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AMATEUR SPORTS ACT

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HEARINGS

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

S. 2036

TO PROMOTE AND COORDINATE AMATEUR ATHLETIC ACTIVITY IN THE UNITED STATES, TO PROVIDE FOR THE RESOLUTION OF DISPUTES INVOLVING NATIONAL GOVERNING BODIES, TO CREATE CERTAIN RIGHTS AND PRIVILEGES FOR UNITED STATES AMATEUR ATHLETES, AND FOR OTHER PURPOSES

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OCTOBER 18 AND 19, 1977

Serial No. 95-53

Printed for the use of the
Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE
23-084 O WASHINGTON : 1978

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AMATEUR SPORTS ACT

TUESDAY, OCTOBER 18, 1977

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION,
Washington, D.C.

The committee met at 9:07 a.m. in room 5110 of the Dirksen Senate Office Building; Hon. Ted Stevens presiding.

OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. Good morning.

I will call the committee to order.

Let me state that the Committee on Commerce, Science, and Transportation is having a markup session at the same time as these hearings. We expect Senators will come and go depending upon the bills that are being marked up.

Today the Commerce Committee begins 2 days of hearings on amateur sports. During these hearings we want to focus our attention on S. 2036, the Amateur Sports Act of 1977. This bill was sponsored by Senators Culver, Stone, and myself, and has three major components.

First, it expands the authority of the U.S. Olympic Committee so that it can better serve as a coordinating authority for amateur sports. In this regard the bill authorizes a one-time Federal expenditure of $10 million to assist the USOC in fulfilling its new role. Another $10 million is to be used for the operation of national training centers.

Second, S. 2036 sets forth criteria for national governing bodies and sets up a procedure to be followed for sports organizations to be recognized as national governing bodies. The bill also provides for the American Arbitration Association to resolve disputes between two organizations when both are vying to represent the United States in this capacity.

Third, and most important, the bill protects the right of an amateur athlete to participate in amateur athletic competition without arbitrary controls.

For the most part, S. 2036 is based on the recommendations of the President's Commission on Olympic Sports on which Senators Culver, Stone, and I had the privilege of serving with 19 other very dedicated individuals. As a Commission, we had as our purpose one goal, to bring to an end the many problems which have so long scarred amateur sports in this country.

I am pleased at the interest which has been shown in S. 2036. In our 2 days of hearings we will have witnesses representing almost every facet of amateur sports. We will hear from athletes, the

President's Commission on Olympic Sports, the U.S. Olympic Committee, national governing bodies, various amateur sports organizations, and the school-college community. Comments and recommendations received in these 2 days of testimony will be extremely helpful to the committee.

I must point out, however, that the legislative process is in great part a process of compromise, of give and take. Far too often, groups representing amateur sports have come to us and said: "If we don't get 100 percent of what we want we will oppose you 100 percent." The end result is that we have had no solution to the problems affecting amateur sports.

Instead, we continue to have misunderstandings, bickerings, and power struggles. Due in large part to the President's Commission on Olympic Sports and the willingness of the U.S. Olympic Committee to restructure itself, the time is right for a new beginning in amateur athletics. It is my full conviction that if amateur sports organizations will set aside their differences and work in a spirit of cooperation, there is no limit to the athletic achievements which the United States can accomplish.

I might also point out that every Senator who has chaired a hearing on this subject has been defeated in a subsequent election. I mention that without any intention of being facetious. No one who has tackled this problem in the Senate has survived the next election. So I want to serve notice that either this bill flies and the people who are concerned about amateur sports support it, or there will be no more bills.

We have reached the end of our rope as far as I am concerned.

Senator Stone has just joined us. I think he would reflect the same sentiment. We have dedicated ourselves to find a solution to the problems which have been presented to the President's Commission on Olympic Sports and the Commerce Committee. In the 7 years that I have served on the committee there has been an amateur sports bill before it almost every year. I just cannot believe that after so much time and work there is not some room for agreement between the competing forces.

I am hopeful that in these 2 days of hearings we will have a frank and complete discussion of the problems with the bill.

But again, I state for myself at least—and I think I speak for Senators Culver and Stone—that we either find a way to resolve this now or the sports community can spend a great deal of time litigating it in the future.

[The bill follows:]

95TH CONGRESS
1ST SESSION

S. 2036

IN THE SENATE OF THE UNITED STATES

AUGUST 5 (legislative day, JULY 19), 1977

Mr. STEVENS (for himself, Mr. CULVER, and Mr. STONE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To promote and coordinate amateur athletic activity in the United States, to provide for the resolution of disputes involving national governing bodies, to create certain rights and privileges for United States amateur athletes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Amateur Sports Act of 1977".

TITLE I—DECLARATION OF POLICY

FINDINGS

SEC. 101. The Congress finds that—

(1) amateur sport plays an important role in

American society by serving as a source of recreation, contributing to the improvement of physical and mental health, providing for public entertainment, and acting as a national unifying bond;

(2) amateur athletic activity, including competition, is valuable in the development of an individual's character, promotes integrity and the pursuit of personal excellence, and contributes to fitness and physical well-being;

(3) athletic competition between athletes of the United States and those of other nations provides a valuable exchange of cultural and personal ideas and fosters improved international understanding;

(4) it is in the best interest of the United States to encourage and support public participation in sports, including providing opportunities for amateur athletes to develop their skills and compete in national and international competition;

(5) the full potential benefits of amateur athletic competition have not been realized because existing amateur athletic organizations in the United States are fragmented, are not bound by a common purpose, and are unable to coordinate their efforts;

(6) athletes have often been denied the opportunity to participate in an athletic event because of the inabil-

ity of amateur athletic organizations to resolve their differences;

(7) organized amateur athletic competition is conducted through the use of facilities of interstate commerce or is an activity which affects interstate commerce; and

(8) international amateur athletic competition involving American citizens is conducted through the use of facilities of foreign commerce and is an activity which effects commerce between the United States and other nations.

PURPOSE

SEC. 102. The Congress declares that it is the purpose of this Act—

(1) to encourage participation in sports by United States citizens;

(2) to coordinate the development, financing, management, and conduct of amateur athletic activity and to improve the cooperation between various amateur athletic organizations by expanding the authority of the United States Olympic Committee to serve as a coordinating body for amateur sports;

(3) to provide a mechanism to insure that the right to govern a particular sport is awarded to the most representative and capable private organization; and

(4) to protect the rights of an amateur athlete to participate in amateur athletic competition without arbitrary controls.

TITLE II—AMATEUR SPORTS ORGANIZATION

SHORT TITLE

SEC. 201. This title may be cited as the "Olympic Committee Charter Amendments Act".

TITLE ADJUSTMENTS

SEC. 202. (a) The Act entitled "An Act to incorporate the United States Olympic Association", (64 Stat. 899; 36 U.S.C. 371) is amended—

(1) by inserting immediately after section 2 of such Act the following:

"TITLE I—CORPORATIONS";

(2) by redesignating sections 3 through 12 of such Act as sections 101 through 110, respectively;

(3) by striking out paragraphs (1) and (2) of section 101 of such Act, as redesignated by paragraph (2) of this subsection, and by inserting in lieu thereof the following:

"(1) to establish national goals for amateur sports and encourage their attainment;

"(2) to coordinate, direct, and develop amateur athletic activity in the United States in order to foster

productive working relationships among sports-related organizations;"; and

(4) by striking out paragraphs (5) through (7) of such section 101 and inserting in lieu thereof the following:

"(5) to promote and support athletic exchanges with foreign nations;

"(6) to promote and encourage public participation in athletic activity and physicial fitness;

"(7) to assist organizations and individuals concerned with sports in the development of sports programs for amateur athletes;

"(8) to provide for the swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations;

"(9) to foster the development of sports facilities for use by amateur athletes and to assist in making existing sports facilities available for use by amateur athletes;

"(10) to provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis;

"(11) to encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety;

"(12) to encourage and provide assistance to programs and competition for handicapped persons; and

"(13) to represent the interest of the public in amateur sports.".

(b) Section 102 of such Act, as redesignated by subsection (a) (2) of this section, is amended to read as follows:

"SEC. 102. (a) The corporation shall have perpetual succession and power—

"(1) to serve as the coordinating authority for amateur sports in the United States;

"(2) to represent the United States as its National Olympic Committee in relations with the International Olympic Committee and the Pan American Sports Organization;

"(3) to organize, select, finance, and control the representation of the United States in the competitions and events of the Olympic games and of the Pan-American games and to appoint committees or other governing bodies in connection with such representation;

"(4) to facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes involving amateur athletes, national governing bodies, and amateur sport organizations;

"(5) to sue and be sued;

"(6) to make contracts;

"(7) to acquire, hold, and dispose of such real and personal property as may be necessary for its corporate purposes;

"(8) to accept gifts, legacies, and devises in furtherance of its corporate purposes;

"(9) to borrow money to carry out its corporate purposes, issue notes, bonds, or other evidences of indebtedness therefor, and secure the same by mortgage, subject in each case to the laws of the United States or of any State;

"(10) to provide financial assistance to any organization or association, other than a corporation organized for profit, in furtherance of the purposes of the corporation;

"(11) to approve and revoke membership in the corporation;

"(12) to adopt and alter a corporate seal;

"(13) to establish and maintain offices for the conduct of the affairs of the corporation;

"(14) to publish a newspaper, magazine, or other publication consistent with its corporate purposes; and

"(15) to do any and all acts and things necessary and proper to carry out the purposes of the corporation.

"(b) The corporation shall have the power to adopt and amend a constitution and bylaws not inconsistent with the laws of the United States, except that the corporation may amend its constitution only if—

"(1) the corporation publishes in its principal publication, and in the Federal Register, a general notice of the proposed alteration of the constitution, including the substantive terms of the alteration, the time and place of the corporation's regular meeting at which the alteration is to be decided, and a provision informing interested persons that they may submit materials as authorized in paragraph (2);

"(2) for a period of at least thirty days after the date of publication of the notice in the Federal Register, the corporation gives to all interested persons an opportunity to submit written data, views, or arguments concerning the proposed amendment; and

"(3) the corporation decided upon the amendment for which notice was published under paragraph (1) only after the thirty-day period under paragraph (2).".

(c) Section 110 of such Act, as redesignated by subsection (a) (2) of this section, is amended to read as follows:

"SEC. 110. The corporation shall, on or before the first day of March in each year, transmit to the President and to the Congress a detailed report of its operations for the pre-

ceding calendar year, including an annual accounting of the financial status of the corporation and a comprehensive description of the activities and accomplishments of the corporation during the preceding year. The report may include recommendations for additional legislation or other action which the corporation considers necessary or desirable for attaining the objectives of this Act. Copies of the report shall be made available to interested persons.".

NATIONAL GOVERNING BODIES

SEC. 203. The Act entitled "An Act to incorporate the United States Olympic Association" (64 Stat. 899; 36 U.S.C. 371) is amended by adding at the end thereof the following new title:

"TITLE II—NATIONAL GOVERNING BODIES

"DEFINITIONS

"SEC. 201. As used in this title, the term—

"(a) 'amateur athlete' means any athlete who meets the standards for amateurism as defined by the national governing body for the sport in which the athlete competes;

"(b) 'amateur athletic competition' means a contest, event, game, meet, match, tournament, or other program in which amateur athletes are permitted to compete;

"(c) 'corporation' means the United States Olympic Committee;

"(d) 'eligible amateur athlete' means an athlete who is eligible for amateur athletic competition under applicable age, sex, amateurism, and athletic ability or performance standards as prescribed by the national governing body for the sport in which the athlete competes;

"(e) 'international amateur athletic competition' means any amateur athletic competition between (1) any athlete or athletes representing the United States, either individually or as part of a team, and (2) any athlete or athletes representing any foreign country; and any amateur athletic competition used to qualify United States amateur athletes for such competition;

"(f) 'national governing body' means a not-for-profit corporation which is recognized by the corporation in accordance with section 202 of this title;

"(g) 'national amateur sports organization' means any club, federation, union, association, or similar group in the United States which conducts regular national competition in a sport, which holds, or is financially and managerially capable of holding, an annual national championship in such sport from which a team of athletes could be selected to represent the United

States in international amateur athletic competition, and which is capable of conducting international amateur athletic competition in the sport;

"(h) 'sanction' means a certification of approval issued by a national governing body;

"(i) 'sports organization' means a club, federation, union, association, or other group, except a 'national governing body', which sponsors or organizes any amateur athletic competition; and

"(j) 'unrestricted competition' means any amateur athletic competition which is not limited to a specific class of amateur athletes, such as high school athletes, collegiate athletes, members of the armed forces, or any other such group or category.

"GENERAL

"SEC. 202. (a) The corporation is authorized to recognize a national amateur sports organization as a national governing body if that organization meets the requirements of this section and section 203 of this title. Only one national governing body shall be recognized for each sport for which an application is made and approved.

"(b) A national governing body recognized pursuant to this section shall receive the authority set forth in section 205 of this title.

"(c) On the thirty-first day after the recognition of a

national governing body, the corporation shall recommend and support in any other appropriate manner the recognized national governing body to the appropriate international governing body for its recognition as the United States representative for that sport.

"PROCEDURE FOR RECOGNITION OF A NATIONAL GOVERNING BODY

"SEC. 203. (a) Prior to the recognition of a national governing body under the authority granted under section 202 of this title and the procedures and requirements of this section, the corporation shall hold a hearing open to the public on the application for such recognition. The corporation shall publish notice of the time, place, and nature of the hearing. Publication shall be made in the last regular issue of the corporation's principal publication immediately prior to the date of the hearing.

"(b) No national amateur sports organization is eligible to be recognized as a national governing body under this subsection unless it—

"(1) is incorporated under the laws of any of the several States of the United States or the District of Columbia as a not-for-profit corporation having as its purpose the advancement of amateur athletic competition;

"(2) submits, upon application, a copy of its cor-

porate charter and bylaws and any additional information as is deemed necessary or appropriate by the corporation; and

"(3) agrees to submit, upon demand of the corporation, to binding arbitration by the American Arbitration Association in any controversy involving its recognition as a national governing body, or an athlete's right to compete.

"(c) The burden of persuasion at the hearing shall be on the applicant to demonstrate to the satisfaction of the corporation that—

"(1) it is qualified to receive recognition of the appropriate international governing body as the United States representative to that body for the sport for which recognition is sought;

"(2) its membership is open to any individual who is an athlete, coach, trainer, official, or administrator active in the sport for which recognition is sought, or to any sports organization which conducts programs in the sport for which recognition is sought, or to both;

"(3) it provides an equal opportunity for participation to all individuals eligible under applicable international amateur athletic rules and regulations, applies rules concerning eligibility and participation without discrimination on the basis of race, color, religion, age,

sex, or national origin, and gives fair notice and a hearing to any individual before declaring such individual ineligible to participate;

"(4) it is governed by a Board of Directors, executive committee, or other governing body whose members are selected without regard to race, color, religion, age, sex, or national origin;

"(5) its Board of Directors, executive committee, or other governing body will at all times include among its voting members individuals who are actively engaged in amateur athletic competition in the sport for which recognition is sought or who have represented the United States in international amateur competition within the preceding ten years in the sport for which recognition is sought; and that the voting membership held by such individuals will not be less than 20 per centum of the total voting membership held in that Board of Directors, executive committee, or other governing body;

"(6) it provides for a reasonable proportion of representation on its Board of Directors, executive committee, or other governing body for any sports organization which conducts, on a level of proficiency appropriate for the selection of athletes to represent the United States in international competition nationwide, pro-

grams, or regular national competition in the sport for which recognition is sought;

"(7) no officer of the organization seeking recognition is also an officer of any other organization which is recognized as a national governing body;

"(8) it limits to a reasonable period of time the terms of office for its officers and members of its Board of Directors, executive committee, or other governing body, with consecutive service not to exceed ten years;

"(9) it does not have eligibility criteria more restrictive than those of the appropriate international governing body;

"(10) it has the managerial and financial capability to plan and execute its obligations; and

"(11) it provides procedures for the prompt and equitable resolution of grievances of its members;

"(d) (1) Except as provided in paragraph (2), any national amateur sports organization which on the date of enactment of this title represents a particular sport as a class A member of the corporation shall be considered to be the national governing body for that sport. Such an organization is exempt for a period of two years from the date of enactment of this title from meeting the requirements of subsections (b) and (c) of this section, and during such two-year

period shall take the necessary actions to meet such requirements. After the expiration of the two-year period, the organization shall continue as the national governing body for that sport except as otherwise provided in this title or if at the end of the two-year period the corporation determines that the organization (1) is not in compliance with subsections (b) and (c) of this section, or (2) is not recognized by the appropriate international governing body as the United States representative for the particular sport involved, the corporation shall revoke its recognition. Any organization aggrieved by the corporation's determination may submit a demand for arbitration in accordance with section 207 (d) of this title.

"(2) Notwithstanding the provisions of paragraph (1), the corporation may revoke the status of an organization as a national governing body during such two-year period if such revocation is in the same manner and form, and for the same reason, as the corporation could have revoked a class A membership prior to the date of the enactment of this title.

"OBLIGATIONS OF NATIONAL GOVERNING BODIES

"SEC. 204. Any national governing body for a particular sport under this title is under duty—

"(a) to develop interest and participation throughout the United States in the sport it governs and be responsible to the individuals and organizations it represents;

"(b) to minimize conflicts in scheduling by coordinating with other sports organizations the scheduling of all practices and competitions in the sport it governs;

"(c) to keep amateur athletes under its jurisdiction informed of policy matters and reasonably reflect the views of those athletes in its policy decisions;

"(d) to honor the request of any amateur sports organization or individual for a sanction to hold an international amateur athletic competition unless the national governing body reasonably determines that—

"(1) appropriate steps have not been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility and availability to compete in other amateur athletic competition in the United States and in international amateur athletic events,

"(2) appropriate provision has not been made for validation of records which may be established during the competition,

"(3) due regard has not been given to any international amateur athletic requirements specifically applicable to the competition,

"(4) the competition will not be conducted by qualified officials,

"(5) proper medical supervision will not be provided for athletes who will compete,

"(6) proper safety precautions have not been taken to protect the personal welfare of the athletes or spectators, and

"(7) the sports organization or individual conducting the competition refuses to submit to an audited or notarized financial report of the most recent similar event, if any, conducted by the organizations or individual; and

"(e) to honor the right of an eligible amateur athlete to compete in any unrestricted competition conducted under its auspices or that of any other sports organization, or in unrestricted competition sanctioned by another national governing body, unless it can be established that the denial was based on evidence that the organization or individual conducting the competition did not meet the requirements stated in subsection (d) of this section.

"AUTHORITIES OF NATIONAL GOVERNING BODIES

"SEC. 205. Any national governing body for a particular sport shall have the following authority:

"(a) To act as the exclusive representative of the United States to the appropriate international govern-

ing body for the sport with respect to which it has been recognized.

"(b) To act as the representative of athletes competing in international amateur athletic competition to the international governing body or bodies in its sport.

"(c) To designate individuals and teams to participate in international competition (other than the Olympic games and the Pan-American games) and certify, in accordance with international rules, the amateur status of such individuals and teams.

"(d) To conduct domestic amateur athletic competition including, but not limited to, national championships.

"(e) To establish procedures for the determination of eligibility standards for participation in unrestricted amateur athletic competition. Such procedures shall determine age, sex, amateurism, and athletic ability or performance standards for the sport.

"(f) To sanction the holding of an international amateur athletic competition in its sport. The preceding sentence shall not be construed so as either to recognize or not to recognize the authority of any national governing body to sanction the holding of a domestic amateur athletic competition.

"REVIEW OF NATIONAL GOVERNING BODIES

"SEC. 206. The corporation may on its own motion review all matters relating to the activities of a national governing body and may take such action as it deems appropriate, including but not limited to, placing conditions upon the continued recognition of the national governing body. The district courts of the United States shall have authority to enjoin the commission of any act of a national governing body that does not meet the requirements of sections 203 (b), 203 (c), and 204 of this title. The President of the corporation shall have standing to apply for an injunction except to the extent that the conferral of such standing is inconsistent with the Constitution of the United States of America.

"RESOLUTION OF CERTAIN DISPUTES

"SEC. 207. (a) Any sports organization or individual may seek to compel a national governing body to comply with the requirements of sections 203 (b), 203 (c), and 204 of this title by filing a written complaint with the corporation. A copy of the complaint shall also be served on the national governing body. Within thirty days of the filing of the complaint, the corporation shall determine (i) if the organization or individual has taken any action which may be taken within the national governing body to gain compliance with such requirements, and (ii) if the national governing body is in compliance with such requirements. If

the corporation determines that any such action has not been taken and that the national governing body is not in compliance, it may direct that such action be taken before it will act. If the corporation determines that the national governing body is not in compliance and that no other action may be taken or that other action would result in unnecessary delay, it may revoke recognition of the national governing body or place the national governing body on probation for a period not to exceed one hundred and eighty days pending the national governing body's coming into compliance with such requirements. The corporation may extend such one hundred and eighty-day period for such time as the corporation finds that the national governing body has proven by clear and convincing evidence that it needs, through no fault of its own, to come into compliance. In making any determination, the corporation may choose to request and receive written briefs and affidavits and hold a hearing.

"(b) Any national amateur sports organization may seek recognition as a national governing body in place of any currently recognized national governing body by filing a written request for recognition with the corporation. A request may be filed under this subsection only (1) within the one-year period after the final day of any Olympic games in which competition in the sport occurs, in the case of a national governing body which represents a sport for which

competition and events are held in the Olympic games or in both the Olympic and Pan-American games, or (2) within the one-year period after the final day of any Pan-American games in the case of such a body which represents a sport for which competition or events are held in the Pan-American games and not the Olympic games. A copy of the request shall also be served on the national governing body. The challenging amateur sports organization must establish by a preponderance of the evidence that—

"(A) it meets the criteria for recognition as a national governing body under sections 203(b) and 203(c) of this title, and the current national governing body—

"(i) does not meet such criteria, or

"(ii) does not meet its duties under section 204; or

"(B) it meets the criteria for recognition as a national governing body under sections 203(b) and 203(c) of this title, and in comparison with the current national governing body, the challenging amateur sports organization—

"(i) more completely meets such criteria, and

"(ii) provides at the time of its application, or is able to provide, a more effective national pro-

gram of competition in the sport for which it claims recognition as the national governing body.

Within thirty days of the filing of the complaint, the corporation shall make a determination as to whether or not the challenging amateur sports organization is to be recognized as the national governing body. However, if the current national governing body would have retained recognition except for a minor deficiency in one of the requirements of sections 203 (b), 203 (c) and 204 of this title, the corporation may decide to place the national governing body on probation not to exceed one hundred and eighty days pending the national governing body's compliance. If the national governing body does not bring itself into compliance within the prescribed time period, the corporation shall revoke its recognition.

"(c) Any party aggrieved by the corporation's determination may submit a demand within thirty days for arbitration to any regional office of the American Arbitration Association. The Association shall serve notice on the parties to the arbitration and on the corporation, and shall immediately proceed with arbitration according to the commercial rules of the Association in effect at the time of the filing of the demand, except that—

"(1) the arbitration panel shall consist of not less

than three arbitrators, unless the parties to the proceeding mutually agree to a lesser number;

"(2) the arbitration hearing shall take place at a site selected by the association, unless the parties to the proceeding mutually agree for the use of another site;

"(3) the arbitration hearing shall occur within sixty days after the submission of the demand for arbitration, unless the parties to the proceeding mutually agree to a later date; and

"(4) the arbitration hearing shall be open to the public.

"(d) The arbitrators in any arbitration are empowered to settle any dispute arising under the provisions of this title prior to the making of a final award, if mutually agreed to by the parties to the proceeding.

"(e) Each contesting party may be represented by counsel or by any other duly authorized representative at the arbitration proceeding.

"(f) The parties may offer any evidence which they desire and shall produce any additional evidence as the arbitrators may believe necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to legal rules of evidence shall not be necessary.

"(g) Any district court of the United States shall have jurisdiction for the purpose of issuing subpenas to compel the attendance and testimony of witnesses and the production of documents. Upon application of the arbitrators, the court shall issue subpenas to compel the attendance of witnesses and the production of documents that the arbitrators reasonably believe to be necessary or advisable for a better understanding of the dispute.

"(h) All decisions by the arbitrators shall be by majority vote unless the concurrence of all is expressly required by the contesting parties. The arbitrators shall make their decisions within thirty days after the closing of the hearings.

"(i) The hearings may be reopened, by the arbitrators upon their own motion or upon the motion of any contesting party, at any time before the decision is made. If the hearings are reopened the arbitrators shall make their decision within ninety days of the close of the original hearing.

"(j) The district courts of the United States shall have jurisdiction to enforce decisions of the arbitrators. Such action may be brought by any party to the final decision."

SEPARABILITY

SEC. 204. If any provision of this title in its application to any person or circumstance is held invalid, the remainder of this title in its application to any person or circumstance shall not be affected.

FEDERAL FINANCIAL ASSISTANCE

SEC. 205. (a) The Secretary of Commerce is authorized to assist the United States Olympic Committee in developing amateur athletics in the United States.

(b) The Secretary shall provide such assistance by—

(1) making grants, upon application of the United States Olympic Committee, the total of such grants not exceeding $10,000,000, to finance the operation of the United States Olympic Committee including any programs sponsored by the United States Olympic Committee; and

(2) making grants, upon application of the United States Olympic Committee, the total of such grants not exceeding $10,000,000, to finance the administration and operation of National Training Centers for the furtherance of amateur sports development, research, and education.

(c) (1) Each application under subsection (b) shall be in such form as the Secretary provides and shall contain provisions to assure that the funds of the United States are properly disbursed, the funds are used to promote amateur athletic competition, and that such use is not inconsistent with the policy and provisions of the Act entitled "An Act to incorporate the United States Olympic Association" (64 Stat. 899; 36 U.S.C. 371).

(2) The Secretary shall approve any application which meets the requirements of this section.

(d) The Secretary shall use authorities and funding presently and otherwise available to the maximum extent possible.

(e) The use of such moneys shall be at the full discretion of the United States Olympic Committee, except that no more than 20 per centum of the appropriated funds may be provided to organizations which are not members of the United States Olympic Committee.

(f) The Secretary may review and audit, and shall have access to, for the purpose of such audit or review, any books, documents, papers, and records that are pertinent to any grant under this section.

AUTHORIZATION OF APPROPRIATIONS

SEC. 206. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 205.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until expended.

TITLE III—ATHLETES' RIGHTS TO PARTICIPATE

SHORT TITLE

SEC. 301. This title may be cited as the "Amateur Athlete's Bill of Rights Act".

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DEFINITIONS

SEC. 302. As used in this title, the term—

(a) "amateur athlete" means any athlete who meets the standards for amateurism as defined by the national governing body for the sport in which the athlete competes;

(b) "amateur athletic competition" means a contest, event, game, meet, match, tournament, or other program in which amateur athletes are permitted to compete;

(c) "eligible amateur athlete" means an athlete who is eligible for amateur athletic competition under applicable age, sex, amateurism, and athletic ability or performance standards as prescribed by the national governing body for the sport in which the athlete competes;

(d) "international amateur athletic competition" means any amateur athletic competition between (1) any athlete or athletes representing the United States, either individually or as part of a team, and (2) any athlete or athletes representing any foreign country; and any amateur athletic competition used to qualify United States amateur athletes for such competition;

(e) "national governing body" means a not-for-profit corporation which is recognized by the United States Olympic Committee;

(f) "sanction" means a certification of approval issued by a national governing body;

(g) "sports organization" means a club, federation, union, association, or other group, except a 'national governing body', which sponsors or organizes any amateur athletic competition; and

(h) "unrestricted competition" means any amateur athletic competition which is not limited to a specific class of amatuer athletes, such as high school athletes, collegiate athletes, members of the armed forces, or any other such group or category.

SEC. 303. (a) No national governing body, educational institution, or sports organization may deny or threaten to deny any eligible amateur athlete, coach, trainer, manager, or administrator the opportunity to participate in any sanctioned unrestricted international competition if selected by a national governing body or one of its members, nor may it censure subsequent to the event, or otherwise penalize for having participated in such competition, any athlete, association, institution, corporation, educational institution, or school, coach, trainer, manager, or administrator.

(b) No national governing body, educational institution, or sports organization may deny or threaten to deny any eligible amateur athlete, coach, trainer, manager, or administrator the opportunity to participate in any interna-

tional competition (except as provided in subsection (a)), nor may it censure subsequent to the event, or otherwise penalize for having participated in such competition, any athlete, associate, institution, corporation, educational institution, or school, coach, trainer, manager, or administrator, unless the national governing body, educational institution, or sports organization can show that such denial or censure is reasonable.

ENFORCEMENT

SEC. 304. (a) (1) Whenever any person is engaged in, or there are reasonable grounds to believe that any person is about to engage in, conduct resulting in a denial of opportunities to participate under section 303 of this title, a civil action for preventive relief, including an application for preliminary or permanent injunction, temporary restraining order, or other applicable order, may be instituted by the amateur athlete, coach, trainer, manager, or administrator claiming to be aggrieved, or on behalf of the athlete, coach, trainer, manager, or administrator by the United States Olympic Committee, by any national governing body, or by any sports organization of which such individual or institution is a member.

(2) The district courts of the United States shall have jurisdiction to enjoin the commission of any acts or threatened

acts which would result in a denial of the opportunity to participate.

(3) Upon finding that a person is engaged in or is about to engage in conduct resulting in a denial of rights under section 303 of this title, the court shall issue such preliminary or permanent injunction, temporary restraining order, or other applicable order.

(b) (1) Upon mutual agreement of the parties, actions for relief under the provisions of this title may be submitted to any regional office of the American Arbitration Association for binding arbitration.

(2) The arbitration shall proceed in accordance with the rules of the American Arbitration Association in effect at the time of the filing of the action. The arbitration shall be before a panel of three arbitrators and shall begin as soon as possible but, in any event, no later than thirty days after the dispute is submitted to the American Arbitration Association. However, if the Association determines that it is necessary to expedite the arbitration in order to resolve a matter relating to an amateur athletic competition which is so scheduled that compliance with regular procedures would not be likely to produce a sufficiently early decision by the Association to do justice to the affected parties, the Association is authorized, upon forty-eight-hour notice to the parties,

to hear and decide the matter under such procedures as it deems appropriate.

(3) Each contesting party may be represented by counsel or by any other duly authorized representative at the arbitration proceeding.

(4) The parties may offer evidence as they desire and shall produce such additional evidence as the arbitrators may deem necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to statutory rules of evidence shall not be necessary.

(5) Upon application, the district courts of the United States shall have jurisdiction for the purpose of issuing subpoenas to compel the attendance and testimony of witnesses and the production of documents which the arbitrators reasonably deem to be necessary or advisable for a better understanding of the dispute.

(6) All decisions by the arbitrators shall be by majority vote unless the concurrence of all is expressly required by the contesting parties. The arbitrators shall make their decisions within thirty days after the closing of the hearings.

(7) The hearings may be reopened by the arbitrators upon their own motion or upon the motion of any contesting party, at any time before the decision is made. If reopened

the arbitrators shall make their decision within ninety days of the close of the original hearing.

(8) The district courts of the United States shall have jurisdiction to enforce decisions of the arbitrators. Such action may be brought by any party to the final decision.

SEPARABILITY

SEC. 305. If any provision of this title in its application to any person or circumstance is held invalid, the remainder of this title in its application to any person or circumstance shall not be affected.

Senator STEVENS. Senator Stone, do you have a statement that you would like to make?

STATEMENT OF HON. RICHARD STONE, U.S. SENATOR FROM FLORIDA

Senator STONE. Mr. Chairman, I do have some brief opening remarks, if I may.

First of all, Mr. Chairman and committee members, ladies and gentlemen, I want to express my appreciation to Chairman Magnuson and the other members of the committee, and particularly to my good friend Senator Stevens for scheduling these hearings and allowing me as a nonmember of the committee to participate.

There are many witnesses, so I will be very brief.

This bill, S. 2036, introduced by Senators Culver, Stevens, and myself, is the product of an effort that begin in June of 1975 when President Ford established the President's Commission on Olympic Sports, and gave it the duty of determining the problems that prevent American athletes from reaching their potential in international sports competition.

The Commission's findings are clear. The Commission was ably headed by its Chairman, Gerald Zornow, and they will cover that in their testimony.

The President's Commission on Olympic Sports Report has been published and the solutions to the existing problems were set forth to be implemented. And the way to get them implemented is to pass S. 2036 or something equivalent.

Between the time that the report of the President's Commission was published and the introduction of this bill, Senator Stevens, Senator Culver, and I continually met with athletes, with officials of the USOC, with the AAU, with the NCAA, with the State High School Association, the Junior College Association, Women's Athletic Association and others to discuss the various legislative proposals we were then considering.

In designing and drafting this legislation, we made every effort to recognize the concerns, not only of the individual athletes but of all of those organizations and all the other amateur athletics organizations that could and would be affected by passage of a bill.

And wherever we had a chance to do it, and wherever we could do it, we tried to accommodate their concerns—not once, but on a continuing basis.

We have also tried to take into account the voluntary changes that were commendably made and recently made by the U.S. Olympic Committee in its constitution in response to the recommendations of the President's Commission.

The question has been asked whether legislation is still necessary to implement the President's Commission recommendations, in light of the U.S. Olympic Committee's constitutional initiatives, which increase the athletes' rights to compete and reorganize its membership.

All the groups with whom we have spoken after those actions indicate that legislation is still necessary to insure that the progressive measures adopted by the USOC would not be reconsidered and dropped in the future or watered down in the future.

It is fair to say there has been significant progress toward settling long-standing disputes between rival amateur athletic organizations and in providing athletes with unassailable rights to compete since the publication of the President's Commission Report.

While I commend these considerable achievements, I would also like to point out these are complex and emotional issues and there are areas of problems still to be solved.

I want to emphasize my willingness to listen to the suggestions today and tomorrow to improve this bill. If we don't work together I am afraid all of our efforts will fail and the problems which hinder our athletes will continue. But if we continue to cooperate in this worthy endeavor, I firmly believe that we can provide the best athletic opportunities of any nation in the world for all our people.

Thank you, Mr. Chairman.

Senator STEVENS. Thank you, Senator Stone.

We will have three panels today. The first will be the President's Commission on Olympic Sports. The Chairman, Gerald Zornow, will be accompanied by Commissioners Howard K. Smith, Donna de Varona, Captain Micki King Hogue, and Dr. Ernest Vandeweghe. Let me apologize, as you know our loudspeaker system is not working. We have sent for the technical engineers to work on it, but if you would speak up it would help so that those in the audience can hear.

Good morning.

STATEMENT OF GERALD B. ZORNOW; ACCOMPANIED BY HOWARD K. SMITH; DONNA DE VARONA; MICKI KING HOGUE; AND ERNEST VANDEWEGHE

Mr. ZORNOW. Thank you, Mr. Chairman.

I will start off with a few prepared remarks. I assume that's the normal practice, to get it started.

Senator STEVENS. You may proceed any way you wish. I'm happy to see that so many of the Commissioners could appear and testify today. We must make a record for this bill; so we would appreciate it very much if you would give us your statement as fully as you wish to do so.

Mr. ZORNOW. Mr. Chairman, I am grateful to have the opportunity to be here today to speak in endorsement of proposed law S. 2036, otherwise known, I believe, as the Amateur Sports Act of 1977. I had the pleasure of acting as Chairman for the President's Commission on Olympic Sports which finalized its detailed study of amateur sports ills, especially as related to Olympic sports, in the United States, in January of this year. The Commission, created by former President Gerald Ford was charged with (1) the investigation of our amateur sports picture and (2) the responsibility of recommending solutions to what we quickly learned was cancerous situations.

I would like to take a moment to recognize the contributions of that Commission. The athletic community was represented by former Olympic decathlon champions Bill Toomey and Rafer Johnson; diver Captain Micki King Hogue; swimmer Donna de Varona; cross-country skier Michael Elliott, and track-and-field star Willye White.

From the field of education, we had Dr. Barbara Forker and Dr. James McCain. Medicine was represented by Dr. Ernest Vandeweghe,

and three others, Charles "Bud" Wilkinson, Lamar Hunt, and Howard K. Smith are, I'm sure, known to you all.

From Congress, we enjoyed the participation of Representatives Kemp, Metcalfe, Michel, and Mineta, and Senators Beall, Culver, Stevens, and Stone.

So, as you can see, the appointees to the Commission were carefully selected to insure a representative and knowledgeable group to probe the problems and suggest some solutions.

This dedicated group expended much in the way of time, energy, and talent in considering the problems. In fact, a series of hearings, not unlike the one we are attending today, produced a compendium of facts which were used in determining our conclusions.

The work of this Commission occupied about 18 months and was, in my opinion, thorough and very much within the bounds of our charter.

It seems appropriate to share with you some of the observations and conclusions we reached, and in support of this brief review, I refer you to the two-volume report which was sent to the President, and made public, earlier this year.

It is entitled "The Final Report of the President's Commission on Olympic Sports, 1975–1977," and is on sale and available from the Superintendent of Documents, U.S. Government Printing Office. It carries stock numbers 041–000–00003–1 and 041–000–00002–3.

These two volumes, and the prepared statement in the blue folder which I believe you all have received, incorporate hundreds of hours of deliberation and work by the Commissioners and a talented report staff.

I'm sure it's not necessary for me to read what you have in front of you, but some random thoughts related to the materials available might be in order.

The Commission interviewed, heard from, and questioned scores of people, both as individuals and as representatives of organizations connected in one way or another with amateur and Olympic sports. I for one was shocked to hear, and often repeated, such words and phrases as disorganized, lack of harmony, struggles for power, ineligibility, ill-equipped, poorly coached, outlawed, and fragmented.

Yet these are the words we heard from many of those who spoke. Snatches of hearing transcripts come to mind * * *. An eloquent Howard Cosell described our Olympic structure as "a morass of frustration and futility." A very candid Frank Shorter lamented the disastrous financial straits of many athletes, saying that without living with, and sharing expenses with, other athletes, he simply couldn't compete.

One athlete said our teams succeed in spite of, rather than as a result of, their parent organizations. Another termed those in organizational power nothing but "a collection of professional blazer-wearers."

One of our star women runners readily admitted accepting subsidies from an American manufacturer "under the table" without which she couldn't afford to train.

We heard from representatives of other governments, West Germany and Canada, whose organizations and funding systems put ours to shame.

For example, Quebec, one of Canada's 10 provinces, has more than twice the operating budget of our entire U.S. Olympic fund.

I repeat these excerpts not for their shock value, but because they formed the basis for much of the thinking that went into the final report.

But every coin has two sides. The flip side of our coin is the many worthy organizers, coaches, educators, and parents who spoke to our Commission. We have some excellent people to draw from. I believe I can say with all candor that while the individuals are indeed capable and dedicated, the fault seems to lie in the unweildy organizations whose quest for control, for an assortment of reasons, overshadows the very purpose of their existence.

I'm sure this will be viewed as an oversimplification, but one of the facts that shone through very brightly in our conclusions is the fact that somebody must be in charge.

Our Commission recommended the formation of a separate group, a central organization or, for want of a better term, a highest sports authority.

It was the feeling of the Commission that since the organizations involved in amateur sports in our Nation today appeared unable to settle their own differences, perhaps a fresh, new autonomous body would be the answer.

While I have not personally polled Commission members since our dissolution last January, I am confident that S. 2036, which essentially expands the responsibilities of the U.S. Olympic Committee and sets forth new guidelines for its conduct of business through more effective liaison with NGB's, may indeed be viewed as a viable alternative.

In fact, the legislation, as proposed, parallels many of the recommendations carried in the Commission's final report.

One other brief point I would like to touch upon, and heartily endorse as part of this legislation, is the one referred to in section 203, subsection B, paragraph 3, having to do with arbitration.

The designation of the American Arbitration Association as the final judge in disputes or controversies regarding the recognition of a national governing body or over an athlete's right to compete is, in my opinion, very worthwhile. The Commission's final report also urged adoption of this provision.

I believe the members of the Commission are gratified that Congress, through Senators Stevens, Culver, and Stone, has chosen to introduce S. 2036 as a way to alleviate the many problems and enact some of the solutions I have outlined.

In conclusion, I believe we are headed in the right direction. Let us hope that the passage of this effective legislation is free from the pebbles of pettiness, selfish motives and the thirst for power which, alas, exist undeniably in today's amateur sports environment.

In addition, we want this to be passed because we want you back the next time.

[The statement follows:]

STATEMENT BY GERALD B. ZORNOW ON BEHALF OF THE MEMBERS OF THE PRESIDENT'S COMMISSION ON OLYMPIC SPORTS

Mr. Chairman, I am grateful to have the opportunity to be here today to speak in endorsement of proposed Law S–2036, the "Amateur Sports Act of 1977."

I had the pleasure of acting as Chairman for the President's Commission on Olympic Sports which finalized its detailed study of amateur sports ills, especially

as related to Olympic sports, in the United States, in January of this year. The Commission, created by former President Gerald Ford, was charged with (1) the investigation of our amateur sports picture and (2) the responsibility of recommending solutions to what we quickly learned were cancerous situations.

Members of the Commission were representative of many disciplines * * * athletes, educators, former coaches, members of Congress and a thoughtfully appointed cross section of private, interested citizens. (A list of those who served is attached (Attachment A).)

This dedicated group expended much in the way of time, energy and talent in considering the problems. In fact, a series of hearings, not unlike the one we are attending today, produced a compendium of facts which were used in determining our conclusions.

The work of this Commission was, in my opinion, thorough and very much within the bounds of our charter. My thanks to them all.

It seems appropriate to share with you some of the observations and conclusions we reached, and in support of this brief review, I refer you to the two-volume report which was sent to the President, and made public, earlier this year. It is entitled "The Final Report of the President's Commission on Olympic Sports, 1975–1977," and is available from the Superintendent of Documents, U.S. Government Printing Office. It carries stock numbers 041–000–00003–1 and 041–000–00002–3.

The information contained in these two volumes is very detailed, but if I may, I will synopsize to the best of my ability as follows:

While a nation's success in international sports competition is not encessarily indicative of the merits of its way of life, it surely tells us much about the vigor of that nation's sporting populace and the cohesiveness of its organization. Success reflects on the ability of a system to permit individuals to reach the limits of their potential.

In international sport American performances are deteriorating. Against athletes from nations for whom Olympic medals are as precious as moon rocks, U.S. competitors seem to have steadily diminishing chances of success. In fact, America's active sporting populace is that of a rather small country, isolated within a larger, more passive society. "Fifty million adult Americans never exercise, and degenerative diseases associated with obesity and physical inactivity have reached the epidemic stage," reports the President's Council on Physical Fitness and Sports.

America's weakness in sport is not lack of talent, for it has awesome talent which has kept the country's Olympic performances respectable. And it is certainly not lack of resources, although it is clear to all that potential sources of financing have not been tapped and that facilities and knowledge have not been used to their greatest advantage. For example, it is precisely America's great strength in the exploration of space which is our weakness in sport: organization. U.S. sports organizations are fragmented, not bound by common purpose or any effective coordinating system. No clear policy or direction in amateur sports, physical education or physical fitness can be or has been maintained. Incessant organizational squabbles waste time and talent and threaten the fundamental rights of athletes to take part in the most challenging competition for which they are qualified. Feast and famine exist side by side. Men's college athletic opportunities are extensive and rewarding while those for women or non-school atheletes are sparse and the experiences often embittering. Valuable research in sports medicine is often ignored because there is no effective means of putting findings to practical use. Inconsistent amateur codes unfairly hamstring many athletes' development.

Yet the division and rivalries among American sports organizations do not need to exist. They represent no inherent conflicts in the interests of the athletes or the people of the United States.

To enable various interested groups to combine for the common purpose of advancing American sporting achievement and encouraging a greater share of our people to lead active lives, the President's Commission recognized, among others, these basic needs:

A means to settle organizational disputes over the right to be the recognized national governing body (NGB) in a sport;

A means to induce all organizations with significant national programs in a sport to belong to the NGB so that their activities can be coordinated;

A means to guarantee an athlete's right to compete;

A means to finance amateur sports more effectively; and

Creation of new, or significant restructuring of existing, national administrative bodies with the power and authority necessary to satisfy these objectives.

In addition, these needs must be met by building on the existing system and taking into account the views of the American public, the President, the Congress and the existing international and domestic sports organizations.

The Commission's recommendations were intended to cause the dispute between the Amateur Athletic Union (AAU) and the National Collegiate Athletic Association (NCAA) and other disputes the Commission uncovered to be resolved. The recommendations were designed to accomplish organizational overhaul of the NGBs while preserving the freedom of sportsmen and sportswomen to map their own destiny. Power blocs which crippled the USOC in the past would be eliminated. Athletes' rights would be more adequately guaranteed, and funding of amateur sports would reach across the whole system rather than remain confined to a relatively few established sources.

The Commission strongly recommended the establishment of an effective means of settling organizational disputes over the right to govern a sport in this country. International sports federations reserve the right to name their representatives in a given country, but traditionally refuse to enter "domestic squabbles," accepting as the franchise holder the body certified by the National Olympic Committee. The USOC, in the past, has been unwilling to take assertive action because the contending groups often have had strong voices within the USOC itself. Thus, franchise challenges have had no fair hearing before any organization and have boiled on through years of rising antagonism. The result: repeated threats and punishments to athletes for representing their country in international competition, and the development of suspicious, uncooperative attitudes by administrators of many sports organizations.

The Commission, in studying proposed mechanisms, observed the USOC's willingness to use unbiased arbitration to solve these disputes. Accordingly, the Commission recommended Public Law 805 be amended to require binding arbitration by the American Arbitration Association (AAA) in disputes involving franchise challenges or allegations that an NGB is not meeting the above-mentioned criteria. It was recommended that the law clearly set the criteria to be met by an organization seeking to win NGB certification.

The essential psychological ingredient in any world class athlete is the drive to excel in the toughest possible competition. To frustrate that urge is to make meaningless a competitor's sacrifice and dedication. That institutions charged with advancing athletes' careers should instead stymie them seems unconscionable. Yet recent history is filled with such events. American high school and college students have lost their eligibility to compete in school sports because they have represented the nation in international competition, even when taking part would not have interfered with their academic, personal or athletic interests. Athletes have been prevented by an NGB from competing in their sport simply because it was sponsored by a rival organization. All organizations, it seems, are capable of unreasonably violating an athlete's right to participate in unrestricted competition.

Current law is confused; that is, law in existence prior to the introduction of S–2036. No statute specifically guarantees an athlete the right to compete; NGBs (as private associations) and school associations are subject to legal scrutiny, but the standards applied are not always rigorous.

In the case of institutions of higher learning, notably NCAA universities, the Commission found that the colleges and universities have chosen to give the power to determine whether a student-athlete competes in a non-school competition to the NCAA central headquarters and its committees. The Commission found this delegation of authority to be inconsistent with the notion, agreed to by most Americans, that local people can best deal with local problems. The Commission was of the opinion that college presidents, athletic directors, and an athlete's teachers, coaches, and, in some cases, parents, are in a far better position to determine whether an athlete's participation in an non-school competition will materially interfere with his or her academic, personal and athletic interest at the school.

There seems to be a widespread perception among Americans that it is unfair for U.S. amateur athletes to compete against state-subsidized professionals from other countries. The hard reality is that the International Olympic Committee—preferring to keep the Olympic movement unified, rather than uniform—will not suspend state-supported athletes. Thus, the Commission studied assorted codes, both international and domestic, with two questions in mind: (1) are they fair? (2) are they unnecessarily strict? Examination showed great variation from

sport to sport in what an athlete may do or accept and still retain his or her eligibility. Incredibly, some domestic NGBs and other organizations enforce stricter rules than those required by the international federations. The Commission believed that an amateur athlete should be able to accept all sports-related revenues, except those offered for competition itself.

The Commission, through detailed study of each of the 30 Olympic sports, noted some recurring problems, basic reasons why our best athletes are less often the best in the world. In contrast to other successful systems, the U.S. has little in the way of early identification and encouragement of talent in a range of sports. Coaching is often haphazard and unscientific. Facilities for many sports are lacking—for example, there is only one Olympic-size speed skating rink in the country—and access to those we do have is sometimes difficult, especially for women and non-school athletes.

We have little tradition for selecting national teams or national coaches, except those named a short time before the Olympics or other international competition. It often costs athletes a great deal to train and compete; and clubs, the weakest link in our development system, are desperately in need of funds. A dedicated athlete's family life often is strained in a society which expects to see financial reward follow hard work. Many sports attract little media coverage and, consequently, the public develops little hope for or interest in U.S. performance in them.

To attack these problems, the Commission suggested the creation of national training centers and sports institutes. High priority must be given to coordinating development programs through all levels of each sport. The club system must be strengthened, to mesh with school sports programs. National teams in appropriate sports must be started. More sports should be introduced in the schools. Finally, high, clear standards should be developed for coach, judge and official certification.

Careful, capable application of medical knowledge in sport is absolutely critical to any successful program, whether national or local. There are 17 million athletic injuries every year in the United States, indicative of the enormous potential for harm through poor medical care.

Good research is being done in the United States. The difficulty lies in transmitting the results to coaches and athletes. As is the case with sport organizations, there is no central coordinating body for the application of sports medicine research, simply a number of fine medical associations pursuing their own specialties.

The Commission proposed that a USOC committee be charged to serve as a national forum and clearing house for research, clinical application, information and education. Certainly a nation that has accomplished so much in medical research can afford to devote a portion of its energies to assuring its athletes the benefits of such research.

Good programs do exist in many sports and at all levels for the physically and/or mentally handicapped. However, these programs are outside the mainstream of American athletics, and most receive limited support and minimal visibility.

The Commission found that barriers to development of sport opportunities for this significant segment of the American populace (approximately 35 million handicapped individuals) bear a striking resemblance to those existing in most sport programs for so-called "able-bodied" athletes. Differences are only in degree, with attitudes and perceptions of the American public toward the words "handicapped" or "disabled" presenting the major contrast.

Consistent with the belief that all individuals should have the opportunity to participate according to their interests and abilities, the Commission recommended corrective actions aimed at recognizing, supporting and assisting the disabled and handicapped in sports.

In recent years the role of women in society has undergone radical change. In the midst of that upheaval has been the issue of the role of women in all aspects of sports—competition, coaching and administration. Despite improvements being made in all areas of sport, opportunities for women still fall short of what is wanted and needed.

Women continue to suffer from a lack of well-structured, varied programs. Also badly lacking are funds for those programs, access to facilities and proper representation in the decision- and policy-making process in organizations conducting sport programs. Contributing to the historic neglect of women's needs, and pervading all aspects of the women's sports picture, is the attitude of the general public toward female athletes.

Progress is being made, however. The increasing numbers of women interested in taking part in sport—and society's growing acceptance of this interest—have led to more opportunities for women athletes, particularly with the passage of

Title IX of the Education Amendments Act of 1972. The Commission wholeheartedly supported the non-discrimination intent of Title IX.

In the area of funding, the Commission concluded that until amateur sports organizations become better organized and managed, there is little hope for additional financial support from the private sector. Many corporate executives perceive amateur sports to be fraught with jurisdictional disputes and managerial incompetence. The potential for private sector funding of amateur sport is bright, however, if the perceived organizational and managerial weaknesses are rectified. Corporations and labor working together will consider "broken-time" payments, return on investment marketing initiatives, and altruistic contributions to amateur sport and athletes.

Government initiatives may also depend on how well amateur sports puts its organizational and managerial house in order. Among the Commission's recommendations were the following government initiatives: (1) commemorative Olympic coins; (2) the use of the federal tax form to make a contribution (not a check-off) to amateur athletics; (3) an excise tax on admissions to professional sporting events; (4) a modified lottery system, using the states which presently have lotteries; (5) "broken-time" payments for federal employees to put them in the same status as Armed Serivces athletes; (6) the reordering of priorities in existing federal programs to build facilities for the most needy amateur sports, or, failing that, direct appropriations for facilities; (7) high-denominational commemorative stamps, with the proceeds going to amateur sports; and (8) amendments to the tax code to allow special credits or deductions for an athlete or an athlete's parents who sustain the burden of preparation for elite competition.

Presidential assistance in initiating a unified public and private sector effort to reach these financial goals is necessary for success.

I believe the members of the Commission are gratified that Congress, through Senators Stevens, Culver and Stone, has chosen to introduce S–2036 as a way to alleviate the many problems and enact some of the solutions I have outlined.

In fact, the legislation, as proposed, parallels many of the recommendations carried in the Commission's final report.

I would be remiss, however, in failing to note one deviation which the Commission recommended . . . the formation of some form of Central Sports Organization, or, for want of a better term, a Highest Sports Authority. It was the feeling of the Commission that since the organizations involved in amateur sports in our nation today appeared unable to settle their own differences, perhaps a fresh, new autonomous body would be the answer.

While I have not personally polled Commission members since our adjournment last January, I am confident that S–2036, which essentially expands the responsibilities of the United States Olympic Committee and sets forth new guidelines for its conduct of business through more effective liaison with NGBs, may indeed be viewed as a viable alternative.

In conclusion, I believe we are headed in the right direction. Let us hope that the path for the passage of this effective legislation is free from the pebbles of pettiness, selfish motives and a thirst for power which, alas, undeniably exist in today's amateur sports environment.

ATTACHMENT A

COMMISSIONERS

Gerald B. Zornow, *Chairman*
Donna de Varona
W. Michael Elliott
Dr. Barbara E. Forker
Captain Micki King Hogue
Dr. Jerome H. Holland
Lamar Hunt
Rafer L. Johnson
Dr. James A. McCain
Howard K. Smith
William A. Toomey
Dr. Ernest Vandeweghe
Willy White
Charles "Bud" Wilkinson

U.S. SENATORS

J. Glenn Beall, Jr.
John C. Culver
Ted Stevens
Richard (Dick) Stone

U.S. REPRESENTATIVES

Jack Kemp
Ralph H. Metcalfe
Robert H. Michel
Norman Y. Mineta

Senator STEVENS. Thank you. We appreciate your comments.

We have been joined by Senator Culver. I think this is probably the only committee in the Congress where a Republican can chair a hearing and be surrounded by two good Democrats.

I'm grateful to them both for being here.

Mr. ZORNOW. I think Mr. Smith has asked for an opportunity to speak.

Mr. SMITH. I will talk loudly if I can.

Mr. Chairman, Senators, I think one preparatory remark that should be made is that I don't believe the American public or indeed the U.S. Congress realizes the dire urgency of this situation. I think you make Olympic champions in the same way that you make a fit population. And the American population is not fit, contrary to the general prejudice.

