that Federal City College, which ultimately will become a part of the new university system, should work to remove itself of the agency status in the District of Columbia government.

Listening to earlier testimony I don't feel that the interpretation or definition of "independent agency" is keeping in line with the recommendation by the Middle States. And this also ties in with page 9, line 9, whereby the Board of Trustees will be preparing and submitting a budget to the Mayor. And we don't really know what the purpose is of submitting the budget to the Mayor. If the Board of Trustees and the Institutions of Higher Learning are in fact going to be "independent agency" this denotes the fact that it certainly is not an independent agency and the Mayor will certainly have the opportunity of delineating the target dollar amount on the college's budget. And we think further research should be done in this area. We feel that the city council and the Mayor perhaps should not have any inner workings with the final say on budget matters for institutions of higher learning and if we are ever expected to shed that agency status then certainly this is going to have to be done.

It is simply not another independent agency as independent agencies are presently constituted in the District of Columbia.

Mr. DELLUMS. May I just make a statement with respect to that? We realize the need to come to grips with this difficult and knotty problem. However, as I am sure you would agree, a state university system submits its budget to the governor who in turn submits his budget to the state legislature. And since this is a rather unique jurisdiction, the Mayor would be in the same situation as the Governor would be in. So I don't know quite how—and we certainly will discuss it—but I don't know quite how we get away from a public institution such as the University of the District of Columbia, submitting its budget to some executive agency responsible for the overall budget.

However I do concur with you that we do need to look at the question of an institution versus the concept of an agency and the ramifications of that.

But I am just not sure how we get away from finally submitting the public institutions' budget to the Chief Executive Officer of the jurisdiction and in this instance the Chief Executive Officer of the jurisdiction is the Mayor.

Mr. GREEN. I may say also Mr. Chairman that we have no problem as to the procedural process whereby the Board of Trustees would submit the budget to the Chief Executive Officer. However we think the present language is somewhat vague in that the Mayor and the Council may not specify the purposes for which sums may be expended or the amount of funds expended for the various educational programs. And I think perhaps maybe the language should be a bit more specific as to what their duties are to be upon receiving the budget.

Mr. DELLUMS. It seems to me and I would like Mrs. Martin to respond to this if I am correct but it would seem to me what this language is trying to say is that the ultimate responsibility for the establishment of a total line item budget resides with the Board of Trustees. And since that budget is submitted to a larger budget referred to as the District of Columbia Budget, that in the case of the Mayor submitting a total budget with certain cuts and provisions in it, the Mayor and/or the City Council would not have the right to effect line item control over your budget.

All they would be able to do is act upon a total figure. Is that the essence of the language?

Mrs. MARTIN. Yes. This language is pretty much out of the home rule act. Perhaps the thing that we should say that might clarify it is that the Mayor sets the budget mark and then the rest of the language thereafter.

Mr. DELLUMS. So that the Mayor, so that the City Council, could not dictate to the Board of Trustees that you must use X number of dollars for such and such?

Mrs. MARTIN. Yes, that is right. That is what is intended by the language. This is the language in the Home Rule bill.

Mr. DELLUMS. I would say to the gentleman, if you have recommendations on this specific language—and I realize the short notice—but within the next several days if you could submit in writing some suggested language to us we would deeply appreciate it and we would have it before us as we deliberate final markup of this bill.

Mrs. MARTIN. May I just add that I think we would be playing games and would be dishonest if we didn't recognize the fact that Mr. Natcher is going to want to see this line item; that somewhere along the line the Congress is going to look at it. And one of the shortcomings of the Home Rule Bill is that the Appropriations Committee continues jurisdiction over the District's budget.

Mr. DELLUMS. So whatever language you would like to submit the Chair would certainly welcome it. And if you would submit it to us at the earliest practical date, we would appreciate it because we have some dateline problems. If we could get it within the next several days we would deeply appreciate it.

Mr. GREEN. Thank you. The next point is we have no problems with the present makeup of the proposed board of trustees. We feel that

perhaps one student representative on the Board is sufficient, however, we do have concerns about the two nonresidents as this will certainly affect the alumni of the institution. As was pointed out by Mr. Kirkwood I believe, it is not reasonable to expect that all future alumni of the city would reside in the District of Columbia and we would certainly not like to see that restriction applied to them simply because they are not residents.

However we feel that no more than one third of the makeup of the Board of Trustees should be nonresidents. Also on page 4, line 16, we have in the present proposed structure that except for the student member that all members would be subject to Council confirmation. And we don't know why you would eliminate or you would have the student sitting out in some area all to himself.

Mrs. MARTIN. There are four members not subject to Council Confirmation. There are the three alumni members and the student member.

Mr. GREEN. Right. And we see no reason why the student should—oh, I am sorry, you are saying that the three alumni members are not subjected either?

Mrs. MARTIN. That is right. The different words are "nominated" and "elected" and the Mayor nominates the City Council comfirms.

The alumni association elects their members and they are not subject to the City Council.

Mr. GREEN. We appreciate the fact that the Alumni Association has the right to name the members who would represent the alumni on the Board of Trustees. We also feel that the students should be allowed to select their member and not the Mayor make the appointments.

Mr. DELLUMS. The point the gentleman is making is that this language says "except for the student member, the nominees under this subjection shall be subject to Council confirmation." And I guess the point that he is making is that, given this language, the only person that is not confirmed by the Council is the student. So my interpretation is the same as his.

Mrs. MARTIN. The subjection referred to is subjection (1).

Mr. CLAIR. Yes, because it threw me off too.

Mr. DELLUMS. Oh, I see. Yes. It says about 12 members being nominated by the Mayor and one of whom—oh, yes, I see.

All right, that settles that. Anyway through language we can clarify that. But I see the point. You can arrive at the point you made because of this language and I see what you are saying. Because right here you are only talking about the 12 members nominated by the Mayor which exclude the alumni.

Mr. GREEN. Fine. The next point would be page 5 line 7 and it states that "In the event the Alumni associations referred to in subjection" etc, etc., "fail to submit an appointee within the time specified, the Mayor shall make the appointment."

And we certainly do not accept that. We disagree with that. We feel that the Alumni associations, for whatever reason, if they do not make the appointments within a specified period of time, that still the position should remain vacant until the Alumni Associations so act. We see no reason for the Mayor to exert the rights which you have given the Alumni Associations simply because they do not act by a specified period of time. And the Board has in the past operated with

vacancies on the Board for whatever reason. And we feel that that should be consistent in the new legislation. Then on page 7, line 8, the proposed legislation points out that "Members of the Trustees of the United States or the District of Columbia Government" and we would like to see certain other provisions in this bill whereby employees who are employees of the District of Columbia government, may not hold office as Chairmen or Vice Chairmen. That goes back to previous testimony whereby undue political influence may be brought to bear by virtue of the fact that an individual holding an office in the District of Columbia Government and who would answer perhaps to somebody, would also hold the office of Chairman or Vice Chairman on the Board. These positions are very influential and we think that politics for all practical purposes and reasons should be removed insofar as possible from the operations of the Board of Trustees.

On page 7, line 16, again Mr. Kirkwood made reference to the fact that the Mayor should not have the authority to remove members of the Board. I think this is unnecessarily vague and too general and we think something should be done there. We concur with this testimony in that regard that he should not have carte blanche in removing a member of the Board of Trustees.

We do see the possible abuse of this authority for political motives if nothing else and we think that something——

Mrs. MARTIN. Do you feel the need to have any provisions with respect to removal, whether the power is vested in the trustees or someone else?

Do you feel that there is a need to have that kind of provision?

Mr. GREEN. I think the paragraph immediately preceding that adequately provides for that. And the following paragraph I think just confuses the issue.

Mrs. MARTIN. What about a member that never comes to a meeting?

Mr. GREEN. Well I think that you cannot legislate for every possible eventuality that may occur. I think that some of these measures should be left up to the Body itself to police their own members. The preceding paragraph I think adequately and sufficiently suffices for legislative reasons. I don't think that the Congress could provide for every eventuality, no.

Mr. DELLUMS. Might I follow up for a moment? So the point you are making is that Section 202(a) establishes the serious behavior patterns that should dictate suspension or removal and that section (b) would simply set up a situation where the Mayor could remove a person for other than these very serious allegations, which would either be nonattendance or for some other political consideration perhaps and you're saying that we should strike that, remove that proposition? And is that the only way a person could be removed, that is, for something serious and not for their political ideology or their attendance at the meeting?

In other words, you leave that to the persons' sense of responsibility and maturity and the conduct of public service?

Mr. GREEN. That is essentially correct. There also is one oversight which we feel occurs in the construction of the proposed legislation in that the faculty has been overlooked. Presently there are two faculty representatives on the Board of Higher Education and we have the opportunity to work with the Board throughout the years. One half

of the officers in the Alumni Association were also members of the student government. And by virtue of the fact of my being past President and I also have served on the Board of Higher Education, I can speak to this issue.

Faculty representation was there for the two institutions as was student representation, however there was no vote. I do feel that the faculty should be represented on the Board of Trustees. There should be at least one faculty represented on the Board of Trustees with full voting rights and privilege.

On page 7, on line 1, I would have to take exception to Ms. Pinkett's testimony earlier. I think again that all meetings should be open to the public. I agree with the legislation in its present form.

I can understand and I do share Ms. Pinkett's concern about some matters should be discussed in Executive Session. I might point out the fact that the present Board of Higher Education has never in its history had an open meeting. This is a sad fact. It is something we have brought to the attention of the Board on many occasions. We think that the Board itself has the power and the authority to hold Committee meetings, if it is a personnel matter, and that the personnel of the Committee could very well meet in executive session. But I certainly would not like to see and we would not like to see anything other than what is in the present legislation in regards to open meetings.

It is a public body and we feel the public should be able to come in and offer its views. Unfortunately that is not the case.

Far too often the public and the various constituent groups associated with the colleges only get into the act after the fact. It is only after a protest arises that the Board will attempt to explain why they did a thing in a particular manner, as with the merger.

There is no consultation with the various constituent groups prior to the enactment of the resolutions. This is very bad. I think this section of the legislation adequately addresses itself to that and I think it should remain.

Mr. DELLUMS. It has been our experience that most public bodies have a rule whereby the only time that a public body can operate away from the public is when they are dealing with personnel matters. They can adjourn into executive session during the public meeting and then come back to the public meeting and continue business. I would agree with you. I think that the only way that you can protect the Democratic rights of people is to have all of the decisions that humanely possibly can be made in public, made in public with one exception that is in personnel matters where confidential issues, personalities, or personal behavior may be discussed. They should not be discussed in the open. Those things that in any way might damage or otherwise impair the representation of a given individual or group of individuals can be discussed in Executive Session. But short of that I don't see any need to operate in the dark.

I think the more decisions made in the dark the greater the chances are for the people to be harmed.

Mr. GREEN. With the exception of the points which are enumerated the alumni association unequivocably supports the concept of a University system for the District of Columbia and we agree with the proposed legislation except where so noted. That concludes my testimony.

Mr. DELLUMS. Thank you, Mr. Green. We now go to Mr. Webb.

Mr. WEBB. Mr. Chairman and members of the Committee, before I begin testimony I would just like to point up the fact that the testimony that I am about to give is based on the Committee rough discussion draft, which was drafted by Congressman Diggs on January 25. I only received a copy of this during the intermission today. So even though my Alumni Association has given me a vote of confidence to speak on any issue that I felt appropriate, I am only going to speak on those points that the Alumni Association has voted upon.

Mr. DELLUMS. I might say to the gentleman that since you now have a copy of the bill, you might take a very careful look at the bill as it is presently drafted, and, if you would like to submit in writing any concerns that you have, you certainly have the opportunity to do that and we would like very much that you would as soon as possible.

Mr. WEBB. Well, since the greater contains the lesser and since this bill that was proposed by Congressman Diggs this January, this discussion draft nearly includes everything that is in this bill, and then some, and since we had gone on public record back in April in support of the discussion draft, Mr. Chairman, I think that I have not been able to find any great discrepancies.

To begin my testimony, I would certainly first like to say I am quite sure the members of this committee have grown pretty tired of hearing about this merger situation because I know that in the past few months I have. But I do feel it is very necessary for me to make a couple of points on this merger because I don't think that many people realize the far reaching ramifications of the merger as applied to the University of the District of Columbia concept. I found within the past two months that whenever I mention the word "merger" the first thing that pops out of most people's mouths "Well, isn't this moving towards the University of the District"? The Alumni Association of the District of Columbia Teachers College sees no way that this is moving towards that University concept. I honestly feel that the citizens in the District of Columbia are laboring under a misconception because I feel that the majority thing that by merging the two institutions that this is the will of Congress, the intent of Congress in proposing the University concept.

I would also like to disagree with something that the faculty representative said. It was the intent of Congress to merge the two institutions. This can be cited in President Johnson's letter to Speaker McCormack on March 18 of 1965 but the Alumni Association maintains that the initial conceptualization of a federal city college and a Board of Higher Education came nearly a decade ago and I think that it should be noted that President Johnson is now deceased and Speaker McCormack is now deceased and even though a lapse of ten years does not render a law null and void, I feel that there have been so many changes in the social, educational and political climate during the past decade that it would have warranted public hearings on this issue.

On the First of June the Alumni Association passed a resolution concerning the merger that also applies to the University of the District of Columbia concept. I am not going to read this entire resolution, Mr. Chairman, but I will attach a copy of it to the letter that is also a part of my testimony.

Mr. DELLUMS. Fine.

[The letter from the Alumni Association of the District of Columbia Teachers College and the Resolution of the Alumni Association of the District of Columbia Teachers College follow.]

DISTRICT OF COLUMBIA TEACHERS COLLEGE,
Washington, D.C., July 1, 1974.

SUBCOMMITTEE ON EDUCATION,
United States House of Representatives,
Washington, D.C.

Greetings: On April 6, 1974, Joseph Webb, on behalf of the District of Columbia Teachers College Alumni Association, testified at the City Council hearings on the proposed "District of Columbia Public Education Reorganization Act".

It was stated at those hearings that the Alumni Association supported the proposed "Act" with the provision that there be two additions:

1. that the "Act" provide for a College of Education in the proposed University of the District of Columbia;

2. that the existing District of Columbia Teachers College be that College of Education.

At this time, the District of Columbia Teachers College Alumni Association reaffirms that stand. However, it is our considered opinion that the recent actions of the District of Columbia Board of Higher Education to merge the District of Columbia Teachers College with the Federal City College can only serve to disrupt the concept behind the proposed University. This merger is, in reality, the total absorption of the District of Columbia Teachers College.

Because of the two additions suggested by the Alumni Association, it is our opinion that, without the continuation of the existing District of Columbia Teachers College, there cannot be a strong College of Education in the proposed University. It is our further opinion that, without a strong College of Education in the proposed University, there cannot be a strong University of the District of Columbia. It is our final opinion that, rather than see the District of Columbia accept a weak university that is doomed to destruction from the outset, we would rather see no University of the District of Columbia.

We continue to support the University of the District of Columbia concept as set forth in the proposed "District of Columbia Public Education Reorganization Act" on the premise that the two foregoing recommendations be adopted. If these two recommendations are not adopted, we go on public record in total opposition to the proposed "Act".

We further ask that the District of Columbia Teachers College Alumni Association's "Resolution 74–1" be carefully studied by the members of this committee, and that it be adopted. We further ask that Legislative action be implemented to have the provisions of "Resolution 74–1" carried out.

Respectfully submitted,

JOSEPH WEBB,
President.

Attachment.

DISTRICT OF COLUMBIA TEACHERS COLLEGE

RESOLUTION 74–1

Subject: The Merger of the District of Columbia Teachers College with the Federal City College.

WHEREAS, the District of Columbia Teachers College Alumni Association has consistently gone on record in opposition of a merger between the District of Columbia Teachers College and the Federal City College; and

WHEREAS, the reasons for this opposition have been set forth in "An Appeal to the District of Columbia" (adopted by the District of Columbia Teachers College Alumni Association on July 16, 1973, and reaffirmed by said Association on June 1, 1974); and

WHEREAS, the term "merger", as used by the District of Columbia Board of Higher Education, is to be defined as "the total absorption of the District of Columbia Teachers College into the Federal City College", thereby, constituting the total loss of identity and heritage of the District of Columbia Teachers College; and

WHEREAS, the District of Columbia Board of Higher Education has shown itself insensitive to the repeated requests of the officials of the District of Columbia Teachers College Alumni Association that said officials meet with the members of

said Board individually or en masse for the purpose of clarifying respective positions on the issue of the merger; and

WHEREAS, in the Board of Higher Education's "Resolution 74–12", said Board expressed its belief that "The merger of these two institutions is in the best interests of public higher education in the District of Columbia", but offered no reasons to corroborate or support this belief; and

WHEREAS, the Board of Higher Education has not shown cause for proceeding with plans to merge the District of Columbia Teachers College with the Federal City College without having, first, received official notification that the Federal City College is an accredited institution; and

WHEREAS, the District of Columbia Teachers College concedes the fact that, in the conceptualization, drafting, and passage of Public Law 89–791 establishing the Board of Higher Education and the Federal City College, that it was the intent of the Executive and Legislative branches of the Federal Government that the District of Columbia Teachers College would be merged with the Federal City College; however

WHEREAS, the District of Columbia Teachers College Alumni Association maintains that, because more than a decade has elapsed since the initial conceptualization of what became Public Law 89–791, and because, during this decade, the District of Columbia and the United States of America have undergone paramount political, social, and educational changes; and

WHEREAS, the District of Columbia Teachers College Alumni Association has concluded that the absorption of the District of Columbia Teachers College by the Federal City College is not in keeping with the wishes of the citizens of the District of Columbia (this conclusion being reached as the result of informal surveys by, and communications to the District of Columbia Teachers College Alumni Association); and

WHEREAS, The Board of Higher Education has not adhered to the suggestions, requests, and demands that this vital issue be brought before the citizens of the District of Columbia vis-a-vis public hearings, and/or public opinion polls, and/or referendum so that said citizens may make their wishes known to said Board; and

WHEREAS, in the opinion of the District of Columbia Teachers College Alumni Association, the Board of Higher Education, by merging the District of Columbia Teachers College with the Federal City College, is neither acting in the best interest of public higher education in the District of Columbia, nor in the best interest of the citizens of the District of Columbia, nor in the best interest of the District of Columbia per se;

NOW, THEREFORE, BE IT FIRMLY AND UNEQUIVOCALLY RESOLVED, That the Board of Higher Education cease and desist from taking any further actions towards merging the District of Columbia Teachers College with the Federal City College until such time the citizens of the District of Columbia are afforded the opportunity to express their views on said merger vis-a-vis public hearings, and/or public opinions, and/or referendum;

BE IT FURTHER RESOLVED, That, on the issue of the merger, that the Board of Higher Education adhere to the wishes of the citizens at-large of the District of Columbia;

BE IT FURTHER RESOLVED, That, by disregarding this "Resolution 74–1", the Board of Higher Education will be showing its lack of concern for the wishes of the citizens of the District of Columbia, and, ergo, is not acting in the behalf of said citizens;

BE IT FURTHER RESOLVED, That, if the Board of Higher Education, individually or en masse, is not acting in the behalf of the citizens of the District of Columbia, each member of said Board should immediately submit his/her resignation to the Mayor-Commissioner of the District of Columbia;

BE IT FURTHER RESOLVED, That, if the Board of Higher Education, individualy or en masse, neither acts in the behalf of the citizens of the District of Columbia, nor immediately submits resignations to the Mayor-Commissioner of the District of Columbia, said Mayor-Commissioner, as empowered by TITLE I, Section 101, sub-section (b) of Public Law 89–791, should immediately give the members of the Board of Higher Education notices and opportunity for hearing, and, if the allegation that said members of said Board are not acting in the behalf of the citizens of the District of Columbia is proven to be true, the Mayor-Commissioner of the District of Columbia should remove the Board of Higher Education individually or en masse;

BE IT FINALLY RESOLVED, That the District of Columbia Teachers College Alumni Association shall not compromise, it shall not equivocate, and it shall be heard.

Submitted by: The President of the District of Columbia Teachers College Alumni Association.

Date: June 1, 1974.

Approved by the District of Columbia Teachers College Alumni Association for publication and distribution.

June 1, 1974, JOSEPH WEBB, *President*,
June 1, 1974, RAYMOND W. POLES, *Vice-President*.

DISTRICT OF COLUMBIA TEACHERS COLLEGE

"AN APPEAL TO THE DISTRICT OF COLUMBIA"

(As Goes D.C. Teachers College, So Goes Education In The District of Columbia)

POSITION OF THE D.C. TEACHERS COLLEGE ALUMNI ASSOCIATION

"Because the District of Columbia Teachers College has a direct or an indirect bearing on every facet of life in the District of Columbia, the District of Columbia Teachers College should continue as a separate institution. Only then can it continue on its present level of efficiency. Furthermore, the Board of Higher Education should, in all matters, (e.g. financial allocations, time allotment, etc.) regard the District of Columbia Teachers College as being on an equal level with the other institutions under its (i.e. the Board of Higher Education's) jurisdiction. The District of Columbia Teachers College has proven its effectiveness for more than a century. Can the District of Columbia afford to sacrifice a proven record of excellence for a mere concept?"

"AN APPEAL TO THE COMMUNITY"

All persons who have attended the public schools of the District of Columbia have, inevitably, been taught by teachers who graduated from D.C. Teachers College. The vast majority of these teachers have impeccable records of efficiency. More than 85% of the teachers in the D.C. Public Schools System are graduates of D.C. Teachers College. Are not the generations that sleep within our scrotums and ovaries also entitled to a good and relevant education? We must preserve D.C. Teachers College for our unborn children. Can we afford to sacrifies a proven record of excellence for a mere concept?

"AN APPEAL TO STUDENTS ASPIRING TO ENTER COLLEGE"

At the present time, there are three public higher education institutions in the District of Columbia. Each of the three schools has a different area of concentration. Persons who wish to enter either of these institutions of higher learning may make their selections on the basis of each school's offerings. For many persons whose finances preclude their enrolling in the numerous private universities and colleges in the District of Columbia, the choice is, already, limited to the three public colleges in the city. Are we willing to limit this choice even further? Regardless of an aspiring college student's finances, should he not, at least, have a choice of three schools instead of, merely, an ultimatum between two schools? Will the students in the District of Columbia who are aspiring to enter college allow the city to take this giant step backward? Can we afford to sacrifice a proven record of excellence for a mere concept?

"AN APPEAL TO THE PERSONNEL OF THE D.C. PUBLIC SCHOOLS SYSTEM"

For many years, the District of Columbia Teachers College has, not only, provided its students with the Bachelor of Science degree; it has, also, been the major source of additional courses for teachers, administrators, and other personnel in the D.C. Public Schools System. With its "Teachers Certification Program", its "Conversion Program", and its "In-Service Program," D.C. Teachers College has been the salvation of many persons desiring to enter the field of education. It has, also, provided persons who are, already in the education field with the necessary requirements for moving from one area to another. Let us not forget the salary increases for those persons who acquire the prescribed amount of graduate credits. For only $10.00 per semester hour, D.C.

Public Schools' personnel may take courses that lead to hundreds of dollars in salary increments. This, in addition to the many new and innovative courses at D.C. Teachers College, must be classified as an invaluable service to persons in the employ of the D.C. Public Schools System. Can we afford to sacrifice a proven record of excellence for a mere concept?

"AN APPEAL TO ALL RESIDENTS OF THE DISTRICT OF COLUMBIA"

For more than a century and a score, the District of Columbia Teachers College and its precursors have been landmarks in the city's educational system. Many students who were taught by graduates of D.C. Teachers College grew up under the D.C. Public Schools System, enrolled in D.C. Teachers College, received a quality education, graduated, and, then, return to the D.C. Public Schools System to educate the next generation. This cycle has continued for more than one-hundred-twenty years. Of course, many D.C. Teachers College graduates entered many fields that are not concerned with education. This shows the versatility of the type of education one receives at the city's oldest remaining public higher education institution. The District of Columbia Teachers College has served the city, and served it well, for numerous decades. Can we allow this school to, now, be abolished? Is it feasible to phase out an institution that is still living and growing at an unapproachable rate? Can the District of Columbia afford to murder its purveyor of education? Can the residents of the District of Columbia afford to sacrifice a proven record of excellence for a mere concept?

Respectfully submitted,

JOSEPH WEBB,
President, D.C. Teachers College Alumni Association.

Reaffirmed by Alumni Association on June 1, 1974.

JOSEPH WEBB, *President.*

Mr. WEBB. We want this Subcommittee to know that this merger, the merger as used by the Board of Higher Education, is better described as "absorption" because this is what it actually will be.