At the lower end of the age scale, our young people 10, 12, 14 years of age cannot pass simple physical exams that West European youths pass commonly. At the other end of the age scale, there are 50 million Americans suffering from ailments due to inactivity and to obesity. I think a prime reason for this is lack of participation in sports, and I think a prime reason for that is a lack of facilities for it and a lack of stimulus for it.

We are the only Nation in which sports are keyed to the educational system. That's 40 percent of Americans, that's a very high percentage, who go to college are subjected to sports for 4 years and after that they are not. The other 60 percent and those who leave college are not subjected to sports except by accident. There are no facilities for them. I think that I would guess that somewhere in the ghettos of Manhattan there must be two or three Rafer Johnsons who will never see a track or put on a pair of track shoes because there are no facilities in that great area.

I contrast that with Germany. I went to Heidelberg University and I went out, I was very interested in track then, I went out to the track to run and the track was two-thirds overgrown with grass, the pits were made of sand which was wet, and if you landed on them from any height or distance you would break a bone and I asked one of the students, I said, "I understood you had a very good track in Heidelberg." He said, "Oh that's the community track. That's on the other side of the railroad tracks." And I went over there and indeed they had a beautiful soccer field, surrounded by a track, with a gymnasium with a basketball court, and many other facilities for sports.

And every German community has that. Every German is within reach of such facilities. As a result, of 65,000 Germans, West and East 45,000 Germans take an active participation in sports.

That is not true in this country.

It is for that reason I'm more interested in that than I am in the conflicts between our organizations, but they bear on this problem, too.

I'm more interested in development of sports, which I think it is essential to have a central organization for.

And I think the Nation's fitness will suffer further unless this bill is passed and we really organize sports in a sensible way.

I thank you.

Senator STEVENS. Thank you very much.

Ms. DE VARONA. Mr. Chairman, fellow Commissioners, ladies and gentleman. I do hope that the climate is right for sports legislation

finally, and I do hope you are all here next term because I have lived through it as you have.

Years ago I came here with the sports lobby and perhaps didn't understand the issues, but I share the same feelings as Howard K. Smith, that it is not in a lead approach we are taking, but if you do not clean up and reorganize we will never get to the grass roots level.

Our playgrounds will still be locked and controlled by other factions. The taxpayer pays for those facilities. We should find a way in which we can pool those resources and work together.

Since Congress focused on amateur sports in America nearly 5 years ago, many organizations have looked at their systems and have felt compelled to initiate changes that previously were not responding to the needs of the sports groups.

Getting these organizations to change their constitution has been a bit like asking Congress to rewrite their own, but I am very encouraged to know that these organizations in good faith have been trying to meet the challenges issued to them by Congress and the Commission on Olympic Sports.

As a past Commissioner and former Olympic competitor, I am here today to wholeheartedly endorse the proposed legislation introduced last August. However, I feel in some areas Congress must take a stronger and more definitive stand in this legislation, especially since the question of Federal moneys are involved.

Specifically, I must speak on behalf of women in American sports.

I am aware that as a Commissioner we took a rather general attitude toward the rights of women in sports. We were all of the opinion at the time that once legislation was introduced, Congress and the sports groups would further define specific guidelines in this area. But that is a little like putting the proverbial cart before the horse.

After study and thought, I felt those specifics must be discussed now for the proposed legislation. Where Federal funding was involved, Congress set a precedent dealing with the rights of women.

I believe we must apply the same concepts of rights to this legislation. I hope everyone here will open their mind and fully evaluate the comments of those that will be testifying within the next 2 days.

As you know, the original intent of the Commission was to create also a strong vertical sports body, which means everyone represented would have a say in policymaking decisions.

I am speaking of section 204(d). That is the reason why it is imperative that sports bodies retain the right to sanction or not sanction sports events.

However, as now written, the intent of section 204(d) somewhat weakens the original purpose of creating a strong vertical sports structure. I believe this section should be reevaluated.

Regarding the bill of rights for athletes, again we must look to our own original Constitution and Bill of Rights, the originals being the ones that have held this Nation together for over 200 years. The originals were written for all Americans.

With the sports legislation the rights of various sports groups have been totally considered. So must the rights of the individual athletes be totally considered.

They are the reason that Congress felt compelled to introduce the legislation in the first place. These particular Americans, athletes, do

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not have a powerful lobby, and most do not have the money to participate in the great lobbying games here in Washington, but they are the ones who every 4 years without the motivation of profit and with incredible force, strength, determination and sheer guts, stand out in front to proudly represent America to the whole world in the most spectacular national game of all, the Olympics.

For this reason, sports groups can no longer run their programs separately without regard to the rights of the athletes and without regard to each other. We need this reorganization. We must pool all our resources.

If we all work together as a team, we will finally be able to offer programs to the grass roots level in this country because we can no longer afford to accommodate only the elite athlete in America. We must make every effort to field our very best teams to the rest of the world.

There isn't much time. In just 3 years, the United States will host the winter Olympics in Lake Placid. The stage has been set. To ignore the significance of the 1980 and 1984 Olympics in which America has already made a commitment to the world would be a major mistake.

It is therefore imperative that America clean its own house in amateur sports before we play host to the rest of the world. It is imperative that all Americans get behind our athletes and wholly and enthusiastically support them.

We can meet this challenge and we must do it today, and it is up to you.

Thank you very much.

Ms. HOGUE. Thank you very much.

I will abbreviate my comments. A lot of what I wanted to say has been said. I would like to reiterate what Senator Stevens said as far as this being the last straw. I think we have reached a point of frustration. I think some of the futile attempts in the past have set a tone that makes this "it".

And in that light, I think the President's Commission on Olympic Sports set a very new and very wholesome precedent. It was very different from the past attempts. It was not unproductive. In fact, the very existence of the President's Commission tended to pose a threat to many of our amateur sports organizations.

The President's Commission caused the USOC to restructure itself, and the President's Commission, the existence of it, forced the AAU to release franchises in favor of economy, yet none of these organizations have gone quite far enough, as has already been stated.

That is why we are here today. They have shown good faith in their attempt to clean their own houses, but they still fall short in many critical areas, and we are here to help them finish the job.

I don't feel that legislation is forcing them to change these organizations. I think they have shown that they want to change and will change. Rather, legislation is helping them to change, and in my opinion, making it easier to make those last necessary steps.

The President's Commission and the Commissioners that are here, I think, are the first to admit the final report is not perfect, but it was good enough to bring us to this point this morning.

There are critics of the report just as there are critics of S. 2036. But to me that is healthy, and it at least means people have read the things we have done.

In later testimony—tomorrow, I believe—you will hear revisions of the bill as suggested by the Athletes Advisory Council. I was involved in the revisions and wholeheartedly support them.

The athletes' bill of rights must be stronger, What do we have to do to make people today understand the plight of the athlete? How many atrocities do we have to listen to to make people understand we have got big, bad problems in amateur sports today?

A lot has been said, as I said, that I would like—that I need not repeat, but the bottom line comes down to the very point we are here because of the athletes. It is not what is good for sports administration or what is easiest for officials, or what is in the best interest of a university athletic department that is the issue.

It is what is good for and what is easiest and what is in the best interest of the athlete that we are talking about.

To put basis to the word "athlete"—and think of future Sheila Youngs, Dorothy Hamills, John Majors, Shirley Babishofs, Bruce Jenners when you make your decision.

We have to think of the athlete and that is the bottom line.

Mr. ZORNOW. Thank you.

Dr. Ernest T. Vandeweghe.

Dr. VANDEWEGHE. Thank you, Senators. I won't take the time to express the dedication which I feel about our effort, and I certainly agree with the sentiments that have been previously voiced.

I would like to express myself to several areas of concern that have come to light, as I have continued my relationship with the United States Olympic Committee through my appointment to the President's Council on Fitness and Sports.

Those areas are, one, the relationship with amateurism. It has certainly been well shown and well documented in our report that frequently here in the United States we enforce stricter rules against our athletes than are demanded by the international federation.

There is little doubt that the United States frequently uses our amateurs against their pros. I think that it is time that this trend of our domestic national governing bodies be changed. Certainly they have made steps already, but we must be shown that those steps are continued and followed through.

I also have the privilege of reviewing the changes that the United States Olympic Committee has made. I commend them for those efforts.

However, I would like to point out that when they had a vote on one of the things that concern us mostly in our hearings, that of self-perpetuation, that there was a unanimous negative vote to put any form of limitation.

I think that in our report it was clearly spelled out that the board of directors wanted to insure no particular point of view becomes ingrained within a board of directors, and many times it's been repeated, that we wanted to limit the term that the board of directors on the USOC would serve.

We made it also clear that directors who then are appointed to the USOC should have their primary function to serve all sports, and not to identify themselves with particular interest groups.

We felt it was important that they resign from previous officership in national governing bodies in other organizations. We felt this was very important, and when it was put to a vote it was turned down.

I think that this stems and is represented from the feelings that have been expressed by the International Olympic Committee.

We have seen that the International Olympic Committee frequently appoints individuals for a lifetime. They have dictated this policy here within the United States. I certainly feel that our form of government should not stand for this.

We have seen and had reports of individuals who vote and take positions favorable to their own interest rather than those for the good of our country. I heard someone report to us, "What did you want me to do?" That was very sickening, and I look for you gentlemen in the Congress of the United States to be sure that our efforts should not go in vain, that in the future our American athletes can put their best foot forward.

Howard K. Smith mentioned a very big problem: should the U.S. sports system concentrate on producing international champions or improving the fitness of our larger population? My answer to this is the same answer that was presented in the Commission report.

These two ends are compatible. In fact, they are mutually supportive and beneficial. Great athletes have long been a guiding light to our youth. I feel that greater recognition and regard and continued representation by our athletes in our sports system will be a tremendous asset to the physical fitness of our Nation.

I feel also that one of the largest wastes of our national resources is our ex-athlete who is tuned loose. Again I want to reiterate, as Micki and Donna did, that we all feel very deeply about this report and we look for it to be an answer to many of our problems.

Thank you.

Senator STEVENS. Thank you very much.

I want to note that a portion of the Commission staff is here; Mike Harrigan, Jack McCahill, and Beverly Dodd. Speaking on behalf of all the Commissioners I can say that we enjoyed being able to work with you. I am looking forward to a continuing association with you as the committee works on this and other problems.

I think your suggestion warrants great attention, Mr. Smith, that we attempt to improve our athletic centers, not only to assist national and international competitors but to improve the physical fitness of the average citizen. After we get this out of the way, we will turn to that. We hope you are on that Commission, too.

Do either of you gentlemen have any questions? Senator Stone.

Senator STONE. The President's Commission studied the amateur athletic structures of a number of foreign nations, including some totalitarian systems where the government not only participates but also directs the lives of the athletes as well as the functions in preparing the athletes. It provides funding for those athletes to train and compete. But, our Commission recommended against the Government of the United States or any government agency playing a direct role in the amateur sports system.

Would you, or any of you as Commissioners, comment on the role that the Government is being called on to play under the bill that we are now considering, and how that conforms with the Commission's

recommendations? And specifically, the bill calls for $20 million of Federal money to the U.S. Olympic Committee for a variety of purposes. Would you comment on that?

Mr. ZORNOW. I would like to ask Mr. Smith to comment on that because he has some very definite feelings.

Mr. SMITH. Gentlemen, we all buried small differences in order to come to a unanimous conclusion. I was in favor of asking the Government for a lot more money. I think there is a misconception of Government spending in this country. The phrase is a bad phrase, but Government spending which is investment in the future of the United States is good spending.

Investment in TVA costs us billions of dollars, but it electrified my native region. I was born in the time of kerosene lamps. That's all you had. It made industry movement to the South possible, did so many things to resurrect the South.

But one of the greatest contributions Government spending has ever made was the GI bill of rights after World War II. It cost us billions of dollars, but many, many millions of kids who never finished high school did finish high school, went to college. I think it produced the best educated generation of Americans we have ever had; and as a result of, I think the quarter of the 20th century following World War II as the best quarter century. We spread it over the world via the Marshall Plan to our freinds, and to help the undeveloped countries. Altogether it was a marvelous period.

I think it was due to the Government investment. I think the Government investment in this unfit Nation would be a very worthwhile thing. While Senator Stevens said legislation is compromise, I am happy with $20 million if we can get it. But I hope sometime in the future to see the Government give matching grants to the private sector grants to amateur athletics.

Senator STONE. The point is that the Commission neither recommends, nor does this bill set up, a Government agency to control amateur sports. Your comments on that?

Mr. SMITH. The others can probably comment better on it.

It seems to me the Government is playing a very small role. You chartered the Olympic Commission years ago and you are simply changing the charter. I think the Olympic Commission will run itself, and the athletes and trainers and members of the different sports will run the Olympic Committee.

So I think the Government has taken a hands-off attitude, and I believe we have had indications from the international bodies, International Olympic Committee connected with it, that this is satisfactory.

Senator STONE. Thank you, Mr. Chairman.

Senator CULVER. It's a pleasure for me to welcome all the panel members here today and I wish to express my personal appreciation for our association. Work on the Commission has been very rewarding to me and I am extremely grateful for the conscientious leadership of the chairman and the active participation and valuable contribution of all the Commissioners which helped bring us to this point.

I was interested in whether it was the feeling of the panelists that this legislation has gone far enough to incorporate some of the concerns about the great inequities that the President's Commission report found in women's sports, with regard to access and nondiscrimination in our national amateur programs.

It is my recollection our report found that these problems were widespread and disturbing. This legislation addresses such inequities by requiring that national governing bodies not discriminate, among other things, on grounds of sex, either in their membership requirements or leadership selection procedures. Additionally, the national governing bodies are required to develop interest in participation in their sports by all elements of the population—naturally including women.

My question is whether it is the judgment of the panel that these general structural changes—general structural exhortations, if you will—are sufficient or whether more specific measures are required.

Ms. DE VARONA. I think that if we look to the history of the treatment of women in our educational institutions and in our sports programs, we have found that unless we give specific guidelines for the opportunities, though they are supposed to be honored, have not been honored.

I know as this Commission, we felt in setting up the guidelines for legislation that we must give a framework, offer a framework to the sports bodies and to the restructuring. That is why we did approach the problem of women's participation. But I think now that legislation has been introduced we have to consider some specific guidelines to recommend to these sports groups. I feel very strongly about that.

The precedent has been set. As I said in my statement, although the guidelines are not clear and there is great controversy surrounding them, I still think we have to come up with some statement and guidelines, especially for calling for Federal funding in that area.

Ms. HOGUE. We find that women athletes are getting more recognition, more attention than ever before. However, it's far short of what we expect and anticipate. One area I think we need to encourage more is in the area of women administrators, women coaches, women officials. For some time now we have had a member on the——

Senator STEVENS. Just a minute. I think we have a male sound system.

Ms. HOGUE. The first time we have an officer of the Olympic Committee. Here we are in the last quadrennial between 1960 and 1980, and it's taken that long to get a woman in that position—Tammy Albright. But this can't be set only as an example. We need to get a lot more women involved. As Donna said, we need to delineate it more and provide the opportunity for the qualified women to move up into these positions.

Senator STEVENS. Thank you.

Do you feel that the USOC restructuring, which they have done quite extensively, has gone far enough to comply with the recommendations of the Commission?

Mr. ZORNOW. Speaking for myself, I think they really attempted in all good faith to follow the recommendation that the Commission made, that there is no question but that they were trying to establish themselves as the flexible body that could assume the responsibility that we had all done.

Senator STEVENS. Is there anyone else who wishes to comment?

Dr. VANDEWEGHE. I was disappointed in the particular area where the self-perpetuation problem arises, and where there is the tendency to have personal or individual interest remain when an individual

is elected to the board of directors. I think it should be considered within changes or amendments.

I noticed in the bill there has been great detail in regulating activities of the national governing bodies, but the corporation is set up—but the structure of the corporation is completely neglected for their board of directors and their personal situation.

I think by the fact that when this was brought to a vote, that it was unanimously rejected, that there should be no limiting factors. I know that in our meetings we felt very strongly that there should be a limiting term of office for members of the Board of Directors of the U.S. Olympic Committee or the central sports organization. This was not followed through at their first meeting, and as Donna points out in her opening remarks, it's very difficult at times for someone to please themselves. However, I certainly feel this is an area that could stand some addition in the bill.

Senator STEVENS. To all of the Commissioners, do you feel that the USOC could serve as the central sports authority recommended by the President's Commission?

Mr. ZORNOW. Speaking from a personal standpoint, I feel if they pursue the features incorporated in this bill, that it will be. That will require a few more amendments on their own organization structure and the limitation of terms. I believe your bill has a term limit of 10 years included.

Dr. VANDEWEGHE. I had the opportunity of attending the meetings that the USOC held, to determine the host city for the 1984 games. I was truly impressed with the manner in which they received New York and Los Angeles and the general conduct and the fact that at the end of the meeting there was certainly no—which we have heard in the past, plea bargaining and political back slapping, where someone snuck away with it. There were two honest presentations. Both New York and Los Angeles went away happy. Maybe Los Angeles a little happier, but New York dedicated to the fact that they would be back, that they had been treated fairly, well received, and I think it is a commendation to the new President, President Kane, Col. Don Miller, and Mr. Black for the manner in which they conducted the hearings, they investigated the two cities. It was truly in the spirit that the Commission had in mind.

Senator STEVENS. Doctor, I know you have been involved in sports medicine. Would you comment on the medical information and attention provided for athletes, particularly our Olympic athletes?

Dr. VANDEWEGHE. I had the opportunity of visiting with a great many physicians who have attended and have possibly a slight comment to the fact, at the winter games this is the first time the doctors carried doctors' bags, instead of skis, but I would say the overall performance of the physicians at the games were exemplary, that the steps that have been taken under Dr. Irv Dotick and Col. Don Miller in establishing now two training centers and a third in the near future, they are well on their way, that they can easily become a coordinating effort, that the sports medicine will certainly be represented in this Nation, where we have such fantastic medical progress, and by far the leader in many fields that they should be so far behind in sports medicine.

I can assure you we don't plan to stay there and this material will become available from our training centers down to our grassroots level where we can develop our athletes. I am very encouraged by the positive steps taken in that direction.

Senator STEVENS. I see that Art Hill is in the room. I do want to recognize those who served on the Commission staff.

For myself, I do want to say to the Commissioners, that the Members of Congress did not put in as much time as all of you did. I did attend several of the hearings. I have never seen people more dedicated to public hearings. The standard of those meetings and the thorough consideration you gave these issues is demonstrated in the Commission's report. We will make the report and a copy of these hearings available to every Member of the Senate before this bill gets to the floor.

The work that you have done has brought us where we are today and hopefully will bring us to a successful conclusion of the problems affecting amateur sports.

Donna, did you have another comment?

Ms. de VARONA. Senator Stone, you asked about Federal funding, and I think this brings up a very crucial question. One of the things that has been apparent over the past 5 years is that the pressure of Congress in the community and focus on amateur sports has caused these organizations to be accountable. They have come up with better ways to operate.

And I think when you are talking about $20 million from the Federal Government, you are talking about accountability. I think it is very important during this crucial stage when we get this legislation passed, that during this time, that if these people feel they are being held accountable for what is happening, and all of us feel very strongly about this on the Commission, we decided to leave the guidelines and many of the issues left up to the groups, that is the American way, but we still must have a way in which we can hold the organization accountable to the athletes and to the taxpayer. I want to say I enjoyed serving on the Commission with you and I wish you all the best luck in this legislation.

Mr. ZORNOW. May I make one correction to my opening statement?

When I redrafted this, apparently they overlooked one person, when I mentioned Commission members, very important one, Dr. Jerome Holland also, a former athlete and statesman. He was a very strong contributor to our Commission.

Senator STONE. Mr. Chairman, I do have one brief comment. I think the members of this committee, in particular the sponsors of this bill, have made repeated efforts to compromise some of the stringent requirements in order to gain unity of the amateur athletic organizations. For example, the USOC went farther for the "Bill of Rights for Athletes," even than this bill does. That is one example of the legislative effort, to bring everybody in under the tent in a spirit of compromise and spirit of cooperation, and it remains to be seen in the next few days whether that effort was the proper approach. If it isn't a proper approach we certainly won't do less for the athletes than the USOC found itself able to do voluntarily and on its own. That is just one example, but let's hope that this effort does bring everybody together in the spirit of unity, because if that happens, really we will have done more for the athletes than set out some words on paper.

Senator CULVER. I had one last question, which I would like to put to the panel, it's judgment on the fact that the President's Commission, of course, recommended the creation of a new central sports organization, and this bill, as you are aware, is a substitute for that ambitious proposal, essentially it expands the powers and duties of the USOC.

Now, it's been suggested already, in some corridors, that that expansion has gone too far, the extent to which it threatens to encroach on some traditional domestic turf of some of our existing amateur sports organizations and associations.

My question then, and I think it is important for our record, even though these steps to expand the USOC do not go as far as envisioned in the creation of a new central sports organization, from your study as a member of the President's Commission, do you think that this legislation strikes the proper balance, between the need for a central sports organization on the one hand, and current realities of our amateur sports organizational system on the other?

Mr. SMITH. Sir, I think it does. Ideally I would not like to have this reconstruction of the USOC that you have recommended. I prefer the one that we recommended, whereby only the sports, national governing bodies of the 50 Olympic sports who choose the 15 board of directors and they would be the central body for governing sports in America.

As far as I am concerned, in answer to Senator Culver's comment, I think it does have a proper balance if we can just get it through.

Senator STEVENS. Thank you all very much. I enjoyed working with you and thank you for coming.

Thank you, Mr. Zornow.

Mr. ZORNOW. Thank you.

Senator STEVENS. We will now hear from the panel of athletes: Kenny Moore, marathon; Sheila Young, speed skater; Anita DeFrantz, rower; and Carl Thomas, water polo.

We are delighted to have you with us today. We will leave it to you, who would like to go first?

STATEMENTS OF KENNY MOORE, MARATHON; SHEILA YOUNG, SPEED SKATER; ANITA DE FRANTZ, ROWER; AND CARL THOMAS, WATER POLO

Mr. MOORE. I will begin.

Mr. Chairman, distinguished Senators, let me thank you for permitting me again to attempt to represent the athletes.

I have been here before. Four years ago, Micki King and I carried the Athletes' Advisory Council position on the Amateur Athletic Act of 1973 to this committee and ever since it seems that I have been caught up in the rising and falling storm of talk about what needs to be done to improve the U.S. amateur athletic system, because then I had the opportunity to work on the staff of the President's Commission, where I edited portions of the final report, and that experience really gave me an appreciation of the complexity of these questions.

I think the thing to do now is to skirt the sticky tangles of finance and the delicacies of organization and the wonders of franchise challenges and try to state some simple basic principles as athletes understand them and then perhaps suggest how they might find their way into legislation.

It will be enough, I think, to make one or two crucial points about athletes and their careers, points I am sure will be borne out by what my fellow athletes have to say. Specifically, I want to talk about athletes' rights, a topic on which we all have strong convictions and a topic which I believe certain to be debated in earnest before the committee over the next couple of days.

Amateur athletes by definition pursue their sports for reasons other than livelihood. There are no owners, no no-cut contracts, no trade offs, no obligations except to oneself and excellence.

There is something compelling, moving, in an athlete's accepting the risk of injury, the risk of prolonged training and the ever-more difficult competition. Bruce Jenner, who unfortunately couldn't be with us this morning, would have been eloquent about those risks, and what it means to devote years of one's time, effort, and thought toward one day—to devote 4 years, knowing full well it will be a day every other competitor out there will be trying to deny you. I did that. I still do that. I'll be in the New York City Marathon on Sunday. It is with all that emotion and commitment that I feel athletes have the right to shape their own careers.

Over these past 4 years, there has been a lot of talk in America about athletes' rights. Which is to say the word "rights" has been in use; but I have to question whether what athletes understand as rights, is what others do.

Let me list a few hypothetical rights, which you may note bear some resemblance to our constitutional guarantees. First, the right to be protected from cruel and unusual punishment, except for educational purposes; second, the right to freedom of the press and speech unless you embarrass football coaches with them; third, the right to freedom of religion unless you are on a religious scholarship; fourth, the right to keep and bear arms unless the ROTC needs them; fifth, when you are supposed to be at the stadium; and sixth, the right to be secure against unreasonable search and seizure unless the athletic director thinks you have a girl in your room.

These are perhaps flippant hypotheticals; but they are intended to make a serious point. When the right hand gives and the left hand takes away, we are not talking about "rights." A "right" is not just something somebody gives you. It is something that under law, no one can take away.

Rights have a lifetime guarantee. This does not mean that all rights are absolute and that one can perform human sacrifice in the name of freedom of religion; it means rather, that until you violate someone else's rights you are safe. And it is fair and proper to ask always whether an athlete in competing anywhere may be abridging someone else's rights. But unfortunately that is not what we have been hearing from opponents of a strong bill of athletes' rights.

We have heard the NCAA say in 1973, and now, something to the effect that athletes only have the right to free competition whenever there is no chance of disrupting college programs.

Well, that is not a right at all. That is scraps. That is like saying: "you are free to worship anywhere you please so long as you do it in my church." Athletes want to turn it around. We want to finally recognize in law, as it has been by the USOC in its constitution, by the Athletes' Advisory Council, and by the NIAA in its rules, that

all athletes are guaranteed from the start to take part in all the competitions they are eligible and physically qualified for.

If this in fact is a right, it means it is worth the risk of small disruptions in programs, whether it be in college, high school, or run by national governing body, simply because there is no perfect program. None serve all the needs of all the participating athletes.

Therefore, this question is not one of Congress weighing the national interest of having our best athletes available for international competition against the interest the colleges and high schools have in their own rules and programs. Rather, it is a case of deciding whether the athletes should be free to decide—with his parents and coaches and teachers—what is best for him or her.

Athletes should be protected at all levels of competition: domestic, international, restricted, and unrestricted.

I mentioned possible disruption; the NCAA will surely mention it, too. I do not believe there will be any, except perhaps to disrupt restrictive programs into being open ones. Real disruption does not follow from the free and responsible exercise of rights. Disruption seems instead to occur in the winning of rights.

Civil rights laws may serve as an example. Desegregation is not of itself disruptive; but fighting over it sure has been. Once athletes' rights are guaranteed in law, high school and college athletes will not be racing off to all sorts of meets and games that conflict with their school programs.

Examine the moneymaking sports about which the colleges are justifiably anxious. Basketball players are vastly more interested in NCAA play than making international teams because pro scouts don't pay any attention to Olympics; but they sure do swarm around the NCAA tournaments. The Athletes' Advisory Council can't even get past Olympic basketball players to represent the sport, because they don't care about the Olympics once they have played in it; football players have no international interest at all.

In other sports, the disruption of an athlete exercising his right to compete outside a school might cause concern about school programs. I believe that if a coach is a true educator, and if he is true to the principle of providing optimum challenge and education for all students, he will often want athletes to take advantage of outside competition. My coach in Oregon wanted me to run in the Boston Marathon, because he saw that was where my talent lay; but he and I were frustrated by the NCAA, because that was in 1975, and the AAU's war with the NCAA was heated then.

It was 3 years before I ran a serious marathon, and found out what I could do. I count that disruption to my career worth quite a few wins in dual meets.

Now, it has been alleged that a strong bill of athletes' rights will lead to disruption of academic processes. I find that absurd. The intent of athletes' rights legislation is not to absolve athletes of legitimate academic obligations. It is to protect them from censure because of their athletic participation.

To make that absolutely clear, I would support adding a specific sentence to section 303(a) of this bill, stating that the section shall not relieve an athlete from such academic requirements as he or she has taken on.

To close, I would like to suggest a few questions that should be asked of my opponents of the bill.

No. 1, do you think athletes should have a basic right to compete wherever eligible and qualified?

No. 2, what disruptions can possible justify abridgment of such a right?

And, No. 3, shouldn't the burden be on the potential denier of such a right to prove that its abridgment is necessary to protect the rights of others?

Again, I thank you for this opportunity.

Senator STEVENS. Do you want to ask questions now?

Senator CULVER. I had one question at this point. When you speak of the athletes' rights I am a little uncertain whether in fact you are saying this is a given right that an athlete can exercise based on his or her own subjective determination, personal, in nature, or whether you are talking about an opportunity concerning which, following appropriate consultation with coaches, educators, and parents, a "correct" decision can be made.

I am just a little uncertain. There seems to be an ambiguity in what you are saying. If it is a right, I gather that the athlete can always retain the right, and you would support that right, regardless of what parents, educators, or coaches say. I was interested in why you suggest the need for a consultative process.

Mr. MOORE. I suggest the need because the athletes, I think, are aware that that kind of judgment is going to be helpful. If we are going to have to choose between an institution's judgment and the athlete's judgment, I believe the final decision has to rest with the athlete.

Senator CULVER. You mentioned the coach you had in Oregon, encouraging you to go to the Boston Marathon. Do you think he would have encouraged you to go to the Boston Marathon if on that same day you had a——

Mr. MOORE. We had a dual meet with Washington State University?

Senator CULVER. If you had a meet that would determine the championship in your particular association of colleges. Just how realistic is it to expect those tradeoffs with a coach's own personal career, which in the unfortunate character of human nature usually comes first. This especially is the case when he sees a chance to have a winning season as opposed to giving you an opportunity to develop in some way, that may arguably be in your own personal career interest.

How realistic is it to think that given that kind of choice, the average coach is going to urge you to skip the dual meet or skip the conference meet where he has a chance to win it for the school?

Mr. MOORE. Well, as long as we are talking about average coaches, it is a problem, but neither do I think the athletes would feel without an obligation to help the team to a successful competition.

In my circumstances, for the early season, the dual meet during marathon training had benefit for meets later. It wasn't a hard choice.

Senator CULVER. You are saying they ought to talk it over, but the athlete ought to be the one to ultimately decide that. Be free to go. No coach, college, or parent should stand in the way.

Mr. MOORE. Well, the parent has obligations to minor children. We have an arrangement there. I think the right, the decision would have to be shared, but in terms——

Senator CULVER. What if one parent wants him to go and the other parent doesn't want him to go and the young athlete wants to go? How would you resolve it legally?

Senator STEVENS. In my family if my wife Ann wanted to go and I didn't want her to go, I know what would happen.

Ms. DEFRANTZ. First I should say I'm an attorney and I represent children exclusively so I would say that the child has the right to make that decision. But beyond that, I think that we often forget that sports is an activity which involves decisionmaking.

The essence of sports is decisionmaking. I don't understand why it is we refuse to acknowledge the ability of athletes to make decisions. It's part of what you are doing constantly. And you learn to weigh things, to balance, to anticipate the results. I think it's time for us to recognize that our athletes are probably involved in more decisionmaking on a day-to-day, hourly basis than most people in the country.

It involves training, strategy, to determine which competition is going to be more valuable to your future. One cannot get around the fact that a decision has to be made and athletes have to be responsible for those decisions.

The second point I have to make has to do with a question of whether or not a team can survive without a star athlete. I think another major misconception we have in this country is that there's only one Bruce Jenner, one Sheila Young, one superathlete.

Well, that is largely a result of the system. Look at West Germany or East Germany, a country, what, an eighth the size of our country? They can produce superchampions in every Olympic event, and yet we say in this country that we don't have enough superstars, we don't have enough athletes to make competition in the college level exciting when a Kenny Moore goes to Boston to run a marathon. That's ridiculous. I think it's time for us to recognize the number of athletes that go untrained, the number of people who could become Olympic champions, who could become great competitors and begin to look toward training people and developing athletes and a broad-base competition in this country, and stop believing there are only three athletes who can represent this country in any one event. That's just not true.

Senator STONE. Mr. Chairman, I have to leave for the Foreign Relations Committee, but I would like to ask all the members of this panel just one question. Would you comment on the proposed mechanism contained in this bill, to resolve disputes that involve athletes who are denied the right to compete in events or compete at all, and would you comment on whether the mechanism that this bill sets up either would reduce or would eliminate instances where athletes would be denied their rights arbitrarily?

In other words, how does this bill go about remedying the violation of an athlete's right to compete? Do you think it goes farther, does it do it, does it not do it?

Senator STEVENS. Senator, maybe for the people who are here we ought to indicate that this bill provides that if an athlete is denied his or her right to compete, he or she can bring an action in the U.S. district court, or if both parties agree the matter can be arbitrated by the American Arbitration Association. That's the provision.

Ms. DeFrantz. My greatest concern with that mechanism is that it takes time. An athlete first is denied an opportunity to compete, then must challenge that denial. All of this takes time, energy, away from the training process. It's really out of the athlete's hand, although the AAA will be under certain time constrictions. Even within 40 days, if I know that within 40 days I will have the decision, should I continue to train at the level and hope the decision is in my favor or should I begin to train for a different type of competition?

Just the ability to plan, again, the athlete's ability to decide is compromised. Under any procedure that takes——

Senator Stone. What faster remedy would you recommend than the one or two in this bill?

Ms. DeFrantz. If there is an arbitration procedure, then I think tighter controls on the time limit—I understand the arbitrator decides whether it needs to be expedited or not. Even a loss of one week's training could make a difference, but I suppose that might be the least amount of time in which an arbitration should be held.

Senator Stone. There are temporary injunction procedures but you are saying you would like to see a specific time limit set forth for at least a preliminary ruling in the arbitration process. You would like to see it something like a week or 2 weeks.

Ms. DeFrantz. As quickly as possible.

Senator Stevens. Sheila, did you have a comment?

Ms. Young. I do. I have had two experiences in my sport, not personally, but one I have been involved in, speed skating, where we did have a competitor that was denied to compete in the world championship, because in a qualification race he didn't appear at the line in time and they allowed him to skate later and whether they should let the time that he skated count as far as his qualifications for the world team.

I was on the board of directors then and the vote was no, they shouldn't allow the time to count so this athlete went to the advisory board which was to his advantage. He didn't have to wait a matter of I think two weeks before the final decision and they decided with the athlete, that he was able to compete in the world championship.

I think as far as the athlete is concerned, at least there is someplace they can go to, if they do feel that they have been dealt with unjustly.

Senator Stevens. Any other comment on Senator Stone's question?

Mr. Moore. The Senator asked whether it would reduce the number of these kinds of violations, and I think it's fair to say, of our major educational associations, that they are not flagrant lawbreakers. Once we get a statement in the law that these rights are guaranteed, those rights will be observed much more closely than they are now, where the guarantees are more moral than statutory.

Senator Stevens. Do you have any comment on that, Carl, or do you have a comment to make on your own?

Mr. Thomas. I have only been involved in the administration of my sport specifically; this is my first exposure to this type of thing. It doesn't happen in water polo. The conflict, I assume we're talking about, the NCAA and AAU, doesn't readily appear in water polo. There are other problems in water polo that I would like to address myself to at this time.

The objective of a water polo team, or any team sport at the amateur level is to field the best possible team at all times and be competitive for the gold medal in every tournament, no matter where it is in the world, no matter what level of competition. In an amateur team sport such as water polo, it's impossible to do this. Athletes in team sports reach their greatest stride at the age of 30, or between 24 and 31. There are a number of factors, maturity, experience, ability to work with teammates, day in, day out over the course of many years.

One need only look at the pro sports in the NFL and NBA, the Boston Celtic regime, the New York Yankee regime, these teams take a tremendous amount of time to develop.

In amateur sport, and only amateur sport such as water polo where there is no professional sports organization after college, because of the tremendous amount of time involved in putting together a unit, we really don't field our best team—22, 23, maybe 24 is the last time an athlete may have a chance to compete due to society; he must go out and earn a living. I'm 27 years old, and I can no longer compete in water polo, yet I may be reaching my maximum potential right now, and in fact, through the 1980 games, when I am 30 years old, I will have my best chance to play my best water polo. I don't have that opportunity.

Senator STEVENS. Let me ask you, in terms of Senator Stone's question, I understand that the American Arbitration Association will come before us and suggest that the right to go to the district court be eliminated. It is there primarily because we don't know whether we can prohibit either the athletes or the organizations from seeking redress in court. As a matter of fact, I am fairly sure we can't unless we can find an overriding justification to do it.

But what would be your reaction if we provided that as a prerequisite to membership in the U.S. Olympic Committee the organizations must agree in advance and the athletes must agree that the sole right to resolution of this grievance would, in fact, be the American Arbitration Association.

What is your reaction to that? Is that too much limitation on an athlete's rights, as far as you are concerned, to set up a procedure in advance for speedy determination of problems?

Mr. MOORE. I think it all depends on the criteria that have to be observed by whoever is going to make the decision before the arbitrator. I have a very firm faith in the wisdom of the courts in following the criteria set down by statute.

My experience with the American Arbitration Association is a great deal more limited. I know the disputes that have been adjudicated or settled over the past—have been by the Olympic Committee—have been settled in a satisfactory way for the athletes.

The guarantee seems to be strengthened if you have recourse to two separate venues, and that we have certainly the appeal to the judiciary. I kind of look upon it as a safety valve for athletes' rights, to have both of these opportunities.

Senator STEVENS. You understand the bill doesn't say you have to go to one or the other. You can go to the courts, but if both parties agree, then you can go to arbitration.

Sheila, do you have any comment?

Ms. YOUNG. Even if you made the agreement without having it in the bill about having to go through the courts also, that you could still go through the courts even though you make an agreement and maybe sign a paper saying that, I think you still would be able to go to the judiciary, too. I don't think legally you can stop them from taking it to the courts also.

Ms. DEFRANTZ. I don't understand why athletes have to be in a special category of people that have to be willing to give up rights. Why do we have to give something up in order to get the guarantee of arbitration? Why should we have to be willing to be satisfied with that?

Senator STEVENS. I was just suggesting that there is the problem of time. In some instances, the controversy must be resolved immediately or the competition will already have taken place. The courts are not always attuned to time limitations.

Ms. DEFRANTZ. That's true, but again, the athletes should be able to make that decision. It could be the decision would not come down until long after the competition and nothing could be done. True it wouldn't involve just one athlete, but the replacement for that athlete, and it is hard.

Hopefully, the governing body would try to prevent coming to such a posture that the athlete would feel it is necessary to go into court, but again, we are restricting; we are considering the athlete least able to make decisions.

Senator STEVENS. The bill as it stands now, it has to be agreed upon to go to AAA. Both parties have to agree. Or either party can go to court. You prefer that?

Ms. DEFRANTZ. I think so. Again, it is the athlete that makes the decision.

Ms. YOUNG. I would say it would be to the athlete's advantage to go to the arbitration board first, then if they voted against him, he could then go to the courts. He should have that option.

Ms. DEFRANTZ. It is generally too late by the time he goes to arbitration. It is a matter of the ability to compete. Any doors that are closed I think would be detrimental.

Senator STEVENS. Could you tell us, it is our understanding athletes sometimes have to meet several different eligibility criteria, the AAU, the high school, the NCAA, the international federations, all of the organizations have eligibility criterion and they are often not the same. Does this cause problems?

Ms. DEFRANTZ. I have to admit I don't understand all of it. I don't understand why for example, in my sport, there is a lot of confusion right now as to whether you can coach and compete. Whose standards govern?

As you suggested, federation rules are controlling, or so we are told, and yet we see our counterparts in other countries coaching; we see them training others and allowed to compete. I think there should be a less restrictive way. In other words, the least number of restrictions on an athlete's eligibility should be the prime goal.

Mr. MOORE. I think it is important to know that usually the international criteria, especially in terms of amateurs, are a good deal less stringent than some of the rules that national and regional sports organizations try to enforce, and since the bill requires criteria for

national governing body membership, requires tham to keep their standards current with the international standards, that the crucial provision in enforcing upon the lesser jurisdictions some kind of parity—I don't know whether it is appropriate to put in the law a kind of hope that the national governing bodies and the regional governing bodies would attempt to use whatever influence they have with the international bodies to try to make more lenient and more reasonable a rule, but if this is as far as the statute can go, I think it is vital.

Senator STEVENS. What do we do in this country to develop rowers? Is it limited to Ivy League schools? What would you suggest we do to assist in the development of athletes in this area?

Ms. DEFRANTZ. You have a problem first of all with water in this country and rowing facilities, which is significant. There is not a single international course in this country. We can't invite anybody to compete at a FISA regatta. That is the first difficulty.

But in order to expand in our sport, not only do you need to start at the high school level, but more importantly, you need to focus on the postcollegiate level. In rowing, the average age of the international competitor is 25 or 26. You are stronger then; you are more able to deal with psychological strains of the sport; yet, in this country you are told as soon as you graduate, to turn in your oar. That is the end of competition.

There are only two clubs in the country that have a solid women's rowing program. One is at Long Beach and the other in Philadelphia—only two places where a female athlete can continue to row after college.

We need to expand club programs; we need to enable an athlete to continue to participate in any sport after college, to legitimize amateur athletic participation. To say it is something you do as a child and when you grow up and become an adult you put away your toy and come into the real world, I think it is an attitudinal problem. It is a problem of creating more clubs where more people can come together in a sport.

Senator STEVENS. Are you familiar with the tax incentives that were suggested by the President's Commission on Olympic Sports? Do you think they would help to offer companies and organizations that did provide facilities for training, tax advantages?

It is not in this bill, because the Senate can't start a tax bill. It has to start in the House. But it has been suggested.

Ms. DEFRANTZ. I think it would be helpful. I think business has to come in and support amateur athletics; it has to say yes to the people; this is something important, if people are able to support sports and remain involved in sports in some significant way, then the health effect on the community is improved as well as its attitude toward something as nonpolitical as amateur athletics should be. Sort of a greater goal in the corporate area, to support an amateur who is just looking for excellence. I think it would be a great boost to this country, to the attitude toward sports in this country.

Senator STEVENS. What do you do about water polo? You say that water polo players mature at a later age. How do you handle the development, continued development, of people in water polo in the postcollege years?

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Mr. THOMAS. That is a difficult question. Can I ask you a question?

This tax incentive bill you just mentioned, does that also have in it that job opportunities program? Are you familiar with that, where these large corporations provide jobs for athletes? They give them time off to travel to compete and train. Is that along the same lines?

Senator STEVENS. You are speaking about broken-time payments, but I am talking about a tax incentive bill. Members of the House would have to start it over there. It would encourage corporations to provide funds for training facilities by giving them special tax treatment.

Mr. THOMAS. The national investment in water polo is not very good right now. For the past 13 years, every major competition the United States has participated in, in water polo, every member of that team has been a native of California, every single member, bar none.

I feel the school system, the NCAA, and others must take action to develop water polo in other areas of the country. I just recently moved to Philadelphia where water polo is unheard of. NCAA has a water polo championship for the past few years. Only once, other than this year, has the NCAA championship been held outside of California. That was in 1972 in Albuquerque, N. Mex. This year, in 1977, that championship will be held at Brown University in Providence, R.I. That is a major step, I feel, in developing water polo on a national level.

After graduation at the undergraduate level, he can only play to 24 or 25. After that, there is no recourse. Funding is a problem. I would like to address myself to this one instance where we were made aware last January of a program that the Olympic Committee or, I guess, the USOC put into effect where an athlete could apply for a job with a major corporation, and we were told there would be tax incentives for these corporations to provide jobs, which would allow athletes to train and travel and complete internationally. I am a case in point there. I submitted an application with a résumé in February of 1977. I have a letter with me, dated August 8, 1977, 6 months later, from a company called the Canteen Corp.; how it got to them I don't know.

They told me that they had received my application just then, and were now going to put my name in a file, and if they could match me up with organizations or companies that seemed like we would make a good match, they would let me know in the next several months for a possibility of an interview.

I make a point of the time frame here. I needed to hear from these people within 4 weeks and have interviews within 3 months, not 15 months down the road.

It is a good program, but the time frame is totally out of whack. There is no way an athlete can spend 15 months waiting to hear for a job opportunity.

Senator STEVENS. Are you familiar with the USOC national training centers?

Mr. THOMAS. Yes.

Senator STEVENS. What is your comment on those?

Mr. THOMAS. I think they are a very good idea, and I would like to see them implemented to the fullest extent.

Senator STEVENS. Sheila, I guess you have two sports, cycling and skating?

Ms. YOUNG. That is not a problem, being involved in two sports. For me, it gives me a broader outlook on sports in general, being involved in two different sports, one in the summer. At this point, listening to this, I am really glad that my sports aren't collegiate sports, because at my age, when I was the most successful, 25, I would have been graduated from college, and had I been in a college sport, I wouldn't be able to compete anymore, so I probably would have had to quit after 21, but having our own organization, that really helps, and as kids start off with having clubs in different areas and having them organized enough to form the State organizations and the States all belonging to one main organization.

Senator STEVENS. Is that true in skating as well as cycling?

Ms. YOUNG. Yes.

Senator STEVENS. Do you have facilities problems?

Ms. YOUNG. Yes. In skating, we still only have one completed ice rink in Milwaukee, Wis. We don't have those kind of problems. The problems are we have, at least in California, New York, all over the United States, and in the Southern States, but the problem for our athletes is to get there, support themselves while they are there training. We have potential in all of these other areas to develop at least having facilities in those areas, and not just facilities, but to train and develop the sport and develop the athletes in that area. We are now completing our ice rink in Lake Placid. That will give us another area to develop speed skaters. In cycling, we have the facilities, I think adequate facilities, to start the sport, to get it developed in a lot of different areas.

Tracks in California, New York, Pennsylvania, Detroit, Illinois, Missouri; but the thing is in cycling, we don't have the money in our association to pay for knowledgeable trainers so they can develop the sport in that area.

If we can only afford one trainer, I think from there that trainer could set up clinics in the different areas, where he could teach the trainers, the coach, the people really interested in those areas, to be more knowledgeable, so they could stay there, and if they could develop this automatically, so then we could have this huge—if we had the money to hire a good staff of trainers, that we could have, like minor sports, that we could have a lot more international competitors, say, especially in cycling.

We have been lucky enough in skating that we have been winning medals in the games despite not having a full-time trainer. In cycling, unfortunately, we have all of this talent in the United States, but no one to guide them.

Senator STEVENS. Senator Stone left a question that he would like me to ask on his behalf. Would you comment on the athletes' bill of rights in S. 2036, as it compares with the one that is contained in the constitution of the U.S. Olympic Committee. What, in general, is your feeling about our approach to athletes' rights in the bill? Kenny, do you have any comment?

Mr. MOORE. Some of my comment was implicit in my opening statement. The fact that we have rights. Those rights would appear to be the same in domestic and international and restricted and unrestricted competition. The bill, as it divides the competition in the two categories of restricted and unrestricted, treats them differently. I believe it could be strengthened.

I think that question should really be asked tomorrow of Ed Williams, who will be bringing the Athletes Advisory Council position on athletes' rights in much greater detail. The Athletes Advisory Council has gone through the bill line by line and made its feelings very clear. He is going to present, I believe, an alternative draft to section 303 (a) and (b).

Senator STEVENS. Any of the rest of you have comments on the athletes' rights section or on anything else?

Ms. DEFRANTZ. Again, I don't want to deemphasize the role that Ed will play in articulating the position of the Athletes' Advisory Council, but the Senate bill clearly is a compromise, to take the U.S. Olympic Committee bill of rights addresses the athletes right to compete, period. Not to compete where the school feels that he will not be detrimental to its program; not to compete where there is reasonable doubt; but to allow the athlete to compete.

It is only through competition that we find our champions. If you don't have the opportunity to choose the competition, if you don't have the opportunity to go against the international competitors, you can come up empty in an Olympic year. My experience has been, in my sport, which is—should be one of the more organized, that the seasoned boats win.

In the 3 years I have been competing internationally our first racing experience as a team has been the world championships. Our competition has been racing all spring, they know exactly how fast they are, what they need to do to beat the boat next to them, how they have to react.

We have to look at the realities of the situation, which are simply that, in order to win you have to compete. I think we have to do everything possible to provide opportunity for an athlete to compete at every level. That has to be the move or direction that this country must take, if we are going to be successful in Olympic competition.

Senator STEVENS. Anything else? Any further comment? Are you willing to accept the bill as a step in the right direction?

Ms. DEFRANTZ. Certainly.

Mr. MOORE. Yes. I would like to say, we are fully aware of the political exigencies that sometimes move these things, but we have every confidence and faith in the Senate.

Ms. YOUNG. I have to agree with Mr. Smith, that at least somebody is doing something for the amateur athlete, and trying to help the athletes in the near future, say, at least by 1980, if this could get going quick enough, that it would really be a big help.

At least the $20 million of Federal funding, that would really interest me, so at least we have some kind of funding, that it would help out tremendously.

Senator STEVENS. Carl, any comment?

Mr. THOMAS. I think it was very well said.

Senator STEVENS. On behalf of the committee, we thank you very much for taking the time to testify here today. Our next witness will be Mr. Robert Kane, president of the United States Olympic Committee; accompanied by Col. Don Miller.

The committee wants all members at the executive session at 10 minutes after 11, so we will have to take a recess shortly, but I would like you to present your statement before then, if possible.

Nice to have you here, gentlemen. On behalf of the committee and on behalf of those of us who served on the President's Commission on Olympic Sports, I want to congratulate you for the steps you have taken to reorganize your organization. We have already heard Mr. Zornow, and the other Commissioners express their satisfaction that the United States Olympic Committee has in good faith adopted many of the recommendations of the President's Commission.

We certainly are grateful to you for your approach to this problem so far.

STATEMENT OF ROBERT KANE, PRESIDENT, U.S. OLYMPIC COMMITTEE; ACCOMPANIED BY DONALD MILLER, EXECUTIVE DIRECTOR; AND PATRICK SULLIVAN, LEGAL COUNSEL

Mr. KANE. Thank you very much, Senator Stevens. We appreciate very much the opportunity to appear before you today. With me is Col. Don Miller on my right, executive director of the USOC. On my left is Patrick Sullivan, legal counsel for the USOC.

I wish I could have heard all the comments this morning before being invited here. There were so many fascinating issues raised this morning, I would like to respond to them directly.

Senator STEVENS. We don't think we can deal with all the issues in one bill, but we are trying to do as much as is possible.

Mr. KANE. We have certain recommendations I will try to cover briefly.

The Olympic Committee is generally pleased and in substantial agreement with the provisions of S. 2036 introduced by you, Senator Culver and Senator Stone, as the Amateur Sports Act of 1977.

We have been acutely aware of our responsibility to exert leadership in this country to strengthen our amateur sports activity and organized athletic programs from the grassroots level to world class athletes in order to achieve excellence in all international amateur athletic competition in the 32 sports on the programs for the summer and winter Olympic games and the pan-American games.

We recognize that it is of the greatest importance to have a broad-scale athletic program in amateur sports in order to identify and develop the great athletic potential in the United States who can represent the United States in international competition and do well at the highest level of such competition.

To aid in achieving this goal, the USOC has established two national training centers for amateur athletes. One is at Squaw Valley, Calif., the site of the 1960 winter Olympic games, and the other is at the former ENT Air Force Base in Colorado Springs.

In addition to the training facilities available at these sites, we have integrated sports medicine complexes with doctors and technicians in attendance to aid in the development of the appropriate technique in each sport and to advise our amateur athletes on nutrition, level of athletic activity, and on other matters.

The athletes who train at our national training sites are selected at all levels of ability from the beginner to world class athletes who need further training, and athletes who have the potential or who may have the potential to become world class athletes in each of the Olympic or pan-American games' sports.

In addition to the training sites, the Committee has inaugurated a national coach concept, a national sports festival, a job opportunities program for world class athletes who have completed college and who wish to compete for a few more years, and broken time payments to relieve our athletes from financial stress immediately prior to and during international competitions.

Much of this activity on behalf of the athletes would have taken place in the past, but the Olympic Committee did not have the funds to carry out these programs. For example, the budget for the Olympic Committee for the quadrennial or 4-year period ending with the Munich games in 1972 was only $8 million. For the quadrennial period leading up to the 1976 winter games in Innsbruck and the 1976 summer Olympic games in Montreal, the Olympic budget increased to $13 million.

At our quadrennial meeting in Colorado Springs earlier this year, the Committee adopted a budget of almost $26 million to cover our greatly increased athletic programs at the grassroots level, and for the development of world class athletes.

We are optimistic that our fundraising efforts can produce this minimum budget.

If we are to have a dominant amateur sports program in the United States, it will have to be funded on a substantially larger basis than we are able to do alone. Such a program will require us to support the training centers now in existence for all athletes at all levels of competition, and to enable us to obtain additional national training centers in geographically dispersed areas, in the Midwest, the South, the East, and one we hope to have soon at Lake Placid/Plattsburg area.

Almost every national governing body functions much below the level it would like to function at for high success because of the lack of funds. Therefore, I must express my gratitude to this committee and the Senators who support S. 2036 for recommending substantial funding for these much-needed programs.

As I stated at the outset, we are pleased and generally in agreement with the provisions of S. 2036. In fact, most of the important facets of the legislation are already in the USOC constitution.

At the Committee's biennial meeting in 1974, the USOC amended its consititution to provide for an athletes' bill of rights, and an arbitration proceeding whereby a sports organization could challenge a sports governing body for the right to become the national governing body of that particular sport.

While some of the language in those two amendments may not have been satisfactory to all interested in amateur sports programs in the United States, steps have been taken to achieve a consensus with respect to the language relating to those two major matters.

Prior to specifically commenting on the provisions of S. 2036, I would like to indicate that the structure for amateur sports as advocated by the President's Commission and the sponsors of this legislation is imperative to the success of amateur sports. Fortifying the vertical structure must be the creation of strong national governing bodies which are truly national and truly governing, with a clear definition of their jurisdiction over international amateur athletic competition in the United States.

Much of this has already been accomplished under present law by the restructuring of the USOC and, substantially, all these improve-

ments are confirmed with minor variations of language in the proposed legislation.

Accordingly, our comments on the bill are not extensive and are as as follows. I understand that copies have been given to all interested parties here, to indicate where the areas of difference might be.

The first comment I have relates to Title II, National Governing Bodies, and appears on page 11, line 11, of the marked up version of the bill.

Where the word "limited" appears, it would seem to be more propitious to use the word "restricted" rather than the word "limited" because of the class of athletes referred to on lines 12, 13, 14, and because historically amateur athletic competition in this country has been referred to as restricted competition.

It is our view that these words are so well established in the athletic world that their use should be continued.

On line 18 on page 11, you will note a double asterisk which refers to material on the bottom of the page, which we suggest be incorporated in section 202. If this material is incorporated, section 202(a) would read as follows:

> The Corporation is authorized to recognize a national amateur sports organization as a national governing body on programs for the Pan American and Olympic Games and for sports which are likley to be included in those games and which are widely practiced on an international basis, and for which an international federation is recognized by the IOC. The organization must seek such recognition and meet the requirements of this section and section 203 of this bill.

The purpose of the proposed additional material to 202(a) is to enable the corporation to reject applications of so-called national amateur sports organizations whose sport was not participated in generally throughout the world.

The material on page 13, line 12, referring to procedure for recognition of the national governing body, we believe should be changed to read as follows:

> It is autonomous in the administration of the sport, and qualified to receive recognition of the appropriate international governing body, as the United States representative to that body, for the sport for which recognition is sought. Careful consideration should be given to adopting the language contained in Article III, Section 3E of the United States Olympic Committee's constitution.

The Committee believes that in order to qualify as a national governing body, the sports group seeking to so qualify should be completely independent, and therefore autonomous.

On page 13, line 22, we suggest that the word "individuals" be deleted and the more explicit words "athlete, coach, trainer, manager, or administrator" be inserted.

This is simply a suggestion for clarification.

Page 15, lines 6 through 9, "limits the period of time in office for officers, directors, executive committee members, or other governing body members of a sport governing body."

We suggest if the committee feels strongly about the provision, that its application should be made for the future and not be retroactive.

If the language on page 15 is adopted, it would bar, for instance, from further service to the USOC two young officers of the Olympic Committee who are presently in the first year of their second 4-year terms.

They would not be eligible for a third term because the terms of office are 4 years for officers in the USOC.

Senator STEVENS. Could we go off the record?

(Recess.)

AFTERNOON SESSION

Senator STEVENS. That was a proverbial 10-minute break in the Senate, gentlemen. I hope you enjoyed your lunch, and I am sorry again for your inconvenience.

Won't you continue, please?

Mr. KANE. What subject are we on——

Senator STEVENS. I had us on page 15.

Mr. KANE. I am just kidding.

Senator STEVENS. Oh, that subject. The committee was considering airline deregulation and the nomination of the two ladies to be members of the Corporation for Public Broadcasting, and there was a problem getting a quorum.

Mr. KANE. I will proceed to—I don't know whether you have a copy of this. Does the Senator have a copy?

Mr. MILLER. No.

Mr. KANE. On page 17 on the marked-up copy of the bill.

Senator STEVENS. Yes, I have it.

Mr. KANE. Page 17, lines 7 through 10, we propose that it be changed to read as follows: Item—

(d) to honor the request of any amateur sports organization which is a member of or affiliated with the Group A member of the corporation for sanction to hold an international amateur athletic competition on a reasonable basis, unless the governing body determines that such sanction would be contrary to the best interest of the sport having due regard for:

If we are to have a truly adept vertical structure of amateur sports in the United States, it is imperative that provision for sanctioning be confined to any amateur sports organizations which are members of or affiliated with group A member of the U.S. Olympic Committee.

On page 18 we propose the addition of the following after line 19: provision for consistent and fair sanction fees. With respect to the "Authorities of National Governing Bodies," which begins at the bottom of page 18, we suggest that lines 6 and 7 on page 19 be changed to read as follows: Item (c)—

To designate individols and teams to represent the United States in international competition other than the Olympic Games and the Pan American Games and certify, in accordance with international rules, the amateur eligibility (in place of status) of such individuals and teams.

We also suggest that lines 11 through 13 on page 19 be deleted and the following substituted: Item (d)—

To conduct national championships and other domestic competitions and international amateur athletic competitions in the United States; and to establish procedures for the determination of eligibility standards for participation in such competitions.

Finally, on page 19, we suggest that the material in lines 19 through 24 be deleted and the following substituted: Item (f)—

To sanction international amateur athletic competition and to coordinate domestic amateur athletic competition in its sport in the United States.

We believe that these changes should be made so that the respective national governing bodies in the United States have a clear delineation of their authorities. To do less than that will perpetuate the confusion that has existed for some time.

With respect to the "Review of National Governing Bodies" on page 20, section 206 should be renumbered section 207. Section 207 should be numbered section 206 (a) and (b). These sections we submit should incorporate the material in article V, sections 5 and 6 of the U.S. Olympic Constitution.

These sections of our constitution represent the overwhelming consensus of the various organizations that are members of the U.S. Olympic Committee. There was debate at considerable length before these sections were adopted, and we believe that they now represent a fair method for a sports organization to challenge the right of the national governing body to continue to act as such.

On page 26, we would like to insert on line 9, after the word "including," the following: "development of broad-based participation in amateur sports in the United States and any programs "authorized"—and delete "sponsored"—"by the USOC; and".

With reference to title III: Athletes' Rights to Participate, the USOC is supportive of the athletes' position in this matter which will be addressed at a later time in these hearings.

We believe that on pages 29 and 30, sections 303 (a) and (b) require modification to take into consideration the athletes' responsibility for satisfying reasonable academic requirements.

We consider it advisable in the proposed legislation to correct some deficiencies in the present law to preserve the exclusivity of the Olympic name and seal to protect the public against deceptive use of these items for purposes not related to the Olympic movement.

In the materials I have submitted for the record, I have included some recommendations for strengthening the present law for which I respectfully request your favorable consideration.

We all noted with profound interest the statement Howard K. Smith made in connection with grassroots, youthful level of competition, and our weakness in this area.

It is the unanimous view of the U.S. Olympic Committee that we must create athletic programs at the grassroots level in all sports and be certain that the youngsters who participate in these programs receive competent coaching and have proper facilities. The pre-high-school-age group in the United States has not had the benefit of coordinated athletic programs that would enable these youngsters to discover whatever athletic talents they might possess.

It is our view that there is no need to regiment our youth as they do in some countries. In fact, we are totally opposed to regimentation.

We do believe that if the athletic programs in all sports are made available, and if they are well run, the youth of our country will respond. The athletic development of these young people is one of the goals the U.S. Olympic Committee has. We shall make it a major responsibility.

Thank you.

Senator STEVENS. Thank you very much, and on behalf of the President's Commission, I want to thank you for the cooperation

of the USOC in moving forward as you have. I think you have done a great deal to assist in providing the basis for reasonable legislation.

As far as the last item, protection of the Olympic name and seal and symbol, we would be happy to have your suggestions and do whatever we can to assure that the Olympic Committee is protected. Use of the Olympic name is one of your potential source for increased revenue and we should do everything we can to assure that you have that protection.

Mr. KANE. Yes, sir.

Senator STEVENS. Most of the recommendations you have made are technical in nature. We will certainly study them, and attempt to get the reactions of the other parties involved in the legislation. But it seems to me that most of them should be items that we can agree on.

Let me turn to your comments concerning the resolution of disputes involving national governing bodies. I understand that after S. 2036 was introduced an agreement was reached between the NCAA, AAU and other organizations, on the procedures to be implemented when there is a challenge to a national governing body's franchise. These procedures are now part of your constitution. I think what you are saying is that your constitution is sufficient and that the mechanism for resolving disputes in that constitution is a good one.

However, I don't think it is sufficient to adopt your proposed language which merely states that the USOC shall make provision in its constitution for the resolution of disputes involving national governing bodies. This is an important issue an we need to specifically set forth the mechanism for resolution of these disputes in the bill.

So as we proceed, the staff will consult with you with regard to the provision concerning resolution of disputes. But I hope you understand that it is important that the specific procedures for resolving these disputes stay in the bill. We will try as much as possible not to be in conflict with your constitution. I think that is the one commitment we should make.

I also have some specific questions that I want to go into.

On page 19 of your statement, you said:

> We consider it appropriate for colleges and secondary schools to invoke the rule of reason for academic considerations.

That was also mentioned this morning by Kenny Moore.

Do you know what the NCAA reaction would be to that suggestion? Has it been discussed with the NCAA?

Mr. KANE. I personally do not know what the NCAA position is on that. I know the NCAA has staunchly defended the rule of reason in connection with both academic and athlete requirements. And I presume that that will be the stance romorrow.

Senator STEVENS. There is a difference between reasonable academic standards, and a rule of the NCAA which prohibits an athlete from competing in outside competition and the reasonableness of that rule.

Now, as I take it, you are going a little bit further than that. You are saying rule of reason for academic considerations only.

Mr. KANE. That is correct.

Senator STEVENS. Which I take it to be the athletes' position?

Mr. KANE. That is the athletes' position, and that is the position at this juncture of the USOC.

Would you like to comment on that, Don?

Mr. MILLER. Only to this extent, sir. The very essence of the statute is the application of the vertical structure. And it would appear to me that if we do have a true vertical structure which adheres at all to our constitution which all organizations are in favor of, that it would do much to reduce the conflict in the scheduling of activities between the college programs and the national governing bodies and others, sir.

Senator STEVENS. Well, we will ask the NCAA also.

In April you amended your constitution to provide that national governing bodies have to be autonomous, and to that end should be incorporated and hold membership in the appropriate international sports federation expeditiously as possible.

Have you had any interpretations of that provision, what it means, how soon, what your time frame is?

Mr. KANE. There is no specific time frame, except "as expeditiously as possible" would mean that it would have to take place before the next quadrennial. It would be interpreted as not expeditious if it goes beyond 1980.

Senator STEVENS. Do you expect it to be done before the 1980 Olympics?

Mr. KANE. I expect everything will be in place very soon and the economy will be accomplished before 1980.

Senator STEVENS. I have been informed that we are going to have some comments regarding the finding of the President's Commission in its report that the United States has not provided adequate opportunities for women in sports. And the finding of the Commission was that there were barriers to women in terms of organization, financial support, facilities, training, and coaching.

Has the USOC instituted a program to deal with this aspect of the problem, the overall problem?

Mr. KANE. USOC has a development budget of $9,200,000 for this quadrennial. Each of the national governing bodies have been given ample funds to conduct their programs and the women are supposed to be treated on an equitable basis along with the men.

If we discover that any national governing body is discriminatory, right away we shall step in.

Senator STEVENS. You oversee the funds you make available?

Mr. KANE. Absolutely.

Senator STEVENS. For development grants?

Mr. KANE. Yes, sir. We have to have constant reports.

Don points out that, say in the sport of track and field, that the allocation for 1977—men, $35,000; women, $35,000. Basketball is $25,000 for men, $25,000 for women. And all the way down the line the women are treated fairly and equitably. I don't know in all cases equally, but that is the intent.

Senator STEVENS. Do you foresee any jurisdictional problems between the USOC and the school-college community, the AAU or other sports organizations if we pass the bill in the form you have suggested?

Mr. KANE. I don't see any real problems, Senator.

I have not heard the NCAA testimony, as you haven't either. We have had every indication from the NCAA that it is supportive of what we have done in our USOC constitution, yet NCAA Interna-

tional Relations Committee recommended unanimously to the NCAA Council that it reaffiliate.

The NCAA Council has taken the position that with certain demurs to the athletes' bill of rights that have to be discussed here, that it is favorable to rejoin USOC.

This is a copy, Xerox copy, of the NCAA News, and the headline is "Council Supports Rejoining USOC."

Senator STEVENS. I think we have a copy of that and we will print it in the record at this point.

[The article follows:]

COUNCIL SUPPORTS REJOINING USOC

(Resolution sent to convention by National Collegiate Athletic Association)

A resolution was adopted by the NCAA Council at its August meeting which contemplates the NCAA rejoining the U.S. Olympic Committee . . . "subject to development of satisfactory Federal legislation."

The Council's action followed a recommendation from the International Relations Committee for the Association to rejoin the USOC. That came after months of analysis of a report published by the President's Commission on Olympic Sports (PCOS), and USOC adoption of key elements of that report in keeping with NCAA concepts regarding reorganization of the Olympic structure in the United States.

"We feel there is a significant change in the USOC and the Council is enthusiastic about the potential of moving into active participation with the Committee," stated NCAA President J. Neils Thompson, University of Texas, Austin.

"The International Relations Committee and the Council have been most impressed with the positive attitude USOC officials have exhibited toward the NCAA's concepts and efforts to have them adopted," Thompson continued. "We sincerely believe the USOC is interested in having the NCAA rejoin its structural framework."

However, Thompson cautioned that a final decision regarding whether the Association rejoins the USOC depends upon legislation currently pending before Congress and how it will affect the NCAA.

COUNCIL REPORT

A full Council report on the subject will be submitted to the NCAA Convention this January.

A condition favored by the Council which would require autonomy on the part of individual sport franchise holders for international competition was among proposals adopted by the USOC at its quadrennial meeting last April.

Another important issue centers around the arbitration procedure by which a challenger may contest the qualifications of an individual sport franchise holder. The procedure currently in the USOC Constitution is unfair, in the NCAA's opinion, to any challenger for a franchise.

Although this issue was not resolved by the USOC at its quadrennial meeting, a draft of a new provision which is satisfactory to the Association has been circulated for a mail vote of the USOC.

The major barrier to a final favorable decision concerns the "Athlete's Bill of Rights." This as currently in the USOC Constitution continues to be unacceptable to the Council, according to Thompson.

RESOLVE ISSUES

"Several issues concerning the bill of rights must be resolved before a decision is made about rejoining the USOC," Thompson said.

Senate Bill 2036 has been introduced by Senators Richard B. Stone (D-Fla.), Ted Stevens (R-Alaska) and Dick Clark (D-Iowa), each of whom served on the PCOS.

The bill or rights in this legislation also is unacceptable, but the Association is hopeful that during hearings and discussion on the bill the Senate will recognize, as it did in 1974, the necessity of closely defining the type of international com-

petition in which an athlete always is free to compete and of protecting reasonably, school and college programs in other instances.

In addition, the USOC would support (e.g., provide financial assistance for litigation) an athlete in "meritorious cases" if a nonmember of the USOC (e.g., a college conference) restrained the athlete from competing in such events. These provisions are stated in absolute terms, without recognition in those instances where the rules in question are "reasonable."

The Council's decision to rejoin the USOC emphasizes that the concept of "reasonableness" must be included in those provisions for them to be acceptable to the school-college community; e.g., consideration of such factors as absence from classes, the time of the academic year involved, the institution's schedule commitments and the significance of the international event.

COOPERATION

Thompson stated that the Association has expressed its willingness to forego any of its rules affecting an athlete's participation on an official U.S. team in the Olympics, Pan American Games, World University Games or events of similar stature, but not in all "international" events.

Despite the fact that the Amateur Sports Act of 1977 (Senate Bill 2036) would be satisfactory to many of the NCAA's interests, it still falls short of satisfying the "Athlete's Bill of Rights," according to Thompson.

"However, a satisfactory provision can be negotiated in that bill if the NCAA and the USOC agree to support such a change," Thompson said.

Thompson went on to say that timeliness is a chief concern of the Council in making its final decision on whether to rejoin the USOC. Since election of new members to the USOC could not become official until sometime next year (1978), the Council is awaiting final disposition of the Federal legislation and is anxious to evaluate the membership's reaction to the resolution.

Undoubtedly, the Convention's response to the resolution will be a major influence on the Council's decision whether to rejoin the USOC, but that body still retains the final right in selecting a verdict on the issue.

Following is the text of the Council's resolution:

USOC RESOLUTION

"Since the Association resigned from the United States Olympic Committee in 1972, there has taken place detailed consideration before the Congress and a Presidentially appointed commission of the steps necessary to improve the performance and accountability of the USOC and the national governing bodies for the various Olympic sports.

"As a result of these considerations, the USOC has undergone a substantial internal reorganization, adopting or implementing many of the principles advocated by the Association both at the time of its resignation from the USOC and before the Congress and the President's Commission on Olympic Sports.

"In general and in most particulars, the NCAA Council believes that this reorganization is responsive to and in accord with the best interests of the Association and its members, as representatives of a major segment of the American amateur athletic community.

"There is now pending before the Congress proposed legislation which would enact into law various important aspects of the USOC reorganization favored by the Association. Such enactment would assure to the Association's membership that the principles favored by the Association would enjoy relative permanence as a part of the USOC structure and procedures.

"The USOC reorganization and the terms of the implementing legislation are matters of such unique importance to the NCAA and its membership—involving as they do not only a restructuring of the USOC but also a potential alteration of the USOC's role in the American amateur sports structure—that a report to the NCAA membership at its next Convention appears desirable before final action is taken by the Council on an application for renewed USOC membership.

"Therefore, it is resolved that subject to development of satisfactory Federal legislation, the Council intends to report to the members of the Association, at their Convention in January 1978, that upon consideration of the matter by the members, an application be made to the United States Olympic Committee for USOC membership."

Senator STEVENS. We are most pleased to see that the NCAA might rejoin the USOC and hope it comes to pass.

Just a couple more questions.

With regard to your training centers, what criteria do you use in selecting the sites?

Mr. KANE. The full-blown criteria are to select sites that are geographically dispersed. The Squaw Valley site, the first one was so well in place, everything was there, it was easy to get going.

We are in full operation there. If I understand correctly, we have something like 150, 160 people a day, ever since it opened.

It really is—it is more encouraging than we had anticipated at this early stage.

At Colorado Springs we are still in the process of refurbishing. But there, again, it is working out very well. But that was in place because it was at the Air Force base and we were able to move quickly.

Lake Placid, Plattsburg area, will likewise be in place soon and I expect that that will be a national training center also.

In other areas such as Baton Rouge, Mission Viejo had entered applications to be national training sites, it will be some time in the future if they are able to capitalize their wonderful facilities there, that it will be some time in the future I think before they are available to us.

Senator STEVENS. How do you choose the athletes who can use these facilities?

Mr. KANE. The national governing bodies of each sport select the athletes.

Senator STEVENS. Do you intend to have a financial program to continue to support them; is that one of the USOC goals?

Mr. KANE. With your help, sir.

I would like to point out in addition to your questioning, because national training centers aren't as numerous as we had hoped or would hope for the future, that we intend to lease college facilities during the summer of 1978, summers of 1978 and 1979, to put various sports in places where facilities are best adapted. And already beautiful facilities in place will be utilized in that way.

Senator STEVENS. That is my next question, I think. Is that your amateur sports festival program?

Mr. KANE. It will lead up to that. The National Amateur Sports Festival we anticipate will be some time in the second or third week of August after a full summer of training and competition.

Senator STEVENS. Are you having a funding problem for that festival? Is the amateur sports festival dependent upon this bill?

Mr. KANE. It would be a greatly helpful boost to the national training festival, amateur sports festival, if we had additional money.

Senator STEVENS. Have you been given any indication that the high schools and colleges would cooperate with USOC on that festival program?

Mr. KANE. I have certainly had no indication that they wouldn't.

I think, Senator, it must be pointed out, even though the NCAA resigned in 1972, that we have had nothing but the fullest cooperation from our colleges and high schools.

Our staffs at Mexico City in 1968, Munich in 1972, and Montreal in 1976, there was about 60 percent NCAA coaches, trainers, adminis-

trators. So we are not being hurt by the fact that the NCAA itself has not been a member because we had just as many NCAA personnel, that is, colleges that belong to NCAA, working for us in 1976 as we had in 1972 and 1968.

Senator STEVENS. All right.

Mr. KANE. I just want to emphasize that there was—there has never been any movement by the NCAA to hurt us in any way.

We have had nothing but the best of cooperation in that respect.

Senator STEVENS. We have had comments from the athletes about limited facilities. You heard some of them this morning. Sheila Young commented that there was only one speed skating rink in the United States and no covered velodromes for the cyclists.

Does USOC have a plan to increase the general availability of sports facilities in the United States?

Mr. KANE. I am going to let Colonel Miller develop this, but I just want to say that there are certain sports in this country that have not been encouraged because of the lack of facilities.

I just came back from a week in Belgium. Belgium is a country of 10 million people, about the size of New York City. I can't tell you how impressed I was by the facilities that little country has for amateur sports.

In fact, if you were to say, well, the United States is 14 times larger than the country of Belgium and we have 14 times the number of facilities they had in Belgium, we would be bulging with facilities.

Two points briefly, and then I would like to have Don Miller go on.

Belgium started this movement only about 10 years ago, under a very great, elegant man named Raoul Mollett who was president of the Belgium Athletic Committee.

In 1968, I think, Belgium only got two medals in the Games. In 1976 only West Germany, of all the free nations in Europe, had more medals than Belgium. They had more medals than France, England, Italy, Holland, Denmark, Sweden; absolutely remarkable advance.

One other thing. While I was there I discovered all of these wonderful facilities and this great enthusiasm in this small country, and just in conversations I said, "Do you have any drug problem in this country?" The answer was, "We have no drug problem with our youth."

I said, "What do you attribute that to?"

They said, "Well, Belgium is a religious country and we have our youngsters taking part in wholesome sports."

So this was the first answer I got.

I asked maybe 20 people. I got the same answer from all of them.

The fact is that the surrounding countries, the adjacent countries, have a lot of drug problems; the Netherlands, France, some of the others. And here is the little country of Belgium. And that may be of significance to you. It certainly was to me.

Senator STEVENS. Colonel Miller?

Colonel MILLER. Sir, for a long time, the United States Olympic Committee has been well aware of the lack of adequate facilities in certain sports throughout the United States.

We believe that a planned program must be developed to take care of the gap in these facilities, and the program be financed similar to the way our highways in the United States are constructed, through Federal, State, and community participation.

And if I may just digress for a moment, sir, relative to the $20 million that has been considered in S. 2036, we believe that this initial grant is to assist in the expeditious implementation of the vertical structure of amateur sports and also for the immediate needs in the development of the training center program.

However, over and beyond that, sir, other assistance is required from the Federal Government in the area of establishing a coin program such as was mentioned in the President's Commission's Report on Olympic Sports, tax abatement programs, tax refund programs, similar to the checkoffs for the political campaign, only making a contribution to amateur sports so they can satisfy the requirement for the much-needed financial support for ongoing programs.

And we believe all these are dovetailed, and only because of the lack of time in the implementation of such programs as the coin program and so forth, we believe that there is an immediate necessity for the grant of $20 million with no strings attached.

Senator STEVENS. Well, I for one am hopeful that once we get this bill passed, we can look into alternatives for financing amateur athletics. Hopefully, we can set up a fund with no strings attached for facilities. I think the highway trust fund concept is the one that we should try to adopt.

I have one last question which is sort of a difficult one but first I have a question from Senator Culver. This is his question. He said that in talking to athletes with handicaps he learned that the greatest need felt by such athletes is not special programs, but that they want greater integration into the mainstream of sports. This was also brought out in hearings held by the PCOS which Senator Culver chaired.

S. 2036 establishes criteria for national governing bodies. At least two of those standards are aimed at open membership for and fair representation of athletes active in their sport.

I believe this clearly includes athletes who have physical and mental handicaps.

Is that your understanding?

Mr. KANE. Yes, sir.

Senator STEVENS. To the extent that this bill establishes USOC oversight in the area of national governing body compliance with the criteria as set forth in the legislation, would the USOC encourage national governing bodies to integrate handicapped athletes into their sports programs.

Mr. KANE. We fully intend to.

Senator STEVENS. Thank you very much. We also have a question submitted by Congressman McCloskey, who wishes me to ask, do you see any need or reason for subjecting amateur golf to this bill?

Mr. KANE. I have just the man to answer that.

Mr. SULLIVAN. No; we do not believe that amateur golf should be included within the ambit of this bill, because the U.S. Golf Association is very well organized. I understand it is adequately financed. It has its own international programs, such as the Walker Cup and the like.

They would not fit into the program that is set forth in your bill. We would request that, if it is possible, that they be excluded from membership in the USOC.

Senator STEVENS. This is the last question, gentlemen. Unfortunately, international politics seems to play a larger and larger role in the Olympic Games; and we recall the 1976 games in Montreal, the Taiwan problem, and the withdrawal of the African Nations.

I am informed that there now are reports that the Soviet Union might try to prevent Israel from participating in the 1980 Games in Moscow. We would like to inquire if you have heard anything about this and what would be the USOC's position if this were attempted.

Mr. KANE. If this were to be attempted; is that the question?

Senator STEVENS. Yes.

Mr. KANE. We have been refuting this story for months. I guess you probably know. There is no truth in the story at this time. The story first came out under the byline of one Geoffrey Hart, and then taken up by Bill Buckley, Ronald Reagan, and it last came to my attention, a letter through Congressman Jack Kemp, with signatures of 91 Senators and Congressmen. Colonel Miller called the Secretary-General of the Israel Olympic Committee. Israel has not been barred from any federation. They are members of all the federations they were members of prior to the 1976 games.

As far as we know, there is no movement on the part of the Soviet Union to frustrate Israel in its membership in any of the federations.

I talked to the representative of the country of Israel in the meet last week in Monte Carlo, and he said he didn't think that the Soviet Union was especially friendly, but there was no truth in the story.

But to get to your specific answer to your specific question, the United States Olympic Committee stood fast in support of Taiwan at Montreal, and I believe we can say in all honesty that we had much to do with the final—with the IOC being a little decisive in the matter and making the move it did make.

We would stand firm on the principles that any nation invited and a member and, under the auspices of the IOC, should be admitted to the country and allowed to compete.

If that doesn't happen, the IOC is violating its own rules and the United States would stand firm against any such move and will stand firmly against any move that, if there is any truth in it, this rather irritating rumor that keeps persisting.

And as far as we know, there is not truth in it, whatsoever; do you agree, Colonel Miller?

Colonel MILLER. I agree, sir.

Senator STEVENS. That is very good. Well, gentlemen, we look forward to working with you. I hope that this bill will pass and start the concept of Federal participation in funding amateur sports. We thank you for your cooperation, and we will be communciating with you.

Mr. SULLIVAN. Senator, may I make a comment on a matter that was discussed this morning?

Senator STEVENS. Please.

Mr. SULLIVAN. That relates to the right of an athlete going to arbitration or petition a Federal district court for relief it requests. I think the bill presently provides that there will be arbitration only if both parties agree.

Now, we have had considerable experience with arbitrating athletes' complaints in the last several years, because we first adopted the

Athletes' Bill of Rights provision in 1974 at our biennial meeting. Since that time there have been at least five arbitrations of athletes' complaints that I have attended. They were all handled extremely well by the appointees of the American Arbitration Association. They were all handled expeditiously. In each instance the opinion of the arbitrator was rendered from a period of 2 hours after the arbitration was completed to 24 hours afterwards, which I think is a great help to the athlete.

Further, the athlete petitions the AAA association to hold hearings under the 48-hour provision which you are familiar with. In each case that was done. The athletes were generally satisfied with the results of the arbitration. They all clearly expressed the view that they were treated fairly by the arbitrator.

So it seems to me that based upon our past experience, it would be much better if there was an absolute right to arbitration, as well as an absolute right to go to the Federal district court.

I have been a lawyer for many years, practiced in the Federal courts for many years. And it is not as simple to adjudicate a complaint in the Federal court, and I don't care how simple the complaint might be, even though you can get a temporary injunction, because when you have a hearing on the permanent injunction, you are going to find that one side or the other, particularly the defender, if you like, will want to submit briefs.

That takes time. And the court will normally grant the right to submit briefs.

He says maybe 24 or 48, or 72 hours. Nonetheless, that is a delay. Whereas, in the arbitration proceeding they move expeditiously and competently. And, obviously, anyone who goes to arbitration has the right to petition the Federal court for relief of that decision, if he feels the decision is wrong.

But I know of no instance, and I am sure there have been a few, where the arbitrators were ever reversed by the Federal court, because the only basis for reversal or the only realistic basis for reversal is that the arbitrator decided the matter on facts that were not before him.

I think that I would like to have you reconsider this arbitration proceeding, because I think that if the athlete has the right to go to arbitration, it is much to his advantage.

He comes in. He tells his story. He is not before a judge that might frighten him. He tells his story and he's treated kindly. The arbitrator normally helps him, and we are there to help him.

Senator STEVENS. You know, having a right to go to arbitration and having jurisdiction over the organization you want to take to arbitration is two different things.

Mr. SULLIVAN. No, if the organization is a member of the U.S. Olympic Committee or affiliated with a member of the U.S. Olympic Committee, he must agree that these matters can go to arbitration.

Senator STEVENS. What is the difference between that and ours, which indicates that the arbitration procedure has to be agreed upon?

Mr. SULLIVAN. Well, he may not agree to it. The college group may not agree or the governing body may not agree. They want to make it more difficult. Furthermore, as I said before, I don't think the matter can be decided as expeditiously for the athlete as it can under the 48-hour provision.

Senator STEVENS. I understand that, but just saying the athlete has the right to go to arbitration isn't enough. If the organization which the athlete wants to take to arbitration hasn't agreed to it, the association has no jurisdiction.

Mr. SULLIVAN. No; if the athlete has the right to go to arbitration and the organization that is barring him from an international event is a member of the organization, that member has no choice.

The athlete goes to arbitration, and it had better have representatives there to defend its position.

Senator STEVENS. I understand what you are saying, if an organization is a member of the USOC, it has already agreed to submit to arbitration.

Colonel MILLER. That is correct.

Mr. SULLIVAN. That is correct. The athlete has——

Senator STEVENS. But there are some organizations that aren't members of the USOC, who have not agreed to arbitrate these disputes.

Mr. SULLIVAN. Well, then, if that is your problem, Senator, why not amend the bill to permit the athlete to go to arbitration with respect to all members of the USOC? The way I read your bill, he doesn't get to arbitration unless the member of the USOC agrees to arbitration.

Senator STEVENS. We have no intention of allowing an organization to be relieved of any commitment which it has made to the USOC; if that is your interpretation we will check it again.

Mr. SULLIVAN. The bill doesn't read that way to me. If you mean they should be required, let's permit the athlete to go to arbitration, period.

Senator STEVENS. We mean that if an organization has not yet agreed to arbitration and a dispute involving an athlete's right to compete arises, that arbitration will be available if the athlete and the organization agree to it.

That is the intention, as I understand it. We will, however, review the language of the bill. We are going to hear from the American Arbitration Association in a minute and I hope that they will have some comments on this point.

Again, my thanks to you. I really, truly foresee the day, if we can get these problems settled, when Members of Congress will not be hesitant to provide financial assistance for amateur sports.

I think one of our great problems preventing Federal participation in financing amateur sports has been the schisms that have occurred in the past and the failure of previous legislative proposals to pass Congress.

There is no pride of authorship in this proposal. It is just, again, my opinion that we are not going to get to the financing of amateur sports, until we can get the athletes' rights and disputes mechanisms settled.

We thank you for your help in that regard.

Again, my apology to you for this morning.

Mr. KANE. Thank you, Senator.

Mr. SULLIVAN. Thank you.

[The statement and attachments referred to follow:]

STATEMENT OF ROBERT J. KANE, PRESIDENT, U.S. OLYMPIC COMMITTEE

Mr. Chairman, members of the Senate Commerce Committee, my name is Robert J. Kane, and I am President of the United States Olympic Committee. I appreciate very much the opportunity to appear before you this morning to express the views of the Committee on Senate Bill 2036. With me this morning is the Committee's Executive Director, F. Don Miller, and its Counselor, Patrick H. Sullivan.

The Olympic Committee is generally pleased and in substantial agreement with the provision of Senate Bill 2036 introduced by Senator Stevens, Senator Culver and Senator Stone as the Amateur Sports Act of 1977. We recognize this Act as the implementing vehicle for the conclusions reached, after exhaustive study, by the President's Commission on Olympic Sports which we welcomed and supported. The conclusions reached by the President's Commission in its final report were used by the USOC a guidelines in amending the USOC Constitution at its recent membership meeting in Colorado Springs, Colarado. I would be remiss if I did not take this opportunity to express on behalf of the thousands of dedicated amateur athletes of our country, the hundreds of amateur sports organizations and the many thousands of unselfish men and women associated with and pledged to the improvement of amateur sports in the United States, our deep gratitude to the President's Commission on Olympic Sports and Senators Stevens, Culver and Stone, members of the Commission, for introducing the Amateur Sports Act of 1977.

The U. S. Olympic Committee has been acutely aware of its responsibility to exert leadership in updating and strengthening our broad scale amateur sports programs to satisfy the inherent interests and needs of our amateur althletes, create greater public awareness of the benefits of participation in sports programs and achieves excellence in all international amateur athletic competitions in the 32 sports on the Olympic and Pan American Games programs. We recognize it is of the greatest importance to make readily available increased unencumbered opportunities for the youth of our country to participate in a sport of his or her choice as it not only makes a valuable contribution to the total growth of the individual but also strengthens the moral fabric of our society. Further, it is of substantial importance to our country to have well coordinated broad scale sports programs for the "grass roots" level up to and including the elite class for identification and development of potential world class amateur athletes who can represent the United States in international competition with distinction.

To aid in achieving these goals, the USOC has during the last three years at its major membership meetings (with representation of all national governing bodies for sports on the Olympic and Pan American Games programs, national amateur sports organizations and amateur athletes) placed its entire trust on designing a blueprint for athletic excellence in the United States. With the unselfish cooperation of its membership and within its legal authority amended its Constitution to: refine its organizational structure, define its role as a central coordinating agency, delineate the duties and responsibilities of the national sports governing bodies, establish an Athletes' Bill of Rights, implement procedures for resolution of certain disputes, recognize the role of the athlete in the governance of the USOC and the national governing bodies and integrate the vertical structure in the organization of amateur sports in the U.S.

In addition to the amending of our Constitution it is with great pride that we bring to the attention of the Commerce Committee some of the USOC's more recent policy decisions which have been adopted to assist our fine young amateur athletes, strengthen our nation's amateur sports programs and are illustrative of the leadership role of the USOC, namely:

1. The establishment of national regional training centers at Squaw Valley, California, the site of the 1960 Olympic Winter Games, and at the former ENT Air Force Base in Colorado Springs, Colorado. Additional training centers will be established with the next one on the East Coast in the Lake Placid/Plattsburgh region with others to follow. These training centers provide excellent training facilities, accommodations, feeding, administrative support, medical and trainers' services at no cost to the athlete or the national governing body.

These training sites are designed to provide programs for the novice as well as the elite athlete and athletes who train at these sites are selected by the sports governing body in each sport. To supplement the programs at the training centers selected universities, colleges and secondary schools will be designated to conduct training programs in a given sport.

2. Integrated with each of the training centers we have established a highly sophisticated sports medicine program under the supervision of the recently formed USOC Sports Medicine Committee. This Committee has been given the responsibility to provide tangible objectives and practical, scientific and technical assistance to competing athletes. The major concern at all times is the overall welfare of the athlete. We will maximize results through direct communications and understanding between the athlete, the coach, and the sports science teams. At each training center, programs will be conducted in exercise physiology, pharmacology, biomechanical engineering, nutrition, sports psychology medicine, orthopedics, and research and development. Results of sports medicine research and studies at the training centers will be widely disseminated.

3. The inauguration of a national coach concept whereby each of the sports governing bodies with competition on the programs for the Olympic and Pan American Games have been asked to select and identify the "national coach" to either for a one year period or for the period between now and the Pan American serve either for a one year period or for the period between now and the Pan American or Olympic Games. From experience we understand the importance of having the Pan American or Olympic coach selected several years in advance so that the coach can get to know and understand the athletes who are potential members of the team.

4. The adoption of a broad scale Job Opportunities Program providing career employment for elite class athletes who have completed their formal education. Under this program, 43 companies have agreed to employ job-qualified elite class athletes and will permit them time off for regular periods of training and competition, without a loss in pay, and the opportunity for promotion.

5. Three State Legislatures have adopted legislation for those state employees in athletics to be paid while competing in important international amateur athletic competitions. Senator Humphrey has introduced federal legislation to the same effect.

6. A program to encourage employers to pay employees for time away from the job when competing in international amateur athletic competitions. With regard to the Olympic and Pan American Games, the USOC has a policy of reimbursing athletes for lost time when preparing for and competing in these Games when their time off from the job without pay is a financial burden to themselves or to their families, if the employers will not do so.

7. Recently the Executive Board of the USOC adopted, in principle, plans for a National Sports Festival to be inaugurated next summer. Competitions will be conducted in almost all of the sports on the programs of the Olympic Games and the Pan American Games as well as for selected sports on the Olympic Winter Sports program.

Never in the history of the Olympic movement in our country has the USOC been more disposed to adopting progressive legislation in our Constitution and inaugurating new programs designed for the improvement of our posture in international amateur athletics.

As a prelude to a discussion of specific provisions of the Amateur Sports Act of 1977, I would like to praise the unselfish and unstinting efforts from the nation's amateur athletic organizations in helping us to frame a new USOC Constitution (Appendix A) reflecting the overall views of all amateur athletic organizations as well as the views of the many athletes on our Athletes' Advisory Council (selected by the athletes themselves), twelve of whom are now elected by the Council to serve on our Executive Board.

The USOC is generally supportive of the Amateur Sports Act of 1977. It should be understood that the new Constitution of the USOC represents an amalgamation of ideas and consensus of proposals by all national amateur sports organizations concerned with the sports on the Olympic and Pan American Games programs along with duly elected representatives of our Olympic and Pan American teams, and representatives from the private sector serving as members of our State Olympic Organizations.

TITLE I—CORPORATIONS

The USOC accepts the designation as the Corporation to be the central coordinating organization for amateur athletic activity in the United States. To this end the USOC Constitution implemented the areas covered in recommendations of the President's Commission on Olympic Sports:

(1) A central policy-making forum to identify U.S. sports problems and to effect solutions.

(2) A means to induce all national amateur athletic organizations with significant national programs in the sports on the programs on the Olympic and Pan American Games, as well as those sports which are recognized by international sports federations in those sports which might be added to the programs of the Olympic and Pan American Games in the future.

(3) A means to settle organizational disputes over the right to be recognized as a national governing body in a sport, by clearly stating the conditions under which a challenging national sports organization must follow when seeking recognition, including binding arbitration under the auspices of the American Arbitration Association.

(4) A means to guarantee an athlete's right to compete.

Under this section the USOC was cognizant of the long-standing policy in the United States for members of the school-college community to control closed or restricted competitions for those members representing colleges or secondary schools. We support legislation which will introduce the principle of satisfying academic requirements in any decision for the denial of any student in the college or secondary school community from participating in unrestricted international amateur athletic competiton.

Parenthetically, J. Neils Thompson, President of the NCAA, writing in the most recent issue of the NCAA News emphasized that "reasonableness" must be included in these provisions for the denial of an athlete's right to compete in unrestricted international amateur athletic competition if the NCAA is to again take its place as a multi-sport member organization in the USOC.

It is significant that the NCAA Council at its August meeting adopted a resolution contemplating the NCAA rejoining the USOC "subject to the development of satisfactory legislation," which states in part:

"The USOC has undergone a substantial internal reorganization, adopting or implementing many of the principles advocated by the Association (NCAA) both at the time of its resignation from the USOC and before the Congress and President's Commission on Olympic Sports. . . . In general and in most particulars, the NCAA Council believes that this reorganization is responsive to and in accord with the best interest of the Association and its members, as representatives of a major segment of the American amateur athletic community."

TITLE II—NATIONAL GOVERNING BODIES

In drawing up Constitutional provisions for the duties and responsibilities of national governing bodies, the USOC was guided by the recommendation of the President's Commission that "every NGB adopt a strict vertically structured organization wherein the democratic electoral process is used." Furthermore, the USOC recognized an additional recommendation that "each NGB is encouraged to be the leader in the U.S. development activity in its sport. As such, each NGB should be sensitive to all national level constituent groups with development programs." We strongly support the creation of strong national governing bodies-which are truly "national" and "governing" with a clear definition of their jurisdiction and that of any other organizations, together with the provision of safety valves against alleged abuses of power by organizations having any kind of jurisdiction over amateur athletics.

Most of this has been accomplished under present law by the restructuring of the USOC and substantially all of these improvements are confirmed, with minor variations of language. in the proposed Act. However, the language of the USOC Constitution seems superior to Section 204(d) because it tends to promote the "vertical" structure through the limitation of its application to organizations which are members of or affiliated with the NGB.

For example, the grant of exclusive jurisdiction over international competition (other than the Olympic and Pan American Games) to national governing bodies in Section 205, and the requirement for fair use of this authority in Section 204(d) are similar to the parellel provisions of the USOC Constitution as mentioned in the above paragraph.

The most that could be done in the recent restructuring of the USOC was to adopt jurisdictional provisions:

The first recognizes what has virtually been the common law in the United States with respect to jurisdiction of colleges, schools, armed forces, YMCA's and similar organizations (i.e., Group B members of the USOC) over competition limited to their own members.

The second recognized the role of national governing bodies as "coordinating" agencies for amateur competition in their sport within the United States, without

specifying what authority goes with the function. It should be noted, again, that there is no express statutory authority for either of these provisions, so that their effectiveness is limited to situations within the area of authority of the USOC. Any effort to enforce these provisions outside the USOC perimeter would be open to legal challenge.

Within the parameters of jurisdiction of the International Olympic Committee and the international sports federations, the Corporation's authority to recognize national governing bodies should be limited to those organizations seeking recognition for sports which are currently on the programs of the Olympic and Pan American Games and for sports which are now widely practiced in many countries and whose international federations are already recognized by the IOC as well as for sports which in the future may be approved for the programs of the Olympic and Pan American Games. That is why we are requesting a revision in the provisions listed under 202(a).

There are certain sections under Title II which can either be improved or are inconsistent with the recommendations of the President's Commission adopted and implemented in the current USOC Constitution.

It is considered undesirable for the proposed legislation to spell out, in the same detail as the USOC Constitution, the criteria for acceptable organization of national governing bodies and the standards of behavior of such bodies. We would suggest that the basic principles in both respects should be set down but avoid the detailed formulation of criteria in the text of the statute. We say this because it is difficult to amend a statute if the language is inadequate to the purpose. It is relatively easy to amend the USOC Constitution if it contains language that is not suitable for the purpose intended.

Our recommendation would be that the proposed legislation formulate the basic organizational and behavioral criteria for national governing bodies in summary form, without loss of substance, e.g., by requiring these bodies to have (a) open membership, (b) autonomy as evidenced by separate incorporation and membership in appropriate international federation, (c) appropriate representation of their members and of active athletes on their boards of directors, (d) non-discriminatory practices in their operations, and (e) the obligation of fair use of their sanctioning and athlete-eligibility powers. The implementing details should be left in the USOC Constitution, much as they are now; protection against repeal or arbitrary change without notice would be afforded by the provisions on constitutional amendments contained in Section 102(b) of the proposed legislation.

In Section 202(a) it is proposed that the USOC may recognize only one national amateur sports organization as a national governing body for each sport for which an application has been made and approved. It would be desirable to qualify this statement so as to make it applicable only to Olympic or Pan American sports (as outlined above) since the USOC as the central coordinating organization of the United States could admit national governing bodies in other sports, and as to them the IOC and Pan American Sports Organization requirement that only one such body would not be applicable. Also we must recognize that under IOC and PASO rules the term "one sport" in those rules may be different from what the words mean in the United States:

For example, in Olympic sport terminology there is only one sport for three related disciplines: swimming, diving, and water polo; and in the Pan American Games synchronized swimming is also included under the "swimming" rubric. The proposed legislation in Section 205(c) grants to national governing bodies the authority to certify, in accordance with international rules, the amateur status of individuals and teams. It should be noted that the modern Olympic rules require the certification of "eligibility" of contestants, including not only their amateur status but their nationality, etc.

Furthermore, federal legislation should include among the conditions of recognition as a NGB, 203(c)(1), that the organization be autonomous in the administration of its sport, and to that end shall exercise independent jurisdiction and control over the administration, eligibility, sanctioning authority, representation, and the rules of competition for its sport.

It is the policy of the USOC to have the United States determine the eligibility for recognition of any national sports organization making application for a franchise, before invoking the machinery for challenge and recognition. For the United States governing bodies to remain strong their basic eligibility must be determined in this country, not at the seat of the international sports federation.

In all of its deliberations on amendments to the Constitution, the USOC membership has been acutely aware of the importance of identifying specifically the parties concerned in each section, and this brings us to Section 203(c)(3). The

USOC recommends the substitution of the phrase "athletes, coaches, trainers, managers, and administrators" for the indefinite designation "individuals" in Section 203(c)(3) since the six categories of persons specified are the most concerned with the application of the principle of equal opportunity for participation.

In Section 203(c)(8) the USOC will support a provision to limit the terms of officers to a reasonable period of time applicable prospectively with consecutive service not to exceed ten years.

Even though the President's Commission report recommended a term not to exceed ten years for officers and members of the Board of Directors, the provision embodies a particular philosophy about amateur sports management which is not shared by many Olympic sports organizations and no parallel provision is to be found in the corporation laws with respect to the tenure of officers and directors of business enterprises.

In some quarters the provision is deemed to be intended to transfer the long-range authority in the sport from the directors of the governing body (usually part-time amateur volunteers) to the permanent civil service (the paid administrators whose terms would not be limited by the statute). In other quarters the provision is regarded as detrimental to the management of sport by devoted amateurs. Therefore, we request the deletion of the "Board of Directors, executive committee, or other governing body members" from those whose tenure would be limited. It was the consensus of USOC membership that the objective or "turnover" when necessary can be achieved by the requirement for regular elections for directors.

The USOC also respectfully requests the deletion of 203(d)(9) which would preclude a national governing body from adopting eligibility more restrictive than those of the international sports federation. Although it might appear desirable to have such a provision when applied to a majority of the cases, it is highly doubtful if the inclusion of this criterion serves any useful purpose, and there may be cases in which it could prove harmful. There have been recent controversies of a serious nature between the international sports federations in certain sports and the IOC with respect to eligibility rules. It would be counter-productive to force national governing bodies to fashion their eligibility rules according to the lowest common denominator of amateurism—if in their judgment this would be contrary to the rules or the spirit of the Olympic movement.

The USOC firmly believes that for any sports organization to receive a sanction to hold international amateur athletic competition in the United States that a revision of 204(d) would include a provision that such an organization would have to hold membership in the Group A NGB members, or be affiliated with the Group A member.

Under Section 205 the USOC recommends the deletion of subsections (b), (d), and (e). The USOC does not feel that a NGB has the authority from the international sports federations to represent the athletes. Athletes are members of national sports governing bodies but there is not direct line of authority, nor is any required, linking the athlete with the international federation.

Furthermore, the USOC has recommended a stronger authority than that expressed in subsection (d) with respect to the rights of the NGB for conducting domestic competition as prescribed by the regulations of all international sports federations. We suggest the following language to cover this point: "To conduct national championships and other domestic competitions and international amateur athletic competitions in the United States; and to establish procedures for the determination of eligibility standards for participation in such competitions."

Subsection (e) of Section 205 is not applicable since NGB's must follow guidelines of their respective international sports federations for eligibility of men and women for international amateur athletic competitions. Although there is little chance that a U.S. national governing body would violate the rules of the international sports, overstepping the lines of such eligibility rules could not be condoned because of a statutory regulation granting such broad scale permission.

Finally, the USOC recommends subsection (f) of Section 205 read, "To sanction international amateur athletic competition and to coordinate domestic athletic competition in its sport in the United States."

It is considered a requirement by international sports federations that national members have the power to sanction international amateur athletic competitions at home as well as to coordinate the domestic competition of the many member organizations and other national organizations with programs in the sports. Since this principle is not recognized in any other section, it may be inserted here to to fulfill the NGB authority.

Finally, some thought should also be given to the financial aspects of amateur sports promotions. One item to be explored is whether there should be some agency or procedure for reviewing the reasonableness of any fee required for the sanctioning of any such promotion. Another item is the accountability that should be required of any organization or individual authorized to conduct an amateur athletic event for the proceeds of such a promotion, so as to avoid the possible exploitation of amateur athletes for purposes not connected with the interests and development of amateur sport.

Although the President's Commission recommended that sanctions for *any* competition be granted by the NGB unless it could be determined that such competition did not meet criteria in both the proposed legislation and the USOC Constitution, there are two major areas of difference:

(1) The proposed legislation requires the honoring of a request for sanctioning from any sports organization or individual only for international amateur athletic competition unless the NGB determines that certain criteria are not met, and,

(2) The USOC Constitution limits such honoring of requests to amateur sports organizations which are members of, or affiliated with, Group A members—in line with the principle of vertical structure.

We strongly support this provision in the USOC Constitution since it has been subscribed to by all amateur sports organizations, NGBs, national sports organizations, and our Athletes' Advisory Council.

RESOLUTION OF CERTAIN DISPUTES (COMPLAINT AND CHALLENGE PROCEDURE)

There are striking similarities, but also important differences of concept as well as detail between the provisions of Sections 206 and 207 of the proposed legislation (referring to review of national bodies and resolution of certain disputes), and the parallel complaint procedures of the USOC Constitution. I would mention that the present USOC constitutional procedures were formulated only after months of strenuous discussions among interested parties, including all NGBs, the school-college community, all major national multi-sport organizations and the amateur athletes. The procedures adopted represent a consensus of these groups. If only for this reason, procedures should warrant serious consideration for adoption in the proposed legislation.

The proposed legislation gives the USOC authority to enforce the requirements imposed upon national governing bodies by obtaining an injunction in federal court, and in addition authorizes "any sports organizations or individual" to seek compliance with such requirements by internal procedures within the USOC. The USOC Constitution, on the other hand, limits the compliant procedure to internal action within the USOC in all cases, and makes it available only to members of the USOC Executive Board and to organizations which belong or are eligible to belong to the national governing body.

It is respectfully submitted that, in this regard, the USOC Constitutional procedures are more appropriate because they do not unnecessarily burden the federal courts and do not open the door to nuisance complaints by individuals who are not involved in the Olympic movement or by organizations which would not qualify for membership or affiliation with a NGB in a particular sport under the open membership criteria imposed on those governing bodies.

TITLE III—ATHLETES' RIGHTS TO PARTICIPATE

At the 1974 USOC Membership Meeting in Orlando, Florida, we adopted the first national Athletes' Bill of Rights. The provisions of this section were strengthened at our 1977 Membership Meeting in Colorado Springs, Colorado, incorporating the consensus of the views of our Athletes' Advisory Council which recognizes the restrictions heretofore imposed on an athlete's freedom of choice in selecting international amateur athletic competitions.

The USOC regards the athletes of the United States as its most prized constituency. The Olympic Games and all international amateur athletic competitions are conducted for the benefit of the athletes. The current USOC Constitution provisions for the Athletes' Bill of Rights, Article II, Sec. 6, Sec. 7, and Sec. 8, not only reflect the views of the athletes but they also have been subscribed to, again, by most of the members of the amateur sports community.

The USOC is recommending that consideration be given to including parallel provisions in the poposed legislation rather than those currently provided for in Section 303. We consider it appropriate for colleges and secondary schools to invoke the rule of reason for academic considerations in denying the right of an athlete to compete in sanctioned international amateur sports competition.

Although this new proposal is not included in the current USOC Athletes' Bill of Rights, it is strongly supported by the USOC and will be introduced as a constitutional amendment at the next annual meeting of our House of Delegates in 1978.

The proposed legislation would give the court primary jurisdiction over enforcement, with arbitration under the American Arbitration Association being available only by mutual agreement. Among the USOC members there are serious doubts that such mutual agreement would ever be forthcoming.

The reason that the use of arbitration for this purpose has been incorporated into the USOC Constitution is because under present law there is no way in which action by the USOC could give the courts jurisdiction over the Athletes' Bill of Rights. The proposed legislation, however, by enactment of these rights would make it possible for the first time to also provide for judicial enforcement.

We recognize that there are some advantages of speed and economy to the arbitration process in enforcing the Athletes' Bill of Rights, but there is no doubt that the judicial approach with the availability of the injunction would be a more effective method of enforcing the athletes' rights.

In the area of the Athletes' Bill of Rights it would seem advisable to have the benefit of the views of the athletes themselves so they may be satisfied that the proposed legislation gives them a "fair shake."

Only through a strong provision for the protection of the rights of athletes for more freedom of choice to participate in international amateur athletic competition can our country be assured of its strongest representation in international amateur athletic competition.

FEDERAL FINANCIAL ASSISTANCE

The report of the President's Commission faced the need of federal financing by stating, "Financing amateur sport is critical to our continued success in international competition . . . With the exception of the military, no organization(s), private or public, gives the athlete the kind of financial assistance he or she needs to develop."

As we stated above, the Olympic movement and amateur sports programs are in dire need of substantial financial assistance. Therefore, we are extremely grateful that the proposed legislation makes provision for the Secretary of Commerce to supply funds to assist the Olympic and amateur sports programs through two grants: (1) $10,000,000 to help finance the development of broad participation iu amateur sports and for other programs authorized by the United States Olympic Committee, and, (2) $10,000,000 to help finance the administration and operation of the National Training Centers for the furtherance of amateur sports development, research, medicine and education.

The USOC will continue to work closely with the private sector to also contribute sizable sums of money to make our National Training Center Concept permanent.

We recognize that the provisions granting powers to the Secretary of Commerce for a one-time, no strings attached (other than review of each project by the Secretary) will assure a strong start for our programs, as well as indicating to the private sector the importance of their participation in helping to reach the level of excellence in many sports which simply have not had the necessary funds to achieve this goal in the past.

The International Olympic Committee and the international sports federations endorse a policy of federal assistance where there is no federal intrusion and there are no strings attached to the reasonable use of such funds. The USOC understands its responsibility to the Secretary of Commerce, the Congress of the United States, the people of the United States, and to the amateur athletes for the administration of the disbursal of these funds.

The budget for the last Quadrennium (1972–1976) was $13,000,000 and for the current Quadrennium (1977–1980) has increased to $26,000,000. We are grateful that in the past the private sector has supported our program generously and we are confident that the people of America will again help us achieve this goal recognizing that we have increased our current budget figure for development from $2,000,000 to $9,200,000.

But the need for additional funds is the direct result of our studies indicating the need for direct assistance to the NGBs and for the administration and operation for our National Training Centers.

PROTECTION OF OLYMPIC NAME AND EMBLEMS

The USOC is requesting statutory assistance in the proposed legislation to correct some of the deficiencies presently existing in Section 9 of Public Law 805 (64 Stat. 809, 36 U.S.C. 379), concerning the protection of the Olympic name and emblems in order to comply fully with the directives of the International Olympic Committee with respect to national protection of the public against deceptive use of these designations for purposes not related to the Olympic movement.

The present law, approved September 21, 1950, and amended August 10, 1964, in Section 9 gives protection limited to the words "Olympic" and "Olympiad" to the Olympic motto "Citius, Altius, Fortius," to the Olympic emblem (five interlocking rings), and the U.S. Olympic shield.

However, the law does not reach certain derivatives such as Olympian nor a variety of potentially confusing combinations of the protected designations.

Furthermore, the statute is enforceable only by way of criminal penalties, which are alone an awkward vehicle for effective enforcement. Although courts have often implied a private right of action by persons intended to be protected by such legislation, there is still considerable doubt as to the precise scope of such implied private actions.

The doubt in the present Olympic statute could readily be resolved if the proposed legislation would continue the present criminal penalties, but additionally recognize the exclusive right of the USOC to license the use of the Olympic name and emblems and provide a civil remedy to enjoin unauthorized use of the protected designations as well as an appropriate remedy to prevent unjust enrichment of violators.