We also want this Subcommittee to know that there have been no attempts made to hold public hearings on this issue that so vitally affects the District of Columbia. And as I said previously, we concede the fact that it is the legislative intent in establishing federal city college to abolish D.C. Teachers College. But we do feel at this time this would not be in the best interest of the city. We also feel that public hearings should be held. Now I don't know exactly what legal grounds we have for this. I just lost a lawsuit trying to block the merger on the 10th of June but it was filed in a different light. But after hearing Dr. Cook make the statement about since Congress established the District of Columbia Teachers College then it would obviously be the one to abolish it, I have a new ground for my suit. So within the next 7 days I will file another suit to that effect. And that might answer a lot of the legal questions that this Committee has.

Now concerning the bill itself, Mr. Green got up a very good point when he mentioned the fact that he disagreed with the concept concerning the removal of the members of the Board of Trustees. It is just a personal thing and this is not approved by the Alumni Association but I honestly feel that a person should be removed only by those persons who installed him. And therefore if an alumni representative is not acting in the best interest of the university I feel that his alumni association should be the one to remove him and not the Mayor because I too can see a strong political thing coming out of this. I don't want to get hung up in disagreeing with people but someone made a

comment—and I think it was Mr. Kirkwood—made a comment about limiting the number of residents outside of the city to two. I think that two is fine and maybe that is too many because I honestly feel that this city has had too much outside input into our lives. We don't have very much control over our lives as it stands now. And with only two members who live outside of the District of Columbia having input into this university maybe we can finally get the chance to dictate our own destinies.

As I stated previously the Alumni Association resolution and its statements on this proposed university concept is based on the original bill of Congressman Diggs and it goes as follows:

"On April 6, 1974, Joseph Webb"—that being me—", on behalf of the District of Columbia Teachers College Alumni Association, testified at the City Council hearings on the proposed 'District of Columbia Public Education Reorganization Act'.

"It was stated at those hearings that the Alumni Association supported the proposed 'Act' with the provision that there be two additions:

"1. that the 'Act' provide for a College of Education in the proposed University of the District of Columbia;

"2. that the existing District of Columbia Teachers College be that College of Education.

"At this time, the District of Columbia Teachers College Alumni Association reaffirms that stand. However, it is our considered opinion that the recent actions of the District of Columbia Board of Higher Education to merge the District of Columbia Teachers College with the Federal City College can only serve to disrupt the concept behind the proposed University. This merger is, in reality, the total absorption of the District of Columbia Teachers College.

"Because of the two additions suggested by the Alumni Association, it is our opinion that, without the continuation of the existing District of Columbia Teachers College, there cannot be a strong College of Education in the proposed University. It is our further opinionion that, without a strong College of Education in the proposed University, there cannot be a strong University of the District of Columbia. It is our final opinion that, rather than see the District of Columbia accept a weak university that is doomed to destruction from the outset, we would rather see no University of the District of Columbia.

"We continue to support the University of the District of Columbia concept as set forth in the proposed 'District of Columbia Public Education Reorganization Act' on the premise that the two foregoing recommendations be adopted. If these two recommendations are not adopted, we go on public record in total opposition to the proposed 'Act' ".

"We further ask that the District of Columbia Teachers College Alumni Association's 'Resolution 74–1' be carefully studied by the members of this committee, and that it be adopted. We further ask that Legislative action be implemented to have the provisions of 'Resolution 74–1' carried out."

So in brief we are simply stating that if the District of Columbia Teachers College is going to be the college of education in the University of the District, then we support this concept of the university. If

it is not, we oppose the concept because we feel that a college of education is very, very necessary to any strong university. And we feel that the District of Columbia already has too many messed up things applied to education to accept a weak university. Therefore we're asking that this subcommittee do everything within its power, whether it is bringing pressure to bear on a larger committee, that may have some bearing on bringing public pressure on the board to reverse its stand. Because we feel that as it stands now, that this merger that is being so expediently carried out is doing nothing but destroying the proposed university concept before the bill is even passed. And that concludes my testimony.

Mr. DELLUMS. Thank you very much. Mr. Green and Mr. Webb, thank both of you for two very articulate and very pointed presentations. I would like to now yield to Mrs. Martin for any questions.

Mrs. MARTIN. Well I just wonder, when you say that you are opposed to the bill unless D.C. Teachers College is the College of Education, then what if there is no bill and you don't stop the merger, then what do you end up with?

Mr. WEBB. What we end up with is probably one of the worst things that could happen to this city. I am not getting hung up on sentimentality or anything but D.C. Teachers College is a landmark in the history of this city. It is a landmark in black history and plus it has proved its effectiveness for more than a century and a score. This in itself should warrant continuation. We feel the Board of Higher Education is acting—oh, and Mr. Dellums, you mentioned something earlier where you said that the city politics were coming into play. I don't think it is city politics as much as it is federal politics. Because one of the first things that was stated in the Board's resolution is that the Senate Appropriations Committee and the House Appropriations Committee have continually urged that the two institutions be merged. So I think it is more Federal politicking than city politicking because, as it stands now, on the Board of Higher Education I don't think any of those Members are planning on running for public office. So it is not really local politics so much as it is federal. So what would come about if this bill is not passed? As I stated earlier, I would rather see nothing than to see a messed up university.

Mr. DELLUMS. Well let me ask this question. Let's say that your proposed legal challenge is not successful in the courts and let's then speculate that if it is not successful in the courts and the courts sustain the legal right of the Board to bring the two institutions together, then—and let's also stipulate that it would mean an absorption of the District of Columbia Teachers College and the courts sustain that position—then where are we, with respect to—oh, I am sorry. Let me back up.

Then what is your position if the matter is no longer in your hands as legal advocate and is no longer in our hands as the legislative advocate because the courts have sustained the right of the board to bring the two institutions together and where the practical effect of it would be the absorption of D.C. Teachers College?

Mr. WEBB. I would have to ask you a question concerning this bill. Is the term "three institutions" mentioned in here?

Mr. DELLUMS. Yes.

Mr. WEBB. If that term "three" is mentioned, I think it is really going to throw a monkey wrench into your workings because there would only be two institutions existing.

Mr. DELLUMS. Sure. As I said earlier and just dealing with it as a rational, logical consideration, it would seem to me that the passage of this bill would negate the need to do what the Board has already done. But we are operating after the fact. And it seems to me the only way to unravel this is if there is legal basis to unravel it, then and because your lawsuit says that only the Federal Government can abolish D.C. Teachers College—oh, well, I had a second point. It has slipped my memory right now. It is too late I guess. But do get the thrust of the point I was trying to make?

Mr. WEBB. I get the thrust. As I said earlier Mr. Chairman, when I applied for the initial preliminary injunction it was denied but the basis was such that I knew there was very little chance of it being successful. But with Dr. Cook mentioning this actual legislation that established D.C. Teachers College, I feel that is a much stronger legal ground and I only wish he had mentioned this about a month ago and maybe I would have had a stronger lawsuit at that time. So if this bill is passed after the merger, I really don't know exactly what the effect will be. I don't think that there is too much damage that could be done. I think it is really going to depend upon exactly the time in which this bill is passed. If it is passed in other words, any time the first part of January, I don't think that one semester of D.C. Teachers College coexisting with Federal City College or D.C. Teachers College under Federal City College's control would do too much damage but I honestly feel that if the bill is going to drag through Congress for a year or more that it would be detrimental to the University concept.

So I think we might be able to spare one semester.

Mr. DELLUMS. Thank you.

Mrs. MARTIN. I have one additional question. You talked about the history and tradition of D.C. Teachers College. I remember when it was Miner. So I assume that you are just carrying over the history and you are changing the name along the way. But do you envision, assuming this bill is passed, a separate D.C. Teachers College?

Mr. WEBB. No.

Mrs. MARTIN. You think the history will attach to the University the way the history of Miner attached to D.C. Teachers?

Mr. WEBB. I think that in most universities a school can be noted by a particular name and the history goes on. The name that the Alumni Association plans to propose for this is the Miner-Wilson College of Education, which would continue its history of 120 years. We feel its history is very, very important because we feel that black people have very little to hold onto and this is one of the landmarks of this city and we feel it should be continued if for no other reason than its long history.

Mr. DELLUMS. Well, thank you. Mr. Hogan?

Mr. HOGAN. Thank you, Mr. Chairman. Mr. Green, assuming that the Congress were to determine, as Mr. Webb has indicated, that maybe the District should dictate its own destiny and you were elected to the City Council, would you move to establish a University of the District of Columbia as a member of the D.C. Council?

Mr. GREEN. I certainly would. However in anticipation of the next question, I don't see any reason for delaying this legislation, as was

previously announced by the Full Committee some months ago that no further hearings would be held on this matter until after the new Council was elected. And I am glad to see the committee has reversed itself on that matter. I don't think there is any need to delay the implementation, to delay the creation of a university for the District of Columbia.

Mr. HOGAN. But if it were delayed for some reason, would you as a member of the Council, would you be willing to establish and act on your own?

Mr. GREEN. I certainly would.

Mr. HOGAN. Thank you.

Mr. DELLUMS. Well, thank you. I just have one additional question.

Mr. Webb, you were present at most of the testimony today when several people have indicated that there were no public hearings and no significant involvement or aggressive effort to involve various constituents in the educational community of the three institutions—no, of the two institutions I mean, affected by the merger. Is it your legal opinion that is an invasion of any District statutes or even the federal law? Have you looked at the basis for the merger in Federal law that would stipulate the need for public hearings and aggressive involvement of the various constituencies affected by the merger?

Mr. WEBB. Considering the fact that when it comes down to the District of Columbia that Congress appears to be the devine or the mother supreme or whatever, when Congress stipulated that there would be a merger, President Johnson told Speaker McCormack that D.C. Teachers College would be absorbed by Federal City College.

And we are saying we feel the Board of Higher Education has the authority to merge. We go along with this. We don't have any qualms about that. We feel it is in their jurisdiction to merge.

We also feel that Congress at that time wanted the two institutions to merge. However, there was no particular time given that they should merge. For this reason we feel that the Board of Higher Education has the authority to either merge the two institutions or not merge them. And since we feel they have this option, we feel that public hearings should have been had and should have been held and still should be held on this issue because it is a vital issue. And I don't know whether it is illegal or not.

In fact I would doubt seriously—and of course this is only a layman's knowledge of the law—but I would doubt seriously if it is illegal.

However, we feel it is just something from a moralistic standpoint or just from the standpoint of what is right, that it should have been done.

Mr. DELLUMS. I thank you. Mr. Clair, do you have any questions?

Mr. CLAIR. I think, as a follow up to the Chairman's question, whether there has been the kind of public involvement and local institutional involvement in the proposed merger necessary, I understand there was a memorandum of understanding issued by the Board of Higher Education stating there would be public involvement, etc. This went back some time before the merger got to this particular stage and was in the embryonic stage.

I am wondering what has been the follow up from that memorandum?

Has there been any attempt to endorse that memorandum of understanding, and, if so, what is the effect of that attempt to enforce the Board's memorandum of understanding?

Mr. WEBB. The Board's understanding, you mean the memorandum of understanding between the Board——

Mr. CLAIR. My understanding is that the Board of Education issued a memorandum of understanding stating that they requested and invited involvement of all institutions and alumni members, etc., in their procedures and still you now say you have not been involved.

Mr. WEBB. I believe you are speaking of resolution 74–12 which was passed and signed into law as far as the Board was concerned on May 21 of 1974.

Even before this memorandum, even before this resolution was passed I mean, I had been making daily trips to the Board or calling the Board every day trying to find out what was going on because Ms. Pinkett we felt dropped a bombshell on us on the 17th of May and stated that the Board merger would be in effect by December 1.

And since that time I, as the President of the Alumni Association and as a post-graduate student of D.C. Teachers College and as a citizen of the District of Columbia, functioned in those three roles trying to get information from the Board. All I have gotten was the run around. I have been unable to speak with her except when I saw her in the hall a while ago when I was on my way in and she was on her way out.

I have made daily calls to the Board for one solid month asking for an audience with the Board individually or en masse and I have gotten no response.

That was one of the bases for the lawsuit that I filed against the Board, which was also denied. However, we don't know exactly whether or not we have any legal grounds for forcing the Board to implement the stipulations in this resolution because I know that I submitted my name along with five other alumni to the Board nearly 3 weeks ago and to this time none of us have heard anything from the Board as far as the planning for the merger is concerned.

Mr. GREEN. Three of the officers in our Alumni Association including myself, are members of the Ad Hoc Committee to plan the merger.

To date we have not functioned in that capacity. And as far as I know no other organized group in the college has participated in the planning of the merger.

Mr. DELLUMS. Thank you very much both Mr. Webb and Mr. Green.

We deeply appreciate your testimony and taking this time to come before us and we appreciate your staying such a late hour in order to help us more effectively come to grips with this issue.

This hearing will stand adjourned until Wednesday, July 3 at 1:30 in this room where we will make an effort to conclude these hearings.

[Whereupon, at 8:10 o'clock p.m., the Subcommittee recessed to reconvene at 1:30 p.m., Wednesday, July 3, 1974.]

UNIVERSITY OF THE DISTRICT OF COLUMBIA

WEDNESDAY, JULY 3, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EDUCATION
OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to recess, at 1:40 p.m., in room 1310, Longworth House Office Building, Hon. Ronald V. Dellums, chairman of the subcommittee, presiding.

Present: Representative Dellums.

Also present: James T. Clark, legislative counsel; John Hogan, minority counsel; Ruby Martin, associate counsel; Leonard O. Hilder and Ralph Ulmer, professional staff; Joseph Clair, subcommittee staff.

Mr. DELLUMS. At this time the Subcommittee on Education will continue hearings on H.R. 15643, a bill to locate a university in the District of Columbia. This is a continuation of the hearing that was done Monday, July 1 of this year.

Our first witness is Mr. Robert Wigglesworth, president, alumni association, Washington Technical Institute.

Our next witness will be Mr. Charles Cassell, president, Organization for Political Equality Now.

Mr. Cassell, do you have a written statement?

Mr. CASSELL. Yes, I do; I gave it to Mr. Clair on Monday when I was here. I think there are copies.

Mr. DELLUMS. I have one, thank you.

STATEMENT OF CHARLES CASSELL, PRESIDENT, ORGANIZATION FOR POLITICAL EQUALITY NOW

Mr. CASSELL. Mr. Chairman, I would like to make it clear first of all that my remarks are directed to the full committee of the House District Committee, and I prepared my remarks that way since the bill I was given, H.R. 15643, is indicated as one introduced by Mr. Diggs. When I prepared these remarks I did not realize that the hearing was to be held by your subcommittee.

Now, my remarks are critical of the House District Committee, and I want it understood that is the point to which I direct these remarks.

I recognize that the members of this committee apparently feel they are providing service to the District of Columbia by establishing a Federal charter public university for Washington, D.C.; and on Monday I heard much of the testimony which suggested there was some benefit in having the Federal Government charter such a university, rather than the District of Columbia government.

But, I would like to point out that there are some disadvantages, and that indeed the purpose of this bill will simply not be accomplished as long as the Federal Government mandates the establishment of the university.

Now, over on the table there is a paper entitled "University of the District of Columbia," and it gives the purpose of the bill and the history. Now, in that second paragraph there is a statement which I think is misleading; it reads:

> These hearings were held by request of the Committee on the District of Columbia to consider the bill to create a Board of Regents that would have jurisdiction over all public education in the District of Columbia. As a result of these hearings the hearing report indicated that the creation of a University of the District of Columbia should be considered.

Purpose of Hearings

Now, the fact of the matter is that the purpose of those hearings on March 23 and 30 was to find out how the citizens of Washington, D.C., felt about a Board of Regents, mandated and established by the U.S. Congress. And what this doesn't say, and what needs to be said, that the overwhelming majority of the people testifying on the Board of Regents proposal opposed it; and they opposed it for the same reason that I oppose the legislation you are considering now.

I was one of the people that testified, and everybody that I heard testify, except for perhaps two or three, thought that it was dishonest for the U.S. Congress to be considering legislation which established a board of regents, appointed by the Mayor, to supersede the authority of the elected Board of Education. Most people testified that it was most inappropriate, it was disrespectful of the Home Rule Act and its purpose; it was disrespectful of the government soon to be elected; and there was a question as far as this rush toward establishing legislation for the District of Columbia which will soon have its own City Council and Mayor. Now, that's my problem with the bill you are considering now.

I heard someone say on Monday that there was an advantage having a federally chartered university which would have the advantages of a land-grant college. Well, if that is the purpose we could still respect the will of the people, the expressed will of the people in allowing their elected City Council and Mayor to establish and charter this university, and simply have the Congress adopt whatever charter was established by the City Council, after a proper hearing.

There is no need for the U.S. Congress to make the determination they are making, therefore you come up with such unacceptable provisions, an appointed board of trustees with only one student; of all things, one student. And at this time when we recognize that one of the reasons for failure of most institutions, the people who are served and supposedly represented are simply not on the board and don't help make decisions.

I heard several people on Monday express some reservations about the presence of students in large numbers on the Board of Trustees; and there seems to be an assumption that students are not quite mature enough; don't have sufficient experience, perhaps with not enough professional background, and that somehow or other they would do worse than the adults.

Federal City College

You may remember the Federal City College was just recently accredited, and the accrediting agency had many commendable things to say about students and about programs, and about creativeness; they had nothing kind to say about the Board of Higher Education, which they said had been inhibiting and had not given the proper support, and given the proper latitute and flexibility. And they made some suggestions about the inadequacy and incompetency of the Board of Higher Education. The Board of Higher Education consists of professional people who come from one essential element of this city upper middleclass bourgeois individuals whose views you have heard here, where the students have to be viewed in such context with jaundiced eye.

Now, I may say for the record that adults, professional people, especially those middle-class persons who make judgments about young people, and who purpot to speak for this community have very little contact with this community, it's inviolate, really. Adults have performed rather poorly at Federal City College, at D.C. Teachers' College.

Now, the difference between Federal City College and practically every other university is, it is administered and caters to the desires, the needs, the feelings and attitudes of the majority of the people of this city; that majority happens to be black. You may remember that HEW attempted to cut off the funds for one element of Federal City College's programs, that element, incidentally, for which the university was chartered, and that is the community outreach program; and one of their concerns with the Federal City College was that perhaps it was not appropriate to administer that program from them, HEW, the outward mobility college program.

And we feel that they were unconcerned, or perhaps they were concerned because Federal City College was relevant, and it was relevant, and it was attempting to deal with problems of not only race pride, but beginning to deal with some of the problems that black people face in the city where they are a majority; and where whites are hostile, and at best indifferent to the needs of the community, prevail.

We think that is some of the reasons, perhaps, that the U.S. Congress, or some people in the Congress are anxious to rush into legislation creating for themselves, on their own terms, a university for Washington, D.C., which the people have nothing to say about.

How many people really know about this hearing? This hearing was called on short notice. Where are the people? Who has testified here so far who represents students, who represents people on welfare, who represents working people; who represents the people who face the problems? Is there anybody out there who really will be affected by the District of Columbia government as elected by the people with the minimum powers that it does. And therefore, whatever benefit may accrue to a public university chartered by the U.S. Congress, I think is overcome by the fact that here again we have evidence of a Congress which obviously must be indifferent to the desires of the people who are interested in having some control over every agency of government.

Now, I would just like to read some excerpts from the prepared statement that I have. I made these remarks based on the testimony that I had heard.

My name is Charles Cassell, president of OPEN, the Organization for Political Equality Now; and I am also a former member of the elected Board of Education of Washington, D.C. OPEN is an organization whose objective is to develop a mass peoples movement for full political freedom for our city. I think you all have heard me testify before in opposition of this Home Rule Act with all of its shortcomings and its potentials for self-government when it actually isn't that.

So, on this occasion a committee of Congress is again proposing to pass legislation for the District of Columbia practically on the eve of our election which will provide a local government whose proper function is to provide for the education of its constituents.

Last year this same committee proposed to create a board of higher education, of which our elected Board of Education would have been, in effect, a subcommittee. At a public hearing held in the District Building earlier this year more than 90 percent of the District of Columbia citizens testifying opposed an appointed board of higher education; this is something that isn't mentioned in this sheet. It very neatly skips over the fact that the purpose of those hearings was to gain support for a bill coming from Congress to create an appointed board of regents. People overwhelmingly said, no.

We have now the same kind of introduction, a public university chartered by the Congress. The same answer if you would have a hearing in the community, it would be, no, for the same reasons. I wonder why the chairman of the full committee did not call for the same kind of hearings that he called when he asked the City Council on the board of higher education and the board of vocational education, why didn't he ask for that, to find out the views of people on a public university? I suspect that he knew that it would be rejected, just as the board of higher education, or the board of regents proposal was rejected; and that is why all we have is this hearing here, which was called on short notice. There is something not entirely open and forthright about that; and I would call that to the attention of each member who sits here before me now.

The District of Columbia School Board on my motion, when I was a member, strongly opposed the idea, and refused even to participate in those hearings about a board of regents. One of the major reasons, strongly stated by the board, the overwhelming opposition to the proposal was the impropriety of Congress intruding on the proper authority of the city government we are about to elect. I ask you to turn over in your own mind—and I am sure you thought about it before—what is your distrust for the city government we will elect?

I shall assume tha this committee's withdrawal of the proposed legislation, the board of regents, was in response to the express will of the people. It is therefore difficult to understand why this committee again proposes to legislate for the District of Columbia in the area of education now that it is even closer to the time that their own elected government will take office.

I have asked before, what's the hurry? Why this usurpation in advance of the new government's authority before it takes office? Is this a sample of the new relationship between the new D.C. government

and the Congress wherein the citizen participation must be a part of any such sweeping changes in our educational system; why have there been no questions by this committee of the various witnesses about their knowledge about the public reaction? Why have you not asked the question, how many people know about this? Why do you accept the statements of people who really have only heard of this very recently, since those hearings; why don't you ask them how they know if the public supports this?

Now, one of the misleading things about this statement here is, it says as a result of the hearings on the board of regents, that it was determined that the people wanted a public university.

Well, I said in response to a question to Mrs. Parker when she asked the question, and the question came in an offhand way, "Well, you oppose the board of regents, how do you feel about a public university, do you thing that would be a good thing?"

And I said, "Yes"; but that certainly didn't mean that I wanted Congress to mandate it over the prerogatives of my own elected government.

Well, does not each of you gentlemen who is a creature of your State remember the pride of belonging to a State, and the protection of the State government against the very kind of Federal control that this proposed bill represents? Although we in Washington have been denied the protection against Federal domination that statehood affords, we still demand freedom from Federal control of local public education, which is certainly what this bill would mean. And we insist that the local decisions be made by those we elected, just as your various constituents do.

I would say it is certain that the citizens of Detroit, Mich., would never accept reorganization of the Detroit schools by the U.S. Congress. In the past the rejoinder to this has been, "But the Congress has the power to do to Washington, D.C. what it does not have the power to do in the city of Detroit." And that, gentlemen, is just the point. Not only do you exercise such arbitrary power over the citizens who do not vote for you now, but you continue to exercise such power under the home rule next year, and I think that should worry you, really, since you are creatures of and must face your own constiutents every 2 years; and you must take into account their opinions and attitude, as you do not have to do with my testimony.

That is another very serious shortcoming, as I have said, of home rule that OPEN has been highlighting. While our purpose is to develop an effective citizens' movement to bring about a major amendment of the Home Rule Act, we must, at this point, appeal to the ethics, the logic and the democratic sensitivities of the members of this committee to cease and desist interfering in the local affairs of our city. The rationale for Congress legislating for a District of Columbia public university is as weak and unpersuasive as that for the now defunct board of regents proposal, and the Eisenhower Convention Center, which has run into some trouble.

Now, over the years I have testified scores of times before both Houses of Congress. On rare occasions committee members have shown empathy and respect for the opinions and desires of District of Columbia citizens who do not vote for them, but I say it is a general opinion in Washington, D.C. of the voters that one member of this com-

mittee at least, that is the gentleman who chairs this committee today, Mr. Dellums, is responsive to the will of citizens, wherever they happen to be. Mr. Dellums, I may say, is thought of as a representative of the citizens of Washington, D.C.; I hear that on campus and especially among young people.

More often the attitude of Congress has been, we will examine the facts as we see them; we citizens are afforded the privilege of contact with lawmakers, such as I am having now, contact, but no influence on the lawmakers since you never face me at the polls.

Now, if after this hearing the committee continues to press its bill we can only assume that the committee is determined to beat the soon to be elected city government to the punch because it knows that officials elected by the people would draft an entirely different bill than the one handed to us by the House District Committee.

BOARD OF TRUSTEES

Now, here are some of the unacceptable sections of the committee's bill which undoubtedly would be modified if our elected local government were able to do this, possibly as follows—and some of these were mentioned on Monday by other people testifying—the Board of Trustees, in the committee bill, consists of 15 persons, 12 appointed by the Mayor and only one of which is a student from one of the institutions of higher learning. And, surprise of surprises, two of the 12 mayoral appointees may be nonresidents of the District of Columbia, if in the Mayor's judgment such nominations would enhance the trustees.