Therefore, we recommend an amendment to Section 9 in the following respects:

(1) expand its coverage to other derivatives of the word "Olympic" and any potential combinations of the protected designations,

(2) recognize the exclusive authority of the USOC to license the Olympic name and emblem,

(3) give the USOC the right to enjoin any unauthorized use of such words or emblems,

(4) authorize the USOC to recover the funds or property obtained by anyone in violation of the statute, together with the costs and disbursements of legal action, including reasonable attorneys' fees.

The proposed amendments to Section 9 are included as Appendix B. Enactment will prevent any unauthorized simulation of the Olympic marks and symbols.

In considering the proposed legislation it is important for your Committee to recognize the rules of the International Olympic Committee and the international sports federations, where applicable. Furthermore, we respectfully call to your attention the provisions of our current Constitution in which many of the recommendations of the President's Commission on Olympic Sports, the duly elected members of the Athletes' Advisory Council, and contributions of representatives of the NGBs and the national's multi-sport organizations have impacted on the deliberations of the USOC House of Delegates. To facilitate a review our observations relative to S 2036 attached as Appendix C please find a marked-up copy of the bill which we respectfully submit for your consideration.

The USOC is grateful for the concern and cooperation of the members and staff of this Committee and members of the Congress in proposing the Amateur Sports Act of 1977, and I pledge the cooperation of the USOC and its members in supporting the passage of this significant legislation.

Further, I pledge the full cooperation of the USOC and its member organizations to administering the Amateur Sports Act of 1977 designating the USOC as the nation's central coordinating organization for those amateur sports on the programs of the Olympic and Pan American Games.

Thank you.



Constitution, By-Laws

AND

General Rules

Constitution as Amended
at the Quadrennial Meeting,
Colorado Springs, Colo.
April 29-30, May 1, 1977

National Headquarters: Olympic House, 57 Park Avenue, New York, N. Y. 10016

(The text of the Act of Congress incorporating the United States Olympic Committee on page 35)

THE CONSTITUTION, BY-LAWS, AND GENERAL RULES OF THE UNITED STATES OLYMPIC COMMITTEE

CONSTITUTION

ARTICLE I--Name

The name of this Organization, incorporated by Act of Congress of September 21, 1950, shall be

UNITED STATES OLYMPIC COMMITTEE,

hereinafter referred to as the USOC. (*Note*--A bill, H.R. 4732, was passed by Act of Congress, August 10, 1964, changing the name from United States Olympic Association to the present title listed above.)

ARTICLE II

Purposes, Powers and Jurisdiction

Section 1. The objects and purposes of the corporation shall be:

(1) to arouse and maintain the interest of the people of the United States in, and to obtain their support of, creditable and sportsmanlike participation and representation of the United States in all of the sports on the program of the Olympic Games and Pan American Games;

(2) to stimulate the interest of the people, particularly the youth, of the United States, in healthful, physical, moral and cultural education through sportsmanlike participation in competitions in accordance with amateur rules;

(3) to exercise exclusive jurisdiction, either directly or through its constituent members or committees, over all matters pertaining to the participation of the United States in the Olympic Games and in the Pan American Games, including the representation of the United States in such Games, and over the organization of the Olympic Games and the Pan American Games when celebrated in the United States; and in furtherance thereof to comply with and enforce all the rules and regulations of the International Olympic Committee;

(4) to select and obtain for the United States the most competent amateur representation possible in the competitions and events of the Olympic Games and of the Pan American Games;

(5) to maintain the highest ideals of amateurism and to promote general interest therein, particularly in connection with the Olympic Games and the Pan American Games;

(6) to instill and develop in the youth of America the qualities of courage, self-reliance, honesty, tolerance, and like virtues; and

(7) to promote and encourage the physical, moral,and cultural education of the youth of the United States to the end that their health, patriotism, character, and good citizenship may be fully developed.

Section 2. The corporation shall have perpetual succession and power:

(1) to organize, select, finance and control the representation of the United States in the competitions and events of the Olympic Games and of the Pan American Games and to appoint committees or other governing bodies in connection with such representation;

(2) to sue and be sued;

(3) to make contracts;

(4) to acquire, hold and dispose of such real and personal property as may be necessary for its corporate purposes;

(5) to accept gifts, legacies, and devises in furtherance of its corporate purposes;

(6) to borrow money to carry out its corporate purposes, issue notes, bonds or other evidences of indebtedness therefor, and secure the same by mortgage, subject in each case to the laws of the United States or of any state;

(7) to establish, regulate, and discontinue subordinate organizations,and to receive and expel as members of the

corporation such existing organizations of a patriotic, educational, civic, or athletic character as may be deemed desirable and proper to carry out the corporate purposes;

(8) to adopt and alter a corporate seal;

(9) to adopt and alter a constitution and by-laws not inconsistent with the laws of the United States or of any State ;

(10) to establish and maintain offices for the conduct of the affairs of the corporation;

(11) to publish a newspaper, magazine o r other publication consistent with its corporate purposes; and

(12) to do any and all acts and things necessary and proper to carry out the purposes of the corporation.

Section 3. The corporation, pursuant to authority granted by Public Law 805, 81st Congress, Chapter 975, 2nd Session, shall have exclusive jurisdiction over the use of the emblem of the United States Olympic Committee, consisting of an escutcheon having a blue chief and vertically extending alternate red and white bars at the base, with five interlocked rings displayed on the chief, or any other sign or insignia in imitation thereof; and of the words "Olympic," "Olympiad," or "Citius, Altius, Fortius" or any variation or combination of these words.

Section 4. Subject to the approval of the Executive Board , members and administrative officials of former U.S. Olympic Teams may organize separately or jointly in units, chapters or groups for the purpose of promoting the Olympic objectives as defined in the Constitution and By- Laws of the U.S.O.C. and may use the word "Olympic" in names adopted for and by units , chapters, or groups. The activities of these units, chapters, and groups shall be carried on and be subject to the consent and approval of the U.S.O.C.

Section 5. The corporation, pursuant to the authority granted by the International Olympic Committee, shall have exclusive jurisdiction to enter competitors who will represent the United States in the Olympic Games and the Pan American Games (I.O.C. Rule 24), and to enforce in connection therewith the definition of an amateur adopted by the International Olympic Committee (I.O.C. Rule 26 and the By-Laws thereof).

Section 6. The corporation shall, by all lawful means at its disposal, protect the right of every individual who is eligible under reasonable national and applicable international amateur athletic rules and regulations to participate if selected (or to attempt to qualify for selection to participate) as an athlete representing the United States in any international amateur athletic competition, if such competition (conducted in compliance with reasonable national and applicable international requirements) involves any sport included in the Olympic Games or Pan American Games program during the Olympiad period concurrent with such participation or the attempt to qualify for participation.

Section 7. Any amateur athlete who alleges that he or she has been denied by a person or an organization which is a member of the U.S.O.C. a right established by the preceding Section shall immediately inform the Executive Director of the U.S.O.C., who shall promptly cause an investigation to be made and steps to be taken to settle the controversy without delay. Without prejudice to any action that may be taken by the U.S.O.C., if the controversy is not settled to his or her satisfaction, the athlete may submit to any regional office of the American Arbitration Association for binding arbitration, a claim against such U.S.O.C. member documenting the alleged denial not later than six months after the date of the denial; except that the Association (upon request by the athlete in question) is authorized, upon forty-eight (48) hours' notice to the parties concerned, and to the corporation, to hear and decide the matter under such procedures as the Association deems appropriate, if the Association determines that it is necessary to expedite such arbitration in order to resolve a matter relating to an amateur athletic competition which is so scheduled that

compliance with regular procedures would not be likely to produce a sufficiently early decision by the Association to do justice to the affected parties. By maintaining membership in the U.S.O.C., each member agrees that any such aforesaid controversy may be submitted to binding arbitration as provided in this Section and agrees to be bound by the arbitrators' award as a result thereof.

Section 8. Any amateur athlete who alleges that he or she has been denied a right established by Section 6 by a person or organization which is not a member of the U.S.O.C. shall immediately inform the Executive Director, who will consult with the Counselor (or Assistant Counsel) to determine whether the situation appears to be of sufficient seriousness and relevance to the obligations or responsibilities of the U.S.O.C. under its Congressional Charter to warrant action by the corporation in support of the athlete's claim. In the event that action by the U.S.O.C. appears to be warranted, the matter will be referred to the Administrative Committee, which will decide the nature and extent of the action to be taken in the case.

Section 9. The rights granted to athletes under Section 6 and 7 of this article shall equally apply to any coach, administrator, trainer, manager, or other official seeking to participate in the conduct of any international amateur athletic competition.

ARTICLE III--MEMBERSHIP

Section 1. The membership of the U.S.O.C. shall be confined to organizations of the United States as hereinafter provided in this article. Individuals may nevertheless be associated with, and recognized by the U.S.O.C. by virtue of their current or past activities in the affairs of the U.S.O.C. or in the Olympic or Pan American Games, as provided elsewhere in this Constitution.

Section 2. (a) Organizations eligible for membership shall be those which take some active part in the administration of one or more sports or competitions upon the Olympic or Pan American Games programs and such other organizations, patriotic, educational or cultural, that are engaged in efforts to promote the participation in or preparation for any amateur sports or games competition.

(b) Organizations which as a part of their duties administer participation in or preparation for professional sports shall not be ineligible for membership if they also administer a bona fide program of amateur sport.

(c) Organizations which are purely commercial or political in character are not eligible for membership.

Section 3. Organizations which meet the requirements for membership in a group as hereinafter set forth, for Groups A to D inclusive, may be elected to membership pursuant to the provisions of Article V and upon election shall be entitled to delegates and votes at meetings of the House of Delegates as hereinafter provided. The list of member organizations of the U.S.O.C., classified by groups, shall be kept up to date by the Executive Director as an Appendix to this Constitution, and shall be made available upon request to any member of the U.S.O.C.

Group A. (National Sports Governing Bodies)

Eligible for Group A shall be those national organizations which are recognized by the U.S.O.C. as the national sports governing bodies for sports on the program of the Olympic or Pan American Games. Each member of Group A shall be identified with a sport eligible for inclusion in such Games. In accordance with I.O.C. Rule 24, the U.S.O.C. shall not recognize more than one national amateur sports governing body in each sport. Each national governing body is recognized by the U.S.O.C. as entertaining jurisdiction over all international amateur competition involving United States teams or individuals, in conformity with rules and regulations of its international federation; and serving as the coordinating agency for amateur competition in its sport within the United States. Members of Group A, Olympic Division, shall be those recognized national sports governing bodies which are

members in the United States of International Sports Federations recognized by the International Olympic Committee for the purpose of administering the competitions on the Olympic program. Members of Group A, Olympic Division, shall constitute a voting majority of the House of Delegates and of the Executive Board of the U.S.O.C. Members of Group A, Pan American Division, shall be those recognized national sports governing bodies in sports which are not on the Olympic program but are eligible for inclusion in the program of the Pan American Games.

To be recognized by the U.S.O.C. as a national sports governing body, an organization shall:

a) open its membership, directly or by affiliation, to all individuals who are amateur athletes, coaches, trainers, officials, and administrators in the sport concerned and/or to an amateur athletic organization active in the sport;

b) demonstrate its ability to administer its sport adequately in both its national and international aspects at various relevant levels of sports proficiency, and in particular to comply with all applicable international requirements (written and uniformly applied to all nations) relating to recognition as the governing body for that sport;

c) provide equal opportunity, without regard to race, creed, color, religion, age or sex for participation in its sport to all individuals who are eligible under applicable international or reasonable national amateur athletic rules and regulations and apply such rules and regulations concerning athletic competition without discrimination to all such individuals; and shall not deny eligibility to any athlete except after according such athlete fair notice and hearing as to the issue of his or her eligibility.

d) be governed by a board (1) whose members are selected without regard to race, creed, color, religion, age or sex and (2) whose voting membership on a current basis is composed of at least 20% of individuals who are actively engaged in amateur athletic competition in the sport concerned, or who have represented the United States in international amateur competition in that sport within the preceding ten (10) years. In addition, the Board shall provide for a reasonable proportion of representatives of other national amateur organizations, if any, which conduct regular national programs or competition in its sport at various relevant levels of proficiency during the current Olympic period if the sport is actually on the program of the forthcoming Olympic or Pan American Games, and which are capable of holding an annual championship on a level of proficiency appropriate to the selection of athletes to represent the United States in international competition, and in addition are capable of conducting international athletic competition in that sport.

e) be autonomous in the administration of its sport, and to that end shall exercise independent jurisdiction and control over the administration, eligibility, sanctioning authority, representation, and rules of competition for its sport; and further to that end shall be incorporated and shall hold membership in the international sports federation for its sport, or if not so presently constituted shall proceed as expeditiously as possible to become so constituted. (It is understood that a Group A member governing two different sports, may be deemed to be autonomous as to each, if a single international federation also governs the two sports, and the Group A member meets the other requirements of autonomy, i.e. functions independently of other national governing bodies.)

f) establish that it is able to perform effectively and efficiently the function of the U.S. representative to the international sports federation recognized for its sport by the International Olympic Committee or the Pan American Sports Organization.

Each Group A member shall be entitled to five (5) delegates and a total of fifty (50) basic votes, except that Athletics (track and field) and Swimming (including Diving, Water Polo, and Synchronized Swimming) shall be entitled to ten (10) delegates and a total of one hundred (100) basic votes, each. At least 20% of the

delegates of each member of Group A shall be athletes who have competed as members of a United States National Team in the Olympic or Pan American Games, or other major international competition, within the preceding ten years. In addition, the members of Group A, Olympic Division, shall be entitled to as many supplemental votes as may be necessary to give the division as a whole not less than a majority of all votes eligible to be cast at any meeting of the House of Delegates of the U.S.O.C. on ordinary matters of business, and two-thirds (2/3) of such votes when constitutional amendments are under consideration. These supplemental votes shall be computed prior to each meeting of the House of Delegates, and shall be allocated proportionately among the members of Group A, Olympic Division.

Group B . (National Multi-Sport Organizations)

Eligible for Group B shall be those national organizations in the United States from which directly or indirectly there have come substantial numbers of members of the United States Olympic or Pan American teams in two or more sports but which are not members of Group A for such sports, and which either hold national programs or championships in two or more such sports or competitions upon the Olympic or Pan American programs, or through the constituent or related units of which regular and nationwide competition is fostered and held in two or more such sports or competitions upon the Olympic or Pan American programs at a level of proficiency appropriate to the selection of athletes to represent the United States in international competition.

The U.S.O.C. recognizes each Group B member as entertaining jurisdiction over competition engaged in solely by its constituents.

Each member of Group B shall be entitled to five (5) delegates and a total of fifty (50) votes. The collective representation of the Armed Forces as a member of Group B shall consist of one delegate each from the United States Air Force, the United States Army, the United States Marine Corps, and the United States Navy; and one (1) military athlete as hereinafter described. At least one (1) of the delegates of each member of Group B shall be an athlete who has competed as a member of a United States national team in the Olympic or Pan American Games, or other major international competition, within the preceding ten (10) years.

Group C. (Affiliated Sports Organizations)

Eligible for Group C shall be those national sports organizations, not eligible to be a constituent of a Group A member, that function as national governing bodies in amateur sports which are not on the program for the Olympic or Pan American Games, but are widely practiced in other countries and may therefore be eligible for inclusion in future programs of the Olympic or Pan American Games. Members of Group C shall (a) comply substantially with the criteria for national sports governing bodies applicable to Group A members, (b) be affiliated with an international sports federation, if there is such a federation in that sport, (c) hold regular national championships, and (d) actively participate in such international competition as may be available in that sport.

Each member of Group C shall be entitled to one (1) delegate and one (1) vote.

Group D. (State Olympic Organizations)

Eligible for Group D shall be the Olympic organization for each of the 50 states and the District of Columbia which is recognized by the United States Olympic Committee for the purpose of bringing together all interested individuals, organizations, and corporations within each state and the District of Columbia to further the purposes and goals of the United States Olympic movement in the interest of conducting and coordinating all United States Olympic Committee fund-raising activities within the State or District and of enhancing the image of the United States Olympic Committee in the State or District by establishing broad and comprehensive communications programs enabling the general public to identify more readily with the United States Olympic movement.

Each member of Group D shall be headed by the State Olympic Chairmen nominated by the National Fund Raising Chairman and approved by the Executive Board.

Each member of Group D shall be entitled to delegates and votes according to the number of its Congressional representation in the House of Representatives, as follows:

One (1) delegate if the number of Congressional representatives is six (6) or less;

Two (2) delegates if the number of Congressional representatives is between seven (7) and eighteen (18);and

Three (3) delegates if the number of Congressional representatives is nineteen (19) or more.

Each member of Group D shall be entitled to one (1) vote for each delegate.

ARTICLE IV--Dues

The House of Delegates shall annually fix the amount of dues, not less than twenty-five ($25) dollars, for each member organization of the U.S.O.C. for the next succeeding calendar year. Such dues shall be fixed on an equitable basis and shall be due and payable on the first day of January each year. Failure to pay all dues by the first day of February, or the date of a regular or special meeting of the House of Delegates in that year, whichever is earlier, shall suspend all membership privileges of the delinquent member, including representation on the Executive Board and all committees,until all arrearages are paid. Memberships shall be terminated automatically if the delinquent member remains in arrears for dues by the first day of February of the next succeeding year.

ARTICLE V--Admission and Reclassification of Member Organizations

Section 1. The House of Delegates by majority vote shall have the power to elect properly qualified members to Groups A to D, inclusive, to transfer a member organization from one group to another, and to suspend or terminate such membership, as circumstances may require; provided (a) that notice of any such proposed action on membership and of the recommendation of the Membership Committee shall h ave been given to the interested parties prior to the meeting at which such action is to be taken, and (b) that the termination or denial of Group A membership shall be subject to the provisions of Sections 5 and 6 of this Article.

Section 2. The Membership Committee shall make a detailed report with recommendations to the House of Delegates on all applications for membership in Groups A to D inclusive, and all proposals for transfer of a member organization from one group to another, or for suspension or termination of such membership, showing the facts that support the proposed action in accordance with the standards and criteria for membership in each group as are specified in Article III and as may be further developed pursuant to the policies established by the House of Delegates, particularly with respect to the qualifications, votes, delegates and dues of organizations entitled to membership in Group A.

Section 3. The House of Delegates shall specify the date upon which the rights and duties of new and transferred members (including votes, delegates, and dues) shall become effective. If no date is specified such rights and duties shall become effective immediately upon completion of the action of the Board related to the admission or transfer of members.

Section 4.An organization admitted to Group A membership shall be under duty to:

(a) maintain a comprehensive program to develop interest and participation throughout the United States in the sport it seeks to govern and shall be responsible to the individuals and organizations it represents, and to that end shall, by consultation with its members, seek to minimize, and require its members to seek to minimize, conflicts in scheduling of competitions in its sport, having due regard for regular programs of competition sponsored by it and by each of its members, and for opportunities for international competition available to it and its members.

(b) keep amateur athletes under its jurisdiction informed of policy matters being considered by the organization, and should reasonably reflect the views of these athletes in its policies.

(c) honor the request of any amateur organization which is a member of or affiliated with the Group A member for permission to conduct international amateur athletic competition or programs involving United States athletes, unless the Group A member reasonably determines:

1. that appropriate steps have not been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition in the United States and in international amateur athletic events; or

2. that appropriate provision has not been made for validation of records which may be established during the competition; or

3. that due regard has not been given to any international amateur athletic requirements specifically applicable to the competition; or

4. that the competition will not be conducted by qualified officials; or

5. that proper medical supervision will not be provided for athletes who compete; or

6. that proper safety precautions have not been taken to protect the personal welfare of the athletes or spectators; or

7. that the sports organization or other person conducting the competition refuses to submit an audited or notarized financial report of the most recent similar event, if any, conducted by the organization; or

unless it demonstrates by clear and convincing evidence that holding the competition would be detrimental to the best interests of the sport.

(d) honor the right of an eligible amateur athlete to compete in any amateur competition conducted under its auspices or the auspices of any other sports organization which is a member of or affiliated with the Group A member, unless it can be established that the denial was based on evidence that the person or organization conducting the competition did not meet the requirements stated in paragraph (c) of this section.

Section 5. Any member of the U.S.O.C. Executive Board, or any organization or person belonging to or eligible to belong to a Group A member, believing that a Group A member is in default of compliance with the requirements for membership set forth in Article III or the obligations imposed by Section 4 of this Article, shall after having exhausted any remedies available under the organic documents of such Group A member, be entitled to file a written complaint with the U.S.O.C., setting forth the alleged grounds of default and any supporting evidence or documentation forming the basis for the complaint. The Executive Director (with advice of the Counselor) shall, within thirty (30) days after receipt of the complaint, investigate the facts surrounding the complaint and make a determination whether, in his judgment, the alleged complaint is sufficiently meritorious as to warrant a hearing on the matter by the Executive Board.

(a) If the Executive Director finds that the complaint is not meritorious as aforesaid, he shall promptly so advise the complainant in writing of his determination, fully stating the basis for his determination. If the complainant then so requests in writing within thirty (30) days after receipt of the determination, the Executive Director shall refer the complaint and his determination to the next meeting of the Executive Board for review. The Executive Board may either (i) uphold the determination of the Executive Director or (ii) overrule the determination of the Executive Director, in which event the hearing procedures referred to in subsection (b) of this Section shall apply.

(b) If the Executive Director determines that the complaint is meritorious as aforesaid (or if his determination of non-merit is overruled by the Executive Board), he shall refer the matter promptly to the Executive Board for a hearing on the merits. Subject to the provisions of subsection (c) below, both

the complainant and the Group A member shall at such hearing be given a reasonable opportunity to present evidence in support of their respective positions. On the basis of the evidence presented, the Executive Board shall (i) if it finds the complaint to be without substantial merit, find against the complainant (in which event the matter shall be at an end) or (ii) if it finds the complaint to have substantial merit, cite the Group A member for noncompliance, in which event the Group A member shall be required by such citation to bring itself into compliance with the appropriate standard for membership (and report such compliance in writing to the Executive Director, with copy to the complainant) within a stated period, determined by the Board, of not more than six months. The Executive Board shall promptly and in writing notify the complainant and the Group A member of its findings. At its meeting next following receipt by the Executive Director of a report of compliance, or upon expiration of the period fixed by the Board for compliance, whichever first occurs, the Board shall again review the matter, and shall give both the complainant and and the Group A member a reasonable opportunity to be heard. If after such review, the Board determines that the Group A member has brought itself into compliance, the matter shall be at an end. If the Board determines that the Group A member is not in compliance, it shall then either (i) suspend the Group A member from U.S.O.C. membership (during which suspension the Group A member shall not be entitled to the privileges of membership) or (ii) recommend to the House of Delegates that membership of the Group A member be terminated. In the event of suspension, the Group A member shall be entitled to reinstatement only upon presentation of evidence to the Board that it is in compliance with all criteria for Group A membership set forth in Article III hereof, and is in compliance with, or prepared to comply with, the criterion forming the basis of the original complaint.

(c) In the event a matter arising under this Section is referred to the Executive Board for hearing, the President with the approval of the Administrative Committee may, if he believes it will serve the interest of expeditious consideration of the complaint, appoint a hearing panel of not less than five members of the Board to hear evidence on the complaint. If appointed, such a panel shall include one U.S.O.C. officer (who shall chair the panel), two Board representatives of Group A member organizations, one Board representative of a Group B member organization, and one athlete who has been elected to the Board by the Athletes' Advisory Council; and shall not include any member of the Board having a direct interest, either personally or by virtue of organizational affiliation, in the outcome of the matter. A panel so appointed shall convene as expeditiously as possible; shall hear the evidence presented by the parties to the matter; and shall prepare and submit a full written report (i) summarizing such evidence for the Board and (ii) forwarding to the Board any written materials desired by the parties to the matter. Upon receipt of such report and materials, the Board may elect to receive further written or oral evidence or presentations, or may decide its action on the matter of the basis of the report and materials submitted by the panel.

Section 6. Any national amateur sports organization which holds--or which applies for-- and is denied after a hearing by the House of Delegates or Executive Board, whichever meets first, membership in Group A may submit a claim to the American Arbitration Association for binding arbitration under the following conditions:

(a) The claim must be submitted to the Association not later than one year after the termination of any summer Olympic Games, and due notice of the submission must be promptly served upon the then recognized body (if any), and upon the U.S.O.C. All challenges filed with respect to a particular sport during any one period in which challenges may be made pursuant to this section shall be determined in a single arbitration proceeding. Parties to the arbitration agree to be bound by the determination of the arbitrators.

(b) The claimant must establish by a preponderance of evidence that it provides at the time of arbitration and in com-

parison with the governing body then recognized by the U.S.O.C. (if any), more comprehensive and effective national competition (for individuals or teams at all levels of athletic activity) in the Olympic sport for which it claims recognition as the governing body, so that such competition will result in a higher quality of United States athletes in all international amateur athletic competition for such sport, and that the claimant complies in every respect with the requirements for election to Group A as set forth in Article III, Section 3, of this Constitution.

(c) The arbitration shall proceed under the commercial rules of the American Arbitration Association, except as modified herein or by agreement of the parties, before a panel of not less than three (3) arbitrators selected by the Association, and not less than ninety (90) days after the national amateur sports organization submitted its claim to the Association.

(d) The arbitrators by a majority of their number shall expeditiously decide the controversy in the manner that, in their judgment, shall best serve the objectives and fulfill the responsibilities of the U.S.O.C. under its Congressional charter and the rules of the International Olympic Committee. If the Group A member challenged in the arbitration proceeding is in default in the performance of any of its obligations under Article III, Section 3, herein, it shall not be denied its membership if it fulfills those obligations within a period prescribed by the arbitrator.

(e) If the principal controversy is between two(2) or more organizations for recognition as the national governing body in a particular sport, the arbitration award shall be served upon the U.S.O.C. in the same manner as it is on the parties to the arbitration. If the award upholds a claim of a national amateur sports organization for recognition as a national governing body, the U.S.O.C. shall, not later than the sixty-first (61) day after such decision, recommend and support in any other appropriate manner such sports organization to the appropriate International Sports Federation for recognition by such federation as the governing body, any contrary provision in Article III, Section 3, notwithstanding.

ARTICLE VI-- House of Delegates

Section 1. The House of Delegates of the U.S.O.C. shall have the authority to elect the officers of the U.S.O.C. and to remove the same for cause; to enact,amend, or repeal the By-Laws; to admit new members, to reclassify and to terminate the membership of members as provided in Article V; to receive and review the reports of the Executive Board, of the Administrative Committee, of the Executive Director, and of all committees or other persons, concerning the activities of the U.S.O.C.; to amend the Constitution as provided in Article XXVIII; and to take such other action as is customary and proper for the members of a corporation.

Section 2. Each member organization of the U.S.O.C. shall be entitled to representation at any meeting of the House of Delegates thereof by the number of delegates allotted to such member by Article III hereof and a like number of alternates to act in place of such delegates if absent. A lesser number of delegates present may cast the full number of votes to which such member is thus entitled, but any member not represented by at least one (1) delegate shall not be entitled to a vote at such meeting. No delegates or alternates may vote by proxy. Members in arrears in payment of dues shall not be entitled to representation or vote.

Section 3.If at any meeting of the House of Delegates two (2) or more delegates representing a member organization should fail to agree upon a question pending before the meeting, the total vote to which such member may be entitled under the provisions of this Constitution shall be counted in ratio to such difference.

Section 4. Any member organization of the U.S.O.C. may at any time, on written notice to the Secretary of the U.S.O.C., withdraw any or all of its delegates or alternate and substitute a like number of delegates or alternates for those withdrawn.

Section 5. No delegate and no alternate shall be entitled to represent more than one (1) member organization of the U.S.O.C. No delegate and no alternate shall be entitled to represent any member organization of the U.S.O.C. unless he or she is an officer or a member of the governing board thereof or has been duly appointed by the member whose credentials he or she holds.All delegates and alternates must present their credentials to the U.S.O.C. through its Secretary no less than thirty (30) days prior to the date of the Meeting.

Section 6. The following individuals shall be entitled to attend meetings of the House of Delegates, to participate in the deliberations, and to vote therein, except as hereinafter provided:

(a) Each International Olympic Committee member for the United States, and the U.S. member of the Executive Committee of the Pan American Sports Organization shall each be entitled to one (1) vote.

(b) Past officers of the U.S.O.C. or its predecessor organization, and current officers of the U.S.O.C. shall each be entitled to one (1) vote unless they are qualified to vote under another provision of the Constitution.

(c) The Counselor, the Executive Director, and the chairmen of constitutional or standing committees appointed or approved by the Executive Board, during the period of their active service in their respective capacities, shall have a voice in the deliberations of the House of Delegates but shall have no vote unless they are qualified to vote under another provision of the Constitution.

ARTICLE VII-- Committee on Credentials

Section 1. Prior to any meeting of the House of Delegates, the Administrative Committee shall appoint a Committee on Credentials consisting of the Secretary of the U.S.O.C. and four (4) other persons. Subject to approval by this Committee, the Executive Director shall make up a roll of the member organizations entitled to representation at the forthcoming meeting, with the names of the delegates and alternates accredited by such member organizations, and of the names of individuals entitled to vote at such meeting.

Section 2. No delegate or alternate shall be eligible to represent an organization at any meeting unless he or she be certified to that effect by the Committee on Credentials or admitted to the meeting by a majority of votes cast by the duly accredited delegates of the House of Delegates at such meeting.

Section 3. A decision of the Committee on Credentials denying voting rights to an individual at any meeting may be reversed by a majority of votes cast by the duly accredited delegates at such meeting.

ARTICLE VIII-- Officers

Section 1. The honorary officers of the U.S.O.C. shall be an Honorary President and two or more Honorary Vice Presidents, as may be determined from time to time by a majority vote of the Executive Board.

Section 2. (a) The officers of the U.S.O.C. shall be a President, a First Vice President, a Second Vice President, a Third Vice President, a Secretary, and a Treasurer. These officers shall be elected by a majority of the votes cast at the Quadrennial Meeting of the House of Delegates.

(b) There may also be Presidents Emeriti who shall be elected by a majority of the votes cast at the Quadrennial Meeting.

Section 3. (a) At least six months prior to the Quadrennial Meeting, a Nominating Committee of nine (9) members who are not currently officers shall be elected by the Executive Board on the recommendation of the Administrative Committee to propose a slate of officers for the next Quadrennial period. At least one member of the Committee shall be an athlete who has competed on a United States national team in the Olympic or the Pan American Games or other major international competition within the past ten (10) years.

(b) The members of the Nominating Committee shall be generally representative of the various constituencies of the U.S.O.C. and shall elect their own chairman. They may not accept nomination for any office.

(c) The nominations by the Nominating Committee shall be filed with the Executive Director at least ninety (90) days, and shall be mailed by him to the members of the U.S.O.C. at least seventy-five (75) days, prior to the date of the Quadrennial Meeting. Additional nominations may be made by petition signed by five (5) or more organizations entitled to representation on the Executive Board, provided such nominations are filed with the Executive Director at least forty-five (45) days prior to the date set for the Quadrennial Meeting.

(d) The Executive Director shall include all nominations for officers, indicating by whom nominated, as a part of official notice and agenda mailed to members of the U.S.O.C. at least thirty (30) days before the Quadrennial Meeting.

(e) In case of a nominee's withdrawal, death, or inability to stand for election, nominations for the office affected shall be accepted from the Nominating Committee, and/or from the floor if endorsed by five (5) organizations entitled to representation on the Executive Board.

(f) A person who has been duly elected President at a Quadrennial Meeting and is serving in that capacity, shall be ineligible for nomination and re-election at the next succeeding Quadrennial Meeting.

Section 4. The term of all officers (except honoroary officers) shall run until the next Quadrennial Meeting of the House of Delegates succeeding their election or until the election and qualification of their successors.

Section 5. In the event of death, disability, or resignation of any officer, the office shall be filled for the remainder of the unexpired term by a majority vote of the Executive Board.

Article IX-- Executive Board

Section 1. The Executive Board shall have general charge of the business, affairs, and activities of the U.S.O.C. and shall define the policies to be followed in carrying out the purposes and objects of the U.S.O.C. as set forth in the Act of Congress creating the U.S.O.C. and in the Constitution, By-Laws and General Rules of the U.S.O.C.

Section 2. The Executive Board shall consist of the following directors who shall each have one (1) vote, unless otherwise herein provided:

(a) The President, the Immediate Past President, the Vice Presidents, the Secretary, and the Treasurer of the U.S.O.C.

(b) The International Olympic Committee's members for the United States and the United States member of the Executive Committee of the Pan American Sports Organization.

(c) Two (2) directors to be elected or appointed in writing by the members of Group A which are recognized as the national governing bodies for Athletics (track and field) and Swimming (including diving, water polo, and synchronized swimming), and one (1) director to be elected or appointed in writing by each of the other members of Group A. Each of the Directors designated by national governing bodies in the Olympic sports shall be entitled to two (2) votes.

(d) One (1) director to be elected or appointed in writing by each of the members in Group B.

(e) One (1) director to be elected by the members of Group C at the Quadrennial Meeting, provided that this group at that time consists of five (5) or more member organizations.

(f) One (1) director to be elected by the members of Group D at the Quadrennial Meeting.

(g) Six (6) directors who have been competing athletes as members of a United States national team in the Olympic or Pan American Games or other major international competition within the preceding ten (10) years to be elected by the Athletes' Advisory Council in a manner prescribed in the By-Laws. Furthermore, in the event that the total membership of the Executive Board, including the aforesaid six (6) directors, shall consist of less than 20% of athletes who have competed as members of a United States national team within the ten (10) preceding years as hereinbefore provided, the Athletes' Advisory Council shall be entitled to elect additional directors in a number sufficient to insure that not less than 20% of the total membership of the Executive Board shall consist of athletes who have competed within the preceding ten (10) years as members of a United States national team in the Olympic or Pan American Games or other major international competition,

Section 3. The honorary officers, presidents emeriti, Counselor, Executive Director, and Chairmen of constitutional, standing, or special committees, shall be entitled to attend meetings of the Executive Board with voice but without vote.

Section 4. (a) Except as herein otherwise provided, each director shall take office at the Quadrennial Meeting of the House of Delegates and shall serve until such time as his or her successor shall have been elected or appointed in the manner prescribed in this Article.

(b) In the event the same person should be named to two (2) or more positions on the Executive Board, he or she shall be entitled to hold only one (1) such position, to be chosen by him or her, and the other position or positions shall be declared vacant.

(c) A vacancy in the Executive Board membership in classes (c) or (d) above may be created at any time upon written notice to the Secretary by action of the organization which elected or appointed the member, and such vacancy may be filled in the same manner. Action under this section with respect to classes (e) and (f) shall be taken by Group C and Group C members only at the time of a meeting of the House of Delegates. Action by the Athletes' Advisory Council shall be taken in the manner prescribed in the By-Laws. Action with respect to class (g) shall be taken by the Athletes' Advisory Council in the manner prescribed in the By-Laws.

(d) In case of the temporary absence of an Executive Board member in classes (c) through (g) above, an alternate designated by the original electing or appointing organization on written notice to the Secretary may attend a meeting of the Board and exercise therein all the privileges of the absent member.

Section 5. The President shall act as Chairman of the Board; in his absence the First Vice President shall preside; in the absence of the President and First Vice President, the Second Vice President shall preside; and in the absence of the President, and of the First and Second Vice Presidents, the Third Vice President shall preside. If neither the President nor a Vice President is present, the Executive Board may chose a presiding officer.

ARTICLE X--Administrative Committee

Section 1. The Administrative Committee, under the chairmanship of the President of the U.S.O.C., shall have the responsibility for supervising the conduct of the daily affairs of the U.S.O.C. according to the policy guidelines prescribed by the Executive Board, and shall perform such other duties as may be assigned to it in the Constitution, By-Laws and General Rules of the U.S.O.C. or by resolution of the House of Delegates or the Executive Board.

Section 2. The Administrative Committee shall consist of the officers of the U.S.O.C. and five (5) other voting members appointed by the President and confirmed by the Executive Board. The appointed members need not be members of the Executive Board, but shall be selected as follows:

(a) The directors of Group A shall elect a panel of six (6) candidates from organizations in Group A other than those with which any officer may be or have been affiliated, and the President shall select

two (2) from this panel.

(b) The directors from Group B shall elect a panel of three (3) candidates from organizations in Group B other than those with which any officer may be or have been affiliated, and the President shall select one (1) from this panel.

(c) The directors named to the Board by the Athletes' Advisory Council shall select a panel of six (6) athletes who have competed on a United States national team in the Olympic or Pan American Games or other major international competition within the last ten (10) years, and the President shall select two (2) from this panel.

Section 3. The Immediate Past President, the IOC and PASO members on the Executive Board, the Counselor, and the chairmen of the Investments and Finance Committees, shall likewise be entitled to attend meetings of the Administrative Committee with voice but without vote. The Executive Director shall serve as a non-voting, ex-officio member of the Administrative Committee.

ARTICLE XI-- By-Laws and General Rules

By-Laws of the U.S.O.C. not inconsistent with the provisions of this Constitution, may be enacted, amended or repealed by a majority vote at any meeting of the House of Delegates or of the Executive Board, provided the prescribed prior notice shall have been given. The Executive Board may also adopt General Rules of procedure, not inconsistent with the provisions of this Constitution or of the By-Laws, for itself and for the various committees of the U.S.O.C. with binding effect upon all persons in any way connected with the activities of the U.S.O.C .

ARTICLE XII--Meetings of House of Delegates

Section 1(a) The Quadrennial Meeting of the House of Delegates shall be held not less than two months and not more than six months after the close of the Olympic Games. Other regular meetings shall be held annually thereafter, between November 1 of one year and April 30 of the following year.

(b) The Administrative Committee, subject to the approval of the Executive Board, shall decide the place and time of such meetings. The Executive Director shall send to all members of the U.S.O.C. notice of such meetings together with an agenda thereof, and each such notice shall be sent at least thirty (30) days before the date of the meeting.

Section 2. Special meetings of the House of Delegates may be called by the President, directly or through the Executive Director, on sixty (60) days written notice to each member, and must be called by the President or the Secretary when asked for by members having in the aggregate a number of votes equal to the majority of the total vote of the House of Delegates as set down in Article III.

ARTICLE XIII---Action at Meetings

Section 1. A quorum for the transaction of business at any meeting of the House of Delegates shall consist of a majority of the total vote of the U.S.O.C. membership as set down in Article III.

Section 2. A quorum for the transaction of business at any meeting of the Executive Board or of any constitutional, standing or special committee shall consist of a majority of the individual members of the Executive Board or Committees.

Section 3. Actions taken at a meeting of the House of Delegates or its Executive Board, shall become effective immediately following the adjournment of the meeting, except as otherwise provided in the Constitution or By-Laws or when a definite effective date be recited in the record of the action taken.

ARTICLE XIV--Transacting Business by Mail or Telegraph

The House of Delegates and the Executive Board shall have the power to transact their respective business by mail or telegraph, if in the judgment of the President the urgency of the case requires such action; but if a majority of the total vote of the House of Delegates as set forth in Article III, or of the Executive Board indicate their unwillingness to decide such a matter in such manner, the President must call a meeting of the House of Delegates or of the Executive Board to determine the question at issue.

ARTICLE XV--Counselor

Section 1. There shall be a Counselor who shall act as the chief legal advisor of the U.S.O.C. and its officers, directors, and committees. He shall be nominated by the Administrative Committee and elected by a majority vote of the Executive Board.

Section 2. The Counselor shall be eligible to attend the meetings of the House of Delegates, or its Executive Board or its Administrative Committee and to act in an advisory capacity therein, including initiating advice whenever he deems it desirable; but he shall be ineligible to serve as a director and he shall have no right to vote or make motions.

ARTICLE XVI--Executive Director

Section 1. There shall be an Executive Director who shall serve as the chief administrative official of the U.S.O.C. He shall be nominated by the Administrative Committee and elected by a majority vote of the Executive Board for a term ending with the next Quadrennial Meeting and he shall serve until his successor is elected. He may be removed at any time with or without cause by majority vote of the Board, without prejudice to his contract rights.

Section 2. All official notices or other correspondence intended for the U.S.O.C., its Executive Board or Administrative Committee, or any of its officers or committees, may be addressed in care of the Executive Director, who will be responsible for proper attention thereto.

Section 3. The Executive Director shall devote his entire time and services to the affairs of the U.S.O.C. and shall not engage in any other profession or employment. He shall receive such salary and other benefits as may be recommended by the Administrative Committee and approved by the Executive Board.

Section 4. The Executive Director shall not have the status of an officer of the U.S.O.C. , but shall be entitled to attend all meetings of the House of Delegates and of the Executive Board and and shall be a non-voting member of all the U.S.O.C. committees. In addition, the Executive Board may designate the Executive Director as the Secretary-General of the U.S.O.C. for all purposes for which such title is customarily used by the International Olympic Committee and other international sports organizations.

ARTICLE XVII-Athletes' Advisory Council

Section 1. There shall be an Athletes' Advisory Council consisting of those athletes serving as members of the Executive Board and such additional athletes, at least one from each sport in which the United States is represented at the Olympic and Pan American Games, as are elected to broaden communication between the U.S.O.C. and currently active athletes, and to serve as a source of opinion and advice to the Executive Board with regard to both current and contemplated policies of the U.S.O.C.

Section 2. Election to membership in the Council shall be made in accordance with provisions of the By-Laws. Elected athletes shall serve until the next Quadrennial Meeting or until their successors are elected.

ARTICLE XVIII--Budget and Audit Committee

Section 1. There shall be a Budget and Audit Committee appointed by the President and approved by the Executive Board in the manner provided in the By-Laws.

Section 2. The responsibilities of the Budget and Audit Committee shall be as follows:

(a) To transmit the Quadrennial Budget of income and expense for the U.S.O.C., for approval by the Executive Board.

(b)To monitor performance of the operating units of the U.S.O.C., on both income and expense, in relation to the budget approved by the Executive Board;

(c) To prepare annual or other periodic recommendations for modification of the budget if necessary, for approval of the Executive Board;and

(d) To audit, with appropriate professional assistance, the accounts of the U.S.O.C., and to make annual reports thereon to the Executive Board and the House of Delegates.

Section 3. The responsibilities of the Committee shall be discharged in accordance with the policies prescribed by the Executive Board as set forth in the By-Laws and General Rules of the United States Olympic Committee.

ARTICLE XIX --Finance Committee

Section 1. There shall be a Finance Committee appointed by the President and approved by the Executive Board in the manner provided in the By-Laws.

Section 2. The responsibilities of the Finance Committee shall be as follows:

(a) To recommend to the Executive Board, and thereafter to monitor, the policies and procedures to be followed by the United States Olympic Committee in its fund-raising effort.

(b) To coordinate the efforts of the State Olympic Organizations (Group D members) insofar as they relate to fund-raising activities.

Section 3. The responsibilities of the Committee shall be discharged in accordance with the policies prescribed by the Executive Board as set forth in the By-Laws and General Rules of the United States Olympic Committee.

ARTICLE XX-- Investments Committee

There shall be an Investments Committee consisting of three members appointed by the President with the approval of the Executive Board; the Chairman thereof shall be appointed in like manner. The Committee shall serve until the next Quadrennial Meeting, shall have responsibility for the management, in consultation with the Administrative Committee, of the invested funds of the U.S.O.C., and shall discharge such other duties and responsibilities as shall be assigned to it by the Administrative Committee or the Executive Board.

ARTICLE XXI--Committee on Development

Section 1. There shall be a Committee on Development appointed by the President and approved by the Executive Board in accordance with the provisions of the By-Laws.

Section 2. The responsibilities of the Committee on Development shall be as follows:

(a) To foster the long-term development, in cooperation with national governing bodies and other organizations, of an adequate pool of world-class

athletes in each sport on the programs of the Olympic and Pan American Games, from which may be selected competent representatives of the United States in such Games.

(b) To foster the closest possible cooperation between the national governing bodies and private or public organizations, such as academic institutions, non-academic centers, and government agencies, which may contribute to the building and maintenance of improved physical facilities for training and competition, to the upgrading of coaching skills, and similar matters.

Section 3. The responsibilities of the Committee shall be discharged in accordance with the policies prescribed by the Executive Board as set forth in the By-Laws and General Rules of the United States Olympic Committee.

ARTICLE XXII-Games Preparation Committee

Section 1. There shall be a Games Preparation Committee appointed by the President and approved by the Executive Board in accordance with the provisions of the By-Laws.

Section 2. The responsibilities of the Games Preparation Committee shall be as follows:

(a) To recommend to the Executive Board, and thereafter to monitor, the policies and procedures to be followed by the U.S.O.C. in selecting, equipping, transporting, and generally providing administrative and technical support to the official U.S. delegation to the Pan American and Olympic Games.

(b) To analyze and evaluate the programs and procedures proposed by the national governing bodies for the selection of athletes and team officials to be recommended for final appointment to the Olympic or Pan American Teams, and to make an appropriate report to the Board before such programs and procedures are adopted.

(c) To keep in constant touch with the national governing bodies and to monitor the operation of the athlete selection system for at least six months prior to the opening of the Pan American Games in the case of sports on the Pan American program; for at least twelve months prior to the opening of the Winter Games in the case of winter sports; and for at least twelve months prior to the opening of the Olympic Games for sports which are not on the Pan American Program.

Section 3. The responsibilities of the Committee shall be discharged in accordance with the policies prescribed by the Executive Board as set forth in the By-Laws and General Rules of the United States Olympic Committee.

Section 4. The Committee shall make periodic reports to the Executive Board on the effectiveness of the work of the national governing bodies in the selection of athletes and team officials for the Games, and should make recommendations for remedial action immediately upon the discovery of any serious weakness therein.

ARTICLE XXIII-- Relations with National Sports Governing Bodies

Section 1. Subject to the general supervision, direction and approval of the Executive Board, each of the Group A members shall have the primary authority and responsibility for selecting and nominating athletes and team officials in its sport for final appointment by the Executive Board to the United States Olympic or Pan American teams. The program of tryouts or other competitions for the selection of athletes and the plan or method of selecting managers, coaches, and other team officials, and any material modifications thereof, shall be submitted to the Games Preparation Committee for analysis and review and then for Executive Board approval before they become effective. All business arrangements for Olympic tryouts or other Olympic events shall be approved in advance by the Administrative Committee and shall be subject to confirmation by the Executive Board.

Section 2. The president and secretary of the national sports governing bodies, or other persons designated in place thereof, for each sport on the program of the forthcoming Olympic and Pan American Games,

shall serve as liaison with the U.S.O.C. on the work of the national sports governing body in the selection and nomination of athletes and team officials, and all other activities related to the Olympic effort. This liaison shall be concerned primarily with coordinating these activities with those of theU.S.O.C. Development Committee, Games Preparation Committee, and the Executive Director and his staff, in accordance with such regulations and guidelines as are set forth in the By-Laws of the U.S.O.C.

ARTICLE XXIV-Sports Medicine Committee

Section 1. There shall be a Sports Medicine Committee appointed by the President and approved by the Executive Board in the manner provided in the By-Laws.

Section 2. The respondibilities of the Committee on Sports Medicine shall be as follows:

(a) To promote research in, and the practical application of, all aspects of Sports Medicine;

(b) To receive, evaluate and serve as a central depository for all studies and prepared papers on Sports Medicine and related matters;

(c) To provide--through clinics, workshops, text books and literature--a continuing education program in Sports Medicine for physicians, athletes, coaches, and trainers;

(d) To establish liaison with federal, state and local government programs dealing with Sports Medicine and sports equipment.

Section 3. The responsibilities of the Committee shall be discharged in accordance with the policies prescribed by the Executive Board as set forth in the By-Laws and General Rules of the United States Olympic Committee.

ARTICLE XXV-International Olympic Academy Committee

The International Olympic Academy Committee shall be appointed by the President and approved by the Executive Board within six (6) months after the Quadrennial Meeting and shall serve until the next Quadrennial Meeting. The members of the Committee shall include at least two (2) members of the Board of Directors and not less than three (3) other United States citizens who have achieved distinction in a field related to the philosophy of the Olympic Games, such as the history of the ancient and modern Games, sport and the fine arts, sport psychology and medicine, sport education and amateurism.

The Committee's responsibility shall be to formulate and recommend to the Board policies and plans for the participation of the United States in the program of the International Olympic Academy with headquarters at Olympia, Greece, and to take such action with respect thereto as the Board may direct.

The Committee shall, in addition, be responsible for developing and implementing, with the approval of the Board, those activities under the auspices of the U.S.O.C. which are designed to promote the spirit of Olympism and to encourage widespread participation of citizens of the United States in the Olympic movement.

ARTICLE XXVI--Standing Committees

The President, with the approval of the Executive Board, shall have power to appoint a Committee on Legislation, a Committee on Membership, a Committee on Eligibility, a Committee on Apparel, Supplies and Equipment, a Committee on Food and Housing, a Committee on Transportation, a Committee on Medical and Training Services, a Games Site Selection Committee, and such other standing or special committees as may be deemed necessary, and to prescribe the respective duties and privileges of such committees.

ARTICLE XXVII--Financial Authority and Responsibility

Section 1. The Executive Board shall have the authority and the right to delegate authority to solicit, collect, or receive funds for the support of the activities of the U.S.O.C. and for financing the participation of the United States in the Olympic Games and the Pan American Games.

Section 2. The Executive Board shall have authority and the right to delegate authority to disburse funds of the U.S.O.C. for the support of its activities and for financing the participation of the United States in the Olympic Games and in the Pan American Games.

Section 3. All officers, directors, and members of committees of the U.S.O.C. shall act and serve without compensation in the aid of the educational purposes of the U.S.O.C. described in Article II, except as otherwise specifically provided in the Constitution of By-Laws.

Section 4. No individual officer, director or member of a committee of the U.S.O.C. shall be personally liable in respect of any debt or other obligation incurred in the name of the U.S.O.C. or any of its committees pursuant to authority granted directly or indirectly by the Executive Board. The Board shall adopt a standard form of contract restricting recourse for payment to the assets of the U.S.O.C.

ARTICLE XXVIII--Amendments to the Constitution

Section 1. Amendments to this Constitution may be made by two-thirds (2/3) of the votes cast at a regularly called meeting of the House of Delegates and shall take effect at the close of such meeting, or at such earlier or later time as may be specified in the resolution approving the amendment.

Section 2. All proposed amendments must be submitted to the Executive Director in writing at least sixty (60) days before the meeting and thereupon considered by the Executive Board, and all proposed amendments, together with the vote or recommendation of the Board thereon, shall be mailed by the Executive Director to each member of the U.S.O.C. in at least such number as shall represent the number of delegates to which such member is entitled. These proposed amendments and vote or recommendation of the Board shall be distributed to such members not later than thirty (30) days before the date of the meeting.

Except for such proposed amendments as are so sent out, no other amendment shall be considered, nor shall any proposed amendment to an amendment as proposed be considered, unless the same merely goes to the form and not to the substance thereof. Nevertheless, if more than one amendment has been proposed on the same subject matter, and there are substantive differences between such amendments, the meeting may, after due consideration of such proposals, adopt a compromise of substance as well as form; and if the adoption of an amendment as proposed or amended or compromised is inconsistent or in conflict with other parts of the Constitution, the meeting may adopt conforming amendments appropriate to the case.

Section 3. Not later than thirty (30) days before the date of any meeting of the U.S.O.C. at which Constitutional amendments are to be considered, a notice shall be published in a newspaper or magazine of national circulation, or in a publication published by or on behalf of the corporation, setting forth the substance of the proposed amendments, the time and place of the corporation's meeting at which such amendments are to be voted upon, and a provision informing interested persons that they may submit materials for consideration by the corporation at such meeting by delivering to the Secretary, not less than five (5) days before the meeting, written data, views or arguments concerning the proposed amendments. The Secretary in his or her sole discretion shall determine whether or not an interested person may be invited to make any additional written or oral presentation for consideration at the meeting, and shall mail to all persons

who submit material under this section a copy of any amendment that may be adopted at the meeting.

Section 4. Amendments to this Constitution may also be made pursuant to Article XIV, Transacting Business by Mail or Telegraph, provided that the proposed amendments are distributed to the members, together with a statement of the reasons for the vote by mail or telegraph. Members will have twenty (20) days from the date of mailing of the amendments to file with the U.S.O.C. written comments, for or against the amendments. Thereafter, the amendments, together with the comments submitted, shall be distributed to the members at least fifteen (15) days prior to the last date at which votes will be received and counted. Amendments proposed under this Section may be adopted upon the affirmative vote of two-thirds (2/3) of all votes entitled to be cast at a meeting of the House of Delegates and shall be effective as of the closing date for the casting of votes, or at such later date as may be specified in the proposal.

ARTICLE XXIX--Saving Clause

Failure of literal or complete compliance with provisions of the Constitution or By-Laws in respect of dates and times of notice, or the sending or receipt of the same, or errors in phraseology of notice of proposals, which in the judgment of the members at meetings held do not cause substantial injury to the rights of members, shall not invalidate the actions or proceedings of the members at any meeting.

APPENDIX

GROUP A — REVISED 6/15/77

Sport	Delegates	Basic Votes	National Governing Body	International Governing Body
Archery	5	50	National Archery Association (NAA)	International Archery Federation (FITA)
Athletics	10	100	Track and Field Division (AAU)	International Amateur Athleti Federation (IAAF)
Baseball	5	50	US Baseball Federation (USBF)	International Association of Amateur Baseball (AINBA)
Basketball	5	50	Amateur Basketball Association of the USA (ABAUSA)	International Amateur Basketball Federation (FIBA)
Biathlon	5	50	US Modern Pentathlon&Biathlon Association (USMPBA)	International Union for Modern Pentathlon&Biathlon (UIMPB)
Bobsledding	5	50	Bobsledding Division (AAU)	International Bobsleigh& Tobogganing Federation (FIBT)
Boxing	5	50	Boxing Division (AAU)	International Amateur Boxing Association (AIBA)
Canoeing	5	50	American Canoe Association (ACA)	International Canoeing Federation (FIC)
Cycling	5	50	US Cycling Federation (USCF)	International Federation of Amateur Cyclists (FIAC)
Equestrian	5	50	American Horse Shows Association (AHSA)	International Equestrian Federation (FEI)
Fencing	5	50	Amateur Fencers League of America (AFLA)	International Fencing Federation (FIE)
Field Hockey	5	50	Field Hockey Association of America (FHAA)(men) US Field Hockey Association, Inc.(USFHA) (women)	International Hockey Federation (FIH) International Federation of Women's Hockey Association (IFWHA)
Figure Skating	5	50	US Figure Skating Association (USFSA)	International Skating Association (ISU)
Gymnastics	5	50	US Gymnastics Federation (USGF)	International Gymnastics Federation (FIG)
Ice Hockey	5	50	Amateur Hockey Association of the US (AHAUS)	International Ice Hockey Federation (IIHF)

GROUP A APPENDIX continued

Sport	Delegates	Basic Votes	National Governing Body	International Governing Body
Judo	5	50	Judo Divisio (AAU)	International Judo Federation (IJF)
Luge	5	50	Luge Division (AAU)	International Luge Federation (FIL)
Modern Pentathlon	5	50	US Modern Pentathlon& Biathlon Association (USMPBA)	International Union for Modern Pentathlon and Biathlon (IUMPB)
Roller Skating	5	50	US Amateur Confederation of Roller Skatin (USACRS)	Federation Internationale de Roller Skating (FIRS)
Shooting	5	50	National Rifle Association of America (NRA)	International Shooting Union (ISU)
Skiing	5	50	US Ski Association (USSA)	International Skiing Federation (FIS)
Soccer Football	5	50	US Soccer Federation (USSF)	International Federation of Association Football (FIFA)
Softball	5	50	Amateur Softball Association of America (ASA)	Federation Internationale de Softball (FIS)
Speed Skating	5	50	US International Skating Association (USISA)	International Skating Union (ISU)
Swimming, Diving, Water Polo, Synchronized Swimming	10	100	Swimming Division (AAU)	International Amateur Swimming Federation (FINA
Team Handball	5	50	US Team Handball Federation (USTHF)	International Handball Federation (IHF)
Tennis	5	50	US Tennis Association (USTA)	International Tennis Association (ILTA)
Volleyball	5	50	US Volleyball Association (USVBA)	International Volleyball Association (USVBA)
Weightlifting	5	50	Weightlifting Division (AAU)	International Weightlifti Federation (IWF)
Wrestling	5	50	Wrestling Division (AAU)	International Amateur Wrestling Federation (FII
Yachting	5	50	US Yacht Racing Union (USYRU)	International Yacht Racing Union (IYRU)

GROUP D

States	Delegates	Votes per delegate
Alabama	2	1
Alaska	1	1
Arizona	1	1
Arkansas	1	1
California	3	1
Colorado	1	1
Connecticut	1	1
Delaware	1	1
District of Columbia	1	1
Florida	2	1
Georgia	2	1
Hawaii	1	1
Idaho	1	1
Illinois	3	1
Indiana	2	1
Iowa	2	1
Kansas	1	1
Kentucky	2	1
Louisiana	2	1
Maine	1	1
Maryland	2	1
Massachusetts	2	1
Michigan	3	1
Minnesota	2	1
Mississippi	1	1
Missouri	2	1
Montana	1	1
Nebraska	1	1
Nevada	1	1
New Hampshire	1	1
New Jersey	2	1
New Mexico	1	1
New York	3	1
North Carolina	2	1
North Dakota	1	1
Ohio	3	1
Oklahoma	1	1
Oregon	1	1
Pennsylvania	3	1
Rhode Island	1	1
South Carolina	1	1
South Dakota	1	1
Tennessee	2	1
Texas	3	1
Utah	1	1
Vermont	1	1
Virginia	2	1
Washington	2	1
West Virginia	1	1
Wisconsin	2	1
Wyoming	1	1

GROUP B

	Dele-gates	Votes
Amateur Athletic Union (AAU)	5	50
American Alliance for Health, Physical Education & Recreation (AAHPER)	5	50
Catholic Youth Organization (CYO)	5	50
National Association of Intercollegiate Athletics (NAIA)	5	50
National Federation of State High School Associations (NFSHSA)	5	50
National Jewish Welfare Board (NJWB)	5	50
National Junior College Athletic Association (NJCAA)	5	50
US Armed Forces United States Air Force United States Army United States Marine Corps United States Navy	5	50
Young Men's Christian Association (YMCA)	5	50

U.S. Olympic Committee

PROPOSED CONSTITUTIONAL AMENDMENT: ARTICLE V. MEMBERSHIP, SECTION 6. (RECOMMENDED FOR APPROVAL BY THE EXECUTIVE BOARD AT ITS MEETING, JULY 30–31, 1977)

Section 6. (a) Any national amateur sports organization seeking to replace an incumbent as the Group A member for a particular Olympic or Pan American sport may initiate a formal proceeding for recognition by the USOC as the national governing body for that sport by filing a written application within one year after the termination of the summer Olympic Games, provided that, if two or more organizations file applications for the same sport, them in that event such applications shall be considered in a single proceeding.

(b) The application shall be addressed to the United States Olympic Committee and shall be forwarded by registered mail to the attention of the Executive Director. It shall contain the name and address of the organization filing the application and of its principal officers, and shall include a sworn statement by an authorized officer or agent attesting to the truth of the allegations of the fact therein set forth. The application must allege with particularity: (i) that the incumbent Group A member does not comply with one or more specific requirements for Group A membership, as set forth in Article III, or does not fulfill one or more specific obligations imposed upon Group A members by Section 4 of this Article; (ii) that the applicant has made a bona fide effort to persuade the incumbent to correct such deficiency, including filing of a complaint under Section 5 of this Article; (iii) that the applicant is prepared show to the USOC that it is better qualified than the incumbent to comply with the aforesaid membership requirements and obligations; and (iv) that due notice of the initiation of the proceeding under this Section has been given to the incumbent Group A member, by mailing to it, by registered or certified mail, a copy of this application. (If two or more applications for the same sport are filed with the USOC within a period of thirty (30) days, each applicant shall be entitled to make a copy of the other applications for its own use.)

(c) Upon receipt of an application under this Section, the Executive Director, after consultation with the Counselor, shall determine whether in his judgment the application on its face satisfies in full the requirements of paragraphs (a) and (b) above. In the event that it does not, he shall reject the application and notify the applicant that the application will be null and void unless the defects are cured in full within the succeeding ten (10) days; but such rejection shall be without prejudice to the filing of a new application within the time limit specified in paragraph (a). Once the application is determined fully in order, the Executive Board shall, as soon as practical, hold a hearing at which the applicant and the incumbent shall each be given a reasonable opportunity to present evidence relative to their respective compliance with the criteria for Group A membership as set forth in Article III and their respective ability or willingness to fulfill the obligations imposed upon Group A members by Section 4 of this Article. The Executive Board shall consider the evidence and promptly determine its recommendation that it will make to the House of Delegates with respect to the matter, as follows: (i) to uphold the right of the imcumbent ot continue as the Group A member for its sport; or (ii) to terminate the incumbent's Group A membership and declare a vacancy in the Group A membership for that sport: or (iii) to terminate the incumbent's Group A membership and elect the applicant (or one of them if there are more than one) to Group A membership for that sport. Any of the foregoing recommandations may be made conditional upon the incumbent's taking of remedial action, or its failure to take remedial action, within the time limits specified by the Board. The Executive Board shall, as soon as possible, by registered or certified mail, notify the applicant or applicants and the incumbent of its recommendation.

(d) If a party to the proceeding considers itself aggrieved by the Board's recommendation, or by the subsequent failure of the House of Delegates to follow the Board's recommendation, it may within thirty (30) days after either action submit a claim to the American Arbitration Association, with copy to the other party and the USOC, for binding arbitration under the conditions stated in Section 7 of this Article. No action on the matter shall be taken by the Board or the House of Delegates white the arbitration is pending.

(e) By maintaining membership in the USOC, each Group A member agrees to submit, on demand, to arbitration as provided herein. By making application

under the terms of this section, an applicant for Group A membership agrees to submit, on demand, to arbitration as provided herein.

(f) If the final arbitration award upholds the claim of a national amateur sports organization to replace the incumbent as the national governing body for its sport, such organization shall be deemed elected to Group A membership in the USOC and the Group A membership of the incumbent shall be deemed terminated, without further action by the House of Delegates. The USOC shall, within sixty (60) days after such award, recommend and support in any other appropriate manner the new Group A member to the appropriate international sports federation for recognition by such federation as the United States governing body in that sport, any provision to the contrary in Article III, Section 3, notwithstanding. Such action shall include, without limitation, formally advising such federation of the decision of the USOC and recommending acceptance of such action by the federation as well.

Section 7. The arbitration proceeding pursuant to Section 6 shall be subject to the following conditions:

(a) The arbitration shall proceed under the commercial rules of the American Arbitration Association, except as modified herein or be agreement of the parties, before a panel of not less than three (3) arbitrators.

(b) The USOC shall be entitled to notice of, and to representation as an observer at, all stages of the arbitration proceeding; but, except as USOC representatives may be called as witnesses at a request of any party or the arbitrators, shall not actively participate in the proceeding.

(c) The arbitrators shall use their best efforts to complete the arbitration within one year after the date of filing of a demand therefor, consistent with the requirement that the parties each be accorded reasonable time to prepare and present their respective case.

(d) The party demanding the arbitration shall have the burden of establishing by a preponderance of the evidence: (i) that it satisfies, better than the other party, the criteria for Group A membership set forth in Article III hereof, and (ii) that it is able and willing, better than the other party, to fulfill the obligations imposed upon Group A members by Section 4 of this Article; provided that neither party may cite, with respect to the other party, a deficiency that was caused or brought about the action of the first party.

(e) If the arbitrators are satisfied that either party is entitled to prevail over the other, but a final award is not appropriate because of minor deficiencies which in their opinion can be remedied within a reasonable time, the arbitrators may make a conditional award in favor of such party, to become final if the deficiencies are remedied within the time specified by the arbitrators. If at the expiration of the specified time, or any reasonable extension thereof, the arbitrators are satisfied that the conditions of the award have been met, the award shall become final. If, on the other hand, the aribtrators are of the view that there has not been timely compliance, they may modify or reverse the conditional award and may, in their discretion, direct that a final award be entered in favor of the other party.

(f) The arbitrators shall be empowered to attempt to cause the parties to settle their differences, without the necessity of a final arbitration award. Unless such settlement is inconsistent with the terms of the USOC Congressional charter, this Constitution, or the published rules of the International Olympic Committee, it shall be recognized by the USOC.

(g) The arbitral award shall be binding upon the parties thereto and, unless the award is inconsistent with the terms of the USOC Congressional charter, this Constitution, or the published rules of the International Olympic Committee, upon the USOC.

JULY 26, 1977.

Mr. ROBERT J. KANE,
President,
U.S. Olympic Committee,
Olympic House,
57 Park Avenue,
New York, N.Y.

DEAR MR. KANE: I am enclosing for your information an article which appeared in the July 5th Baltimore-News-American by the nationally syndicated columnist Jeffrey Hart regarding the Soviet Union's plans for excluding Israel from competition in the 1980 Moscow Games.

I would appreciate knowing of your official position on the prospect of such exclusion. You will notice that the article suggests that the Committee will "content itself with an impotent pro forma protest." Therefore, I hope and trust that the Committee will take a strong advance public position on this question in order to clearly suspend any momentum in this direction.

Warm personal regards.

Most cordially,

RICHARD (DICK) STONE.

OLYMPIC HOLOCAUST

By Jeffrey Hart

Sources close to the international Olympic picture inform me that the chances of Israeli athletes competing in the 1980 Moscow Games are exactly zero. Israel will be excluded.

The exclusion will take place at the direction of Moscow, but the Soviet role will not be an open one. Rather, it will take place behind a Third World facade. Just as Israel was excluded from the Asian Olympic Games, so it will be kept out of the big show in Moscow. Do not imagine that this will be a mere "athletic" item. It will be a dramatic exhibition of political muscle before a global audience of hundreds of millions. It will be an important psychological step in the de-legitimation of Israel, its reduction to the status of non-nation.

The 1980 Moscow Games will be the biggest media event in history. As the Soviets see it, and as they have said in their official publications, the Games will be an enormous political plus. The preparation has been lengthy and painstaking. The Moscow Games will be an extravaganza of the model of the 1936 Berlin Games, an enormous metaphor, a celebration of the Soviet system and an image of the future as the Soviets would like to see it.

According to my sources, Israel—along with several other "pariah" nations—will not be admitted to that metaphor.

Of course, the visual Olympic metaphor will also not include the gross Soviet economic failures, crimes, violations of human rights, massive weapons program, and expansionist foreign policy.

My initial reaction to the disclosure that Israel would be excluded was that, if the Soviets tried anything like that, it would wreck the Games. Individuals and teams would pull out, refusing to be part of this corrupt charade. Would any athlete, knowing what we now know, have participated in the 1936 Olympics? If the Soviets politicize the Moscow Games to that degree, network TV will pack up its cameras and go home or so I thought.

Wrong, according to my source. The reality is chilling. Nothing at all happened when the Canadians excluded Taiwan from the Montreal Games. The Moscow Games will take place no matter how grossly the Soviets exploit them. The U.S. Olympic committee will content itself with an impotent pro forma protest. NBC-TV has already paid the Soviets some $50 million, and by 1980 will have more than $100 million invested in the Games. NBC expects to sell at least $125 million in advertising for its Moscow telecasts. No doubt its top executives have already booked their Moscow flights and ordered fur hats.

This entire enterprise represents a carefully thought out global psychological warfare operation. The process is already well advanced, and by 1980 it will be too late to do much about it.

Have we really forgotten the example of Berlin in 1936, and what soon followed? Have we forgotten Munich in 1972, the outrages and the egregious cheating? The sycophantic treatment of the Soviets by ABC and Jim McKay at Montreal in 1976?

The 1980 Games in Moscow are shaping up as the most corrupt and politicized in history. What is called for at this time is a Congressional resolution to the effect that the exclusion of any nation from the Games for political reasons should be grounds for U.S. withdrawal.

U.S. OLYMPIC COMMITTEE,
New York, N.Y., August 15, 1977.

Hon. RICHARD (DICK) STONE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STONE: This is in response to your letter of July 26 which was in relation to the Jeffrey Hart column "Olympic Holocaust", carried in the July 5 issue of the Baltimore News-American.

I'm not anymore clairvoyant than Mr. Hart but I disagree totally with his thesis that the Soviet government will exclude Israel from the 1980 Games. On two public occasions (at Montreal in August and in Abidjan, Africa) the Russian Olympic officials have stated that no member country will be barred from participation. That is, no country which is authorized to compete by the International Olympic Committee. Israel is a member constituent of IOC.

Russia has invited the whole world to take a searching look at its country in 1980 and I do not believe it will want to appear ungracious. That it will use the vast media coverage for propaganda purposes I do believe. To bar a qualified country would certainly not be in its best public relations interest. Moreover, Mr. Smirnov, the Soviet member on the IOC Executive Committee was expressively opposed to Prime Minister Trudeau's ill-conceived plan to exclude Taiwan from the Games at Montreal.

Mr. Hart is wrong when he wrote that "Nothing at all happened when the Canadians excluded Taiwan from the Montreal Games." The U.S. Olympic Committee protested vigorously and effectively. It was the only nation to be outspoken. President Philip O. Krumm initially met with Lord Killanin, President of IOC, and made known our strong opposition. Nothing much was accomplished. We then asked for and were granted, a hearing before the IOC Executive Committee. President Krumm, Executive Director F. Donald Miller and I met with the Committee and we stated in no-nonsense terms that unless the Taiwan delegation was admitted to the country and allowed to compete that the U.S. delegation would seriously consider withdrawing our team from the Games. Our presentation was tough and was no "impotent pro forma protest", in the words of Mr. Hart.

In a matter of 24 hours Mr. Trudeau, after the IOC reacted to our protest, announced that the Taiwan team was to be admitted to the country and could compete, and could carry its flag. However, he said it would have to use another name than the Republic of China. It could use the designation of ROC-Taiwan, or Taiwan or Formosa. The IOC approved this arrangement.

We had been privately meeting daily and nightly with the Taiwan officials. We suggested to them that they accept the terms, inasmuch as the Taiwanese had used the designation of Taiwan in 1960 at the Rome Games and the name of Formosa in the 1964 Games at Tokyo. In addition, Taiwan represents only 1% of the population of China. The Taiwan officials refused, upon orders from Taipei.

We felt at that juncture that we were now being manipulated by our friends from Taiwan and we were not about to have our athletes used as pawns and sacrifice their chance to compete for a matter of a name. We had kept in constant touch with the State Department and with President Ford. President Ford called us twice during the negotiations. At no time did he or the State Department order us to do anything. They merely consulted with us. They did approve of our handling of the crisis.

Mr. Hart is also wrong when he states that NBC has too much at stake to withdraw. ABC, in support of our protest at Montreal, informed the IOC that it would refuse to televise the Games if the U.S.A. was not represented; and in reliance on a clause in the contract would not therefore pay for the rights "unless the U.S. takes part in the Games." NBC has the same kind of clause in the 1980 contract and I'm sure would respond the same way.

I am of the informed opinion that Mr. Hart is just as wrong about the anticipated exclusion of Israel from the Moscow Games in 1980. If, however, by some mischance his prediction is more accurate than mine, I'm certain the U.S. Olympic Committee—and I would hope, all the free nations of the world, would not take part. And that would be the end of the Olympic Games. I would personally prefer not to take a public position on the matter at this time, and not until there is more solid evidence than I have seen that the Russians will not keep their word. But in any case, and with all due respect, we don't need a "congressional resolution" to make us do the right thing, I trust.

Very truly yours,

ROBERT J. KANE.

SEPTEMBER 22, 1977.

Mr. ROBERT J. KANE,
President,
U.S. Olympic Committee,
57 Park Avenue,
New York, N.Y.

DEAR MR. KANE: As you requested, I have kept confidential your letter (copy enclosed) stating the USOC's position with regard to allegations that Israel might possibly be excluded from the 1980 Olympics.

Since your assistant, Mr. Bob Paul, has advised my office that the contents of your letter are not to be made public nor kept in an open file, I would like you to send me a statement of the USOC position that can be disclosed.

The rumors about this situation have not died down; and the contrary, they have increased.

Furthermore, a letter has been signed by 72 Members of Congress urging that you not let the Soviet Union succeed in barring Israel from competition in 1980. In my opinion, silence on the part of the USOC concerning this matter implies that the charges are true. Since you and Mr. Paul have insisted that is not the case, I look forward to receiving your official, public statement as soon as possible.

Warm personal regards.

Most cordially,

RICHARD (DICK) STONE.

U.S. OLYMIC COMMITTEE,
New York, N.Y. September 29, 1977.

Hon. RICHARD (DICK) STONE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STONE: This is in response to your letter dated September 22, 1977 concerning my confidential letter stating the United States Olympic Committee's position with regard to allegations that Israel might possibly be excluded from the 1980 Olympic Games in Moscow. Your interest in this very important international event is deeply appreciated.

Please be advised that no objection is interposed to your releasing to the public the contents of my above-referenced letter. Furthermore, enclosed herewith please find a copy of a letter I sent to Congressman Kemp and the seventy-two members of Congress stating the U.S.O.C.'s position in this matter. Also, enclosed for your information, please find a press release which was disseminated to the media on Sunday, September 25th, in Colorado Springs, Colorado during the announcement of our selection of Los Angeles to bid for the hostship of the 1984 Summer Olympic Games. I am confident that my letter to the members of Congress and the press release clearly indicates the position of the United States Olympic Committee relative to excluding Israel from the 1980 Games in Moscow.

An Associated Press wire story dated September 28, 1977 quotes Lord Killanin, President of the International Olympic Committee as saying on Wednesday, that, he "knew of no moves to exclude Israel from the 1980 Games in Moscow. I have raised this question specifically with the Russians more than once since our troubles at Montreal, and they have assured me that all athletes recognized by the I.O.C., including those of Israel, will be admitted to Moscow for the Games".

In addition, Vitaly Smirnov, Soviet Member of the I.O.C. for the 1980 Games, denied allegations by the seventy-two United States' Congressmen that the Soviet Union was campaigning for the expulsion of Israel from the federations which control Olympic sports, and further described the charge as "idle invention".

Please be assured that the United States Olympic Committee will continue to closely monitor this situation and should there be any evidence of denying any member country of the I.O.C. the opportunity to participate in the 1980 Games, we will take every action at our disposal to preclude any abrogation of the rights and privileges of all athletes and countries involved in this very important world-wide movement.

If I can be of any further assistance in this matter, please do not hesitate to contact me.

With all good wishes, I remain,

Respectfully,

ROBERT J. KANE.

Enclosures.

U.S. OLYMPIC COMMITTEE,
New York, N.Y., September 22, 1977.

Hon. JACK F. KEMP,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KEMP: The United States Olympic Committee is aware and pleased with the aggressive action taken by the International Olympic Committee and the Moscow Organizing Committee for the 1980 Olympic Games to guarantee that all eligible athletes from duly recognized National Olympic Committees are permitted to participate.

On August 2, 1976, hard on the close of the 1976 Olympic Games in Montreal, The Lord Killanin, President of the International Olympic Committee, in an open press conference stated that he would cancel the 1980 Olympic Games and the 1980 Olympic Winter Games to be held at Lake Placid if even one athlete were denied entry by a host country.

Several times since The Lord Killanin's statement, the Moscow Organizing Committee has reinforced its pledge made at the time of being awarded the Olympic Games in 1974 that all athletes would be permitted entry. As recently as the joint meeting between the IOC Executive Board and the National Olympic Committees in Abidjan, Ivory Coast in March, 1977, the President of the Moscow Organizing Committee submitted a letter to the IOC from Leonid Brezhnev reaffirming that the Games would be conducted under the IOC regulations and principles; at the same time, Ronald MacKenzie, President of the Lake Placid Olympic Organizing Committee, presented a similar letter from President Carter indicating the XIII Olympic Winter Games would be conducted in strict conformance with the IOC principles and regulations. President MacKenzie reassured the gathering that his committee stands solidly behind these regulations, too.

May we also point out that at the recent Annual Session of the IOC in Prague, proposals were discussed that would invoke severe penalties on any host city which did not live up to its promises of entry and other obligations imposed by the Rules of the IOC. Also, additional measures were discussed which would impose other severe penalties on those countries whose athletes are brought home from the site of the Olympic Games because of governmental political actions.

The USOC abhors any infringement of IOC Regulations. At Montreal in the controversy involving the Prime Minister of Canada, the Organizing Committee for the Montreal Olympic Games and the Republic of China, the USOC made its presence felt in striving to work out a solution to the problem created by the unilateral decision of the Canadian Prime Minister to deny entrance to any athletes carrying passports from the Republic of China. The ROC had no stauncher ally than the USA in its honorable attempt to secure full recognition for the athletes of its country at Montreal.

The USOC never will stand idly by when the rights and privileges guaranteed a country under the Regulations of the IOC are infringed or abrogated. We pride ourselves on our stand taken at Montreal which, in turn, has already been translated into positive action by The Lord Killanin.

The USOC is keenly distressed at the comments of several syndicated columnists who in the last two months have written around a single theme: There is a massive movement, at times linking the USSR with the Third World, to have Israel voted out of a number of international federations until the number of Israeli national federations are fewer than five in Olympic sports. There is *no basis* for such statements to be made. There are no qualified persons in international and national federations who can speak or have spoken on this subject.

The United States Olympic Committee contacted Haim Glovinsky, Secretary General of the Israel Olympic Committee and a long-time leader in all international sports, to find out about these unfounded statements by the columnists. Mr. Golvinsky, without equivocation, confirmed that the Israeli national federations are recognized by all 21 international federations concerned with the sports on the Olympic Games' summer program. Israel's membership has not been suspended by a single federation.

On the basis of statements from the Israel Olympic Committee, the statement of The Lord Killanin last August 2nd, and the follow-up reassuring statements of the Moscow Organizing Committee, we are keenly disappointed by the inaccurate statements made by certain syndicated columnists. Even so, the USOC maintains an ever watchful eye on the international situation in sports. We shall make ourselves known again if there is even an inkling that the IOC Regulations will be breached against a single athlete or a single nation.

In view of the strong evidence that there is no movement against Israel, we are confident that they will not be precluded from particpating in the 1980 Olympic Games in Moscow. However, the USOC shall not relent for even a single moment to espouse the principles of Olympism and the rights and privileges of all athletes and countries involved in the worldwide movement.

We seek and would appreciate the cooperation of all members of Congress who have expressed this concern over the International Olympic program to provide every assistance in enacting pending legislation which will enhance the USOC's posture not only in the USA but in the world-wide amateur sports movement.

Sincerely,

ROBERT J. KANE.

[U.S. Olympic Committee News Release]

COLORADO SPRINGS.—Robert J. Kane, President of the United States Olympic Committee, has written a letter to Congressman Jack F. Kemp (R–N.Y.), refuting a charge by Kemp and 82 other Congressional leaders that a Moscow-Third World alignment was aimed at ousting Israel from the Olympic Games in 1980.

The United States Olympic Committee President quoted Chaim Glovinsky, Secretary General of the Israel Olympic Committee, that Israel is a member in good standing in all international sports federations concerned with the Olympic Summer Games. The Congressional letter alleged that Israel was being forced out of international federations on technical matters.

Kane pointed out that Lord Killanin, President of the International Olympic Committee, on several occasions has had reaffirming pledges from Moscow for the 1980 Olympic Games and Lake Placid for the 1980 Olympic Winter Games to observe all principles and regulations of the IOC.

Specifically, at an IOC Executive Board meeting with the National Olympic Committees in March, Leonid Brezhnev, Soviet leader, reaffirmed the Moscow Games would be conducted under all IOC regulations and principles. At the same time, Ronald MacKenzie, President of the Lake Placid Organizing Committee presented a similar letter from President Jimmy Carter affirming Lake Placid's full understanding of the responsibility to conduct the Games under the IOC regulations and principles.

The letter, in part, read, "The USOC is keenly distressed at the comments of several syndicated columnists who in the last two months have written around a single theme: There is a massive movement, at times linking the USSR with the Third World, to have Israel voted out of a number of international federations until the number of Israel national federations for the separate sports is fewer than the Olympic requirement of five for recognition to enter athletes in the Olympic Games."

Kane's letter went on to say, "There is no basis for such statements to be made. There are no qualified persons in international and national federations who have spoken on this subject. However, the USOC shall not relent for even a single moment to espouse the principles of Olympism and the rights and privileges of all athletes and countries involved in the world-wide movement."

The aggressive action taken by the IOC in proposing severe penalities for host cities abrogating IOC principles and also separate penalities for those countries where politics has interfered with the participation of a nation's athletes was praised by Kane as a forward step to, "guarantee that all eligible athletes from duly recognized National Olympic Committees are permitted to participate."

AMENDMENT TO PUBLIC LAW 805

Section 9 of Public Law 805, 81st Congress (36 U.S.C. 379) approved September 21, 1950, and amended August 10, 1964, is hereby continued and further amended in the following respects:

Section 9. That from and after September 21, 1950, it shall be unlawful for any person within the United States to falsely or fradulently represent or pretend to be a member or representative of the United States Olympic Committee or its subordinate organizations for the purpose of soliciting, collecting, or receiving money or material; or for any person to wear or display the insignia thereof for the fradulent purpose of inducing the belief that such person has been or is at that time a member of or an agent for the United States Olympic Committee or its subordinate organizations. It shall be unlawful for any person, corporation, or association, other than the United States Olympic Committee or its subordinate organizations and its duly authorized contributors, suppliers, employees and representatives for the purpose of trade, theatrical exhibition, athletic performance, and competition or as an advertisement to induce the sale of any article whatsoever or attendance at any theatrical exhibition, athletic performance, and competition or for any business or charitable purpose to use within the territory of the United States of America and its exterior possessions, such expressions as "official", "selected" or "approved" by the United States Olympic Committee or for the use of the United States Olympic Team as well as the emblem of the United States Olympic Committee consisting of an escutcheon having a blue chief and vertically extending alternate red and white bars on the base with five interlocked rings displayed on the chief, the International Olympic symbol

of five interlocking rings or any other Olympic sign or insignia made or colored in imitation thereof, or the words "Olympic", "Olympiad", "Citius Altius Fortius" or any combination, simulation, or confusingly similar derivative thereof tending to cause confusion, or to cause mistake, or to deceive, or falsely suggest a connection with the United States Olympic Committee, the United States Olympic Team, the Olympics, or to bring any of them into contempt or disrepute:

Provided, however, That any person, corporation or association that actually used, or whose assignor actually used, the said emblem, sign, insignia, or words for any lawful purpose prior to September 21, 1950, shall not be deemed forbidden by this Act to continue the use thereof for the same purpose and for the same class or classes of goods to which said emblem, sign, insignia, or words had been used lawfully prior thereof. Any person, corporation or association that violates any provison of this section shall be liable to a civil action by the United States Olympic Committee in the district courts of the United States which shall have original jurisdiction without regard to the amount in controversy or to diversity or lack of diversity or the citizenship of the parties for the recovery of any profits realized, damages which may be assessed according to the circumstances of the case for any sums above the amount found as actual damages, but not exceeding three times such amount, as well as injunctive relief upon such terms as the court may deem reasonable to prevent a violation or threatened violation of this section, costs of the action, and reasonable attorney fees incurred in consequence thereof. Any such person, corporation or association also may be deemed guilty of a misdemeanor, and upon conviction in any Federal court shall be liable to fine of not less than $100 or more than $500 or imprisonment for a term not exceeding 1 year, or both, for each and every offense. All moneys, assets or other property obtained by any person, corporation or association in violation of this section shall belong to and shall be recoverable by the United States Olympic Committee.

Senator STEVENS. Since there is just one gentleman involved in the American Arbitration Association presentation I would like to ask Mr. Coulson to testify next.

STATEMENT OF ROBERT COULSON, PRESIDENT, AMERICAN ARBITRATION ASSOCIATION

Mr. COULSON. Thank you, Senator.

I am Robert Coulson, president of the American Arbitration Association.

Very briefly we are a nonprofit public service agency financed entirely from private sources. Our function is to provide administrative, educational, and public services and encouraging people to use the techniques of out-of-court dispute settlement, that is, arbitration, mediation, the election process, negotiations and the like. Last year we administrated over 45,000 cases throughout the country including commercial cases, labor cases, insurance cases, domestic relations disputes, fair campaign practices disputes and some amateur athletic disputes.

We have a panel of arbitrators in excess of 50,000 persons at the present time, men and women with expertise of a variety of kinds.

You have invited us to testify as to the proposed use of arbitration in S. 2036, Amateur Sports Act. That bill contains two quite distinct types of arbitration. One being the arbitration as to conflicts as to the right of sports organizations to serve as a national governing body.

The other has to do with claims by athletes as to their right to compete in international events.

Turning to the recognition procedure, arbitration proves a mechanism whereby an impartial panel of arbitrators can test the application of a governing body against the various statutory standards that are contained in section 203(c) of the bill. These deal with open

membership, the equal opportunity for participation, nondiscrimination as to board members and the like.

We have reviewed those criteria, and they appear in our view to be sufficiently definitive for decisions to be made by arbitrators based on the facts that would be presented to them. Therefore it is our feeling that, both as to the criteria that would be before the arbitrators, and as to the procedures that are described in the bill, that this type of arbitration is consistent and compatible with the other types of cases that we have administered in other tribunals.

As to the second type of arbitration, that is, the arbitration of disputes between athletes or coaches or others against national regulatory bodies, we feel again that that is an appropriate type of arbitration and that we will be able to provide a prompt hearing and a decision within a prompt expedited time.

As Mr. Sullivan just pointed out under section 304(b)(1), the act provides that the parties to such a dispute are given the right to agree that such matters should be submitted to binding arbitration.

However, I think it was our reading of the bill that, since the sports group must already have agreed to arbitrate disputes with athletes, that, in effect, the option is an option given to the athlete.

Senator STEVENS. That was our intent.

Mr. COULSON. Yes; and we favor that.

And there are other laws where similar options are given to individual members of the public, an option to go to arbitration or to court.

We find that in most such cases the obvious advantages of arbitration, where the system is well designed and well administered, is such that almost all of the cases go to arbitration, rather than going into the litigation process.

Senator STEVENS. Would you check that section again and see if you have any comments on the USOC position?

Mr. COULSON. Well, I did include a comment on it in my printed remarks. I said that I thought it might clarify it if the language clearly showed that the bill was giving the athlete the option to go to arbitration. It is not absolutely clear because it does talk in terms of mutual agreement.

Senator STEVENS. There are some that aren't members of the USOC, that is the problem, you see.

Mr. COULSON. I understand that.

I see that you have a significant legislative problem. The most I wanted to do was draw to your attention that there was a possibility of a misunderstanding there. If there is ambiguity there, it could be that an athlete seeking to get arbitration might be faced by a sports organization saying, no, they hadn't agreed to arbitration and that might require some preliminary litigation, which I know you are seeking to avoid.

Senator STEVENS. I have noticed you are summarizing, and I want you to know that your complete statement will be printed in the record.

Mr. COULSON. There have been, so far as my records show, five cases under the prior system involving claims by athletes.

I learned of one of them only today so it is not included in my written report. That had to do with the Vesper women's crew. I understand that it was handled expeditiously and that the decision of the arbitrator was satisfactory to all concerned.

The other cases I do cite in my written presentation. One had to do with the women's volleyball team, which filed an arbitration case January 6 and had a hearing on January 9.

The second had to do with three judoists, who filed a claim on May 28. A hearing date was scheduled for June 2, but the matter was settled amicably before that.

There was a case involving a horse. The U.S. equestrian team filed a demand on April 4 about a horse that had been disbarred because the manager of his stable had passed some bad checks. The issue raised was whether the horse would be available to the team. The horse won that case. That was disposed of.

Finally there was a cycling case where a cyclist filed a claim on June 29, 1976, to become an alternate rider. The hearing was held on July 6. The athlete won that case.

That is the record. It is not a very lengthy series of cases but in every situation we found it was possible to schedule a case promptly. It was possible to find arbitrators who were knowledgeable and thoughtful and apparently acceptable to both parties. It was possible to do it at a minimum fee. So that I think that you have here, with the expedited process that you have included in your bill, a system that will be workable. We at the American Arbitration Association feel a sense of responsibility for making this system work—if it does become law.

This would be the first time that the American Arbitration Association was referred to specifically in Federal legislation as a designated arbitration agency. There have been, however, many State and local laws including such a designation. In my report to you I have included a printed lawyer's arbitration letter, which gives full citations as to that type of legislation. We are extremely pleased by this bill. We hope it becomes law, and we will do our utmost to carry out our responsibilities thereunder.

Dr. Jerome Heartwell Holland, who was a member of the President's Commission, is also a member of the board of directors of the American Arbitration Association, as are 120 other leading Americans. Dr. Holland is also a member of the AAA's executive committee.

Senator STEVENS. We thank you very much.

As a member of the President's Commission I can tell you there was not one word said about your organization that was not complimentary. As soon as we get this bill passed, I am going to recommend that the judiciary committee hear from your organization how we might reorganize the court system in this country to provide for more prompt settlement of disputes.

Mr. COULSON. We would like to continue that dialog.

Thank you, Senator.

Senator STEVENS. We will print your statement in the record. However, some of the attachments which you have provided may not be totally reprintable, in which case we will retain them in our subcommittee files. Thank you for your courtesy.

[The statement follows:]

STATEMENT OF ROBERT COULSON, PRESIDENT, AMERICAN ARBITRATION ASSOCIATION

My name is Robert Coulson. I am President of the American Arbitration Association, located at 140 West 51st Street in New York City, a not-for-profit, public service, educational corporation, which provides process management

for out-of-court dispute settlement systems. For almost fifty years, here and throughout the country, the Association has helped and encouraged parties in the use of voluntary arbitration, mediation and conciliation, democratic elections and other impartial systems to settle many types of controversies in a wide variety of fields. The Association's current caseload is in excess of 45,000, including commercial, labor, insurance, criminal, domestic relations and many other varieties of disputes. Our National Panel is made up of over 50,000 arbitrators. These men and women are experts in a wide variety of fields and have made themselves available to hear and determine those cases for which they are qualified and acceptable to the parties involved.

You have invited the Association to testify as to the proposed use of abitration in S2036, the Amateur Sports Act of 1977, and have asked for our views on how the Association might provide a service under such legislation.

S2036 would require the AAA to provide arbitration services in two kinds of disputes: conflicts as to the right of a sports organization to serve as a national governing body as to the Bill, and claims by an athelete as to the right to compete in an international event.

These provisions are consistent with the recommendations of the President's Commission on Olympic Sports. That Commission designated the AAA as the appropriate body to administer the arbitration of the above disputes. The Commission recommended that Public Law 805 be amended to require binding arbitration by the AAA in disputes involving franchise challenges or allegations that a national governing body of a sport was not meeting its legal obligations. The Commission also recommended the American Arbitration Association as the appropriate agency to resolve disputes between athletes and athletic organizations who have refused to give them the right to take part in certain competitions.

These recommendations were responsive to two of the primary needs identified by the Commission: arbitration would provide a means to settle organizational disputes over the right to be the national governing body in a sport and a means to guarantee an athlete's right to compete—both fundamental to the overall purpose of the report.

In passing, the Commission said some nice things about the AAA. "Given the widespread respect for the AAA and the interest of most of the U.S. amateur sports community in resolving these disputes fairly, the Commission believes its recommendations can be swiftly implemented."

RECOGNITION PROCEDURES

The procedure for establishing recognition as a national governing body is contained in Sec. 203 of the Bill. No amateur sports organization is eligible to be recognized as a national governing body unless it agrees to submit to binding arbitration by the American Arbitration Association in any controversy involving its recognition as a national governing body or an athlete's right to compete. Sec. 203(b)(3).

Sec. 203(c) provides criteria which are to be considered by an arbitrator or panel of arbitrators in making a decision as to recognition. These deal with qualifications vis-a-vis the appropriate international governing body, open membership, equal opportunity for participation, non-discrimination as to board membership, active athletes serving on the board, representation of qualified sports organizations on the board, restrictions against interlocking memberships, limitations on consecutive service, eligibility criteria consistent with the international body, sufficient managerial and financial capability and prompt and equitable grievance procedures for its members. These criteria appear to be sufficiently definitive for decisions to be made on the facts by persons selected to serve as arbitrators.

Certainly, experienced corporate or organizational attorneys, of which there are a great many on the AAA panel, would bring relevant skills, experience and understanding to the task of applying such criteria to the testimony in such recognition proceedings, initiated pursuant to Sec. 207 of the Bill.

That Section, entitled "Resolution of Certain Disputes," provides a procedure under which any sports organization or individual may seek to compel a national governing body to comply with the requirements of the Bill by filing a written complaint with the corporation, with a copy to the governing body. These disputes are decided by the corporation.

Sec. 207(b) of the Bill provides a procedure under which any national amateur sports organization may seek recognition as a national governing body in place of the currently recognized national governing body. Again, the criteria are

spelled out as to how such a determination shall be made. The corporation is directed to make a determination as to such cases in thirty days. But here again, arbitration under the rules of the American Arbitration Association is provided to any party aggrieved by the corporation's determination, providing in effect an impartial review procedure in such cases.

Here it is provided that the matter will be heard by three arbitrators, unless the parties mutually agree to a lesser number; that the AAA will select the hearing place, unless the parties mutually agree otherwise; that the hearing will occur within sixty days, unless the parties mutually extend that time; and that the hearing will be open to the public. These provisions are consistent with normal practice of the AAA where public issues are concerned.

The arbitrators are "empowered to settle any dispute . . . prior to the making of a final award, if mutually agreed to by the parties." Presumably, this permits the arbitrators to conciliate the dispute with the consent of the parties.

There are additional procedural provisions as to the right to counsel, evidence, subpoenas, majority decision, time of award and reopening the hearing which are entirely in conformity with the AAA normal rules. In fact, much of the language seems to have been copied from those rules, a copy of which is attached.

Finally, the district courts are given jurisdiction to enforce decisions by the arbitrators, presumably bringing the procedure under the United States Arbitration Act. Title 9, U.S. Code Sections 1–14 (43 Stat. 883) codified July 30, 1947 (61 Stat. 669), and amended September 3, 1954 (68 Stat. 1233).

Again, there is nothing in this procedure that would be difficult for the American Arbitration Association to administer or for arbitrators to hear and determine.

ATHLETES' RIGHTS TO PARTICIPATE

The second kind of arbitration is found in Title III, the Amateur Athlete's Bill of Rights Act. This Act would provide an amateur athlete, coach, trainer, manager or administrator claiming a violation of certain specified rights by the Olympic Committee, by any national governing body or by any sports organization an opportunity to have that violation enjoined. The primary remedial forum provided is in the district courts, which are authorized to issue a permanent injunction or restraining order after making a finding that a person is engaged in conduct resulting in a denial of such rights.

Under Sec. 304(b)(1), the parties to such a dispute ar also given the right to agree that such matters may be submitted to binding arbitration under American Arbitration Association's administration.

These cases are to be before three arbitrators and "shall begin as soon as possible but, in any event, no later than thirty days after the dispute is submitted." The AAA is given authority to expedite the arbitration when so required.

Again, provisions as to right to counsel, appropriate evidence, subpoenas, majority vote, time of award, reopening of the hearing and enforcement by the district courts are provided. These are all consistent with and drawn from provisions in the AAA's current rules.

PRIOR CASE EXPERIENCE OF THE AAA

In recent years, the American Arbitration Association has had four cases involving various sports. I will summarize them:

1. *Volleyball.*—On January 6, 1976, the Adidas Women's Volleyball Team filed an arbitration demand against the U.S. Volleyball Association. There was need for speed because the team to be chosen to represent the U.S. at the Olympic games was to fly to Munich, Germany on January 11, 1976. The arbitration provision of the Olympic Committee provides for an expedited procedure. A hearing was set before an experienced arbitrator-attorney on January 9, 1976. All parties attended. The arbitrator gave a bench decision that the case as presented was not arbitrable because the arbitration clause in the constitution was limited to claims by "any individual" and did not authorize claims by "teams" or by "groups." He also determined that the Adidas team had not complied with certain prerequisites for selection required in advance by the Volleyball Association. The claim was denied.

2. *Judo.*—On May 28, 1976, a claim was filed on behalf of three judoists who had not been selected for the trials for the Olympics. The trials were scheduled for June 5th. Our Washington office established a hearing date for June 2nd, but on June 1st, we were advised that the Olympic Committee had ruled in favor of the athletes.

3. *Equestrian.*—On April 4, 1977, we received a demand for arbitration in our Washington office from a rider on the U.S. Equestrian Team as to a horse that had been suspended by the American Horse Show Association and the Virginia Horse Show Association. Again, the hearing was to be expedited. It was scheduled in Richmond, Virginia on April 9, 1976, but at the request of all parties was rescheduled in Washington on July 6th. The arbitrator determined that while the meeting of the American Horse Show Association where the horses of a stable were suspended from competition was duly held, that the claimant had standing under the arbitration provision of the Olympic Committee Constitution and that the horse should not have been suspended. As a result of this decision, the horse Southside was made available to our Olympic Team.

4. *Cycling.*—On June 29, 1976, a demand for arbitration was filed in our New York office on behalf of a cyclist by the Ciclistas Capistrano/Bell Racing Team of San Juan, California, seeking appointment as the final alternate rider on the Olympic Team. A hearing was scheduled for July 6th. The arbitrator was an attorney. The hearing lasted over five hours. The complaining cyclist, the president of his team and a representative of the U.S. Olympic Cycling Committee were present. During the hearing, the parties entered into a settlement agreement. Although the cyclist did receive notification of his appointment as a team alternate, subsequent questions did arise as to the U.S. Olympic Cycling Committee's good faith commitment to its agreement. We have in our files an exchange of letters on that subject.

CONCLUSIONS FROM CASE EXPERIENCE

The following conclusions can be reached from the four cases described above:

1. It is possible and practicable for the American Arbitration Association to provide a prompt, expedited hearing in cases involving amateur athletes' rights where authorized to do so. It has been our experience that in these cases, experienced professional arbitrators are willing to provide a prompt hearing on a voluntary basis.

2. Our regional offices have had no difficulty obtaining competent persons with a legal background, with experience in the arbitration process and with an interest in sports to serve on such cases.

3. Under our Commercial Rules, the established fee for such cases is $200, but, where the athlete claims extreme hardship, the AAA will defer or reduce the administrative fee. For example, the cycling case described above was accepted for a fee of $50 and the Judo case was administered for $100.

4. The award of an arbitrator is generally accepted by a losing party. In the relatively few cases where enforcement proceedings became necessary, it can be confirmed upon motion in Federal District Court. The present Bill provides for such enforcement. But it is unlikely that in the context of amateur sport, such litigation would be required.

It would be a mistake to analogize some of the relatively expensive arbitration proceedings that occur in large commercial transactions involving hundreds of thousands of dollars to the arbitration of individual amateur athlete rights cases. For these cases, I believe that arbitration, under expedited procedures, will provide a satisfactory method for the prompt and impartial determination of rights.

In any case, the present Bill provides a primary right to the athlete in district court. It is only with "mutual agreement of the parties" that actions for relief by athletes may be submitted to the AAA. If the Senate wished to encourage a greater use of arbitration, it could amend Sec. 304(b)(1) to offer the claiming party an option to arbitrate such disputes. This might avoid the possibility of the respondent governing body requiring the athlete to proceed only in federal court. In that respect, it is interesting that Sec. 203(c)(11) requires national governing bodies to provide "procedures for the prompt and equitable resolution of grievances of its members." This obligation can be met by offering to arbitrate such disputes under expedited procedures before the American Arbitration Association.

LEGISLATION NAMING THE AMERICAN ARBITRATION ASSOCIATION

The American Arbitration Association has been named many times in the past in legislation authorizing it to provide dispute management services in connection with a variety of controversies. Attached hereto is a Lawyer's Abritration Letter containing a compendium of such statutes, ordinances and regulations.

IN CONCLUSION

The directors, members and staff of the American Arbitration Association recognize the solemn responsibility involved in being incorporated in S2036. If it becomes law, we will do our best to perform in accordance with its terms, consistent with the long and distinguished history of this organization in providing process management for arbitration cases arising in the field of amateur athletics.

Senator STEVENS. We will next hear from a panel of the national governing bodies, consisting of Mr. Helmick, Mr. Fricker, Mr. Sharpless, and Mr. Lippman.

STATEMENTS OF ROBERT HELMICK AND WILLIAM LIPPMAN; COMPETITIVE SWIMMING COMMITTEE, AMATEUR ATHLETIC UNION; WERNER FRICKER, U.S. SOCCER ASSOCIATION; JOSEPH SHARPLESS, U.S. VOLLEYBALL ASSOCIATION

Mr. HELMICK. Good afternoon.

Senator STEVENS. I understand one of you gentlemen had to miss a plane. I extend my apologies to you and appreciate your courtesy. Would you introduce yourselves.

Mr. HELMICK. Mr. Bill Lippman; Bob Helmick.

Mr. SHARPLESS. I am Joe Sharpless, national commissioner of regions, member of the board of directors of the U.S. Volleyball Association.

Mr. FRICKER. Werner Fricker, U.S. Soccer Association.

Senator STEVENS. Thank you, gentlemen.

Mr. HELMICK. First of all, my name is Bob Helmick, from Des Moines, Iowa. I am here as a representative not only of the national governing body for swimming, diving, water polo, and synchronized swimming, which under international rules of the International Olympic Committee is one sport with four representatives, I'm here as that representative and also as a representative of that national governing body in the United States.

I appreciate a great deal the opportunity to be here today.

Unfortunately I was contacted by phone just several days ago and am presently on my way to an IOC meeting in Switzerland so I do not have a written report in that I have not been in my office and Mr. Johansen mentioned it would be possible to submit this next week based upon the——

Senator STEVENS. We will be happy to have anything you wish to submit and will keep the record open. How long would be sufficient?

Mr. HELMICK. A week and a half would be quite sufficient.

Senator STEVENS. We will keep it open for 2 weeks and we would be happy to have your comments.

Mr. HELMICK. Thank you. My background in competition was in water polo. In 1968 I was elected chairman of the National Water Polo Committee and at that time we had Olympic sport committees. For 4 years I was the presiding officer then of the interests that managed the sport of water polo in the United States. Following 1972 I was elected as general secretary of the International Technical Committee, which governs water polo through the world, and in 1976 at Montreal congress I was elected general secretary of the federation, International Federation, which governs all the competitive swimming sports which would include the four disciplines I mentioned. I give you this background only so that you understand the frame of reference in which I speak.

Mr. Lippman, who is here with me from the Swimming Federation, will address himself more precisely to the domestic national governing body question.

I would like to start in just very briefly with what an international federation is as it relates to the problems of a national governing body within the United States.

I start out with IOC rule 24, which states, there must be a national Olympic committee in that country which must be comprised of at least five national federations; that is, five national governing bodies.

Rule 24–B states, "It is the National Olympic Committee's duty in cooperation with the national federations to organize and control the representatives of their country."

Rule 24–G states, the National Olympic Committees must include in their memberships representatives of the national federations. These federation representatives shall be of their own choice and must constitute a voting majority or the national Olympic committee.

Rule 26 of the IOC states, to be eligible for participation in the Olympic games a competitor must observe and abide by the rules of the IOC and of his or her international federation as approved by the the IOC. Even if the federation rules are more strict than those of the IOC.

Finally, rule 35, entries were received from—entries for the Olympics are received from national federations by the National Olympic Committee, which will forward them if they are approved by the organizing committee of the games. A competitor must be a member of the organization in his or her country; that is, the NGB, affiliated to the international federation recognized by the International Olympic Committee.

I take your time to read these rules to lay the foundation that national governing bodies are very important in the scheme of international athletics. They are recognized by the International Olympic Committee as being intimately involved in the selection and processing of athletes at a national level to the Olympics.

Similarly, the international federations require certain things of their national governing bodies. The international federations generally recognize the importance of having strong national governing bodies. In some instances, not necessarily in the instance of our international federation, they also suggest or require autonomous national govering bodies. Their interest is to have national governing bodies that, when once approved, in fact can control and be responsible and responsive for their sport in that particular country.

I would point out that the President's Commission on Olympic Sports came up with this same finding and determined that it's important to have vertically integrated national governing bodies and I would point out they must be vertical, they should be integrated, they should be national, and they should be governing.

I would like to point out a rule of the International Swimming Federation for the record. It's our rule GR–2, from the handbook of 1976 of the International Federation. Speaking of national governing bodies for competitive swimming, by the way when I speak of competitive swimming I'm speaking of the four disciplines, that each national governing body is the only authority governing swimming, diving, water polo, and synchronized swimming in their respective countries.

B, that they are the only bodies.

C, that each alone can select competitors from its nation to represent it at the Olympic games or any international meeting.

D, that no member is permitted to delegate its authority nor its powers.

E, that the management of all national or international competitions in this country must be under its control.

I would point out that the federation governing international swimming is one of the more strict international federations which has one of the highest standards of amateurism and the most strict rules, and requires a great deal from its national governing bodies.

One difficulty that we have with this draft, when I say "we" I mean the international body and the national governing body, has with this initial draft of the bill is that it does not address itself to the question of what is the authority of the national governing body.

It addresses itself quite well to the question of what a national governing body should not do in the interference of rights of others. But it does not address itself clearly to where does the authority for a national governing body begin and where does that authority end.

I would submit that one of the main problems for jurisdictional disputes in the United States, disputes between various bodies that would like to be national governing bodies or various bodies which claim conflicting jurisdiction, is that there has never been a definitive statement of where jurisdiction begins and where jurisdiction ends.

Nor has there been any body of law upon which a national governing body or other organization can rely to protect itself or protect the rights that it claims.

The only remedy that a national governing board or other organization has is the remedy to deny a sanction, to deny eligibility, to deny allowing a competitor to compete, or deny allowing an organization to organize a competition. In other words, it is third parties that are hurt.

The national governing body has no right, no legal right, given to it to go directly against the competing organizations. The U.S. Olympic Committee did an excellent job on redrafting its constitution. We have no specific complaints with that at this time.

But the U.S. Olympic Committee did not have the authority to address itself to these questions because the U.S. Olympic Committee charter addresses itself to competition and the steps of—for getting to the Olympic and Pan American games. It cannot create rights and duties on organizations except by saying that if you want to be our member, you must conform to these particular rules.

There are organizations that really don't need to be a member of the USOC or really don't want to be a member of the USOC. They are not bound in any way to the USOC charter. However, a bill passed by the Congress certainly does bind all of us in the United States, and we have a golden opportunity to set to rest the question of where jurisdiction begins and where it ends, and to create in national governing bodies or other organizations the right to go into court and to protect its claimed rights or to assert its claimed rights by direct legal action rather than having to go through the athletes by withholding sanctions or denying competition.

We would suggest that the section concerning authority of national governing bodies, in fact, does not grant any rights, or I should say material rights that our organization does not already have or has by reason of the existing rights that all organizations in the United States have.

In other words, we see nothing at this point in the draft that clearly states, if you are a national governing body, then you are given this right. Nor do we see any protection in this present draft stating that, if you are a national governing body, these rights of yours shall be protected, and no other organization may come in and contest them.

For instance, quite appropriately, the draft states, national governing bodies have the obligation to avoid conflicts in scheduling.

We agree wholeheartedly. It is a good obligation for a national governing body to have. Yet under the authorities there is absolutely no authority whereby a national governing body can resolve irreconcilable or otherwise irreconcilable conflicts in materials scheduling.

Again, we feel that——

Senator STEVENS. Would you have any objections to submitting those to the AAA, the American Arbritration Association?

Mr. HELMICK. No; I would have no objection at all to that. None at all. In fact, I would suggest this, on all of these points. That—set up very strong criteria for national governing bodies: you must do this, this, this, and this to qualify. Set up very strict standards as to conduct. And then allow the national governing body to govern, but whenever there is a question, allow a very prompt and efficient remedy, I would suggest, either with AAA or in court.

The reason I—I would have to say officially that it would make no difference to us. I personally would tend to appreciate the opportunity to go to court because of the remedy of temporary injunction that would be available within a matter of perhaps 24 hours or 48 hours when necessary.

But, no; we have no complaint at all of having our powers tested by judicial or AAA procedure, none whatsoever. But first we must have that power to resolve in this case the conflict, and then if someone is aggrieved by that decision, they can go to AAA. Presently this act does not give the national governing body the power to resolve that particular conflict.

Senator STEVENS. The problem is, as I understand it, that the authorities of national governing bodies primarily tend toward international competition, and colleges and high schools have a fear of that authority overlapping domestic school competition.

Mr. HELMICK. Yes, sir.

Senator STEVENS. This is admittedly one of the areas we have not had the temerity to try to decide in this bill. Maybe we can get to it, but I don't know.

Did you see the USOC's suggestion today along this line?

Mr. HELMICK. On the question of sanctioning 204(d)?

Senator STEVENS. Yes; on page 19 of the bill—to sanction international amateur athletic competition and coordinate domestic amateur athletic competition in its sport in the United States. Did you see their suggestion to us?