Now, I think that is a very interesting statement, "If such nominations enhance the Board of Trustees." Thus, this bill foresees the probability that the Mayor may not be able to identify one student and 11 District of Columbia residents whose nomination would enhance the trustees. I thoroughly disagree with Dr. Kirkwood's statement that it is necessary to open the trustee membership to people outside of Washington, D.C. Our citizens will not be served by very astute and knowledgeable people from outside the city. We need people from Washington, D.C., and there are certainly 15 such people. In addition to that, the very important thing is the people in Washington, D.C. have to make that determination that those people come from this city; and that ought to be of importance to you, also.

The three remaining trustees would be appointed, according to the bill, by the three alumni associations. Now, the elected city government after public hearings, which we have not had on this one, in the city, would more than likely come up with a Board of Trustees composed of nine members, three students from each of the existing colleges. Three alumni members, and alumni members close enough to the university to have been there within the past 5 years; and three community persons. Furthermore, the alumni and community people probably to be elected by the community at large; and the students would be elected by the students.

Now, there is nothing like that reflected in this bill. And of those people who have testified before you, supporting this bill, there seems to have been no concern on their part for the nonrepresentation of students; for the nonrepresentation of alumni who have identification in the community, and a reasonable identification with the colleges themselves.

The committee bill has the Board of Trustees making an annual report to the Congress, the City Council, and the Mayor, and to the general public. I think the elected government will probably not think of reporting to Congress, just as the elected city council of Baltimore will probably not think of reporting to Congress regarding their educational system. Even though they receive funds from the Federal Government, they report specifically on the use of those funds, not on the general administration of the university.

Gentlemen of the House District Committee, as a former elected public servant, in this colonial city, I implore you to think of District of Columbia citizens with the same respect and concern as you do for your constituents. I implore you to be sensitive and apprehensive about the fact that you exercise extraordinary legislative control over the lives of 800,000 American citizens whom you never face at the polls.

To be unmindful of this dilemma will result in shameless exploitation of the people's political powerlessness here in the Nation's Capital, and force us to drive on harder to eliminate that kind of influence on your part. To pursue this bill is to callously ignore your commitment to representative government and equal protection under the law. To continue pressing this bill is to take unconscionable advantage of a loophole in or misrepresentation of the U.S. Constitution by which the U.S. Congress, having legislative authority over the seat of government, legislates away District of Columbia citizens' basic constitutional rights to representative government.

I point out that that person who responds that Congress has the responsibility to look after the needs and to administer, and to legislate for the District of Columbia, and that by so doing they have a right to legislate and lead our life—there is nothing in the Constitution that allows that kind of arbitrary legislation. You can't legislate away due process; you can't legislate away my right to go to court; you can't legislate away my right to vote because you would be offending the Constitution itself.

But yet, the Constitution does that very thing by legislating a public university over which I have no control and no vote; by denying me the right to have a couple of Senators and Representatives; by denying me the right to have a mayor and city council to make decisions. Now, those things should be of concern to you all, and that is why I raise them in connection with this particular bill because it is very pertinent.

We in the Organization for Political Equality Now believe that you have no choice but to allow our elected government to play its legitimate role in legislating for public education in Washington, D.C.

Mr. DELLUMS. Does that conclude your statement?

Mr. CASSELL. Yes, it does.

Mr. DELLUMS. I would like to thank you for your obviously articulate and very pointed presentation.

The Chair would like to simply say in all honesty that some of the questions you raised with respect to the efficacy of this committee drafting a major piece of legislation was the first question that the Chair raised, with respect to this legislation.

The Chair has had a very difficult decision by virtue of the fact that as subcommittee chairman for education we have a responsibility. I sought this chairmanship because I was very interested in the issue of

education in the District of Columbia; and I sought appointment to the District of Columbia Committee because I was very much concerned about the colonial life of the people in the District.

There was only one option available to the Chair other than proceed with full hearings, and that was to exonerate ourselves from any responsibility, which for me would be a copout, and I have never copped out in my life; and I don't choose to do it at this point.

NEED FOR ACTION NOW

It was simply to acquiesce and take the bill to the full committee. My thought there was, whatever the political consideration with respect to whether we ought to hold hearings on this bill, mark up the bill, and so forth, that we would have totally taken ourselves out of the picture in the event that the full committee, who certainly has the jurisdiction, would have removed the responsibility from the subcommittee and hold it at the full committee level; and I frankly, I didn't see any particular reason why the full committee—as I mentioned I didn't see any magic movement to not hold hearings on the bill, or in fact mark up the bill. So, it seemed to me that the reality was some kind of legislation was going to come out; the question then became, what would be our role in trying to formulate the best possible legislation under those circumstances.

We raised that question with the Chair, and with the staff and other people, and that is why at the moment that we are going to home rule should we be legislating in a major area here on the eve of the opportunity for people to begin to themselves.

And that is one reason why I raised several questions with virtually every witness that was capable of responding, other than the testimony from bureaucrats. I would say, "Do you see any need to do this now." As I recall, the testimony from virtually everybody was, "Yes, we need to do this now."

Another question was, "Do you see any advantages or disadvantages in terms of the Federal Government doing it" because you are precisely correct, the City Council could adopt the proposal and set up its own charter. Or, if the City Council wanted to come back to Congress and be given the Federal charter, as a thousand and one organizations have already done.

The answer was:

We would like to have a Federal charter now, we think that the new City Council will have problems, including fiscal problems, and what have you, taxes, getting itself reoriented, developing new relationships with the Congress. Moving early, I believe in the latter part of March or April with arbitration, negotiating salaries, adjustments, what have you; that this would be an issue that would be placed on the back burner, and what ought to be on the front burner, this whole question of educational opportunity for young people in this District, particularly those who are black, and other Third World low-income students who would not normally matriculate in private institutions where the tuition at this point is so high that most persons earning up to $25,000, or $30,000 a year are no longer able to send their sons and daughters to private institutions with $2,500, $5,000, and $7,000 a year tuition; and that if anything was to be done, it ought to be done now.

That is one set of questions.

CONSOLIDATING FEDERAL CITY COLLEGE AND D.C. TEACHERS COLLEGE

The other set of issues that I would like to get some response from you on because of its very complexity before the Chair, and that is if you know, there have been several laws cited, one of 1964, another law of 1968 which in effect, in terms of interpreting the intent of Congress, presently state that Federal City College and D.C. Teachers College in some way come together. There is some argument about the consolidation, and two or three other adjectives have been used, about them coming together—I'll not put a label on it—I will just say they come together.

As you recall, when you were here on Monday, the chairperson for the Board of Education, Mrs. Pinket, indicated that that consolidation was now in effect. As a matter of fact, the president of the two joint institutions had now been appointed. There was a great deal of testimony later in the evening, very seriously challenging the action of the Board of Higher Education on the grounds (1) that they did not hold public hearings; and (2) they did not aggressively seek citizen participation, student participation, or faculty participation in the shaping of this so-called consolidation.

What we have agreed to do is check the legal question, and I have asked both the counsel for the minority and counsel for the majority to give us some kind of legal opinion on the whole question of whether or not Congress did in fact mandate a consolidation of these two institutions.

If that is correct they would be proceeding, at least, within the framework of Federal law; but if the allegations are true—and at this point I have no personal way of checking this, I also have no reason to challenge the testimony of the witnesses here—and it would seem to the Chair, too, as one person's opinion, if this were in fact true, that people at the local level would have the right to challenge the decision on the basis of the fact they were not involved in the process.

Well, if this consolidation is in fact in effect to some extent; and if in fact the Congress did intend that they consolidate, does it not in some way make sense, then, to try to be part of a healthy, creative approach to that question because certainly as I feel the community, and I have lived here for 3½ years and tried to become as much a part of the community as one traveling back and forth 2,500 miles to the family can do, that this consolidation brought a tremendous rift in the community. And I would imagine that Congress at the ultimate level stands responsible for that because people are lined up in terms of concern for both institutions; the D.C. Teachers by virtue of its long history here of training many competent and bright professionals, academicians and other blacks that matriculated through that institution. It is interesting that one student indicated that this is part of the black history of the country, and the general and specific black history of this community. And so, I understand that problem.

So, the question now that is going around in my mind is could this bill, granted the point that you made, be a healthy response to the issue of consolidation, the two institutions coming together and totally losing their identity. I would like you to respond to that.

And, second, when you received the report on the hearings held by the City Council and other agencies, the report came back indicating that, (1) the overwhelming response of people on the concept of the Board of Regents was, they were opposed to it. And I must say the Chair was also raising very serious questions with respect to the concept of the Board of Regents. The community essentially took the same position that the Chair and counsel, Mr. Clair had taken. We had taken a look at two or three drafts of that legislation.

However, the report went further in saying that the overwhelming testimony, or the preponderance of the testimony indicated that people were not in fact opposed to the concept of a University of the District of Columbia.

So, that is why on Monday I continued to ask the questions in fact, should Congress do it; is it necessary to do now; are there any advantages to the Congress doing it.

I would ask at some point Mrs. Martin or Mr. Clair to echo the comments because the Chair at this point—on the particular point that was made by Dr. Denard in his testimony on the issue of the Federal Government establishing the land grant colleges, therefore rendering the opinion to this committee that it is the Congress by virtue of establishing through Federal Law, two land grant colleges, that brings those land grant colleges together into a university, is in fact a responsibility of the Congress.

Now, this was simply testimony on Monday, and Mr. Clair has not checked the validity of the statement in terms of whether Federal law would in fact sustain that point; but I would like you to respond whether or not you believe the doctor was correct; and No. 2, do you think that perhaps this bill would be a healthier and less painful approach to the concept of consolidation of the two very important institutions in this community; namely, the D.C. Teachers College and Federal City College.

Mr. CASSELL. I will respond to the last point first. It's really not for Congress to decide what is painful to citizens of the District of Columbia; it is really not up to them to try to make a transition smooth.

Mr. DELLUMS. I realize that. The gentleman is a friend of mine, so I choose not to engage in a diatribe with him. I would like you to answer the question within the conditions that I established. If it is true that Congress mandated the consolidation, and if it is true that the board of higher education was acting upon what they thought was the express will and intent of the Congress in the consolidation—within that narrow concept.

Mr. CASSELL. I understand.

Mr. DELLUMS. Within that concept, not the broader concept of political——

Mr. CASSELL. I understand. All of my statements will be in terms which are credible with the role the Congress plays, and the role that the House District Committee has played down through history. I would soften the blow if I thought it would be useful, but I don't, and therefore that is something that characterizes my remarks, and I hope they will be accepted in that spirit.

Regarding the D.C. Council's interpretation of the desire of the people, I think that it is wrong. The purpose of those hearings was not

to deal with the public university. The public university was an incidental question that was raised by the chairman of that committee after people had expressed themselves on the concept of the board of regents.

Now, the board of regents proposal had been published and people had had an opportunity to read it, and think about it, and come prepared to comment on it. But that was not true of the remarks regarding the public university which were occasioned by the fact that the chairman then said, "Well, all right, you don't like the board of regents; but you have no objection to a public university, do you?"

People hadn't had an opportunity to think about that, in fact a lot of people had no particular opinion on it. I wasn't prepared to remark on that. But I doubt very seriously that one of the persons that responded to the question, had the opportunity to consider the Congress coming back with more legislation regarding that. It wasn't pointed that way. There was no proposal before the people.

Therefore I don't think it is fair, nor is it accurate for them to say that there was overwhelming support for it. I said I had no objection to it; and when I say that I was thinking about having the opportunity to read the proposal, or to make a proposal and then respond to it; and everybody else like myself, I think that's inviolate.

I think the consolidation that Mrs. Pinkett referred to is illegal. It's illegal because, regardless of what other aspects you consider, it is a rule, it is a regulation, it is a change of the policy. We have an Administrative Procedure Act that says when you do that you must advertise, give people an opportunity to respond at a public hearing. And, it is really not honest to avoid that and say, well, we think the Congress mandates it.

I think also, if the Congress desired that, the issue would have been raised by Congress, and the Congress would be pointing out that, "This was our intent". I don't think we in the community have to think, well, now, did the Congress really mean for us to consolidate the two universities, and is that something we should do now?

I really think what the board of higher education has done—and it would have if it had held public hearings. The board of higher education did not hold public hearings, I understand they haven't had one for 3 years and nobody knows what the hell happened, and you can't even get the minutes.

But my feeling is that no purpose, no good purpose is served by the Congress mandating this consolidation. First of all, there is one thing for you, Mr. Dellums, to respond to what you hear here, and then develop a proposal which goes to the full House committee. My feeling is what comes out of a House committee, the District of Columbia, of the U.S. Congress is probably going to be quite different than anything that you would send up there because I think you are listening to what you hear, and you are using your intelligence and judgment, and a little empathy that doesn't generally exist in the Congress.

But, what comes out of that full House committee, what comes out of the House of Representatives, what comes out of the Senate would be just like all legislation in the past coming out of that body for Washington, D.C.; the home rule bill, in which its advocates have to constantly remind us in order to get something through we have to cater to the prejudices of those people who don't want any self-

government at all. Has the complexion of the Congress changed? The same people are there, the same people sit on this very committee; and that is why I think it is a good thing that you had an opportunity through the auspices of your committee to deal with it because you might be able to have some wholesome and some empathetic effect on the House committee. I doubt it, but you might.

Now, you asked several questions, and I was trying to keep track of them.

On Dr. Denard's proposal, first of all, that proposal sounded very, very bureaucratic to me. One thing he didn't say, that is the need, that is the desire, that is the consensus of the people that I talked to; he gave you his own personal opinion.

Now, if indeed the intent is to allow the city, or the university the benefit of land grant status, there is nothing in the world that says the Congress has to draft the bill. If that's the only concern of this committee, you want us to have that benefit, why don't you let the City Council draft it, and accept what the City Council drafts?

I think that is a good question because that would accomplish exactly what the committee members say is their intent. But I am very much concerned with the fact that this legislation is designed to have effect—what was it, January 2, 1975—just before the new City Council takes office. Now, if in fact the people decided that this goes on the back burner, then so be it; that's what happened in your District, didn't it? How are you gentlemen to say this belongs on the front burner? That is one of the consequences of representative government, we determine what has priority.

Besides, you are not facing any problems in your districts, you are on this committee, based on what is happening in Washington, D.C.; we are facing the problems. And I speak for many more people than most of the bureaucrats that have spoken to you, and I don't agree with them.

My position on the Board of Regents was no; and my position was supported by the majority of the people. Now, on the Board of Higher Education, the people said they were willing to abide by that and accept that. But then they come back with the same kind of proposal again, not having spoken to those people.

I would hope that you would be able to defend the feeling of the majority of the people because they can't know if they don't even know you are considering it. And I don't know why in the world this thing didn't come before the City Council, the same group, the Board of Higher Education, Vocational Education. Can you imagine what the response would have been then? And do you really feel the people are that emotional, that uninformed on that subject? I doubt it very seriously.

I don't know if I have answered all the questions, there were several of them. I tried to keep track of them, and I'm not sure that I got them all.

Mr. DELLUMS. Thank you. One of our practices is to issue——

Mr. CASSELL. I'm sorry.

Mr. DELLUMS. One of our practices is to issue releases to try to make the public aware of certain hearings. I might just say, if there are any members of the press present, I would appreciate it, but I doubt that they will write it, that they never printed the releases; and maybe that's because they are national newspapers and not always concerned

with local questions. But, we did send the releases out and they were not published to our knowledge, and that's a serious problem.

As I indicated on Monday, we were given a time-table within which to function and we have a difficult time. And the Chair did apologize to persons who came at such short notice. The only other thing that I could suggest, that people who are functioning in organizations, are representatives of organizations that have roots in the community, that through those organizations they pass the word on to the people.

The Chair held hearings—virtually the only member here—until well after 8 p.m. on Monday. And I am more than willing to stay here until we hear all the witnesses today, more than willing to hear from a substantial list of witnesses. And I don't know if the organizational people I contacted ever got in touch with anybody else in the community to determine whether they wanted to come. The Chair certainly in no way is trying to deny the opportunity for people to do it, it's just a serious problem because, again, as I say, we are faced with a certain time table; the Chairperson has to make the decision. That means, you have to do your job or walk away from it, and I couldn't do my job.

This is a serious problem, and I agree with you. But, the justification was, and you have taken issue with that, and I appreciate that in a certain part of our formal record. It's interesting that nobody else did, and maybe the reason for that is that no one had the particular insight as you do because you have been before us on numerous occasions, and I know of particular hearings in which you raised that issue.

No one else in the hearing raised that question, and I certainly don't think it's not legitimate; but for some reason they did not raise it.

Mr. CASSELL. You are referring to the question of notice?

Mr. DELLUMS. Yes.

Mr. CASSELL. Incidentally, I might say I heard about these hearings not from Congress, and I inquired. My impression was that this hearing was being held by the House District Committee, and presumably——

Mr. DELLUMS. The full committee?

Mr. CASSELL. Yes, chaired by the Chairman. It is my impression that had people known this was to have been chaired by the chairman of the Subcommittee on Education, there would have been a much larger turnout, expecting, perhaps, a different kind of response than they would normally expect from the full committee. And I don't know that anybody yet knows they are coming before the subcommittee, rather than the full committee. I was surprised to see you chair the meeting.

Mr. DELLUMS. Well, let me say this, your statement is part of the formal record, and so is part of the proceedings. The Chair will take judicial notice of all the points that you raised.

And with that as a backdrop I would like to ask you a few points with respect to the legislation itself, and then comment on that.

BOARD OF TRUSTEES

One, to the issue of the process by which people gain membership on the Board of Trustees, I would like you to respond as fully as you can to the issue of appointment of 15 persons; the role of the Mayor

in those appointments; and what you see as the most viable approach to gain representation on the Board of Trustees on behalf of the residents, and the students who would be matriculating from the public institution.

Mr. CASSELL. I think I would like to associate myself with some of the remarks made by Dr. Kirkwood on Monday, regarding the political aspects of these appointments.

It seems to me—well, let me say this, when I was chairman of the District of Columbia Statehood Party, I participated in the drafting of a bill to provide an elected board of higher education. I frankly think that all the people who make decisions on behalf of citizens ought to be elected. I recognize that people think that would be cumbersome if they are electing hundreds of people, it might be cumbersome—but, we have very few elected officials in Washington, D.C.; and its still off years in which we can elect members of the Board of Higher Education. I think that they ought to be elected, and if they are not elected it is not going to be an effective university. I don't think that the Mayor, I see no reason for the Mayor to be making those selections any more than the Mayor should be represented on the Board of Education, the Board of Public Education, and that doesn't seem to suffer from the lack of the Mayor's participation upon confirmation by the City Council. That is viable, and on a higher level certainly seems to be a reasonable sort of thing.

Also, I think a proportion of students and people from the community. It's very bad, this bill, I know because we held hearings on the City Council, and we certainly wouldn't end up with two people from outside the city.

I take cognizance of the remarks made by Dr. Kirkwood and feel that there are too few people, too few positions available for people to come from the outside of the community. But, to my point of thinking, he is still thinking in very traditional terms, and a university cannot survive if it doesn't have the benefit, on its policymaking body, of people from outside the city. I don't think that is true. Washington, D.C. is unlike any other city in this country, it is 80 percent black. I know it is 80 percent black because in the census it was 75 percent black, and you have to add 5 percent to that; and I know they don't get in all parts of the community.

Okay. So, in a city which is 80 percent black, and in which the people just don't have a voice in their government at all, I don't think we need an individual from Maryland, or Virginia, or California, or Michigan on our Board of Trustees; these people cannot understand and respond to the problems unique to the city, people who live here do; they are accustomed to representative government, they are accustomed to an informed and well-advised people, they are accustomed to people who are more politically potent. Therefore I really think we should have an elected board with all members from Washington, D.C.

What was the other question you had?

Mr. DELLUMS. May I ask you this, you mentoned in your proposal three students, three persons from the——

Mr. CASSELL. Three alumni, no more distant that 5 years from graduation.

Mr. DELLUMS. And do you see any role of the faculty? The reason I ask that question is that representatives from the Alumni Association of FCC and DCTC both indicated that—no, I'm sorry, strike that.

These are representatives from the faculty from the two instiutions, indicating there should be, in their estimation, three persons who are students; three persons who are members of the alumni community; and three persons who are members of the faculty. Do you have any thoughts about that?

Mr. CASSELL. Well, there was a time when I agreed with faculty and teacher personnel on policymaking bodies. It has been my experience as a member of the Board of Education of Washington, D.C. for 3 or 4 years, I believe now that it is not advisable for a person who is going to be functioning in accordance with policy to participate in making that policy.

It is true that students have a vested interest. The people on the faculty are servants, and they should remain in that particular role. The purpose of the university is to serve students, and therefore they have certain basic rights.

We know also that, unfortunately, alumni bodies generally are very, very conservative people; and I think "conservative" certainly not in the best sense, that is, they tend to be reactionaries, they tend to be wedded to the status quo; and they tend to be overly challenged by the demands and the desires and the changing attitudes of young people.

And therefore I'm not certain that alumni that have been away from the college for a long time, by virtue of the fact that they are college graduates, there is a chance they may have substantial positions in the community and identify with the establishment, which is not necessarily in tune with the college itself. And therefore, that is why I propose they be people that have ben away no longer than 5 years; they have understanding, identification with the reality of the world, being out of college and functioning in the community. But so that they are not so distant and have lost touch with the university.

So, community people, or anybody; but I see no reason why those people should not be elected. If the alumni association wants to elect their people, fine. The students can certainly elect their representatives. The community should elect their representatives. So, what I'm saying, that within the school they elect their representatives; and the community and alumni association doesn't say, we had a meeting and we elected these three people, here they are. Your qualifications are that you must be an alumni no longer than 5 years out; and three of them have to be in that position.

Now, that's not hard and fast. I say in my statement that possibly an elected city council may devise something of that nature, and it may be different. But, I think it will be entirely different from what Dr. Kirkwood said. I don't think the Mayor should have the opportunity to remove people from office. The Mayor, first of all, has no reason to have any interest, or knowledge, or concern about public education. He has a broad scope of activities. And any time he removes somebody I'm sure it may very well be for reasons other than their competency as trustees.

Mr. DELLUMS. The Chair is inclined to agree with you on that. We had testimony on Monday with respect to that specific section of the bill. The previous section of the bill addresses itself to rather serious allegations that it would be a basis for removing a person—section 202, paragraph (a) "Any Trustee shall be automatically suspended from serving as such member after he has been found guilty of a

felony by a court of competent jurisdiction. Upon a final determination of his guilt, the term of such member shall automatically terminate."

It's our opinion that you are absolutely correct. That beyond that, if you place a provision in the bill that would allow the mayor to remove a person, there is only one nonpolitical reason, or quasi nonpolitical reason, that I could even entertain that the Mayor might use, and that would be a person not showing up to meetings, being absent 10 or 15 times, or some extraordinary amount of times.

But even there you rely on the maturity and the simple commitment on the part of the person, they have to face the community if they are derelict in their responsibility.

But beyond that, the only other reason why the Mayor would remove someone is a difference of opinion which would raise a political and philosophical question that I think it should not. And I am inclined to agree with you and certainly will recommend to the subcommittee to strike that paragraph because I think it does make it extremely political.

Mr. CASSELL. Since I am talking about elected bodies, I don't think there should be any provisions for removal, nor because of conviction of a felony. Now a Congressman, I understand, holds his position until he is voted out. Elected officials can easily be convicted of a felony or anything else for reasons other than their guilt. And I think an elected official stays in office until such time as he goes to jail and therefore cannot function until the people elect him.

Mr. DELLUMS. Obviously that point is not always true in a court of law that people are innocent until proven guilty; and even these first three lines, lines 11, 12, and 13, you are suggesting should also be removed, so that it would be only on determination of guilt of a felony that a person would be removed.

Mr. CASSELL. I won't press the point. If a man is elected, and he is found to be guilty and serves his term in jail, he still holds office until the people throw him out.

Mr. DELLUMS. But, how would you handle that, now; is it your testimony——

Mr. CASSELL. If there is a provision for recall, we have a right to do that. But, the people of the District of Columbia decide that. Now, I'm talking about political equity, that's our whole organization. Any of you gentlemen gets convicted and serves a term, he is still in Congress until such time as people vote you out. And it is very possible for people who are in the area of politics to get convicted unfairly, and especially in Washington, D.C., with all the black people who are certainly looked upon with some preposition by the establishment; you've got income tax possibilities, you've got all sorts of ways. And you know very well that it has happened in the past, we have had some problems with people, not considering public officers have these problems. I would not like to see these individuals prevented from running, or holding office simply because of the fortune of a political system in which innocent people can find themselves in jail.

In your State of California you've got a lot of people in jail who don't belong there; and there is a number of blacks in Washington, D.C., there is a good likelihood I myself may find myself in jail

any day; and I would not like to be removed until the people remove me in an election.

Mr. DELLUMS. How would you handle that question if in fact this committee would in fact see fit to go forward with this bill; and, two, that the provision in the bill does not call for an elected body, but an appointed body, whatever the vehicle?

Mr. CASSELL. What is the question, how do I handle it?

Mr. DELLUMS. Is your testimony the same on the question of removal from office if the process is not an elective process, and the committee sees fit to go forward with the bill.

In other words, that we send the bill out to the committee and it says, there shall be a University of the District of Columbia, and that the provision of membership will be an appointed procedure.

Mr. CASSELL. I would like to respond to that, but I can't. If you do, then I'm just going to oppose that in any way I can.

I think you have already set the precedent. You had a Board of Regents proposal, and when you found it was very strongly opposed by the people, apparently you withdrew it. Now, if you are willing to do that in that case, I think you ought to determine it not on the basis of testimony up here, but on the basis of how people feel about it, and withdraw it. You have done it once, you can do it for this one. It's the very same area, in fact, it's the same concept of education.

Mr. DELLUMS. Mr. Hogan?

Mr. HOGAN. I yield to Mrs. Martin.

Mr. DELLUMS. Mrs. Martin?

Mrs. MARTIN. For the record, on Monday the minority counsel introduced the May 14 memorandum from the Joint Committee that did conduct a hearing; and I think the Chair was relevant to the result of those hearings. Those hearings are documented already in the record.

But, I would like to read two paragraphs that are very short because I think it is important that we re-enforce what actually happened.

The second paragraph of the hearings, and this refers to the community hearings that were held in March and April.

"The hearings included testimony from 41 representatives with a constituency of 28,485 persons"—and an analysis of the testimony is attached—I am not certain that that got into the record, and I would like to add that as part of the attachment.

The second part, which attempts to deal with Mr. Cassell's statement, that the committee withdrew the Board of Regents proposal, the second paragraph says:

> That the Committee concluded that with respect to higher education there was overwhelming support for the creation of a single land grant university of the District of Columbia. And herewith the recommendation of the Joint Committee.

Now, I would like to ask Mr. Cassell, how many members do you have in your group, or organization?

Mr. CASSELL. I would be glad to tell you, but I don't think it's relevant to this discussion here.

Our organization started about 3 months ago, prior to referendum on home rule. What we have done—I suppose you have seen our literature—what we have done is to appear on every program prior to the

May 7 referendum, indicating to the people the shortcomings, the weaknesses, the limitations of the Home Rule Act, in order so that they may vote informed for it or not, and know what has to be done after the bill passed; the kinds of demand you would make on your elected City Council, rather than have them sit there in place. It's hard for us to know how many people support us.

We are a dues-paying organization, and we get in our mail at post office box 13125 every day some dues from new people, $1 here, $5 there. I would say that of the people paying dues now there are perhaps 50 people. But the people that correspond with us, the people asking for information, for instance, we had hundreds of calls asking for copies of the home rule bill which you couldn't get before the election, couldn't get anywhere else, and we sent them out to people—it's hard for me to say.

But, in addition to what you have read there regarding the report from the joint committee, you know my testimony about what happened, the questions that were asked of people. Perhaps you can add that in, on April 2.

Mrs. MARTIN. Mr. Chairman, I raise the question because I believe in his testimony Mr. Cassell said he speaks for a substantial number of people.

With respect to the testimony of the hearings, I would simply add my comment that I was present, and that I have read the transcript; and in my reading it was very much different from his testimony in the way the questions were asked.

FEDERALLY CHARTERED UNIVERSITY

The only other question I would like to ask is that in your opening remarks you said that there were disadvantages to having a federally chartered university; I wondered what those disadvantages were.

Mr. CASSELL. The same disadvantages as having a slave master up at the big house tell you how you are going to manage your life. The disadvantages of people who cannot vote for the people who make the decisions for us; the disadvantage we don't influence. Now, I am testifying here and I am getting some reception, but all of it is not that way; and that is because I have no pull on the staff members here, or on the Members of Congress; that is the disadvantage.

Mrs. MARTIN. Is there anything specific that you can cite, that if you have a Federal charter you cannot participate in this, or you cannot participate in that. I was wondering if you have something specific that if you have a Federal charter you cannot, one, two, three, four, five; you are talking more philosophically.

Mr. CASSELL. No, it's not philosophically. In fact, I think it's more important than anything specifically simply because of the fact that once a Federal charter is written, I can't even amend it. I can't go to my City Council that I am going to vote for and say, these are some of the things that we in the community seek, and that the neighborhood council would have an effect on it if it were a Federal charter. The very idea of not having any influence on people who have legislation, on how your tax money shall be spent, and how your university shall be run is repulsive, it's intolerable; and that is more important than anything specific.

And that is what we have been trying to say for a long time, and hope that we will get some receptive ears. Most black people should certainly understand that.

Mrs. MARTIN. I have no further questions.

Mr. DELLUMS. Mr. Hogan?

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. Cassell, so that there is no misunderstanding in the record, I want to indicate that as far as this staff member is concerned, I would be willing at any time to listen to the views of anyone in the community. I certainly have tried to do that in the past, and I will try to do it in the future as it relates to any individual or group in the community.

But sometimes the members as well as the staff are very much influenced, I would say in the majority of the cases, by that kind of thing.

The chairman earlier on in the hearing here indicated that he had concerns about this particular piece of legislation, as to whether or not the committee should move on this or await action by the newly elected Mayor and City Council. I relayed at that time to him concerns expressed to me by members of the minority on many of these questions that the newly elected Mayor and the City Council could move on themselves within a period of 4 to 5 months.

So, I want to assure you that this is not a matter that the members of the minority, at least, have taken the position on that they are going to move ahead without obtaining the views of the community, both pro and con. I think the newspapers indicated the other day that there was no dissenting voice in the community that relates to this matter, but you are telling us otherwise. I think that is very important, and certainly a matter which the minority members of the committee will take into consideration, as I am sure the chairman will also.

Mr. CASSELL. Could I interrupt you to simply say, you are aware, as the chairman said, there are not many people who even know this is in the headlines. So, it is difficult for a large number of people to have an opinion on it.

Those of us who were fortunate enough to have been informed by somebody that there were hearings could form an opinion.

Mr. HOGAN. Yes, I am concerned, and I think the chairman very graciously addressed this issue earlier with witnesses on Friday, indicating that he explained to them earlier that he had to move on this thing, he had a time schedule. And he did in fact apologize to some of the witnesses, saying that he was sorry they were notified at such a late date. But that doesn't mean, as I think he suggested here, that people such as your organization, and other people that are represented here will not be able to express fully their views if they are in opposition to this particular piece of legislation.

I understand that Mr. Wigglesworth, who was scheduled to testify earlier, may be opposed to this bill, and he represents the Alumni Association of the Washington Technical Institute. Whether he is opposed or not I don't know, for he is not here.

Turning to some of these provisions in this bill, you mentioned the charter, land-grant charter. You know we are looking into the issue of whether D.C. Teachers College should be merged, absorbed, or otherwise consolidated with the Federal City College.

But, if that were to take place as proposed by the Board of Higher Education, there would then be two institutions of higher education in the District of Columbia which would be basically Washington Technical Institute and Federal City College. Now, both of those colleges presently are federally chartered land-grant institutions; that's in the code right now.

So, I don't really give a great deal of weight to the argument that there is a particular need to have a single institution named as Federal land-grant institutions, because we now have two, and they share funds and from all indications it's working quite well.

Quite frankly, the ranking minority member of this committee is the one who initiated the legislation providing for the District of Columbia to become a land-grant entity just as States are, so that they would be able to share in these funds; and he was instrumental in having both colleges, both institutions named as recipients.

And my recollection of the testimony of Dr. Denard is the fact that you indicated in your testimony, that if the local council decided to move on the creation of a District of Columbia University at a later date, they could come up here as you suggested and ask that the university become a District of Columbia chartered institution, just as the Washington Technical Institute and the Federal City College are now.

But of some concern to me, and I introduced this memorandum into the record as Mrs. Martin has indicated, is the fact that if I understand your testimony correctly now, you are questioning much of what goes into this memorandum to the chairman of this committee. I think your question is perhaps, as Mrs. Martin pointed out, whether or not there is this total of 41 representatives of constituents of 28,000, whether they all favor the University of the District of Columbia at this time. Is that in fact what you are challenging?

Mrs. MARTIN. Would the gentleman yield? The memorandum does not say "all."

Mr. HOGAN. I'm sorry, I didn't mean to assume "all." I am saying that the hearing included testimony of 41 representatives with constituents—is it your testimony that a majority of those wouldn't support a University of the District of Columbia?

Mr. CASSELL. What I said, federally chartered, resulting from a bill from the U.S. Congress. It's pretty much like this particular hearing. I came here for the purpose of testifying on the university. If in the course of this hearing another issue came up regarding some other aspect of education and you asked me how do I feel about that—and that happened to every witness—and after the hearings I should see a press release that said that everybody favored this particular issue.

What I'm saying, there had been no proposal, there was nothing written; there was nothing for people to react to, but simply the question, do you have anything against it. The question was not phrased—and you may correct me if I'm wrong—the question did not say, "Do you favor a federally chartered public university" at the hearing at which I appeared; that was not the question that was asked of me because I would have reacted very strongly to it.

Mrs. MARTIN. If the gentleman would yield.

The document that you testified on has a title III board of trustees, and is about eight pages, I believe; and is very similar in some respects to the document that we are discussing now, H.R. 15643. So that there was something for people to read. Much of the written testimony in those hearings, and I have read the transcript, and I listened to the people testifying, took the two pieces and separated them. Talked about the Board of Regents on the one hand, and the Board of Trustees on the other hand.

So, with respect to whether there was anything in front of the people that were testifying, I think the document speaks for itself in terms of the Board of Trustees, and what is called for. I think it just depends very much on your reading of the testimony of those community hearings, how you interpret the responses.

It's an awfully big document, but I think it would be helpful; and if the chairman thinks it would be helpful, I think it should be included in the record.

Mr. DELLUMS. Without objection, it will be included in the record.

[The documents referred to were not received in time to be included in the record.]

Mr. HOGAN. Well, then, the statement of the committee forwarded under date of May 14th, as you say, based on your testimony here, may be subject to a couple of different interpretations, and the committee concluded that with respect to higher education there was overwhelming support for the creation of a single land grant university for the District of Columbia, and herewith the recommendation of the Joint Committee.

Now, it's true that statement doesn't say that they want the committee to act, or Congress to act; it just says that it was the overwhelming support of the testimony.

Now, you are saying there was overwhelming support for the concept of the District of Columbia University, but the additional statement was made that should the Congress act, the overwhelming support of that kind of recommendation would be lacking. Is that your testimony?

Mr. CASSELL. I think the term "overwhelming support" is perhaps not the term to use. When you have overwhelming support, that is when people come prepared to testify and give a reason why they support it; for instance if people came because they wanted to testify on that section of the bill and gave testimony, the advantages, and urged that sort of thing. Then it seems to me you could say there was overwhelming support.

Now, I never saw anything in the news releases, I never saw anything whatsoever about the public university for Washington, D.C.; I recall reading because I was looking for the report on people who spoke the day I was there, and about people's reaction to the Board of Regents. Therefore, I would assume, from what I heard myself, I assume that people came to testify about that.

And then Mrs. Martin called to my attention that there was a section on that, and I would have to say that I have forgotten that there was, I really don't remember that it was that extensive.

Mrs. MARTIN. Half of the bill.

Mr. CASSELL. But the fact of the matter is, there was very little discussion on that, and that discussion followed the objection to the Congress mandating an appointed Board of Regents.

I have stated also that the reason the people opposed the Board of Regents was because they thought it was an improper thing for the Congress to do. Second, because they did not believe there should be any appointed board that superseded the authority of the board that the people elected, which was fairly easy to understand.

And I would say that these same arguments would apply to this, especially now, that we are so much closer to our own government.

Mr. HOGAN. Now, is it your opinion, then, that when people such as you are objecting to the Board of Regents concept, you thought that embraced everything that was in the draft before the Joint Committee?

Mr. CASSELL. Well, I made it very clear that I objected to Congress taking action on anything which was the proper prerogative of the elected government. In fact, I did not pay attention in that legislation to the public university, all of it was of a piece to me; and the idea of Congress taking action in several areas is repugnant to me.

Mr. HOGAN. Now, it is my recollection that the chair-person of the Board of Higher Education testified in response to my question that it was her personal preference that the District would adopt the recommendation of the Nelsen Commission, for a Commission on Higher Education, as opposed to a University of the District of Columbia; but since the others seemed to favor the idea of the University of the District of Columbia, she went along with it.

Mrs. MARTIN. If counsel would yield.

There is no such indication in Mrs. Pinket's testimony to that effect. She said that she disagreed with some of the provisions on the bill that were set up here by this committee, but she did not refer to the Nelsen Commission recommendation as something she favored over what this Joint Committee set up here. And I am sure that the transcript will bear me out.

Mr. HOGAN. Well, let us save space in here to insert her testimony, and that will reflect what her testimony is. It is certainly not my intention to misconstrue her testimony, but that is to the best of my recollecion.

But she indicated, again, that the Joint Committee did not consider the Nelsen Commission recommendation as related to higher education, and they only considered the Regency bill. You were there during her testimony. Was there any discussion of the Commission on Higher Education?

Mr. CASSELL. Not while I was there. Regarding the Nelsen Commission, my feeling about that was the same, and that is that Commission was designed to make more efficient a government that was appointed by the President; and that would infringe and move further away from representative government.

So, I really didn't pay much attention to the recommendations of the Nelsen Commission. I thought that we should wait until we have our representative government, and then let that government decide.

D.C. COMMISSION ON HIGHER EDUCATION

Mr. HOGAN. Now, are you aware that there will be very shortly a commission on higher education established in the District of Columbia? I was unaware that they had moved along on this type of commission, but the testimony on Friday was to the effect that a commis-

sion such as this would be established very soon, in line with the Higher Education Amendments of 1965, the Public Education Act as amended in 1972.

Mr. CASSELL. I had not heard about that. Is this to be appointed by somebody?

Mr. HOGAN. Members of the committee will be appointed, as I understand it, whenever that Executive Order is released to establish the commission, and they will have a substantial amount of planning authority as it relates to higher education in the District of Columbia; and they will have the broadest kind of authority as it relates to comprehensive planning.

Mr. CASSELL. You know my views on that.

Mrs. MARTIN. I think the gentleman is referring to the 1202 Commission, a mandate by the 1972 amendment, initially there wasn't any money——

Now, there will be appointments, and it will be relatively quick, and they will come from the consortium of universities, they will be representatives of institutions of higher education, and the Mayor will not have authority to appoint people, nor will anybody. They will be representatives of learning institutions, and they will be concerned only with respect to Federal funds.

Mr. CASSELL. There would have to be a relationship between that group and this Board of Trustees established, then.

Mrs. MARTIN. Well, it's not just in the District, 1202 Commissions will be established throughout the country, in all 50 States.

Mr. DELLUMS. May I ask for the record, the reason you made this point, Mrs. Martin, the Commission will not have the authority to establish a land grant university.

Mrs. MARTIN. That's right.

Mr. HOGAN. No, they would not have the authority to do that. However, they do have comprehensive planning authority, Mr. Chairman, statewide and in the District of Columbia, to plan for expansion and improvement of secondary education in community colleges; planning for occupational education; planning for improvement of postsecondary education; grants for establishing and expansion of community colleges; grants for occupational education; grants for community services and continuing education; grants for equipment for undergraduate instruction, present and future; and emergency assistance to institutions of higher education and particularly planning agencies and commissions, which will be established by the Commission in the District of Columbia. It is the broadest kind of State Planning Commission, since it addresses itself not only to the Higher Education Act of 1965, but also addresses itself to title I, title VI and title VII of those provisions.

So, this is fairly broad as a comprehensive planning organization, and I just wondered if you were aware of its establishment and prospectively the appointment of its members.

Mr. CASSELL. No, I was not aware of its establishment. It raises the question in my mind about a conflict between their authority and that of the Trustees, and the Board of Higher Education as it exists now, the elected public board, and the City Council itself.

Our Board of Education in Washington, D.C., now does serve as a State Board of Education as well as a local Board of Education. And

some of the planning activities you describe there are those of the State Board of Education. It seems to me, not being knowledgeable about it, there may be a conflict.

I don't know, I'm not able to comment on that. I don't know whether there is any relationship between your question and this particular bill.

Mr. HOGAN. Now, let me ask you a question. There was some testimony here that you tried to reach the members of the Joint Committee to determine what their positions were on this matter; is that correct?

Mr. CASSELL. I said that I tried to reach them?

Mr. HOGAN. I thought you said you tried to reach the members of the committee.

Mr. CASSELL. I know what their opinion was. The Joint Committee, in my view was strongly in favor of the Board of Regents proposal, and apparently in favor of the public university. That was rather clear from the way that the meeting was chaired.

Mr. HOGAN. Now, the Joint Committee, with respect to the regency concept, again made the statement that in view of the diversity of opinions expressed at the hearing as to elementary and secondary education, the Joint Committee recommended that the soon to be elected City Council be provided the opportunity to review in depth the issues that were delineated in the draft. The highlights of the hearing would be subject to review by the City Council, completed and acted upon by January 2, 1976, in the appropriate report from the Committee on the District of Columbia as a whole.

Mr. CASSELL. I agree with that.

Mr. HOGAN. You agree with that. I gather that you would embrace the entire concept of a university of the District of Columbia, as well as the aspects of the regency.

Mr. CASSELL. I can't comment on a specific thing. The university is a specific thing. The new government may very well decide on a list of priorities, and the university may be No. 1, or it may be No. 10. The only reason it is an issue is because it comes from this committee.

This committee is generally concerned for more effective organization of education in Washington, D.C.; and I don't see that it stands ready to give strong support to whatever comes out of the District of Columbia elected City Council, and the Mayor. It seems to me, in the colonial status that we have now, and the colonial status that we will have with Home Rule, and eventual statehood, that this committee can act as kind of a bulwark to transmit and explain to the U.S. Congress the reason, the rationale of the decisions made by the D.C. Government, and try to support it where it deserves support; and give the same kind of energy, the same kind of determination that I sense here to support, rather than sit in judgment on the elected City Council and Mayor, then I think we will be better off. And, I am looking forward to that, I hope that we will find that kind of support, whether you agree or not, in the same way as I imagine in your own district, you don't argue with the local city council, what your mayor does, and so forth. I mean, there is some sort of rapport because of the reality of the strength of the election; and I will hope that you will just pretend we have that authority, that we have the power that you would identify with, rather than to judge the City

Council's actions, and support it before this committee, as you are supporting some things now coming from Congress, and not from us.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. DELLUMS. Thank you very much. I would simply say, Mr. Cassell, as I indicated, we have asked counsel to deal with the legal question of merger. It seems to me that could be handled—it seems to me that would open up other possibilities, and we have not been able to see that memorandum as yet.

I would also say that I appreciate your testimony, obviously we are more than pleased to hear your point of view, and we will take it very carefully into consideration at the time there is a markup, which the Chair will hold in public session; the points that you made will be raised, either by the Chair, or by vote.

I certainly choose not to function as an arm-twisting chairperson; everybody on our committee has the right to act in their own fashion because I think that is what this is all about. And the committee will, in its wisdom, make decisions, and the full committee will, in turn, do the same thing.

We appreciate your testimony, and I might just add that today three additional persons called the office, seeking the opportunity to testify, and we included those three persons on our witness list; and we will try to be as open as possible.

If you are in contact over the next several days with other persons who wish to testify, they could reduce their testimony to writing, the Chair will leave the record open for them to include their remarks in the form of a report on the hearing and procedures of the subcommittee. At this point I don't know of any other way to do it, and I am sure people will be able to articulate on a piece of paper their testimony; and we will include that in the record. So, be more than free to direct other testimony in to us because we will keep the record open for several days to give the opportunity to persons who either because of employment, or what have you, were not able to come before us, or they were not aware of it. And the people that will be made aware of it will certainly have an opportunity to have their points of view expressed and brought before this body in written fashion.

Mr. CASSELL. Could I make a very brief closing remark. I sensed throughout the discussion of the bill that is before us, the question is, what form it shall take.

Mr. DELLUMS. Well, I think you raised another question.

Mr. CASSELL. Yes.

Mr. DELLUMS. And should the bill go out, that is also another question, and that is a legitimate question. You raised it, and I think the issue ought to be discussed.

And so, it is not simply a question of what form should the bill come in, you raised a very basic question that we raised initially, and that is, should we act on the bill.

Mr. CASSELL. Right.

Mr. DELLUMS. And the second question is, what is the form of the bill. Everyone else who has testified before us said, yes, you should act, and the rest of the testimony was on the question of what should be the form of the legislation. But those are two questions, and they are both appropriate questions, and they will be dealt with.

Mr. CASSELL. Very good, thank you.

Mr. DELLUMS. Thank you very much, we appreciate your time, and we appreciate your continued concern and interest.

Mr. HOGAN. Mr. Chairman, I certainly know that the bill hasn't, since June, hasn't been available to the public too long. I am sure Mrs. Martin upon request, made it available and mailed it out to anyone who called and requested a copy.

Mr. DELLUMS. Yes, we appreciate that. Mr. Cassell, I don't know if you got the point that counsel was making, that we are obviously aware the bill is dated June 22, or 23——

Mr. HOGAN. The 26th.

Mr. DELLUMS. The 26th, I'm sorry, that there was not ample opportunity for people to get a copy of the bill. Counsel, both on the majority and minority side, will make themselves available to mail out copies of the bill, or if you want to come in and get copies of the bill, they will make them available to you, so that people could address themselves specifically to the legislation, and comment both on the question of should we act, as well as the question of what form the bill should take if we do act.

Mr. CASSELL. Fine, I will come and get some.

Mr. DELLUMS. The Chair would like to know if Mr. Wigglesworth is present?

Our next witness then will be Dr. Bernice Wedum, former member School Health Committee, American Academy of Pediatrics.

STATEMENT OF DR. BERNICE WEDUM

Dr. WEDUM. Thank you, Mr. Chairman.

Mr. DELLUMS. Dr. Wedum, we welcome you and appreciate that you come before us. You may proceed in any fashion you wish.

Dr. WEDUM. Thank you, Mr. Chairman.

I am Dr. Bernice Wedum, a pediatrician, doing research on the cause of rheumantic fever at the National Institutes of Health, and also working part-time in the schools of the District of Columbia, and as a medical consultant at the District of Columbia Teachers College.

I serve as a member of the School Health Committee, and the first point I want to address myself to, the effect of the manner in which this university is organized on the schoolchildren of the District of Columbia.

In my 7 years of working as a physician in the schools, there is no problem that I have not seen; the grave problem of small children with venereal disease; the heroin addict in the junior high schools; children bearing the marks of the ironing board cord.

Yet, the commonest of all serious problems is the emotionally disturbed child, disruptive, unable to learn, withdrawn, getting nowhere. A battery of psychological tests are done—appointments are made and broken at mental health faciilties—nothing is accomplished. And again and again it all shakes down to establishing a one to one relationship between that child and some teacher, or counselor.

These teachers must, in addition to all their other responsibilities act as surrogate parents and amateur psychiatrists and to fully train them is a tremendous task.

I have noted some discussion about equalization of cost of student training, stating that it costs more to train a science student than a teacher. The ratio of this needs to be exactly reversed, we should be

spending more to train teachers. Nothing should have a greater priority in the District than quality teacher training. And one of the reasons I came to the Teachers College was because I saw a golden opportunity to provide student teachers with some extremely sophisticated medical and psychiatric insights in seminar sessions.

Consolidating Federal City College and D.C. Teachers College

It was with some amazement, therefore, when I learned of the plan to merge the only Teachers College in the District into the Federal City College. I contacted several principals and encountered reactions of dismay and consternation. I talked with the President of the Council of School Officers, the President of the Local Elementary School Principals, and the reaction was uniformly one of concern and opposition.

I contacted Congressman Natcher's office for relevant hearings, thinking that perhaps unknown to me community groups had appeared, favoring this merger, and found no input from the community at all; merely the statement of one person with a background in real estate. I found that it was not just merger that was contemplated, but the college was to lose its name and in effect be abolished.

My concern deepened as I began to hear about the manner in which this action was being implemented. Committees were being formed, reaching into the lower ranks of faculty and bypassing official faculty representatives; reports were being submitted and presented as consensus of both institutions, but which were in fact only opinions of city college personnel. A timetable of 60 days was set.

I then had the following experience. Someone came into my college health suite without any prior notification to me and held a 2-hour conference with the nursing and clerical staff about the merger plans for health services. The plans were prepared without any consultation with me whatsoever.