Mr. HELMICK. Yes; I have.

Senator STEVENS. Do you prefer that over the bill?

Mr. HELMICK. I prefer that over the bill. In my judgment, it does not go far enough.

May I address the question of the school community, because they do have a very valid concern, and certainly no bill is going to go anywhere that doesn't take into consideration really the common law, as it was put by counsel from USOC—the common law that has been established, that universities, colleges, high schools have a vested right to control without outside interference their own competition.

I might add that is probably in conflict with the swimming international rules. But by concession in the United States, we look to them controlling that particular domestic competition.

I would suggest that very clearly and specifically, competition in the school community be exempted from what I am talking about and the national governing bodies should not have the power to interfere in any way. I think that is a concession we should make because of the tremendous contribution that the high schools and colleges are making, and the status of that competition in the United States today.

Senator STEVENS. Would you allow us to add to that concept athletes rights?

Mr. HELMICK. I would not only allow you to add; in my humble opinion, the athletes' rights section is the single most important thing in this bill because even if you emasculate the national governing bodies to the extent they are in violation of the Olympic rules and federation rules, so long as we, the national governing bodies, know that our athletes have the right to compete without interference by other bodies, then a great deal of our problems are solved because when you get all done with it, the only purpose of the International Olympic Committee, the only purpose of the international federations, the only purpose for the national governing bodies are to foster competition to which athletes can freely come and participate.

So if you grant to the athletes the right to compete unfettered, then, in fact, you have solved a great deal of our problems, and I think that is getting to the heart of the problem.

Now, unfortunately, that is only taking care of it simply; namely, interference of athletes' rights. It is not really getting to the heart of the jurisdictional problem, but it is a solution and it is the most important single factor; namely, the athletes' rights.

Senator STEVENS. Thank you. Very good. We appreciate your comments and would be glad to have any additional statement you would like to submit for the record.

Have you gentlemen decided who should proceed next?

Mr. LIPPMAN. Would you like me to finish the swimming thing?

Senator STEVENS. Mr. Lippman.

Mr. LIPPMAN. You can't hear too much about swimming.

My name is William Lippman. I am from Pacific Palisades, Calif. I am the present chairman of the Competitive Swimming Committee of the Amateur Athletic Union. I am also president of the corporation which has now become a part of that organization, the Competitive Swimming Committee of the AAU, Inc., which we incorporated in May of this year following the USOC changes in structure really, and we were the first committee to do so.

We have since encouraged others to do the same, and we are on our way toward getting the other three aquatic sports incorporated to permit us to form a final small umbrella organization which would take over the FINA franchise in due course.

I will give you a little of my background. I have been in swimming as an administrator unpaid for some 25 years. I have been chairman of trustees of the AAU, chairman of the investment committee. I am a retired stockbroker and I have fortunately had the time and been able to devote it to this, which I enjoy thoroughly, most of the time.

Mr. Helmick stepped on some of my lines. He's said some of the things I intended to bring in here, but I would like to bring these points up. Swimming probably has enjoyed better rapport with the other organizations in its sport than almost any other. Perhaps this is an accident.

But it does remain true that we have had no jurisdictional problems with the NCAA, NIAA, the high schools. The high schools once in a while, since they consist really of about 50 different organizations, we have a few minor differences with them. But on the whole, our rapport, as I say, has been excellent.

We have gotten along fine with them, but we were born into the AAU. And as such we have remained a part of the family, although it's become increasingly aware to us that we could do better if we were on our own, if we did not have to be involved with the problems of 15 or 20 other sports.

And we have been quietly thinking along those lines without being able to do anything about it, and based on this, I would say that insofar as this Senate bill is concerned, that swimming people, and I speak now for competitive swimming only because this is my committee, are neither for nor against the bill. But we accept it as inevitable and we support it because of that. And we intend to go forward with it as far as we can. It is something that we did not push for, but when it came along, we got aboard.

We wanted to have our own thing, and pursue it, and this is the way that we will be able to do so. The progression of autonomy, which has been a much abused word, has been very interesting.

As you know, we just finished an 8-day session in Columbus, Ohio, and the restructuring of the AAU was started on Monday of last week, in which the first phase was, after much discussion, agreed upon.

They are going on with the second phase which will take possibly a couple of years to do. Each federation will have its own problems as to how they can transfer franchises.

But as I say, our incorporation has already been done. We are well down the road. It is simply a question with us of how to deal with a program that has almost 200,000 registered athletes, and possibly half that many volunteer workers, that we can pull out and do our own thing.

We need a great deal of time to work on that, so it is going to take a little while. But I think we will do it before 1980.

My primary purpose in turning around yesterday after being home 12 hours from Columbus and coming back from Los Angeles last night was to speak to the inconsistency that we have found in the bill as concerns the national governing bodies' powers.

I speak now as the head of the national governing body—at least the USOC Olympic Committee thinks we are.

There are several points in there which I will go into very briefly and which I feel should be changed, and I think Bob has touched on them in general. But title I, section 102(a)(3) needs to be changed to reflect that the authority of the USOC Olympic Committee does not extend to the selection of the teams for the Olympic games under our federation control.

We are—after all, our godfather is FINA. If we go wrong, FINA can cut our water off. If we do wrong under USOC rules, USOC can cut our water off by suspending us as a group member. So we are sort of between the rock and the hard place.

I would rather be in order with the FINA rules than I would be USOC Olympic Committee rules, because FINA can be rougher on us than the Olympic Committee, and FINA, under GR8 which Mr. Helmick just read to you, is very clear in that the national governing body which is a member of FINA must have full control.

Now, one of the reasons we haven't had a problem in swimming or someone else wanting to move in and take over our franchise is that we operate from the cradle to the grave. We have programs that go from 4 years of age up to 80 years of age, and nobody wants them all. And you have to take them all to get the FINA franchise. We have to follow the FINA rules.

FINA says that if you run the whole show, then we feel we should run the whole show.

Under two or three of these items in here, the USOC Olympic Committee—also in their new bill of rights legislation under section 5, I believe it was, and in this bill—uses the word that the selection of the Olympic teams shall be under the control of the USOC Olympic Committee.

This is not consistent with autonomy in the sports governing bodies. It is not consistent with certainly our own international governing body rules.

We object strenuously to that and feel that we should be given control of the trials, including the financing, if you will, the revenues therefrom, and we feel that the U.S. Olympic Committee should have no control over the teams that are selected by our national governing body until they have been selected and turned over to them to send overseas and they can handle it from that point on.

There is another point, on page 4—title II, page 4, I am sorry—that was not the proper page number for your extended version here. It is title II, section 203(b)(9). It needs changing to reflect that neither the Congress nor the USOC Olympic Committee have authority to establish eligibility criteria, and that the NGB's certainly can establish a more restrictive eligibility rule or any others if they find this is necessary, feasible, or desirable in their sport in their country.

This was discussed earlier, and I think this can be worked out. The athletes did mention, I believe, in their panel report that they would like to see that nailed down so that everybody follows the same rules, but I do not agree with that at all.

I think that if we find in our sport that we need something tighter than our international rule calls for, we should be—should have that right. They give us that right, our international federation. It is on page 15 of your report. Yes, that was on lines 10 through 12. Is that what you are calling to my attention?

Mr. HELMICK. Yes.

Mr. LIPPMAN. Yes, thank you.

Title II, section 204(d), we have already gone into this. Again, there must be a requirement in this section somewhere that the sanction applicant rules are complied with.

This section of the bill provides that we must, as a national governing body, give a sanction to anybody who asks for it providing they promise a lot of things. But when you find that those things don't happen it is all over and it is too late to do anything about it.

I suggested to Mr. Helmick that we should write into the bill that sanction 8, I guess it is—the person who is putting on the competition should fund a representative of the NGB to that competition to make sure that those rules were followed.

He didn't think this would go over, and I agree with him.

But I do think that it should be spelled out some way, that if, in fact, such sanction were issued and those rules are not complied with, that the NGB should have every right to deny them any further ones until they have demonstrated their desirability to so comply.

This is going to make a mess out of things. I would rather have somebody on the grounds to do it at the time. We do it in FINA.

The fourth item I have here is in title II, section 204(e), which also needs revision to conform with the International Federation restrictions on competition with nonrecognized entities, or other competitive regulations that are in our international rules.

I think all sports will find this. We have a rule—it is a sticky one with us and it's gotten us in trouble—about individuals going abroad: to South Africa, we have had to suspend one of our best coaches; to China, we had to suspend a whole bunch of people who were not even registered athletes. They were big, grown people who were going there on their own at their own choice, and because they were—we felt and they thought—free citizens to do as they pleased. But we were forced under the FINA rules to suspend them from their activities.

Now, I believe this should also be recognized in this bill so that the national governing bodies have that right.

Senator STEVENS. What about the China incident? Why did that occur? What compelled suspension of those athletes who went to China? I understand some athletes didn't go because they were fearful of losing their eligibility.

Mr. LIPPMAN. That is correct.

Senator STEVENS. What compels that?

Mr. LIPPMAN. The athletes involved were all over the hill, and as we have said, no longer registered. But the administrators who went—and there were, I think, either two or three who were considered to be officials, if you will, of our national governing body, of swimming—and FINA suspended them and required us to suspend them also on the grounds that they were taking part in demonstrations in clinics under the rule which says the exchange of contestants, administrators, directors, judges, officials, trainers, coaches, et cetera—they left hardly anything out—with nonaffiliated countries is not permissible.

That was the rule under which they were suspended. They eventually went to court and filed suit against the AAU because they couldn't sue FINA, I think, because it is—it was a foreign operated entity at the time, and they won their suit.

Senator STEVENS. But FINA——

Mr. LIPPMAN. By this time, the 90 days had passed anyway, but the gentlemen got the satisfaction of having the thing reversed.

Senator STEVENS. FINA didn't suspend them. You did, didn't you?

Mr. LIPPMAN. Yes; FINA did suspend them, and then we had to suspend them In other words, they direct the national governing body "you must suspend these people." If we had failed to suspend them, the AAU—then FINA would have suspended the AAU.

This was just on the eve of the world championships and we had about $100,000 tied up in a beautiful team that was all ready to go, and there was nothing we could do. We didn't want to get into a foul-up then and have our team denied the right to swim in the world championships.

Senator STEVENS. It leads to the question, I think, of whether a national governing body owes its allegience to an international sports federation, such as, FINA, or to the people it represents.

Mr. LIPPMAN. That's a good question.

Senator STEVENS. It is one of the most perplexing problems that we have. I think we need to explore it.

How many of those countries who are members of FINA get our foreign aid, for instance?

Mr. LIPPMAN. That is a good question, too.

Senator STEVENS. You think it is facetious. When the Koreans started coming into our waters and fishing for our salmon we passed an amendment on the next day to cut off foreign aid. The Korean fishermen went out of our waters that afternoon.

There came a point in time when the United States decided to bridge the gap between itself and the People's Republic of China. The people who went across that bridge first were competitors. They were athletes. And they have helped us in terms of our national policy.

What you are saying is that FINA, because of its rules, has a way to prevent the United States from conducting its foreign policy through the friendship that can be gained by our athletes. I can't accept that as being final; that the United States is in such a box.

If it is, we——

Mr. LIPPMAN. You understand, Senator, we have to live with them. That is our problem.

You don't like your father's rules, but you are living in his house, he is paying the bills and sending you to school, and you are driving his car. That is the way it is.

Senator STEVENS. It has something to do with some of our reaction to the Panama Canal Treaty. We have been told we have got to do it because if we don't somebody down there is going to get mad.

You know, there ought to be some way the national governing bodies of the United States are strong enough, together, to tell FINA that it must change its rules.

Mr. LIPPMAN. I would love to have them all be in the same box with us and go do it to FINA. But when we——

Senator STEVENS. We ought to have a study made of how many FINA countries get money from the United States.

Mr. LIPPMAN. I don't know. There are 104 FINA countries, so you know there are a lot.

Mr. HELMICK. Can I respond to that?

Mr. LIPPMAN. Please.

Mr. HELMICK. May I respond to that question?

Senator STEVENS. It is one of the most perplexing problems that we have, Mr. Helmick.

I find it difficult to believe that an athlete suddenly finds his or her career shattered because he or she did something in the national interest, such as reestablishing relationships with a country as important to the world as China.

That is what you are saying.

Mr. HELMICK. There is no question about that, that this is not only the most perplexing question for you and us, but the China situation, the Israeli situation, is the most perplexing situation for the international governing body.

I would very respectfully disagree to a certain extent with what was stated by the officials of the United States Olympic Committee because I think there is in fact a movement with respect to Israel.

It is overt and insidious, but it is occurring. It is occurring through the international federations rather than the Olympic Committee.

It is the other side of the coin that you are discussing with respect to Red China.

The situation with Red China is that they are not a member of FINA.

At the time—this gets beyond my term of office in the FINA and I am not attempting to justify, but I would like to explain the facts.

Red—I am sorry. Mainland China was admitted into the FINA by concession at the time of the Asian Continental Games in Teheran in 1974 or 1975, as a concession. Because they were all there and they allowed—we allowed them to compete.

When they returned back to their country, they then wrote a letter, a rather scathing letter, rejecting membership, saying that we were a political organization, that FINA was a political organization because we refused to expel Taiwan. As a result, they were not a member.

FINA then started to quickly sanction any individual that had any relationship to the People's Republic of China and threatened national governing bodies that if they did not suspend anyone, action would be taken against the national governing body.

Unfortunately, in some cases, the FINA followed through on this threat. In other cases they did not.

In my opinion, they were capricious.

As a result, in 1976, all suspensions were absolved. And full amnesty was granted to all individuals or organizations suspended by the FINA during this period of time.

However, the rule was rewritten very clearly, that until China desires to join this international federation, there can be no relationships between our governing bodies or registered athletes with that particular body.

Senator STEVENS. Does it govern people who are on diplomatic status, too?

Mr. HELMICK. Pardon?

Senator STEVENS. Does that FINA rule attempt to govern people who are on diplomatic status?

Mr. HELMICK. No, sir; it should only be applied to someone who is going over there in the capacity of an exchange of a contestant, an administrator, official, or trainer; in other words, in that capacity.

In fact, we just had a rather high official on FINA that went to mainland China as a tourist with a quasi-diplomatic purpose, and no action was taken whatsoever.

I think that a question comes up with respect to a publicist or journalist. In my opinion it would not be necessary for him to comply with this particular rule. If you went over, however, to give a lecture in swimming, unfortunately this rule, you are in violation of this rule.

The governing body of the United States is very much opposed to this rule.

We feel this should apply only to amateur athletes actively competing and going toward the Olympic Games. Should be the broadest swipe of this rule at all and should not apply to anyone else.

The Swimming Federation of the United States proposed legislation at the Congress at Montreal that was overwhelmingly defeated primarily by the Latin vote and countries which in our opinion do not have substantial numbers of competitors.

Unfortunately, each of the member federations of the FINA has one vote, so the United States has one vote and Guatemala has one vote.

Senator STEVENS. Why don't you get FINA to amend this rule so that it doesn't apply to anyone who has diplomatic status?

Mr. HELMICK. This would be a suggestion we would be delighted to receive from our national governing body.

Senator STEVENS. You do that, then we will pass a law saying that anyone who represents the United States on foreign athletic tours has diplomatic status.

Mr. HELMICK. Now, the other side of the coin, where you take into consideration the problem with South Africa, Rhodesia and Israel, you see the reason for having a strong international federation.

Although it bites us in this respect, it is the one thing that is protecting Israel right now.

In my opinion there is a move presently to have Israel slowly taken out of international federations.

As I mentioned at the outset of my testimony, rule 24 states a country, to have a national Olympic committee, must be in at least five national federations.

Presently there is a controversy in that the Asian continent desires to have Israel expelled from those championships and claims they should become involved with Europe.

If that should happen—that is not going to happen. Europe has stated they will not accept them into their continental championships.

We have received notice from some of our federations that they cannot for security reasons compete in any competitions with Israel.

We have a rule that states that if you are going to hold any continental championship you must open it to all federations within your continent without exceptions.

We have enforced this rule and we state that, therefore, those federations cannot hold any of our continental championships.

As a result, last week we awarded the continental qualifying championship in water polo to Israel.

Probably nobody in Asia will participate in that championship, but that is a step along the route of keeping Israel alive in the sports and keeping sports separate from politics.

I am sorry to go on, but the problem is there is some good reason for strong international federations as well as having strong international federations causing some troubles.

Senator STEVENS. I understand that.

Mr. SHARPLESS. Just to pick up on this line of comment, it was 3 years ago when the International Volleyball Association which was a new professional league for volleyball was in its first season, and being as the bulk of our world class volleyball is located on the west coast, most franchises were in the west coast area. Obviously a lot of the administrative and support talent lies in that area. Many of our amateur personnel were tagged to referee and to be administrators in the international association.

Because it was an International Volleyball Association, professional league and because it was a professional league, the International Volleyball Federation came to us and said if you do not suspend all individuals including performers, then we will suspend you.

We were forced to ask these people to either resign from their position or resign from the USVBA. Since that time, they have toned down their stance and only the professional players are involved. But it's the same kind of stance that was alluded to here by the swimmers. It's not unique to the swimming federation.

Senator STEVENS. I understand that. I certainly didn't mean to imply that these types of problems pertain only to the national governing body for swimming.

Did you have some comments to make about the bill?

Mr. SHARPLESS. Yes; we do. Unfortunately, I was not able to get together with my president until Sunday, so we too do not have a written statement. But I have made a few notes.

We do appreciate the opportunity to comment, and we feel very supportive of the Olympic Committee stance to the effect that our entire constitution and bylaws and operating code has been changed to conform to the Olympic Committee, and that is now in effect.

And pretty well is consistent with the bill as it is written. So we can say certainly we support the bill and the concept. I feel that many of the comments made, particularly by the USOC and by Mr. Helmick have merit. We certainly would be supportive of them at the first glance. But we would like to study it a little further.

Mr. Peck, who is our president, will be in touch with Colonel Miller and get a copy of our statement in order to react.

Senator STEVENS. It is my intention to mark up this bill informally; maybe have a redraft or what we call a staff working print made. I have found that a successful technique is to get the people who are involved to sit down around the table you're at right now and go over the bill line by line and see if we can eliminate the problems before we get to the floor. Assuming the chairman will agree, we will follow that procedure. He did in one other instance where I handled a bill. I think it worked successfully. So we will be back to you before this bill goes to the full Senate. I can assure you of that.

Mr. SHARPLESS. One of the problems that we have that I guess is again not unique but with all amateur organizations is the dollar

and the money support is very critical to our continued program. Our association is a one-sport association, and we have been running a deficit budget for the last 4 years. One of the reasons for this is we have made an effort to establish two national training centers, one for women and one for men.

The women's program has been in effect now for 3 years in Pasadena, Tex. And the men's program just started this past year in Dayton, Ohio. This has been a pretty big drain on our budget. Fortunately, we have support from Wright State University in Ohio and the city of Pasadena, Tex., to help defray some of these expenses, but it's quite evident that these programs are going to be helpful to the sport and at the recent competitions in Bulgaria our teams did better than they have for a number of years.

We are hopeful that the national training centers referred to in the bill would include those designated by the national governing body also as one of these designated by the USOC.

Comment was made earlier today about the international criteria for eligibility, and although it may be more stringent as it said, it's loosely interpreted.

I think we all know that State-supported athletes are very tough to compete against. Particularly in volleyball we know for a fact that they are not employed and this is what we have to go up against each time we enter into competition.

Another factor that may be addressed already, I'm not aware of, but certainly I think time off the job, certainly provisions have already been provided but perhaps some provisions could be written in where a corporation could be compensated for the salary of an athlete who is not on the job and this athlete can maintain his way of life without being penalized either by loss of job when they come back from the competition or by loss of salary, particularly where families are involved.

One suggestion we have as far as funding is concerned, and again maybe this has been addressed and we are not aware of it, is with all the millions of dollars literally spent on sporting goods, is there some way to divert a special tax from sporting goods sales into the use of the international athletic program, into the development of domestic athletics?

Senator STEVENS. We're exploring that. Archery came in and asked us to impose such a tax. We did impose a tax on all archery products with the revenues earmarked for the sport of archery. We are exploring that from the point of view of creating an amateur athletic fund. It will be some time before that will be possible, however.

Until we get these organizational problems out of the way we cannot get to the funding. We have assurance from Senator Long that the Finance Committee would give serious consideration to the tax suggestions we made in the Commission's report, but it has all been conditioned upon being certain that the organizational problems are settled.

Mr. SHARPLESS. Another suggestion that we have that may merit some discussion, and that is the possibility of directing some Federal funds to specify park and recreation agencies on the State, county, and local level, which facilities could be managed by the Department of Recreation departments as long as it was assured that an Olympic

development-type program could be conducted in these facilities in conjunction with the USOC and their various national governing bodies.

I think this is really a sleeping giant that has only been explored by some sports. We already have resource people there. It's just a matter of having someone who can put it in their jurisdiction and manage these things on a day-to-day basis.

Since they are Government agencies as such there is some monitoring process that could be available. And the last thing that I have is that we have in several of our domestic tours worked with the State Department. Every time we do they give us excellent support to the extent possible, but once again, they don't have much funding available.

If there is some way the funds could be diverted into their program I think that could be of great assistance to all the sports and once again being a Federal agency it could be monitored.

Senator STEVENS. Those are all good suggestions.

When we conducted the hearings on the President's Commission on Olympic Sports we heard many suggestions along these lines.

We intend to pursue them once we get the organizational problems resolved.

Mr. Fricker, do you have comments to make?

Mr. FRICKER. Yes. I think there are several points in this statement. It's short; I would like to read if I may.

Senator STEVENS. Please do. We are not short of time.

Mr. FRICKER. Thank you, Mr. Chairman. We are most pleased to have been invited to testify and trust my remarks will be of help as you consider the proposed legislation before you.

The U.S. Soccer Federation is a voluntary nonprofit organization, incorporated under the laws of the State of New York since 1913. Our role and purpose in being as the national governing body for the sport of soccer-football is to promote and supervise the sport at all levels. This charge is handed down to us by the world governing body, Federation of International Football Associations (FIFA), domicled in Zurich, Switzerland. We are a member of the FIFA along with some other 155 national associations.

The world structure for the sport is divided further into six confederations, consisting of Asia, Africa, Oceania, Europe, South America, and CONCACAF, the latter in which we are a member. CONCACAF is comprised of 21 nations in North America, Central America, and the Carribean. It is through this structure that all countries in membership participate in and formulate world policy for the conduct of the sport.

Being recognized as the national governing body by the FIFA places much responsibility on the federation and of this we are most cognizant. The Olympic Committee over past Olympiads has recognized our role and has delegated to us the responsibility for the selection, training, and participation of our Pan American and Olympic teams in these respective competitions. For your information, I point out to you that these competitions are only one facet of the many programs the federation conducts throughout the year.

We conduct accredited coaching and official courses, State, regional and national championships for youth players in varying age cate-

gories from age 12 to 19. We select, train, and maintain a national select team for players to 19 years of age and participate in many international tournaments, including a youth world cup competition cosponsored by the FIFA and the Coca-Cola Co. A new interest in the game has been generated by young girls and this interest with the activity forecast promises to parallel that of our existing program.

Similar amateur competitions are conducted for senior players above age 19, from which evolves a national amateur champion, having survived State and regional qualifications. The same type competition is also conducted for senior professional players, competing for the national professional championship. We assist our two professional leagues in liaison with other national associations in player transfers and individuals club exchanges both here and abroad.

In any given year, hundreds of clubs travel both to and from our country; and in all of these exchanges, the federation clears a multitude of administrative procedures to insure that meaningful exchanges take place without problems. This past weekend we have just concluded a five-game series of matches across the country with the People's Republic of China, and next year we will be invited to visit their country.

Senator STEVENS. How can you get by with that and other people can't?

Mr. FRICKER. State Department has something to do with it.

Senator STEVENS. I see. All right.

Mr. FRICKER. In November our national team under 18 will compete in Monaco with seven European countries in a long standing and established tournament, and this is the first time a non-European team has been invited to participate.

The U.S. Soccer Federation is comprised of some 45 affiliates. Basically groups of teams within a State form clubs, which in turn form leagues. Such clubs and leagues then organize the State association, which becomes eligible as a voting member of the federation. The two professional leagues, the North American Soccer League and the American Soccer League, likewise are voting members of the federation.

In addition to the State associations as members, of which there are currently 42, our other organizations are involved in promotion of the game. These include the National Soccer Coaches Association of America, the Intercollegiate Soccer Officials Association of America, and the National Federation of High Schools. The elected delegates of these affiliates meet annually to consider constitutional changes, review the trusteeship of the federation, and formulate policies for the continuation of the growth of the game.

Elected at the annual general meetings is a board of directors, responsible for the conduct of the federation's affairs between annual meetings. This board consists of a president, four administrative vice presidents, a vice president responsible for our youth program, a vice president appointed for the professional end of the game, a treasurer, the immediate past president, and two Olympic athlete representatives.

The federation is headquartered in New York City, in the Empire State Building, and is staffed by a general secretary, four full-time individuals, three regular part-time persons, and an accounting

consultant. An international marketing firm, West Nally, is handling the newly created marketing function for the federation. A full-time salaried director of coaching and national coach complete the staff.

In our role as the national governing body and in accepting the additional charge from the U.S. Olympic Committee, we are held accountable for the formulation of policy and implementation of programs and competitions to promote and enhance the game both here and abroad. The key to much of this participation is international competitions in various age and classification categories.

In the successful conduct of such programs it is incumbent upon the federation to insure that each and every qualified candidate has the opportunity to be evaluated for his potential to represent his country. In this respect, I am happy to say we have had no difficulty over the years in assuring candidates representing State association affiliates, Armed Forces, and the educational institutions. All of them have cooperated wholeheartedly, for which we are deeply indebted.

While we have enjoyed a meaningful relationship with those we represent and have not encountered administrative and jurisdictional problems like other sports, there are needs we feel must be addressed. Due to the explosion of the game throughout the entire country, our needs fall into two categories primarily. One is the inability to generate adequate funds for both domestic and international travel. In order to bring the game to the standards of the highly developed countries, it is necessary for our young people to compete. Air travel is the biggest item to defray.

The other problem is the lack of adequate playing facilities designed for the game. Attempting to play international matches on converted baseball diamonds or football fields is just not conducive to a program involving foreign teams. We have the basics necessary to scout, select, and train our young athletes, but the main drawback is to get them together often enough and for a long enough period of time and train them as a unit to represent the United States.

Training centers already operative and those planned by the USOC are a godsend and will be most helpful in our future programs. However, unless we get athletes to the site, our program cannot be as successful as it might be. In our thinking, we visualize the benefits that can accrue to amateur sports if a meaningful partnership can be formed between the public and private sectors. If the Government can be instrumental in providing incentives for the private sectors to construct the required physical plant facilities and assist in high-cost areas such as travel, much can be accomplished. The private sector of hundreds of thousands of volunteers at the grassroots level would be given the added encouragement to do a job that could best be accomplished jointly rather than attempting it on their own.

Setting of standards and guidelines with a review procedure of accountability is a function that can be served by the public sector. Assistance in areas where individual sports are in need can also be augmented through the public sector. The actual administrative and competitive conduct of the sport, however, should be left to the private sector because of the ultimate knowledge and experience already possessed and the vast resources of voluntary personnel available at their disposal.

We are in complete agreement with the newly constructed and adopted constitution of the U.S. Olympic Committee in action taken recently in Colorado Springs. The athletes' bill of rights contained in this document has corrected the concern expressed by them and will provide continual valuable input to the Olympic Committee in its work with the national governing bodies.

While active participation in sports can and should be an integral part of the total development of our young citizens, we recognize the overriding priority of the individual's education. This must take precedence, and in this our federation is most cognizant and is, therefore, in agreement with the athletes' bill of rights and that portion of it which relates to reasonable academic standard requirements.

In closing, I would be remiss if I did not acknowledge the total support and encouragement the U.S. Olympic Committee has historically given our federation in our role in soccer in the Pan American and Olympic games. Without it we would not have been able to participate, nor would this sport have gained the newfound interest and acceptance it is currently enjoying today.

On behalf of the federation, I want to thank you for your kindness and our need to present our federation's thoughts on our sport and how we might improve our overall effectiveness through the U.S. Olympic Committee.

I will attempt to answer any questions you may have at this time. If I may make two short comments.

I do agree with Mr. Helmick on the position of a strong national governing body, even though we have not encountered the type of problems with the international governing body that we have. I also feel personally that the athletes' bill of rights is highly overdue, and I also feel that there are some additional rights that should be granted to the athletes.

I basically feel that, having been an athlete most of my life, we have to recognize also that there are millions of boys and girls currently playing in a variety of sports, especially our sport—soccer. Before you get to high school and college, there is a tremendous need for a strong club system to develop at least during that period; also to be available for the athletes after they come out of continuous competition to continue on, to stay involved, to continue to maintain good physical fitness for themselves; also to build a stronger base for the sport and, through that, for the young athlete because that is really what it's all about.

Thank you.

Senator STEVENS. Thank you very much.

The bill provides $10 million for training centers and $10 million for administrative support for the national governing bodies. Has it been discussed as to how this would be handled and in what way we could best assure that national governing bodies will receive proper administrative support from the USOC? Have your groups discussed that?

Mr. LIPPMAN. Yes and no. The national governing bodies, at least mine, have not been offered any possible funds.

Senator STEVENS. The bill provides for support but we haven't got the money yet.

Has it been discussed within your organization how that might be handled? Is any legislative treatment required further than what is in the bill?

Mr. LIPPMAN. Not specifically in my committee, no. Perhaps Bob knows something.

Mr. HELMICK. Our attitude is that no additional legislative requirements are needed. Our discussions have been aimed at the guidelines that the USOC should adopt as to the distribution of the funds and the type of administrative support.

There is a feeling that the USOC should not capture the national governing bodies and I think that is also the attitude of the USOC, but should be supportive of their autonomy.

Senator STEVENS. Do you gentlemen, Mr. Sharpless, Mr. Fricker, have any comment about that subject?

Mr. SHARPLESS. The only concern we have, and as I say, we just received the bill Sunday, so we haven't had a chance to dissuss it with our board. I refer to this conversation between myself and our president, but that this would, in fact, assist those national training centers which are the product of each governing body as opposed to a national training center which may be the product of USOC—and include both of them.

We were hopeful this did include that. If it does include both types of national training centers, then that would be sufficient.

Senator STEVENS. Thank you.

Mr. FRICKER. The answer is that we have not had discussions on this subject. However, I know discussions did take place with our USOC board with regard to this question.

Senator STEVENS. When an athlete travels abroad to compete in an international contest, do your organizations issue a travel permit to that athlete in advance of his travel?

Mr. LIPPMAN. Yes, sir.

Senator STEVENS. Can an athlete who wants to enter competition on his own compete if he doesn't have a travel permit?

Mr. LIPPMAN. The other members of the international federation, FINA, are under the same rules we are. That a noncitizen who comes in and wishes to compete must have permission from his federation or his national governing body, addressed to us which says that they have granted him permission to compete in this country, and we accept that prima facie. If we have a swimmer, for example, who wants to go to Europe and spend the summer and while he's over there lying around, he wants to enter various meets, we give him a blanket letter which he justs shows each federation, when he gets into Sweden, Germany, and so forth. They will accept that, but they must have it and we must have it from outside of the country, too.

Senator STEVENS. Is it the same with your organizations, gentlemen?

Mr. SHARPLESS. We only have sanctioned activity between November 1 and June 30 so we are only concerned at that point of the year. When a player does not, in fact, represent the United States nor does he or she represent a club team sanctioned by the association, we feel we have no jurisdiction over the athlete and he or she may participate where or with whom they please.

Mr. FRICKER. Our players do not need permission. It is the team that needs permission to play in another country. They will not be entered into competition in another country even in a friendly match unless the team has permission to participate.

Senator STEVENS. Did you have to have approval from the International Soccer Federation before you could play the Chinese?

Mr. FRICKER. Yes.

Senator STEVENS. Did you obtain it?

Mr. FRICKER. Yes. The People's Republic of China is on a tour; they are also playing a series of five games in Jamaica, five in Mexico, and I believe a series of others even though they are presently not a part of the World Soccer Organization.

Senator STEVENS. You would then have to have approval to send your teams over next year to China?

Mr. FRICKER. Yes, we will. We have reason to believe that that will be granted.

Mr. LIPPMAN. Senator.

Senator STEVENS. Yes.

Mr. LIPPMAN. I would read the rule we have which we have found to be a very workable one. A swimmer competing at a registered meeting in a foreign country shall be a member of an affiliated national governing body or of a club affiliated thereto. He shall observe and be bound by the rules of the association under whose jurisdiction the meeting takes place.

In other words, we say he can compete over there, but the minute he's there and competes, he's under their rules; he does exactly what they tell him to do. If he doesn't, they have the right to throw him out.

Senator STEVENS. Well, gentlemen, one last series of questions pertaining to our section 204(d) and 205(f). They deal with the sanctioning of athletic contests. I don't know if you have had an opportunity to look at these sections, but could you tell us just generally how sanctioning works in your sport. Do you have specific criteria that must be met before you sanction a meet? Do you charge a sanctioning fee?

It's been suggested that the need for a sanctioning requirement is to protect athletes from unscrupulous promoters. We would like to know if you agree with that.

Have you had an opportunity to look at these sections yet?

Mr. LIPPMAN. Yes, sir.

Senator STEVENS. Could you tell me how this works in your sport? Do you feel that these provisions are sound? Should we change them?

Mr. LIPPMAN. I believe I commented earlier, Senator, on the, I think it was 204, I have forgotten which number it was, in which you must issue a sanction provided the person who asks for the sanction or entity agrees that all these things should be done, and they are all in there.

The list is complete as near as I could see. The only problem is one of keeping track of it.

Senator STEVENS. Do you charge a sanctioning fee?

Mr. LIPPMAN. Yes, sir.

Senator STEVENS. How much is it?

Mr. LIPPMAN. It varies depending on the competition. If it is small, local competition, it is very low. I couldn't go into details on it because I am not—I don't work at that level. But we sanction all of our events through the local associations, of which there are 58.

Senator STEVENS. Is it a percentage of the take of the gate?

Mr. LIPPMAN. Very rarely. Once in a while we have a negotiated meet, a big one, why, there is a gate problem. In our national championships of which we have four in swimming each year, two junior, two senior, we negotiate those.

We have not in many, many years asked for any part of the money. We, in effect, sell the right to run the meet to the sponsor for $1,000. It is a flat fee and he doesn't have to present a budget or anything. If he can make money on the meet, it's his. And bless him and we want them to make money because they will come back and do it again.

So we really exercise no control over them. We do like to get a financial statement. That is part of our contract from them after it is all over so we can keep comparing, and we need that for tax purposes, too.

But the sanction, you could call it a sanction fee, yes, it is $1,000 for our national championships, But for some civic association around Los Angeles, we have some 50, 60 meets a year, maybe more, maybe up to 100 sometimes; $10 sanction fee.

Senator STEVENS. How about volleyball?

Mr. SHARPLESS. In volleyball, we are only concerned with what we call open competition, which, in your words, is unrestrictive. As a governing body we are only concerned with that open competition,

Any member group of the association may conduct competition, but in our terms that is closed competition and we do not exercise any sanction privilege. That is within the rights of each member organization.

On that basis we only operate at two levels, the national championship per se and local competition, which may be intersectional or local.

In that case, the national championships are conducted by the organization, so therefore no sanction fee is imposed, obviously. And in the local it is pretty much up to the local bodies whether or not they do wish to have the sanction fee.

Normally it is very nominal, in most cases a dollar per team entered, and will vary with the number of teams in the competition.

Senator STEVENS. Does soccer do the same thing?

Mr. FRICKER. Basically we only get involved in international competition. Most of the local competitions, permission is granted by local State associations and there are no fees involved, to the best of my knowledge.

On the international level, all games need permission from both respective national federations or associations.

Where there are two national teams involved, we have had problems years ago where promoters would bring two foreign teams to the United States to stage a game, then run away with all the dollars without even paying Uncle Sam.

We have imposed a 10-percent gross gate tax which goes to the soccer federation where there are two foreign teams involved. The reason we have done that is not to gouge them but to discourage it,

because under the antitrust laws we really can't bar anybody from staging competition so we have problems there.

As far as—and we are encouraging on those types of games where there is at least one U.S. team involved, preferably a national team of a certain group, even if they are club teams, there is a 5-percent tax which is divided equally, 2½ percent to the respective State association and the other 2½ percent to the national federation.

The same thing applies on amateur games and professional games.

Senator STEVENS. Thank you very much.

Mr. Helmick, did you have a comment on that?

Mr. HELMICK. Yes, on the matter of the amendment to 204(d). We are bothered by that and have discussed this with USOC.

We feel here is an excellent opportunity to bring in integration to the national governing body and suggest an international competition should be sanctioned only for a member, an affiliate to a national governing body.

I appreciate what you said about unscrupulous meet proprietors with respect to athletes. I am not sure that is important. I am not sure that is the whole story. I think the athletes can pretty well take care of themselves generally, from the athletes I've seen.

We are concerned particularly about international events whereby a bad experience or financially bad experience—an international team comes over, they are not properly taken care of—reflects upon our whole international exchange.

We feel it is quite fair—in fact, it is demanded by the international rules, but it is also a reasonable rule, that to host and conduct an international meet you should be affiliated with a national governing body so long as this law requires that the membership is easily obtained and open.

So we feel that this particular section should state that international events can be sanctioned for members that are affiliated.

We feel also that it should extend to open unrestricted domestic competition whether you are a member or not, but the sanction provision should apply to that area of competition also.

In my written report—I have the redraft here. We also feel that there should be the reasonableness test put in here.

Mr. Lippman presented the problem about when somebody holds a meet—he receives a sanction, holds a meet and then intentionally does not comply with the rules, then the next week he's right back in seeking another sanction again.

There should be some reasonableness where it is reasonable to appear that this particular promoter is not going to comply with your rules and why should you be forced to give him another sanction.

Mr. SHARPLESS. In all international competition on domestic tours this does require sanction by the governing body, particularly if they are hosted by a member organization.

For the most part, I think the NCAA has been involved with this. Normally there is no fee involved, but it is a negotiable item.

Mr. LIPPMAN. Senator?

Senator STEVENS. Yes, sir.

Mr. LIPPMAN. There was one, you mentioned 205(f) in which there has been a—I think this came from the Olympic Committee—a suggested change to make it read "to sanction international amateur

athletic competition and to coordinate domestic amateur athletic competition in the sport in the United States."

I find the word "coordinate" is extremely weak, because you know and I know that coordination is something you try to do but seldom happens. I think it should be stronger.

I think that if the national governing body in fact has the right to sanction domestic and international competition, they should have more authority than just to coordinate it, because you can say, "We are going to try to do this," and the other guy says, "The hell with you, I am going to do it when I want to."

Now all you can do is deny him a sanction the next time. In the meantime he's destroyed perhaps a national championship or something of that nature. I don't know whether the word "control" or I don't know what could be put in there. But you understand what I am saying.

Senator STEVENS. You understand why it is coordinate, too, I hope.

I understand your comment. We will seek to find a word that might achieve more specifically what we mean without offending those that are already offended by the suggestion.

Mr. LIPPMAN. Sometimes, you know, you run out of top athletes and there have been times in the past—not so much nowadays—when in sports we would find a top athlete—a league world class athlete had a chance to go abroad the week we were having our national championships. We tried to keep them home. There wasn't any way we could do it.

Sometimes our national championships suffered severely because of that. We never did put any rules in because the athlete came first, and we wanted him to. But it made it a little rough. We would hate to have somebody putting on another meet the same weekend.

Senator STEVENS. Thank you very much, gentlemen.

[The following information was subsequently received for the record:]

AMATEUR ATHLETIC UNION,
Indianapolis, Ind., October 21, 1977.

Senator TED STEVENS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: Thank you for the opportunity to speak before your panel hearing on October 18, 1977 relative to the Senate Bill S. 2036. As was requested, this is my written report.

As the national governing body for the sport of Swimming we are the largest of the Amateur Athletic Union's group of Olympic sports with nearly 200,000 registered athletes. As such, and having been a member of that family for many, many years, we have mixed feelings about the impending separation which is inevitable. However, from a selfish point of view we must consider that we have grown to a point where we can and should manage ourselves completely, without sharing either our financial resources or our time and effort with other sports in which we have little interest. We therefore support Senate Bill S.2036, but in so doing must ask that certain amendments be made in it first.

For the record, we must make it clear that our first fealty is to the international federation (FINA) which grants the authority to the national governing body in each member nation to control domestic and international competition in our sport. FINA Rule GR2 states that "each (affiliated country member-organization) is the only authority governing swimming, diving, water polo and synchronized swimming in their respective countries" and further, "That they are the only bodies competent to regulate international relations therein.—That each alone can select competitors from its nation to represent it at Olympic Games or

other inter-nations meetings—That no member is permitted to delegate its authority nor any of its powers—That the management of all national or international competitions in its country must be under its control."

The foregoing would appear to be conclusive and final. The Competitive Swimming Committee of the A.A.U., the current national governing body for Swimming, is bound by these statutes.

We recognize, of course, that should the Congress enact legislation that becomes law, we would have to comply as United States citizens. Yet, it would place us in an extremely difficult position should such statutes require that the national governing bodies operate in any manner other than those under which its authority has been granted by its international federation.

The U.S. Olympic Committee, in its own legislative activities, and under the original terms of S–2036, would also be placed in a position of usurping authorities from the NGBs which cannot be so removed.

We are sure that these inconsistencies are the result of an incomplete understanding of the priority of allegiance to the international federations by an NGB. As stated in the panel hearing, the NGB may not necessarily agree with the findings and actions of its federation but it must comply with them. Appeal process is available and often used. The NGB has the right to move to have rules changed, with which it does not agree, and this is done from time to time. But we are in a complex world, made up of many ideologies, distinctions, backgrounds, and beliefs—as well as politics. FINA has over 100 member-nations. It is not easy to change its laws.

May we then respectfully request that the following adjustments to S. 2036 be made before it is presented to the Senate for consideration:

(A) Title I, Section 102(a)(3) must have deleted the power of the corporation (USOC) to "select . . . the representation of the U.S. in the competitions and events of the Olympic . . . and Pan-American Games . . . and to appoint . . . other governing bodies in connection with such representations." (This authority of team selection is held by us under the FINA rule quoted above. Also, no other governing body could share it with us.)

(B) Title II, Section 203(b)(9) must be changed to reflect that only the NGB can establish eligibility criteria, and that it can be more restrictive than its own federation requires if that is necessary.

(C) Title II, Section 204(d) is far too lenient with respect to the granting of sanctions, and provides no means to ensure that the following requirements will be met, before it is too late to act.

(D) Title II, Section 204(e) does not indicate that there must also be conformity with existing international regulations concerning competition with non-recognized entities, and this must be included.

There are, in addition to the above, a number of minor changes which have been recommended to you by the USOC and others with which we agree, and we will not repeat them here.

Thank you again for permitting us to respond to your Bill.

Sincerely,

WILLIAM A. LIPPMAN, Jr.,
Chairman, Competitive Swimming Committee (AAU).

Senator STEVENS. I want to note that I see Monty Hoyt who was a staff member of the President's Commission on Olympic Sports. Happy to have you here, Monty.

We have one last witness, Mr. Leroy Walker. Who are you accompanied by?

STATEMENT OF LEROY WALKER, PRESIDENT, ALLIANCE FOR HEALTH, PHYSICAL EDUCATION AND RECREATION, WASHINGTON, D.C.; ACCOMPANIED BY GEORGE F. ANDERSON, EXECUTIVE DIRECTOR

Mr. WALKER. Dr. George Anderson, executive director.

Senator STEVENS. I thank you for your patience, Mr. Walker and Dr. Anderson. We will be happy to hear from you.

Mr. WALKER. Thank you very much, Senator.

Dr. Anderson and I are both here because of the alliance commitment to the emerging athlete and the sports at all levels of development. I personally have been involved with Olympics as a coach for 20 years and I represent the alliance on the U.S. Olympic Committee.

Senator STEVENS. We note you were the coach at the 1976 games at Montreal.

Mr. WALKER. Head coach of track and field.

Senate STEVENS. Yes.

Mr. WALKER. Senator, as you can well imagine, nearly all of the points that we wished to raise have probably been discussed either directly or alluded to by the previous presenters and I apologize for some of the repetition and will attempt to keep it at a minimum, but I think——

Senator STEVENS. Don't worry about it; we will print your statement in full in the record. You treat it as you wish right now.

Mr. WALKER. Thank you.

While no organization can express the viewpoint of all its individual members, the elected leadership of the alliance has always supported the position that sports and athletics as included in our high schools, nearly 10,000 such schools; and our colleges, probably 1,500 to 2,000 of them, are an integral part of the educational program, and the organization and administration of these activities must have as a primary objective the education and development of the individual.

Since our first concern is for the individual athlete involved in all levels of competition, we are in general favor of S. 2036. We believe it accomplishes some of the things we have sought. While we would rather have the controversial issues of athletics and sports settled by mutual agreement of the involved groups, the historical evidence reveals that the confrontations between some of the amateur sports bodies and the flagrant disregard for the rights of athletes in several instances, combine to make some form of legislation absolutely necessary.

In most cases of controversy, the participating athletes are the ones penalized by the restrictive measures applied by the controlling bodies. For this reason, we accept the best solution to the problem, Federal legislation that will protect the rights of individuals to make choices about their participation in sports and athletic competition.

When we testified before the President's Commission on Olympic Sports, we clearly stated our position on these matters. Our testimony was supportive of the U.S. Olympics Committee revising its charter through legislation and revising its structure and organization through internal action to broaden its powers and responsibilities for all international competition. We also recommended the settling of disputes through the American Arbitration Association and proposed the establishment of a bill of rights for athletes. All of these recommendations are expanded and reinforced by the sections of this bill.

While we can support this bill with some minor changes which are outlined later in this testimony, some of which we will not go into because it has been said so often, we believe it does not go far enough in supporting sports for all Americans.

This country has a great need for a broad, far-reaching sport development program that will contribute to the personal welfare of the entire population, and will form the basis for further development of individuals with special abilities as world class athletes to represent

our country in international competition. We need support of our existing physical education and sport programs throughout our educational systems so that sport participation becomes part of the American way of life. Some other countries of the world are already far ahead of America in this regard, as is already in evidence in international competition.

Our latest confrontation with this was the world cup in Dusseldorf. As we review the success of the East Germans, they will quickly tell you that for every Ender, the great German swimmer, they have taken thousands through their sports program. The Soviet Union will say the same to you about Yashcenko. They have recently announced that they have hired 175 coaches to be involved in development of their youth sports program.

Another area not fully clarified, at least in our opinion, in the present language of the bill is research and dissemination of research findings. Our country has used research and technology to become the leading industrial nation of the world. As I just said, East Germany and the Soviet Union are using research in sports medicine to become world leaders in sport competition.

Sports history reveals that the United States has not fully utilized its resources in the area of research. We are indeed glad to see some of this being taken care of by our national training centers.

But putting research findings into practice would contribute to improved performances by our athletes. In instances where the research potential in sports medicine—including research in biomechanics, physiology of exercise, nutrition, et cetera—has been positively exploited, there has been a woeful lack of coordination in the efforts to bring the researcher and practitioners closer together.

One important need for assistance to the practitioner is a system of dissemination of research findings put into a form that can be easily understood and assimilated by the practitioner who will use the information. Existing dissemination procedures tend to circulate research information among the research community, whose interest is theoretical.

In the total sports effort, there has been an obvious deficiency in the arrangement which has placed the responsibility for the development of athletes and the operation of competitive sports in the hands of the national governing bodies for 3 years of the quadrennial, then transferred that responsibility to the U.S. Olympic Committee during the fourth year of the quadrennial of the administration of the Pan American and Olympic games.

This procedure has led to some very unfortunate fragmentations and ineffective operations which reduced the efficiency of our national and international programs.

We strongly favor legislation which addresses itself to some of the existing problems and to the avowed concern of the U.S. Olympic Committee that the national governing body be responsible for the sports program during the entire quadrennial.

In our opinion, as a general approach to resolving some of the major problems, S. 2036 provides an excellent start in the right direction. A review of the purposes outlined in the bill is proof of this appropriate direction.

However, I would like to briefly indicate some of the concerns that AAHPER has, and probably my own personal feelings are strength-

ened by the other hats I wear as a member of the executive board of the U.S. Collegiate Sports Council, in the AAU, in the NCAA, and NAIA.

The broad purposes are consistent, I think with the new constitution bylaws and general rules of the USOC which were adopted at Colorado Springs in April 1977.

However, the specific language of several articles or sections of S. 2036 will require some amendments to acheive the changes which we think are essential. Essential to prevent the bill from contravening some sections.

Revision of U.S. Olympic Committee constitution bylaws and rules was obtained after considerable dialog. In view of the amount of effort, Senator, which has been exerted to get the amateur bodies to agree on some final document such as our existing constitution of the USOC, and to which you recently alluded in your comments, I think it would be a tremendous setback to sports to offer a bill that conflicts with a document on which these leaders have reached an accord.

All of us that are concerned about the welfare of amateur athletics in the United States should be marching to the same drummer. If I may, I would like to cite one or two other concerns. The delegate assembly of the USOC carefully inserted into its descriptive language identifying the purposes, powers, and jurisdiction of the USOC, the words, "arouse, instill, stimulate" and like words for the express purpose of conveying that concept of autonomy which rests with the national governing bodies.

Autonomy was the hallmark of the restructuring process.

S. 2036 seems in some instances to contradict that concept of authority by suggesting that the USOC will direct amateur athletic activity in the United States and shall organize and select representation of the United States in international competition.

The pan-American and Olympic games. This clearly should be, in the opinion of AAHPER, the responsibility of the national governing body with final approved obviously to the IOC resting with the U.S. Olympic Committee. A similar threat to this autonomy of the national governing body may be seen in other sections of the bill that have been discussed. One section includes a statement which indicates that the national governing body's authority to sanction is neither confirmed nor denied. This, to me, will open up Pandora's box and will create more problems than it will tend to eliminate. For example, as mentioned by the previous speaker, often some of our promotions are not in the opinion of many of the amateur bodies, in the best interests of sport to which this bill alludes. There are two amateur bodies today that have regulations which permit a professional in one sport to participate in other sports in which he or she is not a professional. He, I suppose, would be more appropriate because I don't think that rule obtains with AIAW, to participate in other sports in which the individual is not a professional.

Now, this would definitely put all of that particular governing body in serious jeopardy with the international federations and the IOC, which clearly does not permit a professional in any form to participate in amateur sport.

One of the most difficult points of discussion in the delegate assembly of the USOC was the right of challenge to the franchise holder. After long and very emotional debate, all parties finally

agreed that the franchise holder should in the face of a challenge, have the opportunity to correct his insufficiencies.

There is a section in S. 2036, by giving the authority of the corporation the right to lift a franchise without providing an opportunity to the governing body to bring its house in order, simply seems to me to clearly contravene that particular procedure of which general accord has been reached.

Again I refer to your remarks, Senator, that after so long an attempt to get the amateur bodies to begin dialog on some of these matters, and to reach some accords, that this particular point, if remaining in the legislation, would certainly seem to me an opportunity to put them at odds again.

Senator STEVENS. Let me interrupt you there, Mr. Walker.

You know some of those changes were made after the bill was introduced. And we have every intention of reviewing this bill and comparing it to what the USOC has done. But you are correct in your remarks. We weren't clairvoyant. We didn't know it was going to be done, that's all.

Mr. WALKER. We are certainly pleased to hear that because we think that would seriously enhance, I think, the possibilities of the bill being accepted by all and some phases of it not to suffer because of benign neglect.

I think finally the definition of amateurism that has been referred to by Mr. Helmick and Mr. Lippman again gives me some concern because of the statement I just made about two organizations permitting professionals to compete. I think that the power given to the national body, at least in my interpretation to the national body, should be broadened so that the international federation must have significant input to any definition of an amateur code.

I think too, in addition to the training centers and the points specifically alluded to in the bill with regard to funding, so many of the items mentioned today will require funding at a very high level, and I think AAHPER wishes to go on record as applauding the efforts of the sponsors of this bill and also your wisdom that this may not be the time to introduce any high level funding, and to assure you that most of the people that I have heard arguing against Government interference in any funding comes from the Federal segment, argue or seem to be arguing more against accountability for funds than they are arguing against Federal funding.

I for one seem to believe as I have heard some of the Senators say, that you have enough problems already, not to have to get into the business of trying to run sports and although funded by the Federal Government. I also believe that the actual operation should be left to the Olympic Committee and national governing bodies.

AAHPER applauds your efforts and, again, would like to indicate our general approval.

But we think that it is important to at least raise the concerns that I have mentioned and we, because of our great concern, wish to express our appreciation for the opportunity to present this testimony and also to put it on record that we are generally in very strong favor of the bill as it has been introduced with the amended changes that we have recommended.

Senator STEVENS. Thank you very much.

Dr. Anderson, do you have any comments to make?

Dr. ANDERSON. I have nothing to add at this time, but would be glad to respond to any questions you may have.

Senator STEVENS. You have indicated that this bill doesn't go far enough, and I think that is a proper comment. We feel it is the first step. But what would you do beyond what you have mentioned? What suggestions do you have for getting the Federal Government involved in supporting sports for all America?

Mr. WALKER. For many years we have listened to the arguments, and I have even heard some of our athletes during the Olympic games when they hear the announcements on television, "Please support your Olympic teams; otherwise we won't be able to be represented." Many have resented that, if only by the implication that they would not go if funds weren't raised. We have never doubted that.

We always felt the Olympic Committee has always generated and will continue to generate sufficient funds to support our Olympic teams.

Our concern is that some seem to suggest that Federal support would put us in violation of the IOC rule. I think the IOC rule and maybe Bob Kane or Don Miller should be speaking to this, clearly separates the support phase from operations phase. Because although if this were true, that would hardly be a legitimate country functioning in the Olympic games because so many of them receive support from the Federal Government.

I think, as we talk about broadening our training centers, as we talk about broadening our support for athletes, as we talk about subsidy for athletes, as we talk about the broken time rule, it is probably going to require more funds than the public sector would generate.

If we believe in this and we believe that sport, as you indicated in the case of the China situation, and I would suspect the basketball down in Cuba and some of the things we are anticipating in our sports exchanges, that there is a need for support for this beyond just what happens in terms of sports competition itself.

There are many dimensions that transcend that. My own feeling is that programs can be generated.