I have given the siuation a great deal of thought, and I want to make the following observation.

The teachers college should come into the university with a strong, full, equal voice of its own, for the sake of the schoolchildren of the District. And I talked with William Curtis directly, and I asked him if I could quote him directly, he is the president of all elementary schoolteachers, of their association here in the District; and he said, and I quote, "It should exist as a teachers college within the university, not as a department of education."

Now, this percipitous merger, or takeover, which is what it really is, it preempts a responsibility—this is not the activity of a civilized institution of higher learning; this activity preempts the responsibility which is now the intent of Congress, to delegate to the Board of Trustees of the University of the District of Columbia, it is very possible that the future board of the university will disagree completely with the results of procedures at present in operation, and wish to undo what this group, about to go out of existence, has done.

AMENDMENTS PROPOSED

In conclusion, it is my belief that the lesson learned from this unhappy situation should be incorporated into this bill. On page 17, after

line 3 I suggest that the following sentence be inserted. "This Board may not abolish the University of the District of Columbia, or merge it with another institution without full public hearings and the consent of the majority of the City Council."

Finally, in order to launch the new university on a fresh auspicious start, and wipe the slate clean, I suggest another change in the legislation, on page 5 on line 19 the following sentence be inserted: "Members of existing boards shall be excluded from serving as trustees for a period of 1 year."

I am going over the legalities of the situation with two attorneys from the American Medical Association, and will be glad to communicate to you, Mr. Dellums, any information I will obtain.

Mr. DELLUMS. We would appreciate that.

Dr. WEDUM. And let me also thank you as a physician on your own action in the health law project Pennsylvania versus Health, Education, and Welfare.

Mr. DELLUMS. Thank you.

Dr. WEDUM. Now, that is my prepared statement.

I would like to comment to Mr. Cassell's testimony. First, as a comment, I happen to have been a faculty member on a medical school, and I can assure you, I was not a servant. And I want to relay that vigorously on behalf of all faculty members. Some of the finest people we have in this country are found on faculties; they are a great force, as far as the country is concerned.

COUNCIL AUTHORITY

I also want to state that this last amendment that I made to this bill was drawn up after very carefully reading his testimony. I think he has a point, a big point; and realistically it seems to me that this bill is going to occur. I think it is important to sweep away as much of the existing power structure as possible, and give the elected representatives of these people every possible opportunity to act on this bill. I know there is such a section at the end of the bill, and it seems to me it is quite sweeping, on page 18 it says:

> Notwithstanding any other provision of law, or any rule of law, nothing in this act shall be construed as limiting the authority of the District of Columbia Council to enact any act or resolution, after January 2, 1975, pursuant to the District of Columbia Self-Government and Governmental Reorganization Act with respect to any matter covered by this act.

That seems to me to be quite sweeping, and I assume that the intent was to give as much power as possible, and have Congress minimally involved in the establishment of the university.

With respect to the community opinion, I am concerned with that, too, and every principal and official that I called, I did ask about the concept of the university. And I do want to report to you that I got universal support on that point, but this is a very limited thing; most people are on vacation, they can't be contacted now, and it's impossible now to really get to a representative community.

BOARD OF TRUSTEES

Another point Mr. Cassell made was about trustee members being no more than 5 years away from graduation from their institution—am I correct, Mr. Cassell, on this?

Mr. CASSELL. Yes.

Dr. WEDUM. My background is in research, and I personally would feel—I would hesitate in drawing up such legislation, trying to figure out how to formulate and set up a board of trustees—and I went into this thing very deeply, and I put a lot of thinking into that subject.

I have a son who is a cum laude graduate of Harvard College, he's been out for 3 years, and I'm not sure—and he is a solid person—but I'm not sure whether he would qualify to be a trustee of the university, and I would personally not consider myself qualified to be a trustee of the university.

I think this is a thing that requires an enormous amount of thought, and I am sure many Ph. D. theses have been written about this subject and are available at the Library of Congress. I am sure that student recommendations have been thoroughly researched. I couldn't answer any questions regarding that, but I think they are in existence, if you look for it.

I think that is all I want to say, Congressman Dellums; do you have any questions?

Mr. DELLUMS. First let me thank you very much for your presentation.

Off the record.

[Discussion off the record.]

Mr. DELLUMS. Back on the record.

As I understand your testimony you are saying, one, from your own cursory approach to this, that those persons you talked to, they support the idea, the concept of the University of the District of Columbia.

Dr. WEDUM. Yes.

Mr. DELLUMS. The question comes in whether we should, or should not act now as Members of Congress; or allow this to take place by the local community after January, when the City Council comes in, to do it themselves.

Dr. WEDUM. Right.

Mr. DELLUMS. As I said earlier, I raised the very same question, prior to the time that this bill was referred to us. Once the bill is referred to you, you have a job to do. The bill has been referred to us, and it is our job to hold hearings and attempt some kind of a markup, and make recommendations on that bill to the full committee.

But I would agree with you that is a legitimate question, whether we should act. Now, in section 406 that you related to in your testimony is a sweeping paragraph, and what that paragraph attempts to do is say, whatever we as Members of Congress do with respect to that legislation, the local community can undo, if it chooses, modify it, change it, et cetera.

Dr. WEDUM. Precisely.

Mr. DELLUMS. And I imagine that raises the question of whether we ought to do it in the first place if as of January 2, 1975, the people can knock it out, or change it as they choose.

That is a question that I think the committee very seriously has to deal with, and we appreciate your testimony as well as the testimony of Mr. Cassell on this matter.

Now, with respect to the nation of faculty representation on the board of trustees, you are not saying that they should be there, or they shouldn't be there; you are simply saying on the question of

representation, that faculty should not be simply stricken out because they are employed by the university.

Dr. WEDUM. Absolutely not.

Mr. DELLUMS. And the question of student participation and faculty participation, or for that matter the total composition of a board of trustees is a matter that many people have written about, and we can act on these provisions.

Dr. WEDUM. Right.

Mr. DELLUMS. Or at least provide broad enough frames that no person charged with responsibility could have maximum responsibility there.

Dr. WEDUM. Yes.

Mr. DELLUMS. Do you have any thoughts about appointment versus elective board of trustees, by virtue of your own experience, having been involved with universities. Do you think that one, as opposed to the other, could make it more political, or less political?

See, the point for me is that in California we happen to have, by way of the people, Governor Reagan. We have a university board of regents which is appointed by the university, and it's very political. We have a board of trustees of the State university system, and that is also very political. And our junior college system throughout the State, we have local junior college systems where people are elected to the board, and they are political.

So, I don't know the answer to how you "de-politicize" boards that operate in the public. But, do you have any ideas, any thoughts on the question of whether the board of trustees ought to be appointed, as opposed to elected, or vice versa?

Dr. WEDUM. Let me say that I feel very seriously interested because my own daughter was arrested as a participant in a free speech movement in the University of California at Berkeley; and therefore I know quite well what these problems are.

I honestly do not feel that I have the expertise to reply to that. Before I would answer that question I would research it thoroughly, as I did the subject of marihuana when my kids were interested in smoking it. I went back and read everything on it, and it is very easy to get that information.

I would want to find out what the experiences have been with other universities. I think that is a very important question. I think you are setting up there something almost equivalent to a minor Constitution of the United States, and you are going to have to think about where you are going to put the power.

But, I honestly don't have enough experience to answer that, but I would surely look into it if you are interested in having it.

Mr. DELLUMS. Well, we appreciate that. One of our obvious problems is that we may be up against a rather short time frame.

Dr. WEDUM. Right, I understand that.

Mr. DELLUMS. So, if you have any thoughts——

Dr. WEDUM. I will convey it to you as quickly as possible, right.

Mr. DELLUMS. As you know, the bill calls for one student, and as I am from Berkeley I am very much aware of the free speech movement, and what the principles of that and the politics on that were.

As I was saying on Monday, there have been many confrontations between students, and administrations, and policymaking boards on

the question of this right to participate in the decisionmaking, this policymaking, not only to the students but to the blacks, women, senior citizens, the victims in our society.

The bill calls for one student. The first question, do you agree that students should be represented on the Board of Trustees; or do you feel that you are not prepared to make that statement, I can understand that.

And if you feel that student participation should be at the Trustee level, do you think that one student is sufficient?

Dr. WEDUM. No. 1, I can certainly agree that students should be represented, absolutely.

The question of whether it should be one, or three, is another matter. I don't really know the answer to that. But, as I say, I am certain that somebody has gone into that and looked into how much they participated.

Just off the top of my head I would say that the fact is, they have the right to be there, is perhaps the important thing. Now, they may not take advantage of it, but the fact that they have that right to be there, and have a real voice in what the Board of Trustees decides.

I think that is very important. That is just sort of a sense of equity as it comes off the top of my head.

MERGER OF LOCAL INSTITUTIONS

Mr. DELLUMS. Let me go back to the thurst of the first part of your testimony that deals with the question of the merger. We have heard a great deal of testimony yesterday, and both you and Mr. Cassell have raised that serious question around the issue of merger. Are you aware that we have requested counsel to render an opinion on the question of whether or not Congress mandated, the question of intent of Congress; or whether or not the Board of Higher Education acted on its own. We will have that opinion before us prior to the time of any consideration whether in effect we should deal with the bill, and if we decide to do it, then what form it should take.

Can you render any opinion, or do you have any thoughts on whether it would make any sense, if the opinion is that it was not mandated, and Congress made an effort to try to stop, if it could—I don't know if it can or not—to stop the merger. Do you think that approach, the university approach would be a better way to handle that question, as opposed to the present approach of merging both schools to what some people have testified to as the detriment of the D.C. Teachers College?

Dr. WEDUM. Oh, absolutely, I would say 100 percent yes to that, it would be the far better approach. I certainly feel that the three institutions should enter that university as equals, as partners, and not one as an appendix of the other.

That is a pretty humiliating thing for a 100-year-old university or college to be stuck in that position, stuck under a 6-year-old institution. And then, there is another issue there, too. President Russell who has just taken over Federal City College has all he can do in getting Federal City College together. I don't know whether you are familiar with the story of Charles Johnson or not, "The Death of a College

President," and it goes into the tremendous pressures that finally caused this man to buckle under, and actually it was during the turbulent 1960's.

But nevertheless, you have a man coming in here from a relatively small school—and I have looked into his background—and you not only hand him a college that has just been accredited, but you hand him a situation which, as you yourself are well aware, is fraught with emotion, and now he has this handed to him; that is the last thing in the world he needs at this time.

Mr. DELLUMS. Thank you very much. Mr. Hogan?

Mr. HOGAN. Thank you, Mr. Chairman.

Dr. Wedum, you are on the staff of D.C. Teachers College?

Dr. WEDUM. I am a consultant there, I go in there 2 hours a week. I was asked to come over—to be frank, it was supposed to be a very temporary arrangement, they had difficulty getting a doctor; and then they asked me to write a report how to set up their health service, so I did this for them, too. And I was more or less in the process of trying to help them get a doctor.

Mr. HOGAN. I'm familiar with that book you referred to from Dr. Johnson. I did not read the book, but I did read the review of the book some years ago, when it came out. And that raises the question—yesterday we heard testimony from the District of Columbia on the merger of the Redevelopment Land Agency and the National Capital Housing Authority in the District of Columbia. McKinney & Co. did a study for the District and suggested that rather than immediately throw the two entities ino a department of community housing and development, they in effect put in a coordinating office to look at how they can best be put together before they actually establish the Department of Housing and Community Development, which they indicated they clearly intend to do, probably after home rule takes effect.

Now, Federal City College has just had an accreditation examination, and I understand reports will be forthcoming, and there will be a number of things they will have to do, or that Dr. Russell will have to do.

I was just wondering whether review of the issues facing Federal City College, the question of whether D.C. Teachers College should be merged into Federal City College with a building program getting off the ground as it relates to Washington Technical Institute, whether this is a particularly good time to lay on top of all that a bill that calls for the establishment of a University of the District of Columbia.

Dr. WEDUM. I think so, in view of the timetable. This apparently, as I recall, is to come about in the spring of this year, March or April, as I remember; and they have a year to effect this consolidation. Now, I think that is fairly reasonable, that is almost 2 years before they finally have to consolidate the three institutions.

Mr. HOGAN. And during this period, you understand, they could undo everything if the Congress mandates this bill.

Dr. WEDUM. That is true.

Mr. HOGAN. It makes you wonder whether Congress is taking on some fruitless task here.

Dr. WEDUM. Well, on that score, I do favor this thing, even in spite of the very relevant issues that Mr. Cassell brought up, which are very important. Nevertheless, I do favor it because of the time involved.

If it's not done now, I think it will be 2 or 3 years before it happens. And if it is the will of the community to be done, and I suspect that it is, then I think we probably can afford not to be too strict as far as the principles of self-representation are concerned, and simply set the thing up.

So, as I said, it is distinctly possible that the present power structure of the District of Columbia can mold it, that is the elected council can mold it to suit themselves. Does that answer your question?

Mr. HOGAN. Yes; but you do agree that this bill does set a priority, as it were, for the local government. In other words, what the Congress is doing here is setting a priority, in effect, for the elected government which has yet to take office, as Mr. Cassell said.

Dr. WEDUM. Oh, there is no question about that. I think, however, in this particular situation it is the thing to do. I think this committee is trying very hard, Congress is trying very hard to do it in a way that would entail the least amount of squall from the elected government.

Mr. HOGAN. Now, you indicated that realistically you seem to be taking the position that the commitee would properly move on this. Is that based on your own judgment, or do you think that this committee will arbitrarily do something that——

Dr. WEDUM. No, that is based on what I heard on Monday, and what I read in the—well, I have seen this document that was referred to, in which testimony was taken, the combined committee. And the support there was really quite overwhelming; and I think the support here last Monday was really quite overwhelming. I expected some of the people to testify against it, and they didn't at all.

Mr. HOGAN. Well, if we hear opposing testimony today, then your opinion on whether or not they should go ahead may change.

In other words, if some of the remaining witnesses were to say that they represent groups from the community that would rather wait and have the local elected government take this matter up——

Dr. WEDUM. That would influence me, certainly.

Mr. HOGAN. That would influence you?

Dr. WEDUM. Oh, yes; I believe in democratic governments. I just think talking, as I have done, with the principals and school officers, there was quite a feeling, from what they said to me it seemed to them to be an inevitable thing to be an inevitable thing to occur. I got no opposition to it whatsoever. I would have thought at least one person would say it was very bed.

I had not realized the business of that document you referred to a moment ago of the 28,000; I didn't follow that up.

Mr. HOGAN. Did you get the impression that the issue of whether there should be a University of the District of Columbia, or whether the Congress should establish the university—how was that presented in that joint committee hearing?

Dr. WEDUM. I have not read it that closely, to tell you the truth. I looked at the summation on it, and the comments at the end; but I did not examine the title.

Mr. HOGAN. So, you can't relate the testimony on the issue presented in the joint committee, of whether or not there should be a university, not whether or not the Congress should establish the university.

Dr. WEDUM. Well, I really can't answer that. One point I do want to make, if you ask the people if they want a federally chartered university, I am sure that at least 99 percent of the people you ask this question won't know what you are talking about, and I'm one of them.

Mr. HOGAN. Thank you very much, Doctor.

Mr. DELLUMS. Mr. Clair?

Mr. CLAIR. Supposing this bill was passed in the present form with a Board of Trustees, and there was going to be a university, do you have a conception of the relationship between the three institutions, or that is just now, technically, two just now, how they should relate to each other?

In other words, would we be talking about Campus A, B, and C within the university; what would be the administrative relationship between the existing institutions?

Dr. WEDUM. I honestly do not have enough information, and I have not given thought to that thing. I have only been in this thing for about a month, but I can assure you, my one concern is that the three institutions come in as equals. Now, as far as they should be handled after they get in, I haven't given that any thought, Mr. Clair.

Mr. CLAIR. But you would want to see in some fashion the D.C. Teachers remain as an institution within the university as opposed to merging.

Dr. WEDUM. What I'm saying is that whenever the consolidation occurs, they should all three come in as themselves. Now, what happens after that is another matter. I had quite a conversation with Dr. Denard about that when I was talking with him, protesting about the way the D.C. Teachers College was treated. I know he had some idea about how the departments should be set up. Again, this is a field in which I have no expertise at all.

I am very, very firm and clear about the fact that they should go into it with their own identity, they are still separate institutions: the District of Columbia Teachers College and the Federal City College are still two institutions.

Mr. DELLUMS. Thank you very much, Dr. Wedum, we appreciate your testimony, and we appreciate your taking time out to come before us and share your views with us.

I might just say, as I indicated, at the time we mark up the bill, this bill will be marked up in public. The first question the Chair would raise with the members is the question dealing with the issues of timing of the legislation, and the source of the legislation, which are obviously issues of controversy.

I agree with you that I think there is general and overwhelming support for the concept of a University of the District of Columbia, I think for many reasons; one reason being a very practical reason, and that is to avert the kind of thing that happened a few months ago when this committee was ripped apart by the question of who gets the $2 million. I remember that was a very serious question. So that no arbitrary decision about budgeting occurs, that at the university level the resources are deployed on the basis of need, and on the basis of equity and a sense of justice.

So, I think that people would tend to agree that there is a need for a University of the District of Columbia, and I think that is of great

value to the young people of the community and the not so young people in the community who are attempting to receive an education.

I think where there is concern is the timing of this, should it happen now. I would imagine many people would say it should happen as rapidly as possible. But there again is a third consideration, and that is the source of the legislation, should it come from the U.S. Congress, or should it come from the local residents; and the Chair is in conflict on this point by virtue of the fact that we are now engaged in the process of hearings on the bill.

Our initial response was, I'm not sure this is something the District ought to do. And my first question was, why are we doing it. It is a question of timing in there, is there such an urgency that we must move; or are there other factors that particularly need for the Congress to do it.

One rationale was, yes, it is necessary to do it as quickly as possible so that we mitigate against the possibility of arbitrary fiscal decisions that have been made that harm one school as opposed to the other.

The second was that the Federal charter would be rather prestigious.

The third was, well since the Congress established two land grant colleges that are involved, the Congress ought to establish a land grant university, therefore we ought to move on this bill.

And another thought was that we ought to move expeditiously by virtue of the fact that Congress and perhaps the Senate will be engaged in extraordinary hearings, namely the future of our present President, which obviously is going to play havoc with the remaining balance of the 93d Congress; so, if we are going to do anything we have to move expeditiously. So, that may be the reason for the press in time.

But, I will raise the issue of timing, and I will raise the issue of source. And if the subcommittee in its wisdom—everybody has the right to make up their own mind—but, if the committee in its wisdom sees fit to proceed, then we will move to the next question, and that is the form of the legislation. And then we will take into consideration the points you have made today, and whatever other input that you will make in writing, the record will remain open for a few days to allow you to do this.

Thank you very much on behalf of myself and all the members of the committee who unfortunately could not be here today to hear your testimony.

Dr. WEDUM. Thank you, it has been a great pleasure to be here today.

Dr. DELLUMS. Our next witness is Mr. R. H. Booker, Cochairperson, Steering Committee for the Survival of Federal City College. Is Mr. Booker here?

Mr. Earl Coblyn, Chairperson Faculty Organization, Washington Technical Institute.

Mr. Coblyn, I appreciate your patience, and I appreciate your coming before this committee; you may proceed in any fashion you choose.

STATEMENT OF EARL COBLYN, WASHINGTON TECHNICAL INSTITUTE FACULTY ASSOCIATION

Mr. COBLYN. Mr. Chairman, members of the committee, it is my pleasure to be here. On behalf of the faculty of the Washington Tech. I am very thankful for the opportunity to be here.

I'm Earl W. Coblyn, chairman of the Washington Technical Institute Faculty Association. I am here today to speak in favor of H.R. 15643.

The faculty of the Washington Technical Institute consists of 209 members, of that number some are classified as teaching faculty, some are classified as development advisers, and some serve in administrative capacities. The faculty for some time had knowledge of this university bill, or concept, and during this period there have been many informal discussions among the faculty members. And I am happy to say that in the main the faculty is in favor of the D.C. University concept.

However, on a public hearing on a draft proposal, specifically March 23 in City Hall, there were two faculty members of Washington Tech who appeared at this hearing and they expressed some disapproval. However, their disapproval was on the draft in regard to the regency concept.

WTI FACULTY SUPPORT H.R. 15643

On Friday past, in anticipation of coming here, just so I could legitimately say the faculty was in favor of H.R. 15643, I talked to each of the faculty members, and they assured me that they are in favor of H.R. 15643; and that their dissent at the hearing at City Hall was strictly on the basis of the regency concept.

So, I can unequivocally state that the faculty of Washington Tech is in favor of this bill.

Now, the effect of this bill would be to combine WTI, Federal City College, and D.C. Teachers into one integrated university system, and in our judgment that would prove to be to the overall benefit of the students in the District; the District of Columbia community in general; and a benefit to the Nation as a whole.

The benefits to be derived by the students in our judgment are many. Passage of the bill will result in the broadening of educational facilities and programs while eliminating the difficulties normally encountered in intercollege transfers.

Furthermore, the bill also meets another important need of students in providing for representation of the university governing board. This has the dual benefit of providing the Board with the freshness of student input, and providing the student body with the opportunity to participate in policy formulation.

In addition to the beneficial effects derived by the students a very definite benefit will be realized by the District of Columbia community. The District of Columbia government will be able to draw on the services of the university in a more comprehensive way, and also draw on the skills of those students who complete the university.

I also feel that there is a general economic advantage that accrues to the city as a result of a public university system since representatives from industry will have the advantage of communicating with the university as an entity, rather than have to try to ferret out from the three separate schools the kind of service or information they might be seeking.

Moreover, the system would place less of a financial drain, in our judgment, on the District residents than the present system, since resources and facilities wouldn't be duplicated to the extent they are now.

And, by the same token, we believe the Nation as a whole would benefit due to the reduction of duplication of services.

I also might refer to the statement made yesterday by Mr. McDugal from the Department of Agriculture, where he said the Department of Agriculture believes this would be a desirable arrangement for the following reasons, and he enumerates them one, two, three.

1. He says, it would eliminate the division of funds between the two institutions and thereby reduce the amount necessary for administrative, supervisory, and other duplicative costs necessary under the present situation.

2. He further states, that the resources of the institutions could better be utilized for planning and conducting programs for the benefit of the students of the District of Columbia; and

3. Because of the size and population of the District of Columbia the citizens can best be served by a program operating under the administrative direction of one institution. I read that from the statement of Charles W. McDugal.

I referred earlier to the fact that those two members of the faculty had expressed objection to the draft with respect to the regents concept. More specifically, those two faculty members felt that the original draft discussion, proposal, which provided for government of all public education, preundergraduate through postgraduate, should be deferred until the District of Columbia had an elected Mayor and City Council, which might decide the matter.

There may be some merit in such a position, but since this bill only addresses postsecondary education, I am more concerned with present benefits in higher education than with future prospects of a public system. The benefits that I described are real and important, particularly to the students who need the best educational organization and facilities that can be made available to them. I feel strongly that with education improvement an increased cost efficiency can be obtained immediately; it would be a shame to defer.

AMENDMENTS PROPOSED

We would also like to recommend some changes to the present bill, three specifically.

1. While we endorse the bill in its present form, we feel that it would be improved with the stipulation that faculty members should be included on the board of trustees, as bona fide members. The fact that I was asked to testify here as a representative of the faculty of WTI is particularly gratifying, and that I have been allowed to so testify; and it is also a clear indication of your appreciation of the important policymaking role of the faculty in an institution of higher learning. I believe that recognition should be built in the proposed bill.

2. Recognition of the necessity of having students and alumni represented on the board is commendable. Obviously the same rationale should be applied in consideration of faculty representation as well. I recommend that faculty members be included on the advisory board, appointed by the faculty of the respective colleges.

Mr. DELLUMS. I'm sorry, would you repeat the last recommendation, please?

Mr. COBLYN. That the faculty members that we recommend be included in the board be appointed by the respective faculties, that is, the faculties of the respective colleges.

Mr. DELLUMS. So, you are suggesting, then, that there be two faculty members?

Mr. COBLYN. Yes, sir.

Another matter that concerns us is the preservation of integrity of profession, teaching profession, that is. I guess that is commonly referred to as academic freedom, but academic freedom sometimes has connotations, so I would rather state it in terms of preservation of integrity of the profession.

In our judgment that means something to this effect, that the teacher has the right to exercise his sound judgment and discretion in the classrooms in the course of transmitting information to his or her students. However, this right carries with it a corresponding duty not to involve issues that are not germane to the subject matter being discussed.

Also, that the teachers have the right to engage in research free from unreasonable intrusion by the officers of the institution, the administration, that is, who have an opportunity to state their limitations and restrictions at the time of hiring such personnel.

That addition, as I said before, has to do with academic freedom, but I am reluctant to use that term because of the connotation that sometimes has.

The other matter that concerns us is the tendency to consider the educational enterprise of the institution as an operating governmental agency. I think there has to be a distinction between the District of Columbia operating agency for educational institutions, since the needs of educational institutions differ from the needs of a governmental agency; they operate in different time frames. For example, hiring of personnel, prospective personnel has to be done, or should be done at the time when the budget has not yet been approved.

I think that our budget is just about approved now, but probably not to the extent that an administrator could with certainty make commitments for personnel that he wants to hire in anticipation of September. So, my point is that some consideration should be given to the differences between, or the distinction between an operating agency and an educational institution from the standpoint of budget administration generally, and to some extent to purchasing and appropriation of supplies and equipment.

Mr. DELLUMS. Does that conclude your statement?

Mr. COBLYN. Yes, it does.

Mr. DELLUMS. Thank you very much, we appreciate your statement.

ACTION NOW

First of all to the question of timing, is it your testimony that the university ought to be developed at the earliest practical date; are you suggesting it should happen as quickly as possible?

Mr. COBLYN. Yes.

Mr. DELLUMS. And secondly with respect to the issue of who ought to propose such legislation. Is it your testimony that, given the need to move, that you as a representative of your organization are testifying

that given the reality, you support the notion of Congress acting, in lieu of the City Council acting at some future date?

Mr. COBLYN. Yes, Sir. I think probably there are legal justifications for Congress acting now; we are talking about two land grant institutions, and I'm not sure whether or not the District government would have the legal authority to legislate on institutions that were created by Congress.

So, it would seem to me that the safest way to do would be for Congress to do it at this time, since in all probability it should be done. And, I see no justification in deferring it.

Mr. DELLUMS. Well, there is one approach in between those two provisions; legal requirements, and at the same time the philosophical issue, that would be have the City Council draft the legislation calling for the development of a University of the District of Columbia, and forwarding their proposal to Congress for Federal charter. Is that correct, Mr. Clair, they could create the university and ask for a Government charter for the university?

Mr. HOGAN. I think, Mr. Chairman, they could act by enactment. They could establish the university. I don't know if under the Home Rule Act they have the authority to under their own legislation mandate the Congress to establish the University of the District of Columbia.

And then, if they wanted the Congress to establish the University of the District of Columbia as a land grant college, in view of the two existing land grant colleges, that's all they need, and they will be in business.

Mr. DELLUMS. So, if it's possible for that procedure to occur, then is it still your testimony that even in view of that Congress should go ahead and move?

Mr. COBLYN. Yes, Mr. Chairman. You know, in anticipation of coming here I read through that voluminous testimony that was given at the two hearings at the District Building, and I did it for the purpose of trying to get a consensus just how people felt about two things, one, the regency concept; and two, the university concept.

I think I gave a fair reading, and my conclusion is that people are overwhelmingly in favor of the university concept. That was when I was surprised to have two faculty members speak against it, and I specifically talked to them personally to get their latest thinking on it on Friday. And, they made it clear to me that they in no way were against the D.C. University concept, but they were only concerned with the regency matter.

And, having read all that testimony, I must conclude that people are in favor of the D.C. University concept, and there is a need for it to come about. There is increased efficiency that will result, in my judgment, there will be cost savings; and I can see no justification for deferring it.

Mr. DELLUMS. Thank you.

BOARD OF TRUSTEES

Now, your testimony is that the faculty should be also—provisions should be made in the act for faculty representation on the Board of Trustees; and that there should be at least three faculty members, and

that they should be appointed from their respective organizations, that would be the WTI Faculty Organization; the D.C. Teachers Faculty Organization, and the Federal City Faculty Organization, appointing their representatives to the Board of Trustees. So, there would be three faculty members from each of the three existing institutions.

Mr. COBLYN. Assuming, sir, that D.C. Teachers and Federal City College are still looked upon as two institutions. If there is in fact a merger, and if they are in fact one, then I think it would suffice to have one representative from that school, assuming that is the educational entity we are talking about.

But, if they are in fact separate, then I think that each college should then be represented by a faculty member.

Mr. DELLUMS. Let me ask my second question. You are in support of the concept of alumni as well as student participation? If my memory serves me correctly you were here on Monday when I raised the question with several witnesses with respect to the whole question of student representation.

The bill calls for one student, and I raised the question, one, do you agree with the concept of student representation; and, two, do you agree that one student is sufficient representation from this segment of our community.

Mr. COBLYN. I agree with the concept of student participation. As to the number, that is another question. I think the other consideration is not having a board that is so large that it is unwieldy, one; and, two, having an uneven number of people on the board. One answer could be to have a student represent each school, and increase the size of the board.

Or, to have one student representing each school, and reducing the number of nonstudents. We would have three alumni and one student, and three faculty—if you had three alumni, three students, and three faculty, that would give you nine, that would be seven people to be appointed by the Mayor—you would end up with nine plus seven, that might not be wise.

Now, how that figure is manipulated, and what the total board membership is, I think probably has to be determined by the entities that are represented. If you have three alumni and three students and three faculty, that will be nine; and if the thinking, the philosophy is that they ought to be in the minority, that would increase the number of people on the board.

Mr. DELLUMS. Well, you do agree with the concept of student representation, and the question of the number is something you would leave to the government committee?

Mr. COBLYN. Well, I think I can safely do that. There was a recognition on the part of the committee to include alumni and students; I am sure it was an oversight that the faculty was not included.

Mr. DELLUMS. Well, I can say that the Chair will certainly raise the question regarding the issue of faculty representation. I am inclined to agree with you, and other witnesses raised the issue of faculty participation; and I will certainly raise that as one of the items if the committee decides to go forward with the legislation.

Now, with respect to the third issue raised, the issue of maintaining the integrity of the profession, that is a matter that was also raised, I

think you will recall Dr. Kirkwood raised the issue of academic freedom for the faculty to engage in research without being harassed; we agree with that.

Mr. Kirkwood indicated that he would submit in writing specific language that he thought would address itself to that question. We have your testimony. If you have any additional thinking as to specific language to this particular section of the act—if you have any suggested language beyond your testimony, the record will remain open for a few days to include that. We would certainly take the statement that you make along with the statement of Mr. Kirkwood and others on the issue of academic freedom, and discuss it as an integral part of the legislation.

Now, with respect to the fourth issue you raised, and that is also in my opinion one of the critical questions, and that is, how do you handle, not simply defining the university as an independent agency of the District of Columbia.

One of the witnesses suggested that this would not give this university the same freedoms that any other university around the country would have. For example, if my memory serves me correctly, Mrs. Pinket, the Chairperson of the Board of Higher Education indicated that where they wanted to, for example, reduce the fees for low-income or poverty students, or senior citizens who are going back to school that because under the regulations of the District of Columbia it is being perceived as an operating agency of the District of Columbia, they would be precluded from doing this.

And one recommendation was that we would deal with the question of the University of the District of Columbia as an institution rather than development of an agency in an attempt to make the appropriate distinctions.

I think that that is not an easy issue, and we will have to try to work ourselves through that. But, I think basically the Chair is sympathetic with the points you made, you raised some very serious points. And what we certainly would not like to do if we in fact do pass this piece of legislation here is not to place so many encumbrances on the university that it will not be capable of being on par and functioning practically in its operation, just like any other major university in the country. We will take that point into consideration.

I don't have any additional questions, and I would yield to Mr. Hogan, counsel for the minority.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. Coblyn, I gather that your organization favors the establishment of the regency. Is that right, except for the two members you indicated?

Mr. COBLYN. No; we don't consider that at all. The only option that the faculty organization considered was the District of Columbia University concept.

Mr. HOGAN. I am not talking about now. I am talking about when you appeared before the joint committee.

Mr. COBLYN. I don't get your question.

Mr. HOGAN. Maybe I misunderstood you, but didn't you say that two of your members, when you appeared before the joint committee, opposed the regency concept; and then you contacted them in recent days to determine whether they had changed their position?

Mr. COBLYN. No; they did appear before the District of Columbia Committee——

Mr. HOGAN. I see.

Mr. COBLYN [continuing]. In opposition to the regency concept.

Mr. HOGAN. I see.

Mr. COBLYN. I talked to them subsequently, as late as Friday, to determine what their latest thinking was, and they clarified the point with me. They unequivocally stated that they were in favor of the District of Columbia University concept; and their only purpose in appearing at that hearing was in opposition to the regents concept.

Mr. HOGAN. Now, did your organization testify before the joint committee at all?

Mr. COBLYN. No.

Mr. HOGAN. And you apparently did not, either.

Mr. COBLYN. No.

WASHINGTON TECHNICAL INSTITUTE'S FUTURE

Mr. HOGAN. Let me ask you this. Looking out ahead, how do you view the structure of the Washington Technical Institute under the university concept? Would it possibly become a 4-year institution, an institute of technology, or would it remain——

Mr. COBLYN. I am sure there is the possibility it would become a 4-year school.

Mr. HOGAN. A 4-year college.

Mr. COBLYN. There is a possibility.

Mr. HOGAN. Now, I don't know how long you have been with the institute, but when the legislation calling for a higher education bill for the District of Columbia was proposed in Congress, the then Senator Morse from Oregon proposed that the Washington Technical Institute be a vocational school, as an adjunct or a part of the Federal City College; and the ranking minority leader of this committee at that time, Congressman Nelsen, opposed that because it was his position that technical and vocational schools, if they were part of a larger university, tended in the organization of the things, with the boards of trustees of larger institutions to get lost in the funding and to receive somewhat less as far as funding is concerned.

For that reason, he insisted in Congress, with Senator Morse on this bill, that the Washington Technical Institute become a separate entity.

Now, it seems to me that under the District of Columbia University concept, you are going right back to the position of Senator Morse, of putting the technical institute under a larger institution where a board of trustees for that university will once again be establishing budgets, deciding the funding for the vocational and technical school. Will that not be the case under this bill?

Mr. COBLYN. Well, I guess so. But I think you have got to appreciate the fact that a tremendous amount of growth has taken place in the last 6 or 7 years, and I imagine there were administrative problems when they first started out, problems how the funds would be shared.

And, if I remember correctly, the Federal City College—I may be wrong on this—had the responsibility of sharing its money with the technical institute.

Mr. HOGAN. Mr. Coblyn, this was before there was a Federal City College in being, and before there was a Washington Technical Institute. This was when the Act of Public Higher Education for the District of Columbia was being drafted, so it was before they were in being. And Mr. Nelsen's position at that time was that the vocational and technical schools always have difficulty obtaining funding under the larger umbrella of the universities. I think historically, in the States, the technical schools tend to be separated out from the 2-year institutions, and from the larger university concept. And that is true in the Congressman's home State of Minnesota.

But this bill, as I see it, would put the Washington Technical Institute back under the university, and they would determine its budget, and how they would get funding and that sort of thing; is that not correct?

Mr. COBLYN. Yes. I think you can appreciate the fact that there will be one board under this new concept. And I am sure the board in its wisdom will make an equitable distribution of these funds.

Mr. HOGAN. Well, that was Mr. Nelson's concern. Historically there was great difficulty in securing that equitable treatment by that overseeing board that had control over both the university and the liberal arts school, and the other schools in the university; and quite often the technical institutes, or vocational schools, were the ones that got anywhere from benign to malignent neglect in funding.

That is why he insisted that it be a separate institution as a vocational, technical institution.

Mr. COBLYN. I guess I have to speculate on that. My speculation wuld probably be based on the presumption of good faith on the part of the board, and the recognition of the good work that that WTI and FCC are doing; and that a good board will make for a high degree of cohesiveness among the schools and would probably preclude that kind of problem. I would like to believe.

Mr. HOGAN. Well, I am reminded by your statement of a statement made on the floor recently by one of the respected Members of the House, and she was quoting the late President Lyndon Johnson who said that "Legislation should be drafted not from the viewpoint of the fact that good men will always be administering the law in good faith and an equitable manner; but how will that legislation be administered if people perhaps do not always administer it in a good and equitable manner."

I think that is perhaps what Mr. Nelson had in mind when he wanted the technical institute separated out from the larger entities when they enacted this legislation in 1968.

LAND GRANT FUNDING

Turning for a moment to the land grant funding. I was here in 1970 when the language in the Public Higher Education Act was changed, to name both universities as land grant colleges. From 1968 until, I think, 1971, there was only one university named as a recipient, or a land grant college, and that was the Federal City College.

And Congressman Nelson introduced the land grant bill initially and was concerned because in his own State the larger universities acted only as a conduit in effect for the funds, the funds going to vo-

cational and technical colleges; and that is the interpretation of the language as they saw it, and there was an agreement entered into by the presidents of the Federal City College and the Washington Technical Institute, that was inserted in the House report and accompanied that early land grant legislation to the effect that HEW took the position that it has to be a 4-year instituion. Bu, they would in effect share the funding.

As it turned out, there was a subsequent legal interpretation that they could not share the funds; since the Federal City College was named solely, they were the only ones that could be recipients, and there was no sharing of the funds.

It was Mr. Nelson's initial reaction in 1970–71 that rather than just naming both institutions, he would name the Washington Technical Institute as the single recipient, which would overcome the suggestions, as I see it, of Mr. McDougal and his testimony from Agriculture. But, there was also some support for naming the two colleges, and Mr. Nelsen then proceeded to the concept of naming the institutions as land grant entities.

Now, again it seems that we are reversing what Mr. Nelsen was able to establish in 1971, and we are going back to naming one institution again, which would probably be the University of the District of Columbia. Once again we may have the university lightening funds and not passing them on to the technical institute.

Does that not cause you some concern?

Mr. COBLYN. I am sure that the matter will be taken under consideration.

Mr. DELLUMS. Will the gentleman yield for just a moment. We will take a recess.

[Whereupon, at 4:35 p.m. a 10-minute recess was taken.]

Mr. DELLUMS. Mr. Coblyn, you may proceed.

Mr. COBLYN. I just want to say in response to that, I am sure that is a problem, but it certainly could be resolved. I have no definite answer for it. As you indicated, we are going both ways, and I am sure that in recognition of the need some conclusion could be reached, just what it is I'm not prepared to say.

Mr. HOGAN. Thank you, Mr. Coblyn.

Thank you, Mr. Chairman.

Mr. DELLUMS. Thank you very much.

Mr. COBLYN. I would like to say one other thing. I would certainly like to see H.R. 15643 implemented as soon as possible. One of the gratifying things for me at Washington Tech in the 6 years I have been there is to see students go through Washington Tech, I am sure as well as FCC; and we have husbands and wives, it is gratifying to see night students leave work and go directly to school to improve their skills. I'm sure for some of them it results in their being upgraded in their jobs, and for others it probably means getting better new jobs; and then for others it may be really no economic advantage. But, I think one of the overriding advantages is that a new standard of education is set for that family. Once a father or mother attend college, a new standard of education is set; and no longer will it suffice for a child in that family just to complete high school, you have to at least go as far as the parents have gone.

And this is the kind of thing, these kinds of benefits to the residents of Washington, D.C., more so if this university bill is implemented.

Mr. DELLUMS. Dr. Coblyn, we deeply appreciate your presentation and your response to our questions; and thank you very much for taking time out from your very busy schedule because of your concern on this issue and your concern for the people in the District.

Mr. COBLYN. I appreciate the opportunity to appear, sir.

Mr. DELLUMS. Thank you very much.

Our next witness is Mr. Harriet Hubbard, Chairwoman, Education Committee of the Federation of Citizens Association, District of Columbia.

Mrs. Hubbard, do you have some copies of your written statement?

Mrs. HUBBARD. No, I intend to quote the statement we have made at prior hearings where we took our position on the subject before you today.

Mr. DELLUMS. Thank you very much; you may proceed in any way you choose.

STATEMENT OF HARRIET HUBBARD, EDUCATION COMMITTEE, FEDERATION OF CITIZENS ASSOCIATION

Mrs. HUBBARD. The Citizens Association of the District of Columbia has been in existence for 75 years; we represent about between 12,000 and 15,000 citizens in the District of Columbia.

We testified at the hearings on the regents bill, and we represented by far the largest number of citizens of anybody who testified at that hearing.

ASSOCIATION OPPOSES H.R. 15643

Our position on the subject before you is the result of consideration by our committee, and the entire federation of 75 delegates over 2 years. Every delegate in our association has considered these problems and has been furnished with copies of things like the Diggs bill, teachers union contracts, and the variety of positions that we have, after lengthy deliberations over a period of 2 years.

We are concerned with the entire problem of education in the District of Columbia, including the physical situation in the District of Columbia; including the public education system; the Board of Education; private colleges; private technical schools; private schools of all kinds as well as all public schools. We must oppose this bill.

One of the reasons why we urge you not to pass this bill is that it has not reached the amount of public attention that it should have; and the significance of it is too great for the District that we feel that you won't benefit us very much by taking a hasty position because you are obliged by other considerations to act in haste.

Our position on higher education has been, we favor that the entire education system of the District of Columbia be considered in connection with higher education. We supported the regents bill, Mr. Diggs' bill, with many modifications. But the general idea is that it should be an overall entire educational structure in the District of Columbia; it is a regents' system we support. And we also support the idea of the

1202 legislation. The Board of Regents will also serve as a 1202 Board because we very much deplore the separation of the private university from the public university; and we don't think that the funding aspect has been very well addressed by anyone in your—that I have heard, anyway—by anybody that testified in this hearing.

Funding

The funding aspect implied in the bill that you propose today, that you suggest for the District, is so enormous that I am very surprised that you would undertake anything like that without trying to figure out where the money is going to come from.

Mr. Dellums. If the gentlewoman would yield for a moment. If you understand the legislative process, that is precisely why we have hearings, to provide Mrs. Hubbard the opportunity to raise your objection and make your recommendation, and open these questions up.

The bill was introduced by Mr. Diggs, the chairman of the full committee, and he referred it to us. We are now holding hearings on the bill, giving you an opportunity to say precisely what you are saying. If there is consideration that ought to be considered by us, give it to us.

Mrs. Hubbard. All right, thank you very much, Mr. Dellums. I think that if you study the D.C. budget, the whole educational system of the District of Columbia involves about 15,000 employees right now; about one-third of our entire budget, even a larger portion of the capital expenditure. So, these are matters that are extremely important for the taxpayers of the District.

We have gone to people who testified on the regents bill, and many of those who testified are people who had financial interests in the outcome of the hearings. There were many people from Federal City College, and from WTI who testified there, and there have been here. These are people who have some kind of financial interest, or professional interest in the outcome of the hearings; and while their opinion of course is very, very valuable, what they think should be done, certainly, the citizenry of the District of Columbia which will pay for all that should have the final say on whether this should be done, or not.

Now, when we started working on this, the whole concept of Federal City College and WTI over 2 years ago, we procured a copy of the original Hill report—I don't know if you have seen that.

Merger

Then there comes the question with regard to the merger that should be made, was raised in there. The Federation is certainly for the merger of FCC and WTI, that is taken as a separate question.

However, we do not feel that D.C. Teachers should be merged with those two colleges because D.C. Teachers has a different function in the whole structure of the D.C. educational system, and it is not necessarily dependent of the faith of the university as far as funding, or anything else like that. So, we would like to see D.C. Teachers kept out of this bill.

Mr. Dellums. Is there any particular, specific reason why you advocate merger of Federal City and WTI?

Mrs. HUBBARD. Well, as was brought out in the Nelsen committee report—we testified also in the Nelsen committee hearing—and it was brought there is considerable financial benefit to be gained for the District by merging the administrative part of those two universities; and at the present time, as we all know, they are competing for funds.

One of the things we would like to eliminate is any competition for funds among any D.C. universities, private or public, by having a voice in just who is getting what. We have always seen duplication of facilities among the private universities here; and we do not think that is in the interest of the District of Columbia.

I was also astonished to learn just a few minutes ago that the consortium favors this bill; at prior hearings they have not favored the construction of any more university facilities in the District, and I was astonished to see them do that. We have always deplored their lack of responsibility for educational affairs in the District of Columbia, and we do not like to see them worm out of that by coming in and saying, "All right, now you have your university, and therefore we are not responsible for anything that happens in the public sector."

Mr. DELLUMS. Would you yield at this point for a moment? If my memory serves me correctly, when their representative, Father Whalen, indicated that their initial opposition to the concept of a University of the District of Columbia was based upon the assumption that it would be a brick and mortar program, speaking to approximately $300 million.

Mrs. HUBBARD. Well, it still is.

Mr. DELLUMS. That is not the function of this bill, to add $300 million to build new physical plants. What this bill attempts to do is bring together three existing institutions without the addition of building for additional plant facilities. It may be down the road that if this bill is either introduced and passed by the House, or developed by the City Council, and eventually enacted into law, it becomes a reality. It may be that some day down the road they decide to expand their physical plant if there is need for education growing, and the delivery of education services develop. That is not always a question of building more buildings, that can be a question of the delivery service.

But the reason that they said they removed their opposition, when they learned that this bill did not include a $300 million building program.

Mrs. HUBBARD. Well, Mr. Dellums, at the same time, you can hardly ignore that the District budget does include that $300 million building program in detail, of which I can give you some information right now. The capital budget, for example with FCC now, at the present time in this year's budget is $51.776 million of a planned 117—that is a very high price for Federal City College.

The capital budget this year is $9,130,00 of a total of $129 planned million.

Mr. DELLUMS. But the point I am making is that this legislation doesn't affect that one iota, that is going to happen one way or another, based on the decisions of the people charged with the responsibility for the District. If they choose to approve a $300 million capital im-

provement program, that is going to happen, whether the university concept comes into play or not; that will happen simply because three institutions need further development.

This bill does not speak to that question, it doesn't alter it in any fashion. Several people have testified, it may reduce it by reducing the administrative overhead, and duplication of process, and duplication of services. So, what may in fact truly happen, we have to look at it in terms of breaking down specific figures.

But, the university concept may reduce the amount of revenue that the residents are paying, rather than escalating it by virtue of the fact that we do not have to have duplication of administrative services. One witness indicated that in the administration of the cooperative extension program, indicated that with the university concept, that you would not have to have two different administrations, both doing the same thing in two different places. You could have one administration deploying the resources on a 50–50 basis for two institutions; and that would minimize, or reduce the amount of administrative overhead. And that is exactly the effect that this bill may very well be saving money.

D.C. Teachers College

Mrs. Hubbard. Well, Mr. Dellums, our position is that FCC and WTI should have one administration; the D.C. Teachers College should be left out of that. D.C. Teachers should be a separate institution.

And that is because we have great hopes of helping, assisting D.C. Teachers to produce better teachers for our public schools, and we regard that as an adjunct of our public school system; and the university is not necessarily an adjunct.

Mr. Dellums. Suppose D.C. Teachers College remained a college of education?

Mrs. Hubbard. No. We would like to have different procedures for admission and everything else for D.C. Teachers. We would like to raise the standards of teaching in the District of Columbia, and be able to attack that problem separately, as a separate problem. That is a problem of great concern to members of our organization.

Mr. Dellums. What would preclude D.C. Teachers College, if it were in fact the college of education in the university, which is not a foreign concept, that is true in many universities.

Mrs. Hubbard. That's true.

Mr. Dellums. What would preclude D.C. Teachers College as the college of education for the university from doing precisely that?

Mrs. Hubbard. Because they might be forced to admit students that were qualified, perhaps to enter WTI, or FCC, which we would prefer excluded from the teaching profession because of their lack of prior educational achievements. We would like to raise the level of people who are applying for teachers education here in the District, so that we are able to have better teachers who are our local product, for our schools.

So that we will be able to produce a teacher that is a product of the District of Columbia public school, and also the D.C. Teachers College to teach in our public schools. That's our aim.

Mr. DELLUMS. Are you inferring that students who are matriculating from Federal City College and WTI are inferior students?

FEDERATION'S POSITION

Mrs. HUBBARD. They don't have the educational background in the form of educational prerequisites and examinations that other colleges have.

Mr. Dellums, one of the points the federation raises, the federation is taking the position against open admission colleges at public expense. We are basing our position on the experience of other cities with that type of institution which opened this type of institutions years ago; for example, New York, New Jersey, and so forth; and they have had several years' experience with that type of thing. And they have not found that the results for the students are really conclusive as to the value of this type of thing.

On the other hand, our public school system at a lower level has produced this very group which has to go, and must go through this, or they get no education at all, to FCC, or WTI. After all, you have to realize that less than one-half of the children that enter our public school in the seventh grade graduate from high school.

We have a large number of young people floating around in the District of Columbia that are not prepared to earn a living, or anything like that; and in the R. Little report they estimated that number as 17, or 18—we have hoped to reform the public school system so that it no longer produces students whose youth has been wasted in our public schools, and that really don't know anything when they are 18 years old. We have children coming out who are illiterate, age 18, they can't read and write. And you well know this, Mr. Dellums.