You mentioned several. The tax situations, the—I recall the President's Commission on Sports suggesting a tax on professional sports to which our amateurs become a very important feeder and without which they probably could not exist. So, I think there are ways that this could be done.

We should in North Carolina, the State from which I come, that we have a checkoff as we had with the Federal Government. They are now trying to find out if that can be legitimately done according to our statutes.

Here again, this requires State support, could be turned into a massive national program by States in order to support our programs. And particularly at the grassroots level. I have no quarrels with it and simply hope that once these organizational matters and the matters that we are talking about now are reduced to the point that our Federal Government can see its support of this without a great deal of conflict and hassle, that the proper level of funding will be generated at the Federal level.

Senator STEVENS. I think it will come. I don't ever remember hearing a complaint about the tax on batteries, on tires, or on so many of the things associated with the automative industry. Those taxes go into the interstate highway trust fund and have built our interstate highways.

I think the American people would support a fund for amateur athletics. Whether it will go as far as the tax checkoff, which was one of our recommendations, I don't know. I think there is a tremendous reservoir for support. It is just, again, trying to determine who gets the money. Who will be responsible for making that decision?

The net result is that if we are to provide a fund, someone has to make the basic judgment as to the use of the money. Certainly, I don't think Congress ought to be involved in that. It should come from the sports organizations themselves.

Doctor, what is your field?

Dr. ANDERSON. I am in physical education.

Senator STEVENS. Physical education. Mr. Walker mentions trying to disseminate research information throughout the country. Do you have any comments about this?

Dr. ANDERSON. I think that has been one of the major problems with the research that has been conducted, is that it has been primarily disseminated through research publications, and has become a part of the knowledge and working field for the researchers themselves rather than the practitioners.

What our proposal would be in this regard is that a vast program of research be established here dealing in this area of sports medicine, and that through the mediums of organizations like our own, the facilities we have through the colleges, universities, and through the coaches and teachers, that this material be placed in such a form and such a position that it becomes usable information that can contribute to our programs.

Senator STEVENS. Is the mechanism there? Could you use the funds if they were available?

Dr. ANDERSON. We already have, within our organization as well as within others, the structures and the possibility of disseminating this information.

However, even though there are certain research funds available through existing legislation such as the National Institute of Education, National Institute of Health, it is very difficult to free these moneys because they have been identified for certain programs and activities that when we have attempted to secure funds to carry on programs of this type, the kinds of funds that are necessary are not available.

And it has become very difficult to coordinate an extensive program that needs to be coordinated with the colleges and universities, through the research centers that are available.

We probably have 100 or more research facilities in the major universities across this country that are already equipped, that are already staffed, that already have the potential to carry on extensive research programs to provide us with the knowledge and information we need.

But at the present time there is no funding to make it possible to coordinate that program.

I think we could get a great deal more information on this research program as a result of a coordinated effort that would bring together these programs, plan a systematic approach to what we need, and then to bring about a dissemination program.

Senator STEVENS. We are talking about disseminating this information to the athletes, to the managers, to the——

Dr. ANDERSON. I think it probably should go to all of them, but primarily to the coaches, the trainers, the teachers and others that can utilize the research, and in turn share it with the athletes.

Of course the athletes also should have access to this information. They don't have to get everything from their teachers or their coaches. They can learn a great deal on their own.

Mr. WALKER. Senator, I should add here that just last week we met with Mr. Miller and Mr. Doherty, and some movement in this direction is already underway and we hope will be expanded, because there is a great deal of concern on behalf of the U.S. Olympic Committee and its sports medicine committee about the very things we are talking about except that they are 1 year older and we are trying to make the movement gradually so it will get to the grassroots and be received.

Senator STEVENS. We will add a section to the funding provisions to authorize funds for that purpose. You have made a valuable suggestion and it is something that we could include in this bill.

At first, when you talked about it, I thought you were talking about the basic research itself. If we start getting involved in that I think we get into a jurisdictional fight, if nothing else. But the dissemination of information that is already forthcoming from ongoing research, I think that is something we could deal with without any difficulty in this bill and we will try to do so. We invite the USOC to give us some advice on this.

Thank you very much, gentlemen.

[The statement follows:]

STATMENT OF LEROY T. WALKER, PRESIDENT, AMERICAN ALLIANCE FOR HEALTH, PHYSICAL EDUCATION, AND RECREATION

I am LeRoy T. Walker, president of the American Alliance for Health, Physical Education, and Recreation (AAHPER). With me is George F. Anderson, executive director of the Alliance. We are here because of the Alliance's commitment to the merging athlete and the sport participant at all levels of development. I have been involved with the Olympics as a coach for 20 years and I represent the Alliance on the United States Olympic Committee.

We are not newcomers to the sports scene—in a very few years we shall celebrate our centenary. Our 50,000 members are coaches, officials, trainers, teachers, athletic directors, sport leaders and research workers studying physiology of exercise, biomechanics, sociology and psychology of sport. We are allied with the United States Olympic Committee, a charter member of the United States Collegiate Sport Council, and hold memberships in many of the sports governing bodies. Our component associations include the National Association for Sport and Physical Education (NASPE), the National Association for Girls and Women in Sport (NAGWS), the Association for Intercollegiate Athletics for Women (AIAW), and the National Intramural Sport Council (NISC), the Aquatics Council and the Research Consortium of Health, Physical Education, and Recreation. We have strong ties to the American College of Sports Medicine, the American Academy of Physical Education, the International Council of Health, Physical Education and Recreation, the President's Council on Physical Fitness and Sport, and the national associations for physical education of college men and women.

The leadership of the Alliance is firmly committed to the idea that all people must have equal access to opportunity, including the opportunity to further their health and general well-being through sports participation. We are equally concerned about the beginner, the participant in high school sports, the intercollegiate athlete, the world-class athlete.

While no organization can express the viewpoint of all individual members, the elected leadership of the Alliance has always supported the position that sports and athletics, as included in our schools and colleges, are an integral part of the educational program, and the organization and administration of these activities must have as a primary objective the education and development of the individual.

Since our first concern is for individual athletes involved in all levels of competition, we are in general favor of Senate bill S. 2036. It accomplishes some of the things we have sought. While we would rather have the controversial issues of athletics and sports settled by mutual agreement of the involved groups, the historical evidence reveals that the confrontations between some of the amateur sports bodies and the flagrant disregard for the rights of athletes in several instances combine to make some form of legislation necessary.

In most cases of controversy, the participating athletes are the ones penalized by the restrictive measures applied by the controlling bodies. For this reason we accept the best solution to the problem: federal legislation that will protect the rights of individuals to make choices about their participation in sports and athletic competition.

When AAHPER testified before the President's Commission on Olympic Sports we clearly stated our position on these matters. Our testimony was supportive of the United States Olympic Committee revising its charter through legislation and its structure and organization through internal action to broaden its powers and responsibilities for all international competition. We also recommended the settling of disputes through the American Arbitration Association and proposed the establishment of a bill of rights for athletes. All of these recommendations are expanded and reinforced by the sections of this bill.

While we can support this bill with some minor changes which are outlined later in this testimony, we believe it does not go far enough in supporting sports for all Americans. This country has a great need for a broad, far-reaching sport development program that will contribute to the personal welfare of the entire population, and will form the basis for further development of individuals with special abilities as world class athletes to represent our country in international competition. We need support of our existing physical education and sport programs throughout our educational systems so that sport participation becomes part of the American way of life. Some other countries of the world are already far ahead of America in this regard, as is already in evidence in international competition.

Another area neglected by the bill is research and dissemination of research findings. Our country has used research and technology to become the leading industrial nation of the world. East Germany and the Soviet Union are using research in sports medicine to become world leaders in sport competition.

Sports history reveals that the United States has not fully utilized its resources in the area of research. Putting research findings into practice would contribute to improved performances by our athletes. In instances where the research potential in sports medicine—including research in biomechanics, physiology of exercise, nutrition, etc.—has been positively exploited there has been a woeful lack of coordination in the efforts to bring the researcher and practitioners closer together. One important need for the assistance of the practitioner is a system of dissemination of research findings put into a form that can be easily understood and assimilated by the practitioner who will use the information. Existing dissemination procedures tend to circulate research information among the research community, whose interest is theoretical.

In the total sports effort there has been an obvious deficiency in the arrangement which has placed the responsibility for the development of athletes and the operation of competitive sports in the hands of the national governing bodies for three years of the quadrennial, then transferred that responsibility to the United States Olympic Committee during the fourth year of the quadrennial for the administration of the Pan American and Olympic Games. This procedure has led to some very unfortunate fragmentations and ineffective operations which reduced the efficiency of our national and international programs.

We strongly favor legislation which addresses itself to some of the existing problems which I have pointed out and to the avowed concern of the United

States Olympic Committee that the national governing body be responsible for the sports program during the entire quadrennial.

In our opinion, S. 2036 as a general approach to resolving some of the major problems provides an excellent start in the right direction. A review of the purposes outlined in the bill is proof of this appropriate direction. As you know, the purposes of the Amateur Sports Act of 1977 include:

(1) to encourage participation in sports by United States citizens;

(2) to coordinate the development, financing, management, and conduct of amateur athletic activity and to improve the cooperation between various amateur athletic activity and to improve the cooperation between various amateur athletic organizations by expanding the authority of the United States Olympic Committee to serve as a coordinating body for amateur sports;

(3) to provide a mechanism to insure that the right to govern a particular sport is awarded to the most representative and capable private organization; and

(4) to protect the rights of an amateur athlete to participate in amateur athletic competition without arbitrary controls.

Some amendments to the bill in its present form are required to achieve the desired changes which are essential to prevent the bill from contravening some of the stipulations in the recently adopted USOC constitution. I would like to cite several cases in point.

Article II of the Constitution, Bylaws and General Rules of the USOC outlines its purposes, powers and jurisdictions. The Delegate Assembly carefully inserted words in the description like "arouse," "instill," "stimulate," etc. for the expressed purpose of conveying that actual autonomy for its programs shall rest with the National Governing Bodies. Autonomy was the hallmark of the restructuring process. S. 2036 in Title II 31–1 suggests that the USOC has as one of its powers "to direct Amateur Athletic Activity in the United States." While I am aware of the final authority of the USOC in its relationship with the IOC, the concept expressed in S. 2036 in this section is inconsistent with the expressed purpose of autonomy as outlined in the USOC Constitution.

Another point which will require some clarification is the definition of an amateur athlete. Section 201 of Title II places the responsibility for developing the description of what constitutes an amateur athlete with the National Governing Bodies and seems to infer that final determination of this status rests with the National Governing Body alone. The fact is that the International Federations have a significant input in determining the Amateur Code. Therefore, should the National Governing Bodies offer descriptions which are inconsistent with the International Federation's position our Olympic and other international programs will be threatened.

I am also concerned about the statement which provides for sanctioning of "unrestricted Amateur Athletic Competition." The sanction also refers to the establishment of eligibility standards. I am completely confused about the authority of the national governing bodies in this matter because a statement included to suggest that the previous statement should not be "construed to recognize or not to recognize the authority of the National Governing Body to sanction the holding of a domestic amateur competition."

Still another point which, in my opinion, contravenes the authority and operational directives of the USOC Constitution is Section 203—11–D–1. My interpretation of that section is that it omits the opportunity for the challenged National Governing Body to correct its insufficiencies as now spelled out in the USOC Constitution following the two year "waiting period."

In spite of these reservations, we are generally in favor of the Amateur Sports Act. These suggested concerns and others which could be cited do not distract from the value of what could be accomplished for sports at all levels and for the athlete by passage of the bill.

Senator STEVENS. The committee will recess until tomorrow morning at 9:00 a.m.

[Whereupon, at 3:50 p.m., the committee was adjourned, to reconvene at 9 a.m. on Wednesday, October 19, 1977.]

AMATEUR SPORTS ACT

WEDNESDAY, OCTOBER 19, 1977

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION,
Washington, D.C.

The committee was reconvened, pursuant to adjournment, at 9:10 a.m. in room 5110 of the Dirksen Senate Office Building: Hon. Ted Stevens presiding.

Senator CANNON [presiding]. The hearing will come to order.

Is Congressman Quayle here? All right.

The first witness then will be Mr. Walter Byers, executive director, National Collegiate Athletic Association.

Mr. Byers, you may proceed when you are ready.

STATEMENT OF WALTER BYERS, EXECUTIVE DIRECTOR, NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, ACCOMPANIED BY PHILIP BROWN, LEGAL COUNSEL, AND CHARLES M. NEINAS, COMMISSIONER OF THE BIG EIGHT ATHLETIC CONFERENCE

Mr. BYERS. Thank you, Mr. Chairman and gentlemen.

We have filed a statement with the committee and we would like to submit that for the record, if I may.

Senator CANNON. That will be made a part of the record in full.

Mr. BYERS. Thank you, sir, and I would like to refer to parts of it in my opening comment; but first let me say we come to these hearings, and I speak of the NCAA, in a positive attitude. We think that there has been significant reorganization within the U.S. Olympic Committee as a result of the discussion at Colorado Springs earlier this year. We have a new rapport with the USOC leadership which we think augurs well for the future.

I want to compliment the sponsors of this bill, specifically Senators Stevens, Stone, and Culver, for the influence they have brought to bear to bring about this constructive USOC reorganization. Much of it flowed from the President's Commission on Olympic Sports, and the fact that they took the time to participate in those proceedings and indeed chaired a number of subcommittees that dealt with specific sports; the fact that they took the time to lend their prestige to the PCOS proceedings and followed up with the introduction of legislation—that constituted the primary motivation which prompted the USOC to adopt the organizational changes that it did.

I pay tribute on behalf of the colleges for that effort. We have held the view that since the U.S. Olympic Committee, in the first place, asked the Congress to charter it as this Nation's exclusive representative to the International Olympic Committee, it would seem appropriate that the key elements of the USOC reorganization, which took

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place as indicated at Colorado Springs, should be incorporated into the Federal charter of the USOC.

The recent USOC restructuring was an internal and private process which I think at all times is preferable to governmental mandate——

Senator CANNON. Of course, you will recall 3 years ago when we held our hearings, that was as a result of a lot of problems that we thought we might be able to resolve by focusing some attention on problems between the various organizations.

Mr. BYERS. That's correct, Senator Cannon.

I think the President's Council on Olympic Sports probably would not have been created had it not been for the hearing of the Commerce Committee, including you, Senator Tunney, and Senator Pearson. So I think it was as a result of those pressures the USOC did reorganize and it did so on its own motion ultimately.

That's the point I am trying to make. We think there is a philosophical justification for Federal legislation only for the purpose of including in the charter the basic organizational principles adopted at Colorado Springs.

If I may, the point we are making here is that member institutions of the NCAA are chafing under a number of different government dictates and are concerned about the Federal bureaucracy's intrusion into admission policies, staff hiring policies, research, and other aspects of the management of our educational institutions.

This is a growing concern. Kingman Brewster spoke of it at length in his final report to the board of governors at Yale. Just recently, Abner McCall, president of Baylor University, addressed the Texas congressional delegation on this point. You're aware, I'm sure, of the Johns Hopkins Medical School position. The Sloan Foundation has inaugurated a program to try to reduce the serious conflicts which have arisen in recent years between the Federal Government and broad segments of higher education over regulations.

The point I'm making is that our member institutions are concerned about any further Federal legislation which dictates the management of their respective programs on their respective campuses.

Against that background of objection to overregulation by the Federal Government in higher education, we express opposition to legislation that would place the USOC in a controlling position over domestic competition.

We do that for the reason I just cited and we do it for another reason. The USOC is controlled by the group A members, sometimes referred to as international franchise holders, and their position is a tribute to their membership in international sports governing bodies. They are responsible to international agencies which are indeed beyond the reach of U.S. law or public policy of that matter.

We emphasize that these group A members owe their fundamental existence and allegiance not to the United States, but to private international sports federations which are located abroad and enjoy de facto and probably under our law illegal monoply of international sports competition.

I'm not suggesting that we should pursue that monopoly and do anything about it, but that's the way international sports life is governed; but I am submitting we have grave concern that domestic programs would be put under an organization that would have control,

that are controlled by group A members responsible to international bodies beyond the reach of the United States.

As to the allocation of $20 million that is in this bill, we think essentially that is a matter between the Congress, the President, and U.S. Olympic Committee. We do suggest that in talking about the use of Federal funds for development of the athletic elite and the future world class athletes, are we sure our national priorities are indeed in proper order? Should we not be equally concerned with the expansion of sports opportunities for inner-city youths and others by utilizing facilities of our primary and secondary schools?

Facilities are there, and the pressing need is for financing to open the doors and open the gates. You read in your papers almost monthly that interscholastic programs are being eliminated by communities across the country because of financing shortages. The interscholastic program usually is the first one cut from the school budget. We simply raise that question. If you do proceed with this type of funding, whether attention shouldn't be given to that problem? Whether it wouldn't be better, or at least equally important to provide the balls for some of our young people to throw and persuade them to do that instead of throwing rocks.

Now, as to the athletes' bill of rights, we are inclined to wonder whether there is not more symbolism in this issue than substance. I do suggest that having been in hearings on this matter before the previous Senate Commerce Committee, to which Senator Cannon referred a moment ago, and having been before the PCOS on this subject as well as before the courts of the land, I do know that in discussing this, normally there is considerably more heat than light shed on the subject.

I have reviewed some of the testimony of yesterday and I think it's based in part on a misunderstanding or ignorance of the NCAA rules. Beyond that, I find underlying all of this an incongruity that I can't quite reconcile. If I hear the voices of the athletes who claim to speak for Olympic athletes—and I'm not sure who they represent—I assume they represent former world class athletes who have competed in Olympic competition. Some of them may still be planning to compete further, but they are essentially an older class of athlete. I don't question their sincerity, but I do inquire whether they are competent to speak for the welfare of some 900,000 to 1 million athletes that participate in high schools in this Nation and I'm inclined to ask whether they represent the views of some 250,000 to 275,000 men who compete on the varsity teams of NCAA member colleges each year.

In any event, I find an incongruity in their position, because if I understand their essential complaint, their concern is that once they get out of college, there is no program to sustain and nurture their interest in amateur athletics. There is no one to take care of them in the sense of financial aid, like a college does; no one to provide them with the facilities and the trainers and the expert coaching that the college does, and they think that's wrong. They say there ought to be something to fill that void. On the other hand, they seem to say that the NCAA colleges are essentially bad because they have rules that on occasion inhibit their right to run or jump wherever they want to. In short, they want someone to finance a program for them, but they and they alone shall choose when to participate in it.

I want to point out that there is not an NCAA college which balances its budget in track. I am not talking about amortizing facilities; I am not talking about maintenance of facilities. I'm talking about operating expenses year to year. There is not a single college in the NCAA that doesn't run a deficit in track. That takes the most prestigious track programs—University of Tennessee, Texas, Oregon, USC—you name it. None of them make their way financially.

They are subsidized. In fact, our colleges spent $20 million a year in subsidizing track and field. That's more than the U.S. Olympic team is asking from the Federal Government in this bill.

Senator CANNON. I think the big problem, and I am sorry I wasn't able to be here yesterday, but, in recalling from our hearings 3 years ago, the problem was, many of these athletes, because of the failure to sanction certain meets, were unable to compete as they saw fit. It seemed to me that that was more of the complaint on the part of a lot of these young people who didn't have the opportunity to compete, simply because of the failure of sanctioning on the NCAA.

Mr. BYERS. Well, there is a dispute, Senator, about the wisdom of our rules in sanctioning outside competition. Those rules are essentially for the protection of the athlete and were put in to cure a specific case of abuse.

I will be happy to answer at length about our rules, and cite a number of Federal court decisions under the 14th amendment which find them reasonable and fair, but the point I am making here is if the athletes expect somebody to come in and fill the void of postcollegiate competition and provide track programs through a $20 million contribution to match the colleges program, or a $10 million effort, I don't see how the athletes expect an agency or the Government to make that kind of an investment in track without expecting the athletes to show up to compete.

In track, let's say, their would be major financing of track clubs for postcollegiate athletes but the athletes would not run on the track clubs in the important meets that are conducted?

For example, Iowa State University is building a track. Not counting the ground, but just laying the track on the ground, it will cost $300,000.

Is Iowa State going to build a track, but the key athletes may not be there when they compete against Iowa in crucial interstate competition? It is an unreasonable proposition to assume we are going to subsidize track in the amount of money we are talking about—I say the colleges spend more than $20 million a year subsidizing—and not expect to have some reasonable rules an athlete observes when he joins the team.

Senator STEVENS. Where do the colleges get that money? Don't they get it from the gates of the events that the athletes perform at?

Mr. BYERS. No, sir. The point was earlier, before you came in, that NCAA colleges do not generate sufficient income from track meets to cover operating costs.

Senator STEVENS. They get it from sports.

Mr. BYERS. In some instances they get it from football and, in some instances, ice hockey events. The only sports that make any money are football and ice hockey. Basketball breaks even, unless you are in an NCAA tournament. Otherwise, institutions are raising money to

subsidize the nonrevenue sports or getting it from general educational funds.

I will finish my opening remarks with this comment. In the written statement we make the point that, it seems to us the athlete argues for the right to compete as a fundamental right which rises to a higher position than other rights guaranteed in the U.S. Constitution—such as freedom of speech—all of which are subject to restraint.

All individual rights in this country are subject to examination, based upon the reasonable interest of the individual and the reasonable interest of the community, in this case, the athletic community of institutions and athletic clubs that sponsor the competition that make it possible for him to get the coaching and training he needs.

I failed to introduce my colleagues. If I may do that, then we will be happy to respond to any questions you may have.

On my left is Charles M. Neinas. He is commissioner of the Big "8" Athletic Conference, composed of institutions like Missouri, Oklahoma, Kansas, and so on, one of the most successful intercollegeate athletic conferences in the Nation. He is also chairman of the NCAA International Relations Committee.

On my right is Philip Brown, senior partner in the firm of Cox, Langford & Brown.

Thank you for the opportunity to be here, and we thank you for the contributions this Congress has made to the reorganization of the USOC Committee.

Senator STEVENS [presiding]. Thank you. I thank Mr. Cannon for opening the hearing for me.

Senator Cannon, do you have any questions?

Senator CANNON. Yes. Thank you, Mr. Chairman.

It seems to me you are sort of speaking around the issue and not addressing yourself directly to the NCAA opposition to the athlete being able to make the final decision as to where he is going to compete. You say it is supported by the schools. That is true.

It is certainly not self-supporting. No one would contend that, but the crowds are going to go where these star athletes elect to participate.

I am wondering if the NCAA restrictions are reasonable, in light of the strong opposition from the athletes.

I wonder if you can again explain to me your opposition as to why you oppose title III.

Mr. BYERS. Oppose title what, sir?

Senator CANNON. Title III, the athlete's right to participate.

Mr. BYERS. Well, for two or three reasons. One, we are opposed in principle to the Federal Government legislating control over programs conducted by institutions of higher education. That is our first premise.

We believe, and I think with some justification, that the faculties on our respective campuses are better able to judge what is in the student's welfare than the Federal Government, whether it be HEW or some other agency. So that is a fundamental philosophical opposition.

Secondly——

Senator STONE. Would the chairman yield just for a short comment? There is nothing in this bill, I believe, that puts a Federal agency in the business of legislating the athlete's rights.

There is no agency set up here. There is nothing that I can recall in the bill that would do what you just said.

Mr. BYERS. I believe, sir, I said HEW or some other agency.

Senator STONE. We took that out of the bill.

Mr. BYERS. I do believe, unless I misread the language, that the eligibility decisions of institutional faculties or committees on eligibility are subject to reversal by a three-man arbitration board.

Senator STONE. Yes.

Mr. BYERS. And I submit that our faculties and the people who manage our institutions feel that the structure they have created is better able to weigh the merits and manage the athletic programs of these institutions than three lawyers that might be picked out of New York to arbitrate a particular issue.

We think the faculty that lives with these students year in and year out have a competency of judging better than someone rather far removed.

Mr. Brown cites 303(a) for the assertion I make here.

Senator CANNON. Well, 303(a) prohibits the organization from sanctioning, really is what it amounts to. No national governing body, educational institution, or sports organization may deny or threaten to deny any eligible amateur athlete, coach, trainer or manager or administrator the opportunity to participate in any sanction, unrestricted international competition selected by a national governing body or one of its members, and so on.

Normally, they censure, and so on. That is the prohibition part. If you eventually got to it, somebody took you to court and you had to go through the arbitration process, yes, perhaps that would be—evenually get to that point.

Wouldn't you agree this is a straight-out prohibition that says you can't do it?

Mr. BROWN. This is a straight-out prohibition on an educational institution having any control over the decision of the individual athlete in the circumstances described in this paragraph.

It is an absolute prohibition, and, therefore, it directly affects all rules of an educational organization that have any bearing on the control of the competitions in which athletes participate.

Senator CANNON. That doesn't get to the arbitration.

Mr. BROWN. No, sir; it does not. That is a separate point.

Senator CANNON. On pages 12 and 13 of the bill, the authors provide no national amateur sports organization would be eligibly recognized as a national governing body, unless it submits upon application a copy of its charter and bylaws and any additional information deemed necessary or appropriate by the corporation.

Additionally, the national governing body would have to agree to submit upon demand of the corporation to binding arbitration in any controversy involving its recognition as a national governing body or an athlete's right to compete.

Would the NCAA have any objections to those provisions? If so, where are the problem areas?

Mr. BYERS. If I understand the provisions to which you refer, you are talking about criteria that group A members or franchise holders must meet.

We don't have any problem with that. If by belonging to a group A member we encounter some of the difficulties envisioned directly from your bill, that is a decision we have to make at that time.

At the present time we belong to group A members, for example, in basketball, gymnastics, and volleyball. And we do not oppose that for a group A member.

Senator CANNON. Would you have any objections if the committee amended the bill language to require national governing bodies to also submit a copy of their procedures for disciplining members, at least coaches and administrators?

Mr. BYERS. No.

Senator CANNON. I think your association is, of course, one of the most prominent among amateur athletics and, in seeking to provide greater protection for these athletes, this committee hopes to gain some insight into how you protect the rights of your member athletes and institutions.

I wonder if you would outline for us now for our record the NCAA procedures in bringing rule violations against your members.

Mr. BYERS. Let me clarify your question, Senator Cannon. Our members are institutions. Are you asking for a statement on the procedure of processing allegations of violations by member institutions?

Senator CANNON. Yes. How do you determine there has been a rule violation and what opportunity is there for an association that has been accused to respond to those allegations?

Mr. BYERS. Well, I don't know what length you want this answer, sir, but I will try to keep it relatively brief.

We process allegations of violations by member institutions from a variety of sources, staff members of other institutions, parents of prospective athletes, reporters, the alumni or supporters of these institutions.

When these allegations are received, they are reviewed by a Committee on Infractions which is composed of five individuals, including distinguished lawyers and other distinguished faculty people.

The Committee on Infractions, at that point in time, determines whether there is reasonable cause to initiate an investigation, based upon the evidence at hand.

If they answer that question in the affirmative, they then direct staff investigators of the NCAA to make inquiry into the allegations.

If, after those preliminary checkings and inquiries, the committee concludes there is enough evidence that is worth pursuing in a more formal fashion, then the committee votes to initiate an official inquiry, at which time a letter is presented—I might say the accused institutions have been notified previously of the preliminary checking—but to return to my point, at that time an official inquiry is filed and that includes a statement of the allegations and a series of questions which the institution is to answer.

After the response from the institution is received by the Committee on Infractions, they weigh the evidence on the one side in support of the allegations and the response of the institution, assuming it denies the allegation.

Senator CANNON. Is the institution given the opportunity to question those who allege the rule violation?

Mr. BYERS. The institution is entitled to a hearing before the Committee on Infractions, at which time the NCAA investigators are present and subject to interrogation. It's not necessary that all

of the people who were interviewed be present. Our procedure is not based on the principle of civil law or criminal law.

Senator CANNON. In other words, you don't follow any rules of evidence.

Mr. BYERS. No; that is not correct, sir. What I am saying is, our procedures are based upon principles of administrative law, which our institutions follow in a great many other types of cases. We don't have the power of subpena. We don't have the authority to put witnesses under oath. Ours essentially is an administrative procedure.

Senator CANNON. Is the institution advised in writing of all the allegations prior to the hearing?

Mr. BYERS. Yes, sir.

Senator CANNON. The institution is not then given the opportunity to question anyone who alleges a rule violation other than your own investigators?

Mr. BYERS. No; that is not correct. During the process of the hearing, they understand there is evidence on the table and the sources that provided that evidence, and it's not unusual, for instance, for the institution to interview those sources directly themselves, which they frequently do.

Senator CANNON. You are saying then you do have a forum where the accused may question directly the person or persons making the allegations.

Mr. BYERS. No, I am not saying that precisely. I am saying——

Senator CANNON. I thought first you weren't saying it, then it sounded to me like you were saying yes, there was some forum where they had that opportunity.

Mr. BYERS. Well, my powers of expression are limited. I am not trying to be devious.

Senator CANNON. I am just trying to find out what the facts are.

Mr. BYERS. I am just having a little trouble communicating it. We are interested in the same point. In the hearing, the institution's representative appears before the Committee on Infractions along with our staff investigators, and there is a full discussion and cross-questioning of each side on what the evidence is at hand.

In that process, the identity of the persons who have provided the information are revealed. They are not there at that point. However, the institution frequently—and there is usually more than one hearing in a serious case. There may be two or three hearings. But at that time and subsequent to that initial hearing, it's not unusual for an institution, having found out the names of persons who have provided evidence, to contact those persons directly; and at the next hearing they will present evidence they may have collected in contacting the same witnesses our staff has.

Senator CANNON. Do you make transcripts of those rule violation hearings and make those available to member universities?

Mr. BYERS. They are taped. They are available upon request.

Senator CANNON. Only upon request. In other words, if they request them, the accused would have an opportunity to review the charges and provide a response based on the transcript?

Mr. BYERS. I thought you were speaking of the tapes themselves, where the dialog takes place. Those tapes are available, but the institution already had received written notice of the allegations.

Senator CANNON. Are those the standard procedures that you follow in all cases and have for some period of time?

Mr. BYERS. Yes, sir. They are printed in the NCAA manual and readily available to anybody for examination.

Senator CANNON. You are saying, if I understand you correctly, you don't follow the rules of evidence similar to Federal court or other court rules, but you do inform a member, by notice of violation, of alleged violation, that your staff people have uncovered and that then they can meet with you in a hearing and your staff people but not with the person who has made any charges. They could go out on their own and interrogate those people but would not have the opportunity in a hearing to face the people who have supposedly made these charges.

Mr. BYERS. That is essentially correct. The hearing before the Committee on Infractions is not with my staff or with me.

Senator CANNON. But based on the staff investigation.

Mr. BYERS. That's correct.

Senator CANNON. And you say the transcript of the allegations is made available.

Mr. BYERS. A statement of the allegations is filed with the institution prior to the hearing. The transcript of the hearing is made available upon request.

Senator CANNON. Thank you, Mr. Chairman.

Senator STEVENS. Thank you very much, Senator.

Senator Stone?

Senator STONE. Thank you, Senator Stevens and Senator Cannon, for letting me participate while not a member of this committee. I appreciate the privilege.

First, I want to make a short 1- or 2-minute review of the efforts of our staff with officials, though in an unofficial capacity for the NCAA, to find a way to bring in the bill that the NCAA would approve.

After our original draft of the bill took place and was submitted, Mike Naylor of Senator Culver's staff; Gary Johansen, sitting on my right, of the Senate Commerce Committee staff; and Craig Wolfson, on my left, of my staff, met with Mike Scott, at that time the Washington counsel of the NCAA; gave them the detailed outline of the bill. And as a result of that discussion—which was strictly informal, but in the interest of Sunshine I think we should discuss and disclose it all—we modified the language in the purposes section of the bill to allay fears of having an omnipotent USOC.

We agreed to clarify the sanction section, to make it clear and unmistakable that we intended to make no judgment on whether the USOC or the national governing boards had the authority over domestic competition.

We agreed to delete the 20-percent crossover rule. That is the rule that would have otherwise prohibited an individual member of a national governing board from being a member of other national governing boards, with 20 percent max. We took that out.

And we agreed to take the nondiscrimination language out of the bill. That is already in law, so we took that out as being a type of overkill about something that is, rather sturdily, already in law.

And we agreed to revise the athletes' rights section of the bill. In that regard, rewriting the version which extended to athletes an unqualified right to compete in all international competitions. We put in two catagories which were suggested. One, in most international competition, allowing restrictions on the right to compete, if reasonable; and, two, for national team ccmpetition, at that point the right to compete being unqualified.

But our definition of "national team" is broader than Mr. Scott's. In October we had another meeting with USOC leadership and with Mr. Scott. Again he was only informally appearing for NCAA. It wasn't official, but nevertheless, he was completely representing at least the informal feelings of NCAA leadership.

We deleted and made wording changes in the authorities of the national governing body section of the bill to make the amateur sports governance less subservient to international consideration. That is as far as we could go in that without removing our ability to participate worldwide, which is one of the major aims of the Olympics and preparation for them.

We further deleted from the USOC purposes clause the "direction" of amateur sports, retaining a coordinating and developing order.

There were other changes. The reason I have gone through this, the introducers of the bill very much want the NCAA participating fully in national amateur sports governance. We, all of us on this side of the bench, want the NCAA actively participating, helping and leading in this national effort. There is no hostility embodied either in the bill or in the introducers' intentions.

With all that background, it is still our feeling that we want to try to work this bill so the NCAA can carry out its mission—which, as you have correctly pointed out, is to a very great extent a deficit operation—funding the advancement of athletes, not just the advancement of education.

But let me ask you this: In the section in which we prohibit, absolutely prohibit, any interruption of the right of an athlete to contribute in an international meet—and you have raised concerns about how that would impede on the rules of your member schools and your own rules—how would the NCAA feel if, right after that, we had language something to this effect, or even this language itself: "Nothing in this title, title III, shall prohibit an educational institution from enforcing its generally applied academic requirements"? That was actually suggested by the athletes. They don't want to become semipros or pros. They want to be students while they are in school.

In other words, even though we would have the prohibition against arbitrary denial of an athlete's right to go to a world class meet or an international competition, we would make, in effect, paramount the academic requirements of education. Would that type of provision advance your feelings about that part of the bill?

Mr. BYERS. First, we appreciate your good intentions in these proceedings, Senator, and we approach them with a conciliatory and cooperative attitude, too.

Senator STONE. The gentleman just said the NCAA approaches these proceedings with a good, constructive, and conciliatory attitude also.

Mr. BYERS. That was said even better than I said it. I thank you for that. We also appreciate the amount of time you spent with the swimming people. It was an extra load, and I know of your interest in that sport.

Senator STONE. I do that because I can no longer perform a flip.

Mr. BYERS. You look good enough to do some of the turns.

We still have a problem, a philosophical one, that I won't bother you with by repeating—do we need more Federal direction, controls upon the way colleges operate their programs. I have to say to you that the answer comes back in the negative.

In fact, there has been a substantial change in the colleges' attitudes from the time that Senator Cannon referenced in the previous hearings before the Commerce Committee and the hearings that John Tunney and Jim Pearson held. That was some 3 years ago and in those 3 years, the NCAA membership's attitude has changed markedly; and it's due to what I tried to outline in our statement.

I attended a meeting last week—I think 7 or 8 days ago—in which the NCAA Council, 18 people, including 2 college presidents, took the very position they don't want to be endorsing additional Federal legislation.

So I say that in response to you, that we have this fundamental objection. I wonder whether a lot of these problems still exist. I noticed Mr. Moore—the track man from Oregon—talks about a marathon meet back in the 1960's. I don't know what that reference is all about. You know, we weren't even talking to Red China back then. I don't know whether a lot of these things aren't old hat, but keep coming up as a symbolic issue. And I wonder whether at least the athletes that are in NCAA colleges—I don't attempt to speak for the athletes that have left the colleges, and I don't profess to speak for what their problems are; but I think our people, the people on the prospective campuses are pretty well tuned to the needs of the college athlete. I don't sense there is this overriding issue that calls for additional Federal legislation of the college programs.

Senator STONE. One other question, then I have to go down to the Panama Canal hearings.

In the athletes' bill of rights section, the NCAA and maybe other governing groups ask for, in effect, and in the past have applied in effect, a rule of reason. A reasonable man test, having in mind what is reasonable for the athletic institution, the educational institution, or the conference, may not necessarily be for the advancement of the individual athlete.

Isn't what we are searching for here a reasonable-man test which balances the equities between what is fair and reasonable to the sponsoring institution, which is investing—and in a lot of cases, as you point out, deficit investing—in the advancement of the athlete, and what is reasonable for the athlete's own individual case as well? Isn't that the kind of rule of reason that we are looking for here?

Mr. BROWN. Senator Stone, can I give a partial reply? I don't mean to interrupt your question.

As you are undoubtedly well aware, there have been many court cases which have tested the reasonableness of rules of the NCAA. Several of those cases have arisen on motion for a temporary restraining order or preliminary injunction by an athlete who felt that he

was prevented from participating in particular competion because of an unfair rule.

In many of those cases, the judges have upheld—in fact, in every case, except one involving one foreign athlete, that I am familiar with—judges have upheld the NCAA rules against constitutional challenges, against antitrust challenge, against tort challenge, and against miscellaneous other legal issues raised in those cases.

Now, the point of my reply is that, especially in upholding those rules against constitutional challenge, the courts have specifically held that they were fair, because the test that they get to is not just whether there has been a direct violation of the constitutional provision but also whether the rule is fair and equitable as applied to the individual, precisely what you are getting at.

My preliminary response to this, subject to Mr. Byers' amplification, would be that that exact kind of test that you are seeking has been applied and interpreted in many court cases, all of which have upheld the validity of the NCAA rules that were under challenge.

Senator STONE. That is exactly what I am getting at. The athletes feel there is nothing added; but in the precedents set in court, what is fair has been applied more in favor of the sponsoring conference or institution than in the direction of what might advance the ability and chances to compete of the individual athlete.

We are trying to find a way of balancing the equities, so that we don't overwhelm either the sponsor or the individual, and that was what I am searching for. We would certainly welcome anything that you could not answer today, but submit in writing in that regard, to help us do the right thing.

Mr. BROWN. Senator, thank you.

I appreciate that. We would be happy to submit fuller responses to this and any other question as you may wish.

Purely as a footnote, let me observe that Mr. Scott and I are partners in the same law firm. He is still working on these matters with us. There is a conflict of interest that prevented his being here today.

Senator STONE. Fine. I appreciate that. Thank you very much.

Senator STEVENS. Thank you, Senator Stone.

Mr. Cannon?

Senator CANNON. Mr. Chairman, I have a packet of correspondence I would like to make a part of the record.[1] First is a letter from Senator Humphrey in which he expresses his concern over the University of Minnesota and NCAA which has led from the suspension of the University of Minnesota from all NCAA athletic events and requests Senator Magnuson to have an investigation of the NCAA and their practices and procedures.

Among the documents submitted is a letter from the president of the university, to Congressman Moss, President Peter Magrath, and if what President Magrath says is correct in his letter to Congressman Moss, it certainly raises some very fundamental questions that I would want to have the answers to; so what I am going to do, Mr. Chairman, if you will permit these to be submitted for the record including Senator Humphrey's letter and the related correspondence, then I would like to aks Mr. Byers to respond for the record, to the committee as to these procedures and the sanctions imposed because it seems to

[1] See p. 261.

me that what the allegations are alleged to be here are correct, then the NCAA has not followed either a due process procedure or has followed even a basic fairness doctrine in the sanctions that have been imposed.

And it seems to me that what you have said, Mr. Byers, is that the institution takes disciplinary action and you are here representing the faculty, but what Senator Humphrey in essence says is that your organization is second-guessing the University of Minnesota in this case.

I wonder if we could—I would like to know more about your fact-finding and your investigative methods and I wonder if you would submit for the record here a detailed explanation of your factfinding and investigation methods, if the chairman would permit me to request that.

Senator STEVENS. I think it is a reasonable request. I have seen the letter from Senator Humphrey and I will ask Mr. Byers if he is willing to do that.

Are you willing to provide us with a response to the letter that Senator Humphrey has directed to Chairman Magnuson?

Mr. BYERS. I will be happy to do that.[1] I would like to make a statement if it is permissible, in response to this particular statement by Senator Cannon.

Senator STEVENS. I am certain we would be happy to have it.

Senator CANNON. I would be delighted to have it.

Mr. BYERS. The issue President Magrath of the University of Minnesota has raised apparently with Senator Humphrey is an issue he has raised in a number of forums. He has raised it with the NCAA Committee on Infractions, and on appeal to the NCAA Council. He lost in each instance. And also the point that he makes was debated on the NCAA Convention floor; I don't mean he debated it, but the issue was debated there, and the point of view that he supports lost in that convention vote. He also has taken that issue to the Federal Court in Minneapolis, where he won, which was appealed to the circuit court, and the circuit court ruled in favor of the NCAA and ruled against the University of Minnesota.

My point is, I don't object in any way to having the issue raised in another forum, because we sit very comfortable with it. I object in no way to filing full particulars to the degree that you wish. But I do want to say that it has been looked upon, the issue has been looked at by some rather competent agencies and others, and his point of view has not prevailed.

Specifically, his point of view has not prevailed with his sister institutions—not the NCAA staff, but representatives of his sister institutions.

Senator CANNON. I would just say in response to that, this is a different forum and we frequently look at matters here a little different than some other forums do. That is the reason we write laws here on occasion. We have to do that, because we don't agree with what some other forums have come out with as an interpretation.

As I said, I am not familiar with the details of this matter, but if what President Magrath says is correct in that letter, then it seems to me that all is not as it should be.

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[1] See p. 285.

Mr. BYERS. I respect your role and I respect your good intentions in the matter, and we will be happy to discuss it any place and at any time, sir.

Senator CANNON. Thank you, Mr. Chairman. I am sorry I can't stay longer. I am chairing the Rules Committee that was to start 5 minutes ago.

Senator STEVENS. I'm delighted to have your interest. I might say to you while you are here, Senator, that our staff has researched the NCAA cases, and it is my information that the courts have uniformly held that the question before them is whether or not the NCAA rule has a rational purpose. But the question of whether that rule as applied to a specific circumstance, or a specific athlete, in denying him or her the right to compete, and whether or not that is reasonable, is not a subject for the court to look into. Maybe counsel for the NCAA would want to comment on this while you are here, Senator. The courts look only to the reasonableness of the rule. They do not determine whether the rule has been unreasonably applied to a particular athlete.

Mr. BROWN. The court decisions to which I referred, Senator Stevens, also go to the question of the reasonableness of the rule.

Senator STEVENS. I agree with that. The reasonableness of the rule is the question before the courts, whereas the athlete normally is saying the rule has been unreasonably applied. That has not been reached by any of the court cases we can find.

Mr. BROWN. Well, he is raising the test of reasonableness in the context of the facts as they apply to him.

Typically, he is raising an injunctive-type proceeding. So the court adjudication upholding the reasonableness of the rule is based upon the actual circumstance of the petitioner, and for this reason applies to him.

Senator STEVENS. With the exception of the Minnesota case, that doesn't seem to be the case. We will look at it further.

Mr. BYERS. I think we would like to present you with a paper, Mr. Chairman, on that very point with references to it, because I think there is a misunderstanding on your staff's part in that regard.

Senator STEVENS. Thank you. I'm delighted to have your participation, Senator Cannon.

Mr. Byers, I was delighted to see reported in the paper that on August 24, the NCAA Council adopted a resolution favoring rejoining the USOC. It said:

> Therefore, it is resolved that subject to the development of satisfactory federal legislation, an NCAA application will be made to the United States Olympic Committee for USOC membership.

As I say, those who have been working on this for a long time are delighted to see that, but my question to you is, Does the NCAA rejoining the USOC really hinge on the adoption of this Federal legislation? Were you talking about S. 2036?

Mr. BYERS. No. I don't think we had those specific legislative provisions in mind. I think the context in which that resolution was adopted was that we wanted; we thought it was appropriate to have placed into Public Law 805 the U.S. Olympic committee procedures as amended—that is, the essential elements of the U.S. Olympic reorganization—so that when some of those procedures began to have

practical effect, they could not be dissolved by the group A members which had the voting strength within USOC. Whereas the bill was available to us, I don't think it is fair to construe that statement as an endorsement of this bill—S. 2036 as written—which it was not.

Senator STEVENS. The National Collegiate Athletic Association bulletin, your news bulletin for September 15, 1977, stated this:

A major barrier to a final favorable decision concerns the Athletes Bill of Rights. This as currently in the USOC constitution continues to be unacceptable to the Council, according to Thompson.

Again, quoting:

"Several issues concerning the bill of rights must be resolved before a decision is made about rejoining the USOC," Thompson said.

S. 2036 has been introduced by Senators Richard B. Stone, Ted Stevens, and Dick Clark——

That should have read John Culver—

each of whom served on the PCOS.

The bill of rights in this legislation also is unacceptable but the Association is hopeful that during hearings and discussion on the bill the Senate will recognize, as it did in 1974, the necessity of closely defining the type of international competition in which an athelete always is free to compete and of protecting reasonably, school and college programs in other instances.

When I read this article, which said that the NCAA would rejoin the USOC subject to the development of satisfactory Federal legislation, I thought it was referring to this bill.

When I read your statement this morning I wasn't sure. Are you going to prepare a specific piece of legislation and ask someone to submit it to Congress?

Mr. BYERS. No. It was our hope; maybe I didn't articulate it satisfactorily in the statement, but it is our hope that this legislation would memorialize in the Federal charter the principal parts of the Colorado Springs reorganization so that they could not be changed by a whim of the USOC.

Senator STEVENS. It is my understanding from this news article, that the hangup, as far as the NCAA was concerned, is the athletes' rights section of S. 2036.

Mr. BYERS. It is my understanding, and I don't have the USOC legislation in front of me, but our understanding is that the USOC athletes' bill of rights was not a particular problem, except for the term "reasonableness." I don't believe the right of an organization to administer reasonable rules was included.

We were advised, I get this through Mr. Scott, who, of course, is not here at the moment, but we were advised that the executives of the USOC indeed did interpret the USOC provisions as implying reasonable—that reasonable rules were justifiable. I don't know whether those words are in the USOC athletes' bill of rights or not.

Senator STEVENS. It is my understanding that the USOC at its Colorado Springs meeting adopted a stronger athletes' bill of rights than what is contained in S. 2036.

Let me look at this. Let's look at the resolution that the NCAA Council passed.

It says—

There is now pending before Congress proposed legislation which would enact into law various important aspects of the USOC reorganization favored by the

Association. Such enactment would assure to the Associations' membership that the principles favored by the Association would enjoy relative permanence as a part of the USOC structure and procedures.

The USOC reorganization and the terms of the implementing legislation are matters of such unique importance to the NCAA and its membership—involving as they do not only a restructuring of the USOC but also a potential alteration of USOC's role in the American amateur sports structure—that a report to the NCAA membership at its next Convention appears to be desirable before final action is taken by the Council for an application for a renewed USOC membership.

Therefore, it is resolved that subject to satisfactory Federal legislation, the Council intends to report to the members of the Association, at their Convention in January 1978 that upon consideration of the matter by the members, an application be made to the United States Olympic Committee for USOC membership."

Now, we want to see that happen. I think all of us want to see that happen, because it would be a step in the right direction.

Let me again ask the question, is this bill the legislation you are considering?

I assume from Mr. Thompson's remarks—Neil Thompson of the University of Texas, who is the president of the NCAA—that he meant S. 2036.

Can you tell us now: What do you want in this bill? What does the NCAA want in this legislation so that it will rejoin the USOC in January?

Mr. BYERS. I hope I haven't contributed to any confusion here, because we do not think our position is very confusing. So maybe my presentation has caused the difficulty.

We are trying to say that our member institutions do not favor new Federal laws affecting the operation of their programs.

There is enough Federal intrusion.

We are saying since the Public Law 805 does charter the Olympic Committee, it seems reasonable to amend that charter to put into it the major ingredients of the Colorado Springs reorganization which would state the Group A membership qualifications, the arbitration procedures, etc., which the USOC has adopted.

Our thought in that regard is that there has been a history in past USOC reorganizations that once adopted, when the new rules begin to bite, the entrenched USOC members change the rules. We think these new procedures are good. We have tried to be complimentary in our appearance today, both to the USOC as well as to you, gentlemen, who have had a great deal to do with the Colorado Springs action. We think that these reform steps are good and should be memorialized in the charter.

Now, if that is a problem——

Senator STEVENS. That is no problem. We have already done it.

If we haven't done it, we would like to have your suggestions on how to do it.

The USOC has indicated they have no objection either, as I understand it. They have amended their charter. In order to reassure those who might think it might be changed later, they are prepared to see this become incorporated into law.

We understood that the NCAA's objection was the athletes' rights section.

Now, the athletes' rights section adopted by the USOC in Colorado Springs is stronger than the section in this bill.

Mr. BYERS. It is not our understanding. I guess we are handicapped here as to whose lawyers are interpreting what words and so on.

I do sense—maybe this isn't appropriate to say—admonish me if it isn't. I sense there is some concern on the part of your staff that there has been a misleading of them by our representatives which I don't think occurred.

Our position has been, I thought, quite consistent throughout. I have tried to enunciate it again here today. We are not here to get anybody particularly upset. We think a great deal has been done in restructuring the USOC and we are enthusiastic about it.

We are enthusiastic about the new leadership of the USOC.

Senator STEVENS. No one is upset, Mr. Byers. We put "reasonable" in our bill.

The word "reasonable" is not in the athletes rights section of the USOC's constitution. We put it in our bill. We thought we heard the objections of the NCAA. I am sure the athletic organizations can speak for themselves. They question whether we go far enough. But I had hoped, after seeing the news article which contained Mr. Thompson's comments, that the NCAA might have some specific suggestions to us as to how it would like to see this bill drafted. What do we have to do so that you will go to your membership in January and recommend that the NCAA take the step of rejoining the USOC.

If you are not going to do that, if we are not going to know what we have to do to amend this legislation so that you take that step, then I am not sure that what the USOC has done and what the athletes have done and what the other organizations have done to try and bring all of the amateur sports organizations together has achieved any purpose.

Mr. BYERS. We certainly owe you a specific explanation as to what we think the bill ought to do.

Senator STEVENS. We would be pleased to have that. We had a number of suggestions from the USOC yesterday for changes in the language. At some time, hopefully in early December, we intend to have an informal meeting around the table which you are sitting at now. At that time we will go over this bill line by line and word by word with representatives of all interested parties. Hopefully we will be able to come up with a bill that we can present to the full committee early next spring, in January, and move this legislation on its way.

Above all, we would like to know what the resolution which was adopted by the NCAA Council meant in terms of development of satisfactory Federal legislation.

Mr. BYERS. Well, if we haven't made that clear, sir, we are certainly obligated to do so and we will try to do just that.

Senator STEVENS. Do I understand correctly that you have reservations about the statement that Senator Stone read, and with the testimony the athletes gave here yesterday, that the school should make the determination as to the reasonableness of participation by an athlete. You wish to leave for the NCAA's determination whether the athlete can participate in national and international competitions that are beyond the schools' competitive schedule?

Mr. BYERS. Our member institutions wish to retain the right that in pressurized situations they can band together to adopt either

regional rules, such as in the Big 10 Conference, or adopt national rules if the conditions warrant, and a Federal law that says member institutions in their wisdom cannot adopt certain eligibility rules through conference or national actions is unacceptable.

Senator STEVENS. Would you agree that there are some competitions in which an athlete should have an absolute right to compete, for example, the Olympic games, the Pan-American games, or the world university games?

Mr. BYERS. Mr. Chairman, I would like to explain our rules.

I don't know that you want to get into these details, but I must submit that, based on the testimony yesterday, I hazard a guess representatives of the athletes don't know what the rule to which they are objecting to says or means.

We will take the sport of track and field. The NCAA rule simply states that when a track athlete reports for the varsity squad he will not compete for any other team during the course of that season, and if he does compete for another team he may not compete for the university team during the course of that season. An athlete may compete unattached anywhere he wants, any time.

Now, what is the objection to that rule?

Senator STEVENS. Correct me if I am wrong; but didn't Yale permit an athlete to compete in just such a situation, and the NCAA suspended Yale?

Mr. BYERS. You are talking about a case which is a decade old, I guess, and the rule we have now is not anything similar to the rule then.

That situation resulted from the fact that the United States did not have a franchise holder in the sport of basketball.

I am merely saying that the NCAA rules govern the most successful sports program in this country in amateur athletics and it seems to me that our rules are too frequently cited as some ogre suppressing individual freedom.

The courts don't say the rules are suppressing individual freedom.

Athletes at NCAA colleges aren't up in arms about them.

I have just spoken about the freedom of what a track athlete may do.

I am very happy, sir to meet with your staff and go over what we think the legislation should be; but I do want to say that member colleges of the NCAA subsidize intercollegiate athletics at the rate of almost $200 million a year. It is the most viable and successful program of its type in the world. I would challenge any country to match it. And I think our rules are reasonable and they are adopted by presidents' faculty representatives and athletic directors of member institutions at our annual conventions.

The courts seem to think the procedures are proper.

I just want to leave the thought in the committee's mind that the institutional representatives of NCAA colleges and universities do a pretty good job in protecting the interests of their students and seeing they get good athletic experience and good educational experience.

Senator STEVENS. I don't argue with that. What we are trying to do is find out how we can get a piece of legislation that will be a reasonable compromise. We don't want this bill to suffer the same fate that other pieces of legislation dealing with amateur sports have suffered. We want to accomplish the objectives that most people have asked us to try and achieve.

In your statement you say that the NCAA has no inherent objection to the USOC as the coordinating agency for this country's international sports effort.

But there seems to be a differentiation between that position and the obvious conflict between domestic scheduling. Someone has to coordinate the international and domestic scheduling or at least secure performance in the international sports effort.

Now, do you object to a coordination effort on the part of the USOC to try and eliminate the conflict between international competition and our domestic amateur athletic programs?

Mr. BYERS. No. We think that job can be done much better by competent group A members in the respective sports.

The conflicts have come when there have been incompetent, group A members, in respect to the people running those sports, and we think the coordination can best be done by the group A members. But we have no objection to the USOC being the coordinating committee for that purpose.

Senator STEVENS. We tried to put in the bill criteria for national governing bodies. We had some comments about those criteria yesterday. But to go on with this point, would you have objection to the national governing bodies having authority over domestic competition, as long as that authority does not extend to restricted competition which is promoted by the school-college community?

Mr. BYERS. We would object. As I indicated in the statement, the group A members are not responsible to domestic forces. The group A members hold their franchise at the pleasure of international sports federations.