Mr. DELLUMS. That is also a product of racism, depression, and other factors that have very little to do with training and competent teachers; it has to do with society that has neglected black, brown, red, yellow, and women for many years.

Mrs. HUBBARD. Well, Mr. Dellums, let me say that the social promotion, the idea of promoting——

Mr. DELLUMS. It also has to do with economic values, the attitude of a given community; it has to do with the priorities of the society; it has to do with the priorities of the society that spends its dollars building bombs, rather than dealing with the human question; it has to do with the parochial nature of the government as it has gone on for many years in the District of Columbia; it has to do with all the monuments around the Capitol that tourists come and see; and they rarely get an opportunity to get into the community and see the people living the miserable lives in the community; and because Congress has seen fit in its lack of wisdom not to use its resources and do the job.

And only one instance is the school, but the school exists in the society; the school exists in a much broader framework with the many other things that take place. I realize the District is 70-some percent black. And I think that every child in this community, black, brown, red, or yellow should have an opportunity to go as far as his capabilities allow him to go.

We have not had a society that has seen fit to embody the wisdom of the notion that education should be a right of all the people, and not the privilege of some. And if we ever get around to this point where our priorities are totally redirected into that area, then I think we can overcome these problems you talk about. They have nothing to do with the incompetence of the student.

I would like very much if you could give me any examples where students from Federal City College, granted that they open up to students there not normally capable of going into, or being admitted in other institutions; but what would preclude, in a university concept, a student from the District of Columbia, without academic capability to matriculate for 2 years at a liberal arts college, say the Federal City College, and transfer in his junior or senior year to the college of education because that is where he wants to major.

Can you give me any evidence to sustain the notion that after 2 years of education with support services, a variety of services, counseling, and what have you—you obviously can't have open policy without building in all the necessary ingredients that compensate for years and years of victimizing of students—but if you give them an opportunity to compete, can you tell me why after 2 years in those kinds of circumstances students should not have an opportunity to into a college of education, whether it is a separate college, or D.C. Teachers——

Mrs. HUBBARD. If they can pass a rigorous examination, then of course they will be allowed to enter. But I have always been of the opinion, and I have never heard anything to contradict that, that teachers should be extremely well qualified in any teaching system that is to be a successful one; and the children themselves expect nothing but that, that only the best qualified people teach them.

As you know, Mr. Dellums, we have had a great deal of difficulty with teachers union contracts, and the question of qualification of teachers.

And our Federation has taken a strong position with regard to teachers under union contract. But this question of qualified teachers is of great concern to us. Mr. Dellums, I would like to say, I live right in the area, I know exactly what you are talking about.

And as you know, we are also, in the District, as you know, white people are a minority now, only one-third, that is over 18, are white. And we are very anxious to improve our school system so that they will attract into it those people who have been leaving the District in the last 10 years and 20 years.

Our concern is for the whole school system, and we are more colorblind in our approach. And, I am interested in a colorblind system in the public schools.

Mr. DELLUMS. You made a tremendous assumption. I think if you knew me you would understand that philosophically I believe that all the people have the right to develop themselves to their full potentials.

Would you not agree with me that it is also a noble objective not only to improve the school system so that you can attract other than black, brown, red, or yellow to the District, but so that the people who are already here receive the best possible education?

Mrs. HUBBARD. Oh, we certainly do. We are working along that line all the time. But we do feel very strongly that the D.C. Teachers should stay separate just the same.

Now, there is the question of trustees, or whatever kind of system you intend to set up there for the institution that exists. We testified at the Regents Board hearing that no one who is a member of a Government agency should be a member of the Board of Regents; and we feel the same about the Board of Trustees; that if they sit on any of those boards, they should sit there because they are designated to be there. For example, we thought that on the Board of Regents a member of the board from WTI could sit; a member of the board from FC could sit, and a member from D.C. Teachers could sit if you had a Board of Regents.

But, as far as the citizen members go, we wanted to exclude anyone who was working for a Government agency or gave out grants, and I think that there are some five or six that do; and we would like to have them excluded. And we would also like to see any member of the city government excluded from the Board of Trustees. We would like to see people on the Board of Trustees who either represent something whose vote they have; or they should all be members of the taxpaying citizenry of this District. So, we don't agree with your provisions in this bill with regard to who would be a trustee.

One of the criticism that we have now, the present operation of the Board of WTI and FC, that there are too many interested parties on the board, and people who are not citizens of the District of Columbia; and there are people who are too closely connected with other boards in the District of Columbia sitting on these boards.

We have been refused access to read the minutes, for example, of the Board of Higher Education; and we believe that these decisions have been made by too few people. And we understand that the attendance of the board hasn't been very good. The turnover in membership of the Board of WTI, for example, is spectacular, and the same is true of the Board of Higher Education.

We would like to know all about what is going on in these boards, we want to be represented on them. We want the meetings to be public, and all the decisions to be made according to the Administrative Procedure Act, which is supposed to govern the meetings of the boards in the District of Columbia. We want to know every subject they take up so that somehow or other conclusions are not reached and nobody, and nobody knows anything about it.

I know the chairman of this committee has been fighting very hard over 2 years now to get access to this material, to be notified, to find out what's going on. Suddenly I read in the paper all they decided, and we never had a crack at it.

Costs per Student

Well, Mr. Dellums, another suggestion that we have was, and this is just from the point of view of the physical situation of the District. You know that the amount of money that is being spent for the student support, what it costs the taxpayers. For example, at Federal City College it is $4,900 a year for each student, that is what it costs the taxpayer.

Mr. Dellums. Can you give me that figure again?

Mrs. Hubbard. $4,900 a year, that is what the taxpayer is putting out. At WTI it is $4,300. Now, it's less at D.C. Teachers, but I'm not taking that into consideration, just these two colleges.

We had felt that we would be very happy to pay that much tuition for a real bona fide resident needing an education at any institution that they wanted to go to, rather than spending enormous capital amounts. Now, the reason for that is, as you may know—and I'm sure you do follow educational matters very closely—the whole educational plant in this country is overextended right now, especially in higher education. Plants, physical plants, colleges are closing down because they can't get students. And the idea that everybody is going to college has not turned out to be a very good idea from the point of view of their future. We feel there are many specialized institutions, giving specialized technical training of some kind that would be available for students in the District. We don't like to see the D.C. taxpayers burdened with having to support people coming in from other States, or foreigners. For example, only 25 percent of all the graduates of FCC are D.C. residents. And this city is poor.

We can't afford to get the streets cleaned. We can't afford housing remodeling that we need to have funds put in. We need to have so much work done in the city that can't be done. We can't afford these large support expenses for citizens that are not even the product of our own terrible school system to whom we owe everything. But, we don't owe it to people from other States. We are willing to take care of what is our own failure.

We also have felt that by changing the function of the academic high school in vocational high school, we could change the curriculum structure inside the high schools; and we might be able to train a great many District children in their high school years in the same subjects which they are now taking, later on, in college. Let me say that the subject is not on a higher level than high school level. Why couldn't they learn it in years before instead of running around the streets in Washington.

We have appeared on the Board of Education hearings on vocational education, and we hope to have something to do with the distribution of manpower training funds in the District of Columbia along these lines, so that we can, over a period of years, push the training back to a younger age and reduce our expenses, meanwhile not forgetting our obligation to the children who have been so cheated.

Mr. Dellums, there are many other subjects with regard to financing, which I don't want to take up, but I do want to say on this bill we do propose the merger, and if you don't do it we will propose it at the City Council level.

We want D.C. Teachers left out, and we would very much appreciate your looking at the thing from that point. I hate to say this, but I feel sure that if all the organizations in the city, the citizens organizations working on education—there are members who have given more time and attention, and individual members, and have done more reading, read all the documents, and gone to all the hearings, then any other citizens' organization in the city; and you ought to give some attention to that.

Mr. Dellums. I thank you for your presentation. I would just like to say that in the colloquy that you and I engaged in, I am not trying to suggest any challenge to your sincerity, or any challenge to your motive. I am saying that I have a feeling if we engage in colloquy long enough there will be serious differences between you and I. I am

not challenging your integrity, and I'm not challenging your sincerity.

I think that you and I agree that it is a shame that the Nation's Capital is not the showcase of this Nation, or indeed, the world.

Mrs. HUBBARD. That's true.

Mr. DELLUMS. And the reason for that, I won't go back into the reason why that is not the case; it has nothing to do with the people who live here. I am myself a product of the ghetto, and in my own early life there were teachers, nonblack, who said, maybe you ought to go to college; and now I have a master's degree, graduated with honors; and we are here trying to enhance the rights of other low-income black people in urban ghettos, so that they will have the same opportunity.

Now, you mentioned earlier that you support Mr. Diggs' present bill?

Mrs. HUBBARD. Yes.

Mr. DELLUMS. And the Regents bill.

Mrs. HUBBARD. Yes.

Mr. DELLUMS. Now, the interesting thing, in that bill there was a very similar provision—at that point not a bill, but a title of a larger bill—that addressed itself to the issue of development of a university concept.

FEDERATION RECOMMENDATIONS

Mrs. HUBBARD. The position of the federation on that particular point was, we recommended the Board of Regents be set up forthwith, and that no action be taken on the capital improvement program with WTI and FCC until the Board of Regents can act.

We also recommended that the capital improvement planning of the Board of Education be reviewed by the Board of Regents before further budget action is taken. That is our thought on that.

Now, we realize that the Board of Regents has not been set up, although we still think that that would have been the best thing for the city.

One of the points I would like to make, Mr. Dellums, since Mr. Cassel brought it up, about the wonderful success of elected officials. We have had now an elected School Board for some years here; and they have made many, many statements, they have met and they have talked; but they have never followed the legal procedures for passing regulations. All the regulations they have passed are illegal at the present time.

Mr. Girano, when he was on the Board, was a lawyer, and he used to try to urge them to follow the Administrative Procedures Act, give due notice of what they were doing, discuss, and give everybody a chance to testify. This was never done; and as a result the Board of Education situation is in quandary.

Also, as a result of their activities over a period of years, it has not brought about improvement of the public education system, I regret to say. The old board, that was appointed certainly didn't do a good job; but we certainly don't hold any brief for an elected board of the type we have now. The individuals who are on this board now aren't bad, they are all pretty good, but they can't work together; they have

other motives, other than education, other than the children's education in mind. A lot of them are going into politics now and are running for City Council and so forth whereas if they stuck their nose to the grindstone and did their work, you know, just their duty which they are supposed to be doing, and would look after the educational affairs of the public school system, that is the kind of thing we would appreciate.

And we feel maybe that end would be achieved better by having an appointed Board of Education, that is appointed by the Board of Regents.

Mr. DELLUMS. May I make a couple of comments to some of the points you raised, and you are talking about appointments. I have only been here for 3½ years, and maybe that gives me the benefit of some kind of objectivity.

One of the problems that I see in the community with respect to the delivery of educational services, certainly at the secondary educational level, has not simply been that the Board of Education has not been doing its proper job. I'm sure you must be aware of the fact that there are a number of committees of the House that must act in order for the school system to do anything. For example, there is a provision that limits reprograming.

Mrs. HUBBARD. I know.

Mr. DELLUMS. In order to transfer $25,001, the administrator has to come to eight different committees, four on the House side, and four on the Senate side; and it takes months for them to do the job. I think that is the problem with bureaucratic inertia, the overlay of bureaucracy that the Congress has instilled upon the people here.

And the second point goes to the question of people going for other offices, and maybe I'm all wrong, but I'll give you my opinion, and then I will go to a couple other things.

The residents of the District of Columbia have only had an opportunity to elect their nine voting delegates and the Board of Education; the City Council and the Mayor have been appointed. So, I would agree with you, there have been many problems raised at the Board of Educational level, but maybe if you step away and look at it for a moment as a resident of the District, and say, who have the residents of the District had as a body that they felt had some responsiveness to them? And the only body has been the school board.

And any community of that size with such tremendous talent and desire for activism, the only place where a resident could express their political activism within the framework body of politics was to either run for the delegate to the Congress, or to run for the school board; hopefully the home rule bill, which I think has very serious compromises, will now give some of these political activists greater opportunity. And hopefully over a time this community will settle the way any other community has settled, so that the greatest number of people vying for the school board would tend to vie for the school board because they are clearly and specifically interested in educational questions.

And people that are concerned about a greater range of political activism can move in another direction; and I think that as that happens the politicizing of the school board hopefully will begin to reduce because of the greater, the broader range of politics will come to the

City Council. I know that is true in my own community and other communities to which I have traveled; and I hope this will be settling effect.

Now, you mentioned that we are overextended educationally in this country and many colleges are closing because they no longer can get students. But you've got to understand that within a much broader context. You've got to understand that within the context of inflation, the economics of the country, and the lack of a coherent and competent Federal approach to the funding of education in this country. Which means that families earning up to $25,000, or $35,000 a year, many of whom could send their children to private schools no longer can afford to by virtue of inflation of cost of living, et cetera; and that means that many of them are withdrawing from the private institutions.

The private institutions because of the inadequate funds at the Federal level having to raise their tuition, thereby mitigating against an even larger number of students from matriculating in private institutions. But, rather than being overextended educationally, I would suggest to you that we stand on the bring of a holocaust in education in this country because at a moment in time when blacks, brown, red, yellow, low-income, orphans, women are trying to get into the public education in this country, and middle class, many thousands of middle class white students who no longer can afford, and some blacks, who no longer can afford to matriculate in private institutions will now have to back up and become competitive for entry into public institutions. And so, you are going to have a tremendous collision in this country at the public institution level unless we develop a more competent way to deal with issues of education, and rise above our 1960 approach to the issue of education, and start dealing with the issue of education right now for all the people, so people are not having to compete in pigeonholes that it becomes a race for a broad range of people.

That does not mean that we are overextended educationally, I would suggest to you that we don't have the resources to provide the necessary educational services to tens of thousands of people who would take the benefit of it if those opportunities were made available ot them.

And so, I think that we are faced with heightening of education in this country, and I think one of the great benefits in education will be development of larger, broader ranges of services in the public sector because private institutions are having great difficulties, unless the Federal Government in its wisdom begins to develop a much more competent, comprehensive approach to the issue of higher education and all education in the country, which means we've got to rapidly alter the institutions that are there, so that we need not spend $105 billion a year following our simplistic, militaristic problems, but start addressing the domestic questions.

Now, that I think is the answer. You have got to look at why some of the schools are closing within the broad context, not simply say, "Well, they are closing the doors because nobody wants to go to school"; there are thousands and thousands of people who historically have been denied the opportunity, who are now beginning to move into these institutions, or move to the doors of those institutions. Some of them are able to get in on EOP programs, and sme of them are able to get in on scholarships.

But, many of them are still denied the opportunity to go to school because the standards—because the criteria is very singular, or because they can't afford the money. And we've got to make basic decisions in this country as to whether or not the most precious resource of our country, our people; our greatest stake in the future, our young, and our greatest investment in our young is the investment in education. And if we make that statement then we have to rapidly move in this country and speak to the needs of our young because they will inherit this country, and hopefully inherit some kind of sane world.

Now, you mentioned that you would be willing to give $4,900 a year to the students who are residents of the District of Columbia to go to school.

Mrs. HUBBARD. If they are genuine residents of the District of Columbia, not somebody that came in here from Idaho or somebody from Iran; but the real bona fide District of Columbia residents; the ones that we feel responsible for, the citizens of this city.

Mr. DELLUMS. All right.

Two points. First of all, we are a highly mobile society where people move and live where they want to live. But as I understand it, for out-of-State students there is a differential fee.

Mrs. HUBBARD. Well, the biggest difference falls on us.

Mr. DELLUMS. OK. What about those students who meet your criteria, are bona fide residents of the District of Columbia. Suppose they choose not to travel to some other State to go to school; suppose they want to go to school in the community in which they grew up, and the community that they know; and the community that they want to continue to provide some—when they finish school—want to provide some service to that community. Why do they have to go outside, simply because you think it's more economic?

Mrs. HUBBARD. Mr. Dellums, I was a student once, and I just finished putting three children through college; and as a widow I am very poor in income. And I can tell you, there is just a certain amount of concession you can give the young. If they want an education, and they really want it, then it's up to them whether they really want it or not. They are not going to get it just any place they want it, they are going to get it where it is possible for them to get it.

And I must say, my own children, I never allowed them to deviate from this point of view, since I was paying for the whole thing. I mean, they went to school where I could afford it, and under circumstances which I could afford.

Now, if the people of the District of Columbia—I mean, none of my children ever cost that much a year, $4,900, that is a much larger amount of money than I spent for any of my children in college. And it might be that's the right amount of money today because we have had a little inflation over the last couple of years, since my last one finished.

Mr. DELLUMS. Do you think you are drawing a logical conclusion, and that is that we have serious problems with out-of-State people; why wouldn't people from other States say we are out-of-State people——

Mrs. HUBBARD. No, not at the expense of the D.C. taxpayers. You know, we aren't rich, Mr. Dellums, we are poor; we really are. And we don't want to go on being so poor; and we don't want to be dominated by the people from the suburbs, to tell us how to run our lives.

I mean, I believe we have a chance here if we are not burdened by other people with capital expense and so forth. We do have authority, and also have the responsibility. And I do think that is a question of people from out of State, something like that.

The Congress is here. I don't see any reason why we have an pay anything from our money for people from out of State.

MERGER

Mr. DELLUMS. Let me say, and I want to yield to Mr. Hogan; on the question of the merger, as I said earlier, we are looking at the legal ratifications of that merger, and staff will have that ready and prepared before we have our next meeting with the full subcommittee; and to try and determine the legal question in an area, what the legal rights, and obligations, and responsibilities are. At that time we will be better able to respond to the whole issue of merger.

Very serious allegations have been raised before this subcommittee with respect as to how the mergers took place, as you are well aware. Many people said students were involved, faculty members were involved; many people in the community were involved; and all the meetings were held in private instead of public meetings.

These are very serious allegations, and I understand them and I feel them very strongly because we are committed to openness, and I think that is the only way people's rights are protected in the light of the public, rather than in the dark; and we agree with that.

We will look at the legal situation. If this piece of legislaion will go to the subcommittee to report this bill out, rest assured that there will be a very strong provision that addresses itself to what is often referred to as the "Sunshine Law" because I think any meeting ought to be held in public, and the public has a right to be there.

Mrs. HUBBARD. The trouble, Mr. Dellums, is, it can't take place this summer. The citizens associations are by far the largest organized groups in this whole city. The Federation of Citizens Association doesn't meet in summer; and while we have executive committee that we could meet, as far as getting really representative opinions, we have to wait until next fall, advertising, and everything like that. Perhaps it would be better to do it by a referendum, or something like that. But, if you make a wise decision, I don't think anybody is going to kick, you know. If you are going to do the right thing, you aren't going to get a lot of criticism, even from people that are political activists, and so forth, if you do something that's really smart.

But, just remember, think of us. I mean, don't think what people are going to think of you 20 years from now as a result of this decision.

Mr. DELLUMS. I like to hope I am speaking for the rest of the committee, that we will be guided by reason and justice. And, whatever decision we make in this committee will be made in public, so, you will have an opportunity to be there, and you will hear whatever deliberations we make, and be present at whatever action we take with respect to this bill because everything we do will be open and aboveboard.

I apologize for the short notice of the hearing, but the bill was introduced, it was referred to my subcommittee, and my charge was to act.

And, as the subcommittee chairperson, that's my responsibility, and we try to carry that out as best we can.

If we honestly believe that there is need for additional hearings because we don't feel that the full pulse of the community has been heard, we will simply ask for them; if it is denied we will move forward with the legislation. If it is granted, we will extend additional hearings. I have time available to hold several hours of additional hearings; and we will try to do it in the spirit of fairness and openness.

Mrs. HUBBARD. Mr. Dellums, if we could get the Board of Regents thing done, so that we have some coordination between the 1202 legislation, the public school funding, the budget, the whole educational financial situation before next year's budget hearings.

Mr. DELLUMS. In all honesty I must say to you that we will not consider the Board of Regents concept; you have your own local representatives, the members of the school board—I mean, the City Council.

Mrs. HUBBARD. Well, we will have to set that up through the City Council.

Mr. DELLUMS. Yes. I think when you talk about local self-determination, that is where the decision ought to be. When you talk about local control, you got to fight for that and advocate it. And I certainly don't believe that sweeping concepts as broad as the Board of Regents concept, they ought to be entertained by that body.

That was my belief the first time, the very first draft; but I was opposed to it on principle, and I was opposed to it on concept. And the committee in its wisdom saw fit to follow the recommendation of the people who overwhelmingly opposed that concept. So, we are not going to be involved in that business. And, as subcommittee chairman I assure you I would not entertain a bill on the Board of Regents unless it was referred to me by the local residents through their City Council.

Mrs. HUBBARD. Mr. Dellums, I want to correct you one little bit on the point of "overwhelmingly opposed"; our organization alone represented about half of all the citizens who were actually represented.

Mr. DELLUMS. I stand corrected. Thank you.

Mrs. HUBBARD. And I would like to say, you mustn't expect too much municipal expertise from the people in this election.

Mr. DELLUMS. They will gain through experience.

Mrs. HUBBARD. Yes.

Mr. HOGAN. Mr. Chairman, I will try to be very brief.

FEDERATION OF ORGANIZATION

Mrs. Hubbard, we have covered a lot of ground and I want to be sure I understand what the federation is. You say it consists of 12,000 to 15,000 citizens?

Mrs. HUBBARD. That's right.

Mr. HOGAN. And what is your position on H.R. 15643?

Mrs. HUBBARD. We oppose it.

Mr. HOGAN. And you want the local government to do it, is that it, if and when it is to be done?

Mrs. HUBBARD. Well, Mr. Hogan, there are serious reasons why this bill should not pass if initiated by Congress. On the other hand I must

tell you, I don't have any real confidence in what seems to me—we are electing everybody in here this year.

Mr. HOGAN. But, you don't want Congress to do it?

Mrs. HUBBARD. That's right, I would prefer that the District government did it.

Mr. HOGAN. Now, there is an executive board of the federation?

Mrs. HUBBARD. Yes, indeed; the federation has an executive board of 30 members.

Mr. HOGAN. Now, will they be meeting——

Mrs. HUBBARD. Yes, we will be meeting every month, at least.

Mr. HOGAN. Have you met during July?

Mrs. HUBBARD. Not yet.

Mr. HOGAN. When will you meet?

Mrs. HUBBARD. We will be meeting, perhaps, some night next week.

Mr. HOGAN. Well, now, I want to be sure that the chairman is in on this, but I think it would be very helpful if we could have a letter from your president, setting forth exactly what your position is, if you want the Congress——

Mrs. HUBBARD. To make this merger through the City Council.

Mr. HOGAN. Well, addressing H.R. 15643——

Mrs. HUBBARD. Specifically.

Mr. HOGAN [continuing]. Specifically.

Mrs. HUBBARD. All right.

Mr. HOGAN. Whether you want Congress to act on it, or not.

Mrs. HUBBARD. All right.

I want to tell you, though, Mr. Hogan, that the federation is on record approving the merger.

Mr. HOGAN. I understand. But, if you would just address a letter to the chairman, Mr. Dellums, setting forth what your position is on this, that would be very helpful.

Mrs. HUBBARD. All right, we will do that.

BOARD OF TRUSTEES

Mr. HOGAN. Please address the board of trustee situation, and the other situations that have been discussed here.

I would like to correct the record with respect to a statement you made as to the number of changes that have taken place on the board of trustees of Washington Tech. I think if you go by and check the membership of that board, you will find that membership there has been relatively stable. I don't think there have been very many changes. As a matter of fact, if you look back you will find that a large number of people who are on there, who were originally appointed, have been reappointed and served two terms of 6 years; and now their appointments are coming up again. I think Mr. Neighbors, who was here the other day, is on it—there are a number of those members who have served on this particular board of directors for 6 years.

Now, one other thing. I think the Nelsen Commission recommendation was to the effect that there would be a Commission on Higher Education, that could do to a large extent the very same thing the university concept would do, but it left intact the three institutions, Federal City College, Washington Technical Institute, and the D.C. Teachers College. And the Commission on Higher Education would

have been planning the institutions with a commissioner and a staff. The Mayor, in setting up this Commission that he is about to undertake, is apparently moving in that direction at this point in time. I think if he wants to, he can broaden that particular Commission.

I think the ranking minority member of this committee, having nurtured the Washington Technical Institute, would hate to see that school, as you are suggesting, merged into a larger institution. But, I think he understands quite clearly that with home rule, if the local citizens want to merge the Washington Technical Institute into some other larger institution, they have a right to do that. But I am not sure that he would undertake to do it as a Member of Congress.

I think it is clearly understood, however, that the home rule gives the local citizenry, or the local Mayor and City Council, the authority to do this. That is what the home rule is all about. I'm not sure, but I think a threshold question for the committee here is whether or not the committee ought to rule on such things, especially since apparently they are going to rule on the regency issue. If they are going to adopt the recommendation of the Joint Committee, why, the new government will undertake that issue when it comes in office. Maybe they should undertake the whole concept, including the university concept.

But, what I was suggesting, Mr. Chairman, is that I understand the executive board of the federation is meeting, and I was wondering if we should get a statement from them after their meeting, as to exactly what their position is on this particular bill; but not some extraneous stuff like the regency concept, or some of the other things.

Mr. DELLUMS. Without objection the record will be held open.

Mr. HOGAN. Thank you.

Mr. DELLUMS. I want to thank you very much for your presentation, thank you for taking the time.

Our next two witnesses are Vernon Sewell, president of the Student Government Association, representative to the Board of Higher Education, chairman of the District of Columbia Teachers College Student Committee Against Merging, and William Saddler, editor of the Columbian, college newspaper, head of the Student Government Association Academic Committee, head of the Student Legal Committee, District of Columbia Teachers College.

If you will both come forward and proceed in any fashion you choose.

TESTIMONY OF VERNON SEWELL AND WILLIAM SADDLER, STUDENTS, D.C. TEACHERS COLLEGE

Mr. SEWELL. I would like to introduce Mr. William Saddler, and he will proceed first, and I will conclude.

Mr. DELLUMS. I want to welcome you.

Mr. SEWELL. Thank you.

Mr. SADDLER. First of all I would like to correct one small error about our college, it is not 100 years old, but 122 years old. Our college is the first black college in the District of Columbia, and I think it's a very fine institution.

I'm William Saddler, a student at the District of Columbia Teachers College, and as a student of the District of Columbia Teachers College for 3 years, and a former class representative, student body president,

and editor of the college newspaper I take strong objection the present activities of higher education legislation in the District.

I would first like to refer to the Board of Education Resolution 74–12, which is presently being cleared out by the Board of Higher Education. This resolution merges the District of Columbia Teachers College with the Federal City College. I feel it is of critical importance that this committee address itself to this action as it does in effect in the form of H.R. 16543. The Board executed this resolution and is proceeding with this merger without public hearings, without legislative authority of Public Law 89–791, without City Council deliberation or approval, without an executive board of the Mayor-Commissioner in opposition to the recommendation for this merger by the educators seated n the Board; and contrary to the recommendations by the major educational studies on higher education in the District of Columbia.

A document including the points of this recommendation will be forwarded to the committee within a few days.

Merger Opposed

In consideration of H.R. 15643 I ask that the committee consider carefully the positions of the two significant educational studies, the Arthur B. Lewis study and the Nelson Commission report on the subject of higher education. Although these studies were executed independently of each other, they reflect common conclusions and recommendations; the key one here being that the colleges of the District of Columbia should not be merged in their consideration, or consolidated.

I can understand the desire of the Appropriations Committee of the Congress to have unilateral considerations of fiscal matters, however, I do not believe that this should be taken at the expense of higher education in the District.

I can't understand the desire of the House District Committee to see coordinated higher education in the District of Columbia. I object as a student to the removal of the element of choice as to administration, and the student body to approve; we should be allowed as students, allowed to choose any major course of study we need to pursue for a department that he wishes to be a member of.

Board of Trustees

I would like to move from the question, though, of the implication insofar as choice to a question of student representation on the Board of Trustees.

To open that area I again speak as a student who represents a body composed of students and administrators, students and legislators, students and board members; and I hold the following opinion on representation:

There is a need for more than one student to sit on any Board of Trustees. There is a need for each student who holds the position to be able to vote on decisions by the Trustees. There is a need to allow the student representative to bring in other students to testify for the student position; and for the student representative to be allowed to

be accompanied by other student officials of the college he represents who, if not to testify, may observe.

Therefore, Mr. Chairman, I ask that the committee examine the resolution for merger by the Board of Higher Education as one point; and that hearings because, as these hearings continue the Board proceeds to merge D.C. Teachers College out of existence. I feel that if some action is not taken immediately on the question that the merger will be completed between the two colleges before in fact anything can be done.

The Congress created the Board, and at this time it seems that the Congress is the only authority that the Board feels responsible to respect.

On the consideration of H.R. 15643, the Recommendation B–13 of the Nelsen Commission report, such as A, B, C, D, and E should be the form of the change of higher education in the District of Columbia. However, I feel that the right to change the structure of the District of Columbia higher education rests with the city officials who will be elected under the Home Rule Charter, and no longer with the Congress.

COUNCIL AUTHORITY

Mr. SEWELL. And again the question is, should the elected government of the District of Columbia, or should the Congress; I think this particular matter should be referred to the City Council.

I think if public hearings were held, No. 1, we would find out that the D.C. Teachers College should not be merged with the Federal City College because the Board of Higher Education is not an independent agent, it is a District agency; and as a District agency it is under legislative authority of the City Council, and the executive authority of the Mayor's Office. What the Board of Higher Education in fact has done is give itself the legislative authority and the executive authority vested in the Mayor, the Board does not have this authority. How the Board perceives to implement this merger with the student policy and the personnel policy that they have, they are able to possibly set up a coordinated system between the Federal City College and District of Columbia Teachers College because they are a governing board of students. However, the Board of Higher Education cannot have one school absorb the other because it doesn't have the power.

What the Board of Higher Education has in fact done is to wait until this very opportune time to threaten the teachers with contracts into a consolidated administrative level. We have lost the president of our college, and our particular recommendation to the Subcommittee on Education, which you are the chairman of, is to, one, reappoint the president of D.C. Teachers College; and to, two, refer this matter to the City Council for the citizenry of the District of Columbia to hold hearings, so that we would know whether in fact that is the body's opinion.

And then we have one more point. I did serve on the panel of individuals on the reorganization of higher education, and what happened was, we concur possibly that higher education should be separated somewhat from lower education, but it is my feeling that the merger of Federal City College with D.C. Teachers College, like the Chairman of the Board of Higher Education said, is a university

concept. And another problem with that university concept if that, as I pointed out, the Board consolidates the administrative and operative functions of Federal City College with D.C. Teachers College, it could at the same time think of the university system which would coordinate activities between the Federal City College and D.C. Teachers College and WTI—they need not be absorbed in a flat out and out program. Federal City seems to be the larger school in this case, it does have a liberal arts curriculum and it does have a technical curriculum; D.C. has a liberal arts curriculum with educational background; WTI is a technical school. However, Federal City does not dominate any of these areas; they only have such programs that would be undergirded in WTI.

So, as the previous speaker pointed out, some members of the Board of Higher Education think much more to further their own political careers and prestige as members of the Board of Trustees, and would in fact govern all of higher education in the District of Columbia before the District of Columbia has a chance to govern itself.

So, in conclusion let me just say, this bill should be referred to the City Council and the citizenry of the District of Columbia, give them a chance to look at this particular situation because it is delicate.

Mr. DELLUMS. Well, first let me say, I have listened to you very carefully, and I appreciate both of you coming before us this afternoon, your presentation was very articulate. I think I understand the thrust of what you are saying, and I would like to go along because I realize the compassionate concern for the continued development of D.C. Teachers in the community. The first witness, Mr. Cassell, has indicated it is an institution that reflects some important black history in this community and indeed in the country.

I want to try to separate now the question of merger from the question of the university for a moment.

MERGER

First to the issue of merger. As we indicated, we are seeking legal opinion on the question of merger. As I said earlier, very serious allegations have been made, and you simply echo those same allegations. We will try to determine what the legal situation is, and what our prerogatives are and are not on the question. I don't have this information before me at this point. I would say simply that we have been sufficiently implicated on this point so I feel there is the simple need to look at the legal question before us on the whole issue of the merger because I think the merger and the concept of the university at this time are on a collision course.

Quite apart from the policy, let me just say as a logical matter that if we embark on the concept of the university, and this bill does mention the three particular institutions, that there would in fact be no need for the merger because the university concept would utilize the resources of all three campuses, hopefully for the better educational opportunities and resources of those students who are using them. So, we will look at the question of merger.

To the issue of the appointment of a president of D.C. Teachers College, just rendering my opinion off the cuff, we have no power in that area, no jurisdiction in that area. But, depending upon the legal

situation, whether or not the Board of Higher Education moved with authority, or did not move with authority, that decision would have an effect on the question of whether a president would be reappointed for D.C. Teachers College, or whether the legal situation sustains the action, the legal action of the Board of Higher Education.

University Concept

I would like to ask you, first of all, one, do you both support—I am not now necessarily talking about this bill—simply the concept of the three existing institutions coming together as a university?

Mr. Saddler. Well——

Mr. Dellums. Is that meant to be that D.C. Teachers obviously would be the main delivery of educational training to students in the university concept?

Mr. Saddler. Just to speak to that point, sir, I think, if we take a look at what the Arthur B. Miller study says, and I won't read it, I'll paraphrase it.

I can say that the needs of the people of the District of Columbia are so diverse and numerous that there would be no way that I could conceive of one university being able to deal properly with all of the needs on all of the varying levels. First of all take a look at the school system, the primary source of our students for higher education. Students leaving the school system have, according to the Arthur B. Miller study, the greatest interest as far as higher education is concerned, in education. And, just taking that point in the Arthur B. Miller study and other studies, we almost see that D.C. Teachers College should absorb Federal City College and WTI; and I do not mean that seriously, but that is the sort of implication that we see.

But, seeing the interest of the student body in education, let's just look at education a little closer. D.C. Teachers College, although they train teachers at this time, does not train the variety of educational personnel that is presently needed throughout the system. Teacher education, or a teachers college like the District of Columbia Teachers College if properly funded, and we must look at the fact in a document that's called "Memorandum of Understanding", which is an agreement between the Board of Education and the Board of Higher Education transferring control to the Board of Higher Education of the District of Columbia Teachers College, there is a paragraph that does state that the students ought to be treated on an equitable basis.

Now, we have found that Federal City College has been funded at almost twice the level consistently throughout the school's existence, it has been funded at twice the level, it has not been equal. I believe that once D.C. Teachers College was funded on the proper level they could give training to people as educational psychologists, biologists, technologists, and other individuals that might be needed throughout the school system, there is no question about it.

As far as the mission of Federal City College, I see a tremendous need because we are not in this case talking about training for a GS–9 to move in the Federal Government, we are talking about training a type of media that the District of Columbia Teachers College has been doing for the past 122 years almost singlehandedly.

When we are talking about WTI we are talking about a vast amount of technological knowledge that is needed by the country in some of

the areas you spoke to earlier, and I won't even attempt to name them all, but I think you understand what I'm saying.

Mr. DELLUMS. Sure.

Now, let me ask you then a followup question to that. Given the history of conflict around the issue of budgeting priorities, Federal City versus D.C. Teachers, if you had an instrumentality, a university, where the funds were channeled into one place, and then deployed in the colleges, would you not then mitigate this constant political competition over who gets the funds?

Mr. SADDLER. It is very much my honest opinion on that subject, I believe if you have a single university it is far easier to cut back funds for that one school; it's far easier to have to take from the department, or the school of education for the school of engineering who needs a new computer.

I believe that what is necessary in the District of Columbia as a whole, as far as the whole question of money is concerned, is not for the schools to be brought together so that they can more adequately use the money that they are now receiving; what needs to happen is that a larger piece of money needs to be appropriated for higher education. A far greater amount of money needs to be appropriated. What we have to have is some kind of group that is primarily concerned with only the fiscal matters, only knowing that we need more money for this and the other things, and giving that money to us. And that, I believe, can be served more adequately within a school of education that has a board of trustees, and that board of trustees is primarily concerned with promoting the best possible educators and academicians they can; and the same is true in the liberal arts college, and the college of engineering.

And, we should at some point move into the question of graduate schools because there is also a tremendous need in our school system for us to attempt to train our own administrators. There is no reason, as I see it, with as many colleges as presently exist, for the District of Columbia to go somewhere else to find a president for the university, if there shall be a university; for the District of Columbia to have to go somewhere else to find a superintendent for the schools.

And presently, within the system, we are not training in the Teachers College administrators who work in the school system. See, these are the things that need to be looked at before you say that three institutions that are at present functioning at a far from minimum level, before you take these three institutions and put them together you have to attempt—it would be, in my opinion, years just to bring these schools to where you would approach the question of combining them into a single university.

Three strong schools could make a great university. Three schools that are not strong cannot make a good university, they just increase the confusion.

Mr. SEWELL. So, what we are saying is the problem, that some sort of coordination needs to exist where one school respects the opinion of another, and decisions will be based on facts and needs, not on personal or political gain.

Mr. DELLUMS. So, it is your testimony that prior to consideration of the concept of the university, that all three institutions need to be strengthened in their capacity before the subject of them coming together in a university can take place.

Mr. SADDLER. Before it can even be considered.

Mr. SEWELL. And you know, once they reach that goal, they would be considering what they can do because at this time is the time for expansion, not consolidation.

Mr. DELLUMS. Well, let me ask you, do you think—I may have asked you that, just let me get it for the record, a specific response to that question—what is your opinion of the thought that a university would have greater capability in going after funds, programs, than three institutions, competing separately?

Mr. SADDLER. I had not thought of the matter, sir. The primary reason, the primary reason in my reading of the subcommittee appropriations hearings—the Appropriations Subcommittee of the District of Columbia hearings—the primary reason for consolidation is duplication of effort.

It doesn't sound like we are trying to get a way to get more money, it seems they are just trying to find a way to cut down on the amount of money. Duplication of effort versus—you are talking about three college presidents. We, I believe, should be able to support three college presidents if our major priority is the people, and not the money.

And I look at it now, in giving a financial reason for changing the course of people's lives, I can't find no justification, none whatsoever. So I don't believe that a university would necessarily get more money, I think they are just trying to find an easier way to take it away because there would be only one man fighting for the money.

Mr. DELLUMS. Well, I would just say in response to your reference to the Appropriations Committee, that I don't speak for their motives. Probably, since it's an Appropriations Committee, I'm sure it's primarily fiscal.

As I understand the motive for this particular bill that was drafted and referred to this committee, it was not to deal with the issue of cutback of funds, but that the university would be able to provide a broader range of services to the people.

And that the coordinating instrument that you referred to would be the institution itself which would be called upon for coordination because it would be one entity.

BOARD OF TRUSTEES

If you had a Board of Trustees, and let's for the moment not say how, appointed or elected, but let's say through some kind of a democratic process; students, faculty, community people and alumni were represented on that body. Then, what is the rationale for assuming that the Board of Trustees would not function. Are you saying you are leary of a Board of Trustees by virtue of the present conduct, as you see it, of the Board of Higher Education; or are you simply saying, we honestly believe any concept, when you talk about merger with FCC, or consolidation with FCC, or moving into a university in some way dissipates the Distroct of Columbia Teachers College?

In other words, what I'm trying to say, if what you young men are really saying is, we do not care what concept it is, we ust want to be D.C. Teachers College to be an entity by itself, not involved with anybody else, become a strong institution for another 120 years; then I'm saying, just lay that out, put that out there for the record.

Mr. SEWELL. When we get to the level of a university system for coordination, if you had one Board of Trustees, you would still have three students from possibly three different schools, and three alumni—so, you have a divided Board of Trustees, and one individual, the chairman who controls that particular board, and when we go out to fight for the university—but not when you go out to save money.

So, what we are suggesting, these institutions have a Board of Trustees, and on top of that possibly some coordinating body so that they can look at the facts before they make decisions, and in each school's budget the fiscal plan is based on the need and the facts would be on the table. There is no way for people to represent their particular interests on a Board of Trustees because I have one vote. Maybe I get out on the wrong side of bed this morning, I vote this way, I vote that way.

But, if they have to deal with facts, a real commissioner, or a real coordinating body this business about education will be done; but if they can deal with political ramifications, there is no way that can happen.

Mr. DELLUMS. One final question. As I was indicating earlier, that there are three levels of higher education in the State that I'm from, the State of California.

The university system, that's governed by the Board of Regents. Then, there is a State college system that is governed by its Board of Trustees. Then, there is a junior college system that has independent, publicly elected people who govern a local community college system. There are many junior college systems in the State of California and all with their own Board in my district and throughout the community college system.

Are you advocating, then, at this moment in time, if there were any approach to this, rather than a university, would you be suggesting a State college system with three State colleges, namely, D. C. Teachers State College, FCC State College—I'm just using "State" to deal with the question of the District of Columbia—and WTI State College, each college had it's own Board of Trustees, but on top of that is a State College Systems Board of Trustees that attempts to coordinate the resources of all three institutions.

Is that more in keeping with where you are going?

Mr. SEWELL. Of the particular systems that you defined, I think that would be the best one. But, once we reach that level, would the people be appointed, or elected? We would have to get into the real problem of qualification of the people in this chosen body, having respect for one another, cooperation—we come back to dealing with the facts.

Mr. DELLUMS. I certainly don't want to elicit an answer from you that put you in a position of saying, I support this particular approach to the Board of Trustees. I was simply looking at how you would handle it on a broad basis.

Mr. SEWELL. I accept your example.

Mr. SADDLER. I would like to make one point, there. I think when you establish a bill, for instance like the Board of Higher Education was established with Federal City College and Washington Technical Institute.

They have felt, and it is my feeling, and maybe rightly so because the college was new; they have felt a parental kind of guidance need on the part of Federal City College, while you are in D.C. Teachers College to some extent then saying, well, this is new, we have to build this.

I think that what you really need is to establish separate boards of trustees. If you give one group the vested power to fight in the interest of a group of people that they represent, it has a far greater impact, I believe—if you have a system as you describe it—a far greater impact to the people. They are being approached not only by educators and academicians which they feel one way or another about, they are also being approached by peers who are simply working on another level in the same system, and coordinate the same things they are, which is higher education.

Mr. DELLUMS. Thank you. Mr. Hogan?

Mr. HOGAN. Thank you, Mr. Chairman.

I think the testimony of the young gentlemen has been quite helpful.

I couldn't help, Mr. Saddler, but be reminded that one of the most difficult problems that the Nelsen Commission had was resolving the issue of higher education, and how the commission would handle that. The vice chairman of the commission, John Duncan, who is a former Commissioner of the District of Columbia and a graduate of D.C. Teachers College, is certainly as good an alumnus as you have of the D.C. Teachers College, and he argued very persuasively, just as you have, for permitting the District of Columbia Teachers College to retain its identity as an institution for the District of Columbia.

COUNCIL AUTHORITY

One of the things that occurred to me, from the testimony of both of you, is that you would prefer to have the local elected Mayor and the local elected City Council resolve this issue for you at some time in the future, as to whether or not to build a university. Is that correct?

Mr. SADDLER. That is correct.

Mr. HOGAN. But in turn, what you are also asking the committee to do is to turn the problem over to the City Council for public hearing, as to whether or not D.C. Teachers should be merged into Federal City College, or absorbed into Federal City College to use your term, or that it keep its identity; is that not so?

Mr. SEWELL. That is also true. And to go a step further, we also point out that the Board of Higher Education does not have the power to do that; they have to have legislation from the City Council, and the same legislation would have to be given to the Congress under public law.

Mr. HOGAN. Did you testify before the Joint Committee when they had hearings?

Mr. SEWELL. Yes, I did.

Mr. HOGAN. And what was your testimony?

Mr. SEWELL. My testimony was based on student representation on the Board of Trustees, and also in the District of Columbia. As I said before, there was hardly any mention in that testimony of the merger of D.C. Teachers College and Federal City College.

Mr. HOGAN. Well, did you support the university concept at the joint hearing?

Mr. SEWELL. Yes, I did.

Mr. HOGAN. Now, turning again to Mr. Saddler's testimony, was it your understanding at that time, referring to your testifying in favor of the university, that Congress would be acting to establish the univresity? Or was it your understanding that that would be taken up by the local elected government?

Mr. SADDLER. As I understood, the establishment of the university, that would be happening on both levels, and that all participating parties would agree. So that the university system, as Mr. Diggs pointed out would begin at the local level, and that was the reason the Joint Board held hearings.

Mr. HOGAN. So, the local elected government would establish the University if it were to be established.

Mr. SADDLER. Well, I can't say established, I don't know if the local government has that authority.

Mr. HOGAN. I mean the locally elected government, once they had authority——

Mr. SADDLER. Right.

Mr. HOGAN [continuing]. Rather than the Congress.

Mr. SADDLER. Yes.

Mr. HOGAN. Thank you, very much.

Mr. DELLUMS. Thank you. First of all, let me thank both of you for coming here. It is obviously with a great deal of pride that I see the testimony of you two very bright and very articulate young brothers.

Thank you, very much for your diligence and time, and clariy of your presentation. We will take judicial notice of the comments that you have made.

And, as I said earlier, it seems to me, one, that the issue of the merger—for lack of a better word, I will say "clouded" that whole issue—and perhaps if we were dealing with the concept of the University of the District of Columbia without dealing with the issue of the merger, or the absorption of D.C. Teachers College, we would perhaps look at this issue differently. But, I would agree that it seems to me, as long as the isse of absorption is clouding this issue, I think it is incumbent upon myself and members of this committee to make the recommendation that we first look at the leading question of the merger, what our rights are in the situation, and then deliberate what action we should take; and certainly the recommendation that you made will be taken into consideration very seriously.

As I said, I have no way of commenting on that until we get a legal opinion. The point that Mr. Hogan made with respect to referring that matter to the City Council, and urging them to move, open this whole question up and hold open hearings on the issue of the merger that was announced, as a matter of fact as fait il compli, to be finalized in 60 days; this happened on Monday in our hearings. So, we will have to look into that.

The second point, you also testified that even if the issue of the merger, or the consolidation, or the absorption of your school was not at issue, that what is an issue is the question of the source of the legislation bringing into play the University of the District of Columbia. And it is your testimony that should be done by the local govern-

ment that will be taking office on January 2, 1975. And the right of that government is to establish any agency, department, or instrumentality that it chooses to set up; which means that it certainly has the authority.

And, you understand our position that as subcommittee, we are charged with the responsibility of acting on legislation; and because I also sit on other committees where subcommittee chairmen sit on, very important pieces of legislation, that I don't want to be party to.

So, that takes me in an open kind of discussion that the first issue that I would put before the subcommittee is the issue of whether we should, or should not act, ourselves, given the concept of home rule, and the fact that January 2, 1975 the local government will have that right.

We as a committee will deliberate. The committee can then choose to refer this matter to the City Council, unless the full committee relieves the subcommittee of the responsibility and proceeds to do it himself, which he certainly would have the right to do because we can be overruled by the full committee. The chair can relieve us of responsibility and hold a markup in the full committee, but we will certainly make a recommendation.

If the recommendation then is to refer this to the City Council, then I see no further need for this subcommittee to deliberate. However, if the subcommittee believes that we should, based on the testimony, to go ahead and act, then it is the intent of the chair to try to get the best possible piece of legislation that we can; which would also address itself very strongly to the issue of student representation, faculty representation and many other critical questions that people have raised.

And the third point that has also been raised is the whole question of the opportunity of a large number of people to be involved in these hearings, should we continue to move. It is the intention of the chair to consult with the full committee, the chairperson, based upon testimony that we recently heard, to discuss the question of holding hearings open for additional time, to gather even further testimony before the subcommittee does anything.

Now, if then we are directed by virtue of our presentation of the testimony to keep the hearings open even further, then it is the intention of the chair to proceed to hold additional hearings and get additional testimony, some of which will probably concur in the position you gentlemen have taken; some may not.

But, if it is the decision that we must move forward and we have had enough hearings, and it is the interpretation that the hearings held earlier were sufficient in this matter then, as I said before, we will deal with the items, No. 1, should we and if the decision is that we should act, then it is our intention to try to report the best possible bill we can.

But, whatever we do, it will be done in open session: the hearings will continue to be open, and we will have them in the markup session, contrary to past history, in accordance with the rule that we hold markups in open session. And we will try to make sure that all the people who testified, and any other interested persons will be notified that there will be a markup.

We intend to meet sometime next week, I am not sure whether we will meet on Wednesday, or Thursday; but we will try to get notice to you and let you know whether we will discuss the bill.

Thank you very much, and I will just simply say—you don't vote for me, so this is very unsolicited—if I were a member of the Board of Trustees, serving with capital young men as you represented this afternoon, I would be very proud and pleased to serve with you.

And with that these hearings are suspended until further notice of the Chair.

Mr. HOGAN. Mr. Chairman, I wonder if I can say two things. No. 1, I would just like to check this Department of Agriculture statement about the savings which was referred to by Mr. Coblyn. And, No. 2, Mr. Landgrebe has this letter from the Office of Education, and I would like to submit that for the record.

Mr. DELLUMS. Without objection they will be inserted in the record.

Mr. HOGAN. Thank you.

[Whereupon, at 6:30 p.m., the subcommittee hearing was adjourned subject to the call of the Chair.]

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