Therefore, we don't object to them being the coordinating committee, a coordinating agency for scheduling in their respective sports, but we do object to their having control over domestic programs, when they are not answerable to U.S. institutions.

It became abundantly clear in the Tunney-Pearson hearings that the Congress was being told by group A members that the Congress couldn't reach group A members, because they were members of international sports federations and beyond the scope of congressional action.

To impose that kind of authority on domestic sports competition, I don't believe would be very wise.

Senator STEVENS. I think we have control over the national governing bodies. We were presented with a dilemma, however, because they also are answerable to the international sports federations. But the thrust of our bill is to try and make the national governing body accountable to the United States as much as possible, without having it be ejected from the international sports federation.

Mr. BYERS. I understand that is a delicate line you walk and a sensitive area.

I am not suggesting that Congress should grapple for control of the group A members, but I wonder whether it is wise, under that kind of circumstance, to suggest that the group A members should control domestic scheduling.

Senator STEVENS. Again, you indicate that, if the USOC were structured differently, you would have no objection to the USOC serving as the coordinating agency for domestic athletics.

Could I ask you to give the committee some specific suggestions as to how the NCAA would structure the USOC?

Mr. BYERS. I think the sentence, in essence, suggests a coordinating agency for international, instead of domestic competition.

Speaking to the first sentence in the second paragraph on (a), I think that addresses international, not domestic.

The point we are trying to make there is this: Since international sports governance is the way it is—that is, international sports governance is by an International Olympic Committee, which is a self-perpetuating group of men, and by international sports federations outside the reach of the U.S. law—since that is the way it is, and since it is not likely anybody is going to change it, at least in my time, given that set of circumstances, then we don't think that it is on the side of wisdom to put the group A members in control of the scheduling of the respective sports for the United States. Their loyalities run much more to pleasing other international franchise holders than what is in the best interest of a broad-based U.S. program.

I don't know whether you are familiar with how the international game is played, but an international franchise holder in one country enhances his position by doing business with international franchise holders in other countries, and pleasing their wants by scheduling contests when they want them, because the international franchise holders in the other countries are responsible for who gets into the club.

To give an organization, subject to those kinds of political influences, the right to dictate domestic competition would be damaging because of the interest of the international franchise holder—the group A U.S.A. member—keeping his franchise by pleasing other franchise holders.

Our greatest strength, and I speak with experience and conviction, will be realized if we continue to broaden the base of our sports programs. You can place all the training centers you want around this country, with $20 million, or whatever it is going to be, and for the immediate time, the world class and near world class athletes will benefit.

But, in the long run, for the benefit of both the individual, the young person and for this country, we will be far better off if we broaden the base and have more sports programs by the high schools, more by the colleges and more by club teams—the last being a void which the athletes lament. Simply, the broader you build the base of the triangle, the more athletes go to the top and the tougher the competition is at the top.

Nothing should be done to weaken the domestic sports program, because if you do, the top will crumble and you can have all the training centers you want, and they won't be worth a nickel.

That is my conviction, sir.

Senator STEVENS. I agree with you. Everyone who has testified at these hearings has said the same thing that we need to broaden the base of participation. We need to provide a greater opportunity to compete by improving athletic facilities. We need to provide opportunities for the amateur athlete who is not in school, not in college.

But I come back to the same problem, and I think Congress comes back to the same problem. Who is going to coordinate amateur athletics in the United States?

The President's Commission found that the sports organizations are fragmented. They are not bound by any common purpose. There is no effective coordinating system. That was the wording of our report. There is no effective coordinating system. So we undertook to find a solution to those problems.

This bill is the product now of almost a year of meetings. We have had meetings with your people, with athletes, with the AAU, with the USOC, with the President's Commission, with everyone we could possibly meet with. Many of those meetings have been in my office and have gone into the evening, as you probably know.

But we are still looking for that effective coordinating system. It seems to us that the USOC, or some organization, has to have coordinating authority to eliminate these problems. Now, again, that is my basic question. Do you disagree with that?

I am not only talking about coordinating authority internationally, but coordinating authority in the domestic scene.

Mr. BYERS. We disagree with the last word, "authority." We have no objection to the USOC being the coordinating agency for international sports planning.

I don't think in this country we should go beyond that. Now, the thing that entranced the PCOS staff was the structure in foreign countries. It was so well organized. I know they went over and looked at the East Germans' highly systematized system. They thought, if only we could structure a higher sports authority and get all of this lined up in a nice row like the East Germans do. But that is not the way our country works. I think our country can succeed by using the system it has more effectively, once the USOC has straightened itself out, and there are meaningful criteria for group A members and an adequate challenge procedure for incompetent franchise holders. Both of those features are in the Colorado Springs reorganization.

I do not advocate, and I am totally convinced that it would be wrong, to set up some kind of central authority to plan U.S. amateur sports domestically.

If we want to compete on the East Germans' and Russians' basis, then let's send our professional athletes over to compete against them.

I would be the first to support that. I think the NBA ought to go to play in the Olympic basketball game, if that is the way we want to compete.

I have no objection to professional athletes representing the United States. But if we are going to adhere to our system of doing things and not become entranced by the regimentation of some of the countries which have new successes, then the people I represent and I, personally, believe most strongly it would be a mistake to create the USOC as a central authority governing domestic competition. And I strongly believe, as I tried to articulate, it would be a mistake to put the group A members, who essentially are responsible to foreign bodies, in charge of domestic scheduling.

Senator STEVENS. We have more than group A people involved in USOC policy decisions. The Amateur Athletic Union, the American Alliance for Health, Physical Education, and Recreation, the Catholic

Youth Organization, the National Association of Intercollegate Athletics for Women, the National Federation of State High School Associations, the National Jewish Welfare Board, the National Junior College Athletic Association, the Armed Forces Members, the YMCA, and there are others; they all belong to and have an input into USOC policy decisions.

Again, I don't think our bill says that the USOC has authority to dictate policy in amateur sports. As a matter of fact, the USOC has come in with some specific language, and they use the word "coordinate."

We are looking for someone to provide coordination, to bring about an effective system to eliminate the fragmentation of our sports organizations. We would ask you and your counsel to specifically point out the language in this bill that the NCAA finds objectionable. If you are a greater Solomon than we are, we would like to have you give us the benefit of your wisdom. We thought we had complied with your suggestions when we drafted this bill. Apparently we have not.

Mr. BROWN. May I respond to that?

We obviously would be happy at any time to give you precisely what you have asked for, changes in wording that we think would be acceptable, but I think there is a further issue of confusion here. That is, that when we have sat down at the request of Senators or their staffs or committee staffs to discuss legislative language, and we have done this on and off for 12 years, we have done this in response to their initiative, in order to give our comments on whatever the issue may be that they have in mind putting into or have already put into a proposed piece of legislation. This does not mean we have endorsed the legislation.

Senator STEVENS. We realize that.

Mr. BROWN. This does not mean if they accept our comments and revise the proposed legislation in accordance with them, that we will accept and endorse the legislation. It means we are working together on the nuts and bolts of problems on which we have a common interest.

Senator STEVENS. You can't blame me for being a little anticipatory when I read Mr. Thompson's, statement from the NCAA News, saying that if the right kind of Federal legislation is enacted, the NCAA will rejoin the USOC.

Yet, I hear today that one of the problems with our bill is the section pertaining to an athlete's right to compete. But at the USOC's Colorado Springs meeting, the USOC adopted an athlete's bill of rights which is stronger than what we have in S. 2036.

Mr. BYERS. That is an area that we have some problems with. That is not my understanding. Possibly we are mistaken. Certainly I am not campaigning for the Solomonity that you suggest, sir, and don't feel qualified for it.

Mr. BROWN. We interpret your bill to give the USOC a broader jurisdiction than the USOC has today. If you take the words on the bottom of page 4, "to coordinate, direct and develop," I am not sure just what those words had in mind, but they sound pretty broad and sweeping to me. That is one reason why, whatever was adopted from the language of the USOC's amendment that would apply to the then existent jurisdiction of the USOC, may well present a different question if applied to a broader jurisdiction.

Senator STEVENS. It is my understanding that in the process of negotiations since S. 2306 was introduced, we agreed to strike "direct" as it appears on line 23, page 4, of the bill.

Mr. BROWN. That is my understanding, too, Senator. I have heard of that and would regard that as an improvement, but it leaves hanging questions of how much broader than at present is the jurisdiction intended to be created even if that word is taken out.

Senator STEVENS. Do you have the mark-up version of the bill that the USOC presented yesterday? They themselves suggested——

Mr. BROWN. Yes, sir.

Senator STEVENS. That they take out "direct."

Mr. BROWN. I think that is an improvenent, but it still leaves unresolved the question of exactly what additional jurisdiction the USOC is expected to have under this bill as compared to what the USOC presently has under its congressional charter.

I think the object of this bill was to broaden the USOC's jurisdiction. What we are saying about specific provisions must be taken into account in the two separate contexts of the USOC's present powers, and of the proposed broader and more expanded powers.

Senator STEVENS. We have conferred informally, and I now have your formal presentation. We appreciate the time you spent on it.

I gather from your responses that you would be willing to give us, as the USOC has, some specific suggestions as to how S. 2036 can be improved and if we follow them, you could endorse the bill.

Am I wrong there?

Mr. BYERS. We are definitely going to give you our suggestions.

Mr. NEINAS. I serve on the committee that made the recommendations to the NCAA Council to consider favorably the possibility of rejoining the U.S. Olympic Committee. I want to underscore and emphasize something Mr. Byers said. That is, we have mainly taken a positive approach to this problem. We think that through the urging of the PCOS, the USOC has made modifications and changes which will benefit amateur athletics. We seem to be stymied on one point, and that is the application of reasonableness in the amateur athletes' bill of rights.

Let me cite one example which will perhaps spotlight this problem. About 2 years ago, the Amateur Athletics Union arranged for a contract to send a track team to Red China. The particular date of that track trip was in late May. Anybody involved in intercollegiate athletics or at the conference level realizes your conference championships come during that time. Now, in our conference, as well as the Big Ten, the Southeastern Conference and the Atlantic coast and, I think, two other major conferences, that particular trip was scheduled right when our conference championships were to be held. If the athlete is allowed to arbitrarily choose between making that trip, and I would say it was a great educational experience because I took a basketball team to Red China in 1973, or to compete for your institution in attempting to gain a conference championship, I think there is a rule of reason that should apply. The institution has provided that athlete the opportunity to compete for the entire year. And the whole season culminates with the conference championship, but I do believe the institution, certainly the coach of that institution,

should have some say as to whether the athlete should represent the institution in that competition.

Senator STEVENS. As I understood Kenny Moore yesterday, he doesn't disagree with that, if the institution makes the decision.

Are you saying you believe the NCAA rules would allow the institution and the athlete to make that decision. Then an athlete would be allowed to participate in international competition even though it might be inconsistent with a conference role. If the institution and the athlete makes the decision, that the athlete should compete in the outside competition, is that consistent with Big Eight policy?

Mr. NEINAS. I will speak to the Big 8. Our conference rules stipulate that an athlete in any sport may not compete in another competition during the week of a conference championship event. That rule has been on our books for some time. I have been with the Big 8 conference for 7 years and it was there before I got there.

Senator STEVENS. I understood you to say we ought to leave it with the institution and the athlete.

Mr. NEINAS. Here are eight institutions acting in concert adopting that rule for their own benefit.

Senator STEVENS. Again, if the institution, knowing it's got that rule, knowing it's agreed to it, decides that because of the circumstances, in some instances because of our national foreign policy, that it would be beneficial to the athlete, to the institution, and perhaps to the United States to have that athlete compete in the nonschool competition, contrary to the conference rule, who should prevail?

Mr. NEINAS. Let me cite a hypothetical example, Maybe you can answer the question.

Let's say the United States and the U.S.S.R. did not meet in the Olympic basketball games in Montreal and everybody was anxious for a confrontation between those two teams because of what happened in Munich.

Let's say the U.S. Olympic Committee and the Soviet Union decided to have a basketball game in Madison Square Garden and they schedule it the week of the Atlantic Coast Tournament. And they decide that that particular week they are going to try and assemble the U.S. Olympic team.

I can understand you saying we should have the team play the Soviet Union in New York. But what happens to the Atlantic Coast Tournament if you take the outstanding players from that conference away from the participation that they have engaged in all year?

Senator STEVENS. If you accept my premise, I will answer the question. The premise is that each institution together with the athlete, makes the decision as to that athlete's participation in outside competition. If one of the institutions you mentioned made the decision that it would allow one of its athletes to compete in an outside competition and the athlete determined it was in his best interest to go, then the school is not harmed. Will you make that assumption?

What happens under your rule? You would still suspend the school, wouldn't you?

Mr. BYERS. I didn't mean to speak for Chuck, but the institution, let's say, Kansas is the institution that you are using, as an example, Kansas can ask the Big 8 conference for an exception to the rule. They have that right.

You assume the pressures in running these sports aren't visited upon the student or the coach or the institution. Let me give an example of ice hockey.

If we have a promoter from Canada who wants to match the U.S. all-star hockey team against the Canadian all-star hockey team in Detroit the week before Michigan and Michigan State plays on Saturday in the conference championship hockey game, the pressures visited upon Michigan and Michigan State would be such that they would probably have to yield to that, if they didn't have a Big 10 conference rule to back them up.

If you don't have some conference regulation, or national regulation, with reasonable exception procedures built in, you then become subject to really the tyranny of the lowest common denominator. That is a living fact that educators and administrators of college and high school programs have known for I don't know how long.

I point out again to you, sir, these are successful programs. These are the programs that give the United States the international sports muscle that the United States needs. I still wonder why—particularly athletes well out of school, in fact, several who are not competing and several who have not competed in college sports, for example, figure skating—why they are so concerned about NCAA rules that govern the most successful amateur sports programs we have and the one most accepted by the public.

It seems to me if they are so concerned about the NCAA program they might devote their time to expanding the out-of-college program where we all could agree something should be done.

Senator STEVENS. I think we all do agree something must be done. Our point is, there has to be a coordinating body of some type. I don't understand your testimony to disagree with that.

Mr. BYERS. I did not disagree with a coordinating function for the USOC.

Senator STEVENS. The USOC has gone further than we have in terms of athletes rights. The USOC is to be congratulated.

You deal with the institutions that deal with the athletes.

Mr. BYERS. They deal with a much more mature, worldy athlete, too.

Senator STEVENS. Well, we have had a lot of very young international athletes who may not have been mature by your standards and they succeeded.

Mr. BYERS. Not NCAA athletes, sir.

Senator STEVENS. The problem really, as I see it, and the one we are going to have to resolve, is who has the right to make the determination as to whether the athlete will be allowed to compete in an outside competition. Should it be made by the university the student is attending for the purpose of getting an education, or should it be made by an organization beyond the university?

If the institution makes the decision to allow the student to compete in a nonschool competition, I just state my own personal feeling that that decision ought to be honored by your organization.

The problem that we have to face, is how can that be accomplished and not have you retreat from your stated intention to return to the USOC.

Mr. BYERS. I guess I come down on this side in regard to that question. Certainly that is an appropriate one. I can tell from your commentary that you have given a great deal of thought to it.

I come down that it is more in the welfare and the interest of the college student to have those decisions made by the president and faculty people that vote in the respective conferences and on our convention floor, subject to testing of the 14th amendment of the Constitution as to reasonableness and due process; that that is a much better, fairer, and balanced procedure which is better able to take into consideration the student's interest than throwing all of these questions into an arbitration panel of three lawyers. Now I spend hours and hours with lawyers and some of them are my best friends.

But I am not content that three lawyers that the AAA may march out of New York or San Diego, Calif., have greater wisdom on the subject than the Federal courts of this country and the faculty people who live on the campus and deal with these students day after day.

Senator STEVENS. There is an alternative in the bill, Mr. Byers. I am a lawyer and some of my best friends aren't.

We thank you very much for your testimony and look forward to receiving your suggestions. I would hope we would get them within a reasonable period of time as I would like to have an informal meeting with representatives of the amateur sports community around the first week of December.

Mr. BROWN. Yes, sir, we will.

Mr. BYERS. Thank you.

Senator STEVENS. I apologize to you. There are other committee meetings going on and other Senators had questions I didn't have an opportunity to raise. We would like to submit them to you. If you would give us the courtesy of responding to their questions in writing, we would appreciate it.[1]

Thank you.

[The statement follows:]

STATEMENT OF WALTER BYERS ON BEHALF OF THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

My name is Walter Byers; I am the Executive Director of the National Collegiate Athletic Association (NCAA), an unincorporated association of over 700 four-year colleges and universities throughout the United States. The NCAA, by action of its member institutions, adopts and enforces rules relating to the conduct of intercollegiate athletics, pursuant to the fundamental statement of policy appearing in its Constitution:

"The competitive athletic programs of the colleges are designed to be a vital part of the educational system. A basic purpose of this Association is to maintain intercollegiate athletics as an integral part of the educational program and the athlete as an integral part of the student body, and, by so doing, retain a clear line of demarcation between college athletics and professional sports."

We have been asked to testify on S. 2036, now under consideration by this Committee. We appreciate the opportunity to do so, but in candor I must report the NCAA doubts the wisdom and desirability of many portions of S. 2036. I hope our view can be adequately explained in the context of the major relevant events which have occurred since the Munich Olympic Games of 1972.

As is well known to members of the Committee, a variety of occurrences in connection with America's participation in the Munich Olympics led many individuals, including many members of Congress, to question the adequacy of the organizational structure of this country's international amateur athletic effort.

[1] See p. 285.

The NCAA, which for some time had shared these concerns and was convinced that the heart of the difficulty lay with an unresponsive and mismanaged United States Olympic Committee (USOC), resigned from the USOC shortly after Munich, and called for a thoroughgoing reorganization of our Olympic and international athletic undertaking.

Contemporaneously, and principally in response to USOC performance in connection with the Munich Games, a number of legislative proposals were introduced in both Houses of Congress—a common thrust of which was to require that the various so-called national sports governing bodies, which enjoyed voting and de facto control over USOC affairs, be forced to reoganize themselves in order to cause them both to be representative of the various interests in the amateur sports they respectively purported to govern, and to be subject to adequate review mechanisms by which their qualifications to "govern" could impartially be judged.

Of these various proposals, only one—S. 3500, sponsored by Senator Pearson—reached the floor of either House. S. 3500, among other things, would have established objective and appropriate criteria for an organization to act as a national governing body, and would have created a Presidentially-appointed amateur sports board to judge compliance with these criteria and to handle proceedings in which a domestic sports organization, believing itself better qualified than the incumbent to meet such criteria, could mount and be fairly heard on a "challenge" for national governing body status. S. 3500 also contained provisions for the purpose of protecting an athlete's right to compete in international competition, free from improper restraint. As most members of this Committee are aware, S. 3500 passed the Senate by over a two-thirds vote in the summer of 1974. No action was ever taken on that bill in the House of Representatives.

During the same period of legislative activity in the Congress, the USOC—opposed as it then was to a Federally-imposed reorganization of its affairs and, most particularly, to the establishment of a Presidentially-appointed amateur sports board—began its own process of internal reorganization. These efforts resulted, in December, 1974, in the adoption of certain changes in the USOC Constitution which, in the judgment of the NCAA and others, were entirely inadequate to create any meaningful change in the way in which the USOC conducted its affairs. While the USOC adopted modest standards for an organization to act as a national governing body—and thus to become one of the controlling members of the USOC—it did not adopt any meaningful provisions by which a national governing body could be held to those standards, and more specifically, it adopted a procedure for challenging national governing body status which—in contrast to the Pearson Bill—was entirely and obviously slanted in favor of the existing national governing body.

Congressional and other pressure for a thoroughgoing study of this country's international sports effort continued throughout early 1975, and in mid-1975, President Ford appointed a Commission on Olympic Sports, the purpose of which was to determine "those factors that impede or tend to impede the United States in fielding its best teams in international competition." The Commission, as you are well aware, held a series of hearings in late 1975 and in 1976, and issued its report in January of this year. Principal features of the report included the concept of a so-called central sports organization, articulation of detailed and meaningful criteria (drawn principally from S. 3500) for acting as a national governing body, establishment of a fair mechanism for arbitration of national governing body disputes and establishment of procedures designed to guarantee an athlete's right to compete in important international competition, free from unreasonable restraint.

After review of the Commission's report, the NCAA found itself generally supportive of most of the Commission's conclusions, although it expressed major reservations concerning the concept of a central sports organization, controlled by representatives of the various national sports governing bodies.

With the issuance of the PCOS report, the USOC in early 1977 undertook a further reorganizational effort. To the credit of the current USOC leadership, the USOC on this occasion solicited the views not only of the national governing bodies and the members of the PCOS and its staff, but also of the American school-college athletic community, including representatives of the NCAA. For the first time in many years, there existed—and there exists today—a positive attitude between the USOC leadership and the NCAA. The result of this communication, which also was participated in by several of the national governing bodies, was the UCOS meeting at Colorado Springs, in late April 1977, at which, in the judgment of many, truly significant reorganization steps occurred. Principal among these were—the establishment of detailed requirements for national

governing body status, including the requirement that national governing bodies be autonomous;—the establishment of an internal complaint procedure, by which aggrieved persons may bring to the attention of the USOC failure of a national governing body to meet the newly-established criteria for such status;—and a fair arbitration procedure, by which challenges for national governing body status can be objectively heard. On paper, the structure and operating methods of the USOC have been dramatically changed, and while only time will tell whether the new standards and procedures are workable, the NCAA is somewhat optimistic that they will be.

Following the USOC Colorado Springs meeting, representatives of the NCAA—which has under active consideration the question whether to make application to rejoin the USOC—advised the USOC leadership that it favored Federal legislation for the limited purpose of memorializing in the USOC Federal charter the basic principles of USOC organizational change which had taken place at Colorado Springs. The NCAA felt that in view of the importance of the organizational changes, some means should be devised to make reasonably certain that the reorganization did not fall apart just as soon as the new constitutional requirements began to take practical effect.

This remains the NCAA view—specifically, since the USOC asked Congress to grant it a charter in the first place and since the USOC is the officially designated, exclusive representative of the United States in international Olympic affairs, it seems appropriate that certain key elements of its membership requirements and related procedures should be a part of the Federal charter. The recent USOC reorganization has involved an internal, private process, successfully undertaken and implemented, and it would appear the only philosophical justification for Federal legislation at this point is to include within the USOC charter the fundamental organizational principles which were worked out at Colorado Springs.

Substantively, S. 2036—while it in part deals with the accommodations reached at Colorado Springs—concerns itself with a number of other subjects and also contains provisions, within the context of the Colorado Springs reorganization, materially at variance with the actions of the USOC. Had not the USOC Colorado Springs reorganization been a deliberate and direct product of the five-year history referred to above, and were there not such present promise that the USOC reorganization spells the beginning of a new era of cooperation and forward movement for this nation's international athletic effort, one might view more sympathetically those changed or added provisions in S. 2036. At this point, however, the NCAA would rather observe the workings of the Colorado Springs reorganization under the current leadership of the USOC, than to encourage the Congress to legislate and thereby extend the heavy hand of the Federal government into new areas of amateur athletics.

The NCAA is unenthusiastic about Federal legislation which would do more than merely commemorate in the USOC charter the terms of the reorganization already achieved. The simple facts are that the member institutions of the NCAA already are chafing under far too many governmental dictates which many educators believe place the Federal bureaucracy in a dictatorial role as to admission policies, staff hiring practices and the integrity of research, to mention only three areas of prominent concern. There is no desire for further Federal intrusion into the management of institutions of higher education.

With this statement of general approach, it is perhaps important that we also deal with two or three of the major subjects referred to in S. 2036, which were not encompassed by the USOC reorganization. The first of these, which appears both in the general statement of findings and purpose of the legislation and in the enumeration of the proposed new powers of the USOC, is the direct or implied granting to the USOC of powers with respect to domestic amateur athletic competition. These provisions are an apparent outgrowth of the PCOS recommendation in favor of a United States "central sports organization," although a close comparison of S. 2036 and the PCOS report demonstrates that the proposals of the latter for Olympic domestic authority are substantially more modest than those contained in S. 2036.

The NCAA has no inherent objection to the establishment of the USOC, as presently structured, as the coordinating agency for this country's international amateur sports effort. The NCAA is opposed, however, to control over domestic athletics being granted to any "central" organization, whether the PCOS's central sports organization or the USOC as presently organized, when that organization is controlled by the national governing bodies. These national governing bodies (i.e., Group A members, sometimes referred to as international franchise holders) are the respective United States members of various foreign interna-

tional sports federations and, in effect, serve at the pleasure of the international federations—which are entirely beyond the reach of United States law or public policy.

If the USOC is to be given any significant domestic authority (and we oppose this concept), then in the NCAA's judgment it should be controlled by domestic interests and not by national governing bodies who owe their fundamental existence and allegiance, not to the United States, but to private international sports federations which are located abroad and which enjoy a de facto and probably under our law, illegal, monopoly over international amateur sports competition.

Second, the Bill calls for the authorization of $20,000,000 in Federal general revenues, to be used by the USOC for the primary benefit of the national governing bodies, and for development of regional training sites. We understand from the USOC leadership that it seeks such a grant of Federal funds, and obviously whether or not the USOC should appropriately receive these funds is a matter between it, the Congress and the President. The NCAA thus takes no position on this provision of the Bill, except to raise the question whether national priorities do not require that at least equal and probably greater consideration be given to the authorization and appropriation of Federal funds for the purpose of increasing broad-based sports development and athletic opportunities for the youth of this country. We read in the newspaper almost weekly, for example, of the elimination of financing for secondary school athletic programs across the country and the lack of funds necessary to make the athletic facilities for primary and secondary schools available to our youth during non-school hours and summer vacations. Quite often, the media at the same time report the lack of employment opportunities for teenagers and lament the fact that too many of our youth are throwing rocks instead of balls.

When talking about the use of Federal funds for development of the athletic elite—the future world-class athlete—are we possibly getting our national priorities out of order? Should we not be equally concerned, or more so, with the expansion of sports opportunities for inner city youth and others by utilizing the facilities of our primary and secondary schools? The facilities are there. The pressing need is for financing to turn the key. Isn't this of more importance, in the long run, than providing assistance to national governing bodies and the development of regional training sites for potential international superstars? We think such questions require careful examination by the Congress.

Finally, we should refer to that portion of S. 2036 which purports to establish a Federal "Athletes Bill of Rights." As written, the Bill bears no resemblance either to the terms of S. 3500—which three years ago passed the Senate by a two-thirds vote—nor to the legislative proposals of the President's Commission on Olympic Sports.

In effect, the Bill grants to athletes an unimpeded right to compete in all international amateur athletic competition sponsored or sanctioned by a national governing body. As a practical matter—as anyone familiar with the amateur athletic community is well aware—the Bill thus encompasses all international competition. S. 3500 or the Pearson Bill contained a similar provision, but also contained an exception in favor of restrictions imposed by educational institutions, or associations thereof, designed to advance the educational interests of the students themselves or to protect regular programs of athletic competition in those institutions. The PCOS report proposed legislation almost identical to the Pearson Bill, except that only individual educational institutions, and not associations thereof, could impose restrictions based upon educational welfare or regular programs of athletic competition.

There is a marked tendency of many individuals to over-simplify the practical issues underlying an athlete's opportunities to compete internationally. Equally unfortunately, emotion rather than reason seems inevitably to become the principal ingredient of discussions of this matter.

Let me ask: Does an athlete, when he becomes a member of an athletic team, have any obligation to observe the conditions which he agreed to when he became a member of the team? Does an athlete have the right to quit a team realizing he may or may not be accepted back when he chooses to rejoin that team? Does a team sponsor—whose investment in time and money finances the competitive opportunities for the athlete—have an equity in seeing to it that opportunistic promoters do not destroy the effectiveness of the team? Is it reasonable to protect the integrity of domestic U.S.A. sports programs against the blandishments of profit-seeking international promoters?

We answer these types of questions in the affirmative, and we support any set of guiding policies in this area which recognize these principles.

As to the NCAA, let it be remembered that it is an association of educational institutions and these institutions conduct the most advanced and effective amateur sports programs in the United States. The uniform rules of the NCAA are adopted by its own member institutions as a matter of voluntary self-regulation. What NCAA detractors choose to ignore, or tend to forget, is that the NCAA—virtually alone among the principal amateur athletic organizations in this country—is constrained by the Fourteenth Amendment to the Federal Constitution only to implement those rules and procedures, relating to amateur athletic competition, which it can defend constitutionally as reasonable under all the circumstances. The NCAA has been identified by the Federal courts as "state action" and has been subjected to numerous proceedings in Federal court, involving constitutional challenges against the rules adopted by its member institutions. Virtually without exception, the NCAA's rules and hearing procedures have been sustained by our Federal courts as reasonable under the Fourteenth Amendment—or stated otherwise, the Federal District and Circuit Courts of Appeals have held that the NCAA rules and implementing procedures are reasonable when in a particular factual context, both the legitimate interests of the individual and the educational athletic community are taken into account. As a practical matter, under existing law, if the NCAA rules treat an amateur athlete unfairly or unreasonably, the NCAA is subject to injunctive restraint in Federal Court.

I do not believe there is a single amateur athletic organization which is a party to today's subject matter which has been held by Federal Court decisions to be restrained by U.S. constitutional controls to which the NCAA must answer.

It seems rather clear at this point that advocates of this particular provision in S. 2036 do not want a standard of fairness or reasonableness applied to an athlete's right to compete in international competition. In effect, they argue that the right of an athlete to compete internationally is so fundamental a right, constitutional or otherwise, that it rises to a level higher than individual rights contained, in our Federal Constitution—all of which, even including the right of free speech are subject to reasonable restraint. The NCAA believes that this matter of individual rights, like many other matters of individual rights in this country, is subject to examination based upon both the reasonable interests of the individual and the reasonable interests of the community—in this case the amateur athletic community—of which that individual is a part.

Further, as is too often the case, the most well-intentioned theorists usually bear no responsibility for the financial and other practical consequences which flow from the application of their theories. The institutions and administrators I represent do not enjoy that insulated luxury. They are responsible for raising the funds and generating other support for varsity sports programs, the vast majority of which are non-revenue programs. They have an equity in these proceedings in behalf of maintaining those programs and in behalf of the thousands of young people who participate in them each year.

It should be evident to any student of the amateur athletic scene that the inter-organizational disputes of the past have been substantially ameliorated, and that, as one principal consequence, examples of unwarranted interference with international athletic competitive opportunity are rare. We hope and have reason to believe also that the USOC reorganization will contribute to stable conditions in this regard.

In summary, the NCAA finds in S. 2036 a limited number of provisions to which it can lend its support, and in essence those provisions are the ones which have the effect of codifying the reorganization undertaken by the USOC at Colorado Springs. We do wish to express our appreciation to the sponsors—Senators Stevens, Culver and Stone—for their very effective role in the deliverations of the PCOS which resulted in the USOC Colorado Springs reorganization. The fact they took the time to lend their prestige to the PCOS deliberations and to follow up with proposed legislation is responsible for many of the improvements that have taken place within the USOC.

Senator STEVENS. Our next witness will be Joel Ferrell, president of the Amateur Atheltic Union.

STATEMENT OF JOEL FERRELL, PRESIDENT, AMATEUR ATHLETIC UNION, ACCOMPANIED BY MIKE DI SALLE, SPECIAL COUNSEL, AMATEUR ATHLETIC UNION

Mr. DiSalle. I am Mike DiSalle, special counsel for the AAU, and I would like to present to you the president of AAU, who will be its spokesman this morning.

Mr. Ferrell not only is president of the AAU, but is vice president of the U.S. Olympic Committee and immediate past chairman of the junior Olympic program.

Senator Stevens. We are delighted to have both of you here. You may proceed in any way you wish. We will print your complete statement in the record.

Mr. Ferrell. If I may, I will just refer to certain portions of the initial part of the statement. I apologize a little bit for its brevity, but I am sure you are aware we just completed our annual (90th) convention in Columbus.

Senator Stevens. I apologize for the inconvenience. I was aware of your meeting. However, we had unanimous consent for these 2 days of hearings. Because of the press of Senate business it isn't easy to get unanimous consent to hold hearings. Once you schedule a hearing it is difficult to change the date.

Mr. Ferrell. We appreciate that and thank you for the opportunity to appear before you and present to you some of our feelings in regard to the proposed legislation.

I believe generally speaking in the testimony yesterday by the USOC and by the national governing body representatives, we in general concurred with the statements and the revisions that the USOC has requested in conference with your staff, and also those proposed by Mr. Helmick, representing the national governing body in the area of swimming.

I would like to state and rephrase or comment in regard to some of the statements that Mr. Byers made regarding athletics in general. We concur with him wholeheartedly; in his statement that there is a mass of young athletes that usually are neglected. I believe in my written statement I refer to our present system as what might be called a star system in which, unfortunately, the educational institutions are not sufficiently funded to handle more than the stars, so they have to select only a few that are in a position to take advantage of the facilities, training, and so on.

Our junior Olympic program and age group programs are directed in the areas of development. We feel in order to pick the best fruit you have to nurture the trees. These athletes must be first identified, and so on, so most of our activity—I would say 98 percent of our activity is directed in the development, junior Olympic, and age group programs.

We feel in the proposed Senate bill, that there are approximately four areas that need some change, or some clarification. As to the meaning and intent, I mean. The first one I made reference to was that of autonomy. One can question really what the definition of autonomy is. We feel that any organization, to be autonomous has to be in a position to select its own course, to select its own representatives,

determine how it does things, who did them, who is eligible for them, and so on.

To that end, they should be in a position to select the total picture. I believe that in the proposed legislation, that this autonomy could be strengthened somewhat to show that they should be completely autonomous. I am concerned about the definition, with reference to autonomy, in that impositions, restrictions are then imposed along with the word "autonomy" that create problems.

Mr. Byers referred to the fact that football is the revenue-producing sport in collegiate circles and, as such bears the brunt, or is the source of finances for other sports, those sports that are incapable of providing sufficient funds for themselves.

The AAU provides this role too for those sports that are less in the public eye, have less competitors, are less known, and so on. If you go back through history, we find for many years basketball was a predominant sport in the AAU circles. Prior to that, it was track, and in turn boxing, and in in recent times, swimming.

The strength of the AAU has been in the ability for those sports who do have good appeal, from a public standpoint, of fine performances and attendance, and so on, that they in turn can help finance and support those sports that are not in the public eye as much and truly need help.

Senator STEVENS. It has regional application, too.

Mr. FERRELL. Yes. It does through our associations. As a consequence, that has been one of the strengths of the AAU. Our concern, of course, was the USOC constitutional change which, I might add, we supported in concept. There was a divergence of opinion among AAU members, but the AAU as an organization supported those changes and we support them at the present time.

We felt that the thrust might be toward divesting or separating these small—each sport onto the side and making it extremely vulnerable from a standpoint of being susceptible to being picked off just through availability of money, if nothing else.

As Mr. Byers again, or as counsel alluded to, it is very costly to go to an arbitration, and a sport conceivably, if autonomous means they are off by themselves, could be placed in a position where they could lose financially. It would take all their resources to fight an arbitration case, and yet, win the case itself, then be in a position in which they couldn't financially survive, so there are many ways, many reasons for having a collective organization, where you work in concert with others for a common cause. The autonomy we feel should provide those sports governing bodies the right to determine in truth how they want to do that, rather than imposing certain restrictions on them.

Senator STEVENS. Have you thought about the USOC's definition of autonomy? Do you have any suggestion to us as to a specific definition that the AAU would like to see?

Mr. FERRELL. Yes; we have, sir, and I believe it was stated in Mr. Helmick's comments yesterday. I will be happy to furnish that to the staff.

Senator STEVENS. We have that. That answers the question. That is sufficient.

Mr. FERRELL. Yes; it is, Senator. One other area, we feel the national sports governing body should be provided sufficient authority to accomplish or to review and to be in charge of their particular sport.

It is totally inconceivable to legislate that you peel off a portion of this authority and neglect to have any control or any responsibilities or duties or authorities in that area.

Consequently, we feel the national sports governing bodies should have the full responsibilities that are delegated to them or required of them by their international federations. We feel that there are ways of minimizing any problem areas here, through the coordination, as proposed in your legislation, by utilizing USOC as a coordinating body, and we feel that as a requirement of the NGB. We should have what we refer to as the vertical structuring, in which any organization or agency that desires to compete or participate in that particular sport is a member organization of the NGB and as a consequence can make their inputs, and so on. There, of course, would be further redress if that were not satisfactorily accomplished. This generally is spelled out in the most recent legislation of USOC which we concur in.

Senator STEVENS. You do support the recent USOC change?

Mr. FERRELL. Yes, sir.

Senator STEVENS. I take it you would agree that we should not try to go further in terms of restructuring the USOC than what has already been accomplished.

Mr. FERRELL. Yes.

Senator STEVENS. We don't attempt to do so in this bill. The vertical alignment of the national governing bodies and the autonomy question, that was also addressed in the USOC's reorganization.

Mr. FERRELL. Yes.

Senator STEVENS. If we stay within that framework, the AAU would concur.

Mr. FERRELL. That is correct, sir. We do feel there should be a little more clarification on autonomy, rather than in the USOC that I mentioned earlier. That autonomy we feel is best described as was presented by Mr. Helmick yesterday.

Senator STEVENS. Yes; I understood that.

Mr. FERRELL. The other area we concur in is the athletes bill of rights, as proposed by the athletes advisory council and I believe is likewise a part of the legislation that was—that has been changed or is now proposed to be changed. I believe in coordination with them and your staff. I believe—I was not present at the hearings yesterday, but I believe your staff did coordinate that with them. We concur with that. If I may, I would like to also state that the principal objective of the Amateur Athletic Union is to foster and improve sports and to help develop sports. And, as such, althoughiwe haven't always agreed with, in some of the details with USOC and their actions, we concur with the objectives and as a consequence we feel we are a contributor and a valued member of that organization.

We expect and we would hope, and plan to remain such. We concur in general, again, with the statements and the variations that have been worked out with your staff, and the USOC, with some minor changes which we will be—if we may, submit to your staff.

Senator STEVENS. Thank you.

The AAU has been most constructive and very cooperative. One question, can you tell me if you see anything in S. 2036 that might cause problems to develop between the AAU and USOC? We are not trying to cause problems. I just wonder if you see anything at all that can cause problems.

Mr. FERRELL. I don't believe so. We are all for the same objective. I see nothing specific in the revised version that would.

Senator STEVENS. Do you have any difficulty with the funding proposal that is in this bill. One of the ways we are trying to assist the development of amateur athletics is through Federal funding of the national training centers?

Mr. FERRELL. No; we would encourage that. I think it would be more appropriate if the funding was made available only to the members of the USOC.

Senator STEVENS. It is my understanding that the USOC will make it available to them.

Mr. FERRELL. Yes. I believe the legislation proposes only a portion.

Senator STEVENS. A portion. That is right.

We have tried to comply with the suggestions that come from all organizations, and we look forward to this just being the first step in the creation of some form of Federal assistance in fundraising for amateur athletics.

Mr. FERRELL. Yes.

Senator STEVENS. Could I ask you, I did ask this question yesterday, when an athlete travels to an international meet, does the AAU issue a travel permit?

Mr. FERRELL. Yes; there are international permits on that; yes, sir.

Senator STEVENS. If an athlete does not have a permit and wishes to compete on his own in competition abroad, what would be the effect on his status with the AAU?

Mr. FERRELL. Generally, Senator the federation in a particular country that the athlete wants to compete in requires whatever country he comes from certify that athlete, certify that he is an amateur, he is registered and is a member of their federation.

So, in a lot of instances, some of the federations would not accept him, unless he had that permit.

That is a primary reason for it, is for assurance that he is, in truth, a member of their federation.

Senator STEVENS. But is there a restriction placed on an athlete performing under the AAU and traveling without a permit for foreign competition?

Mr. FERRELL. There could be. I don't know of any sanctions that have been taken because they have.

Senator STEVENS. Do you have any difficulty with the USOC's role as a coordinating entity for amateur sports?

Mr. FERRELL. None whatsoever.

If I may, Senator, I would like to address a reference that was made to a trip to China and, perhaps, set the record straight.

Senator STEVENS. I would like to have that.

Mr. FERRELL. The particular trip to China, the date was determined by the State Department, not the AAU. And the AAU was asked to act as their agent in fielding a team. So we had no control——

Senator STEVENS. You were the cat's paw in that one?

Mr. FERRELL. That is correct.

Senator STEVENS. I want to tell you, that as I have gone through this, I have looked over the history of a lot of legislation and the attempts that have been made to try and solve the problems affecting amateur sports. I think at times the AAU has been the subject of criticism that was unwarranted.

During my participation in this, I guess it encompasses about 7 years, the years go too fast, your organization has been very strong and very helpful to those of us trying to find a solution. We are very grateful for it.

We appreciate the problems that this hearing may have caused for you in terms of timing.

I think it is a tribute to your organization that you have been willing to go as far as you have gone to try and help solve these problems.

I think of all the organizations that have yielded in terms of past positions, yours has probably gone further than any other. I think other members of the committee and those who sponsored the bill would say the same thing. We appreciate it.

So, would you take to your organization our thanks for your efforts to cooperate with us. Hopefully we will find a solution to these problems.

Mr. FERRELL. Thank you. We will take those comments to our members, and we thank you for the opportunity to be with you and work with your staff and to make our desires known here.

We will look forward to working for you in the future.

Senator STEVENS. We do look forward to a sort of informal discussion in December, and we will keep you notified as to when that will occur.

Thank you.

Mr. FERRELL. Thank you very much.

[The statement follows:]

STATEMENT OF JOEL FERRELL, PRESIDENT, AMATEUR ATHLETIC UNION

Mr. Chairman and ladies and gentlemen of the committee: I wish to thank you on behalf of the Amateur Athletic Union for the opportunity to appear before you and present you information and suggestions regarding the contest of the Amateur Sports Act of 1977.

As you may know, last Saturday night the AAU completed its Annual Convention which reflected 90 years of continuous operation in the field of amateur sports since its inception. Although the main focus of the general public is upon the "star" in each of the athletic fields, a major portion of the AAU effort is devoted to those at the grass roots level who *aspire* to stardom but, more important, *desire* to improve physically, mentally, and morally by training and competing in amateur athletics. The Amateur Athletic Union is composed of hundreds of thousands of volunteers who devote much time and money to activities whcih provide opportunities for our athletes to practice, develop, and compete in athletic competition. The value of this effort is vividly demonstrated by performances of athletes under the AAU banner who have competed in Olympic competition. In the most recent Olympics, 79.6 percent of all the medals won by American athletes were won in sports under the AAU banner. And, approximately 80 percent of all medals won in all modern-day Olympics have been won by AAU athletes.

A grass roots feeder system must exist in order to identify and then develop (or "fine-tune") those exceptional athletes who demonstrate a high degree of potential and eventually become "stars." In the development of athletes, the AAU programs that play a major role in the sports identification and development process are our National AAU Junior Olympic Program and its associated program, the AAU Age Group Program. Unfortunately, sufficient funds are not available in our various educational systems to finance and provide athletic activities for the masses. Too often we look at the fruit developed and neglect to see who has been watering the tree. The AAU programs supplement the existing system by providing opportunities for millions to compete and by training and developing athletes for international competition.

In our recent Convention, the AAU took another major step—perhaps the greatest step in our history—to provide sports autonomy for those sports under the AAU umbrella. This action was in keeping with the spirit of the "President's Commission on Olympic Sports Report" and the USOC Constitution recently

amended in Colorado Springs. The AAU is dedicated to the athletes' welfare while accomplishing a meaningful and valuable amateur athletic program. Under the concept passed at our recent Convention, the AAU as an organization is becoming an administrative arm which provides support services to those sports which desire them. This was done after serious consideration of the potential weaknesses that can occur in a sport when it is removed from a protective umbrella. The AAU has been strong in the development of sports because the stronger sports have helped the weaker sports and have done so because they desired to rather than because it was a legislated requirement.

There are two areas in the proposed legislation which especially concern us:

1. AUTONOMY

We implore this committee to define autonomy so that the sports governing bodies can determine their legal responsibilities and authorities, which, in turn, will determine how their sports are conducted, who conducts them, under what conditions they are conducted, and in what manner they are conducted. We agree that sports autonomy is needed, but in our opinion autonomy should give the sports governing bodies the power to determine their own course. Although the proposed legislation and the USOC Constitution cover autonomy, they also impose restrictions that preclude true autonomy. A very serious problem could arise from dissecting the various sports committees from under the AAU structure as currently proposed.

2. NATIONAL SPORTS GOVERNING BODIES

The powers and authorities that are recognized as National Sports Governing Bodies should be no less than what is required by the international federations to which they belong. If Congress legislates autonomy, the sports governing bodies must be legally authorized to govern their respective sports activities.

There was not sufficient time to prepare as complete a presentation to this Committee as I would have liked. Therefore, the attached, response to an inquiry from Mr. Henry F. Carey on behalf of Senator Stone will summarize my feelings on the status of amateur athletics in this country in light of the proposed legislation before this Committee. Thank you for your time and attention.

AMATEUR ATHLETIC UNION,
Indianapolis, Ind., June 1, 1977.

Mr. HENRY F. CAREY,
14 Arlington Street
Cambridge, Mass.

Dear Mr. Carey: I apologize for the lateness of my response; however, pressing business has precluded my having sufficient time to give proper thought to your questions. Your questions are listed below with my answers as well as general comments at the conclusion. I hope this will assist you in your task.

1. What is your overall opinion of the final report of the PCOS?

The PCOS Report contained many recommendations which are important to the growth and improvement of performance in amateur sports, such as athletes' rights, athletes' representation on sports committees, vertical structuring, length of tenure of officers and directors, arbitration of disputes, tax incentives for corporate or private contributors, plus others. However, it neglected to address in any detail or give proper credit to organized "programs" that feed the talent to the senior level for further training and development. One cannot assume that great athletes are standing by in the wings just waiting for some "new" organization to develop them into Olympic champions. They must be given an opportunity identified as potentially of champion caliber, then nurtured and trained until they reach their peak performances. I speak of programs such as the AAU Junior Olympics Program sponsored by Sears, Roebuck & Company and our swimming development program sponsored by Phillips Petroleum. Programs of this type, along with more emphasis on junior high and senior high school sports programs hold the principal key to future success. The East Germans instituted a program which reaped a tremendous harvest of medals in swimming. Their program instituted in 1970 made swimming compulsory for all school children from age 9 through 19. They start the program the first year by teaching two strokes, one of which must be breast stroke, then progress from there. If the school does not have access to a pool, they are required to arrange for and provide a minimum of two weeks each summer at a swim camp approved by the child's parents. Why cannot government funding be made available (without strings) to the various sports governing bodies to establish and operate camps and training centers?

With respect to sports committees' autonomy, etc., two things were quite obvious to me: (1) an understanding of how the AAU sports supervising committees operate and how autonomous they *currently* are was poorly presented, and (2) the overwhelming desire to destory the AAU was evident throughout the report. In this regard, the emphasis again was placed in the wrong area. For instance, how can the various sports supervising committees of the AAU that comprise one-fourth of the number of sports represented by the U.S. Olympic team that garners 79.6% of the total medals won be so bad? Statistics would indicate otherwise, and I believe unbiased reasoning would similarly do so. No consideration was given to the effect on the development programs that provide the source for identifying potential greats. These stars don't suddenly appear. They must be identified in the early stages of development and then attention must be given toward improving their skills.

2. Is the AAU prepared to give up its control over the eight sports which the PCOS and the USOC say it should?

The AAU as an umbrella organization does not now have *control* of the sports in its organization. Principal control is now vested in the individual sports governing committees. The AAU sports supervising committees elect their own officers, elect their own national and international representatives, select their own national-international team members, establish their own rules of competition, determine their own actions as they relate to the International Federation or International competition, elect their own USOC members, approve/disapprove national-international meet sanctions, limit their tenure of office, have athlete representation, budget and disburse their own funds, and many other autonomous activities, with none of the above subject to disallowance or change by the umbrella AAU organization. I would suggest you read Article 208.10, pages 36–37 of our 1977 *AAU Code*, which defines duties, responsibilities, and authority of each sports supervising committee. There are minor changes required to the Code regarding ellgibility that are being currently formulated whlch will fulfill the requirements for its sports committees to have full control over who participates, what are the rules, where they participate, who officiates, and how the funds are expended. I believe after you read the above Article that you, too, will agree that the AAU organization and the manner in which authority for its sports control is vested in the individual sports committees was not properly presented in the PCOS Report. If there is an effort or legislation proposed that would destroy the AAU, obviously we would fight to the last breath.

3. Do you feel that the USOC has any authority to make you give up this control? How would you respond to a threat of expulsion?

I do not believe the USOC has the authority to make anyone give up "control" as you put it. If the USOC were empowered to such an extent, would not that same power be sufficient to force organizations to *belong* to the USOC? As members of the USOC since its inception, we will abide by the Constitution and Bylaws of the USOC, short of the requirement to completely destroy our organization. I believe the question of "threat of expulsion" without a reason attached is purely hypothetical.

4. Would you oppose legislative action designed to give independent control to new national governing bodies?

Yes, as would over hundreds of thousands of volunteers and approximately 8000 clubs. What new governing bodies are you talking about? Again, is the objective just to destroy the AAU? The benefits derived from the AAU multisport activities wherein there is a "cross-feed" of talent and training skills between sports is extremely important to any athletic success. What would be the benefits of legislation by a political body that new national governing bodies be established? Would the legislation specify who they were to be or would they be up for "grabs?" Would it be much different than legislating that no senator or representative can serve on more than one congressional committee nor serve for a period in excess of six years? Or, further, because the current congressional actions haven't resulted in a balanced budget, should we disqualify all current members and elect *all* new congressional members? Obviously, that's ridiculous, but no more so than legislating a change in sports governing bodies because we didn't do as well as some feel we should have. Look in detail at our athletes' performances not just at the numbers of medals won, and I'm sure you'll agree with me that their performances were outstanding. Again, what would be the purpose and would the benefits derived outweigh the penalties? You would have complete chaos and turmoil for years to come. How can you legislate success? If this is possible, let us legislate a balanced budget, a stable economy, and complete peace throughout the world.

5. What proposals would you favor in new legislation? What would you be willing to compromise on in order to get certain things passed?

I would favor broken time pay for athletes, coaches, and administrators on official business in government, government contractors, and private industry. I would favor establishment of regional sports complexes, placed under the complete jurisdiction of different sports governing bodies or the USOC. I would favor tax incentives to contributors to our programs. This nation has maintained its greatness utilizing the free enterprise system; let's develop our sports programs the same way—without government intervention and control.

6. What is your view of an athletes' bill of rights? Of new funding mechanisms conducted and allocated by the USOC?

I concur wholeheartedly with the athletes' bill of rights. I am hopeful that sufficient funds (and facilities) will be available to increase the rate of development of athletic competence of our athletes with the funds being made available directly to the sports governing bodies.

7. What was the basis for opposition of the AAU to the bills introduced in Congress in 1972 proposing reorganization of amateur sports?

The bill proposed in Congress in 1972 basically dictated the complete destruction of the National AAU and all of its associations. It completely disregarded the grass-roots development needs and the value of the strong helping the weak.

8. What role do you envision for the AAU if it is forced to give up its control over the eight sports? Do you trust the American Arbitration Association to safeguard an appropriate role for the AAU?

As stated previously, the AAU as an umbrella organization does not now control the sports within its framework. We provide certain services that apply across the board, such as insurance, registration, publications, Junior Olympics, public relations and promotions, travel arrangements (if desired), distribution of correspondence, fund raising, marketing, etc., and a focal point for the diversified activities of our broad-based organization. To complete the transaction of "autonomous sports committees" we have initiated the process to individually incorporate the sports committees and will probably make each an autonomous division of the AAU. The committee names will probably retain "AAU" as a part of their title, as it is well known and respected throughout the world. To completely eliminate it would not only serve no purpose, but it would be asinine. We don't change the name of our government when we change political parties in power. We must, however, also abide by the wishes of the International Sports Federations. They may not accept any organization other than the "AAU." Regardless of the wishes of the Congress, the USOC, or anyone else, these International Federations are the final "word" in assigning the sports franchises to national organizations. The American Arbitration Association is completely acceptable to arbitrate sports questions; however, they arbitrate questions of rules violations using rules established by others. The question really focuses on whether the rules are fair and proper.

9. What role do you envision for the NCAA if the new proposals are enacted? Do you think the NCAA has acted in good faith in the past five years in regard to the Olympic movement?

I have no knowledge as to what the "new proposals" contain. It only seems reasonable that before any legislation is introduced that full committee hearings concerning the legislation would be held. In fact, discussions with the AAU and other sports governing bodies should be held prior to the final preparation of any legislation. Your letter is the first request for information or comment that I have received from any legislative source. Other than some general discussions with Commission staff members, I have only had the opportunity to discuss the AAU Junior Olympic Program and our other development programs for about 30 minutes at a Commission meeting in Chicago. Concerning the question of good faith of the NCAA in regard to the Olympic movement, I merely state that as an organization they have not seen fit to join the U.S. Olympic Committee. We in the AAU have among our most contributory members individuals, coaches, trainers, and schools that are also members of the NCAA. We contribute much of our success to their efforts. The association with them has been most rewarding and valuable to our objectives.

I would like to conclude my answers to your questions with a few comments and cautions. It seems as though the attention is only directed toward perhaps 1/100th of 1 percent of our athletes while competely disregarding the millions involved in local development activities. Our school athletic programs are all directed toward the "star" system where an extremely limited number make the final squad. Ther must be other opportunities for those who are overlooked to

train and compete, so that those who have the potential can be recognized. How many schools have women's swimming (or men's for that matter) or women's track and field, or gymnastics, or wrestling, or weightlifting, or judo? The AAU in association with its clubs and affiliated organizations fills that role. I might suggest looking at those sports that have not produced medals to see if utilizing the AAU organization with its clubs and volunteers could help improve their development effort.

The AAU is an organization consisting not only of professional coaches, trainers, administrators, etc., but of organizations and clubs (approximately 8000) that are involved in sports because they love sports, are aware of their benefits, desire to contribute time and talent and want no pay while serving. They make up a vast army of officials and administrative specialists who not only conduct AAU events but provide similar service to other organizations as well. To try to legislate success by destroying such an organization is not only impossible but it borders on infringements of one's rights. If a more successful production of medals is desired, then perhaps one should consider legislation that would outlaw the payment of athletic scholarships to the approximately 300 foreign athletes we have yearly in our colleges and universities. Perhaps we should legislate to restrict our coaches, trainers, etc., from providing advice, instructions, or demonstrations to foreign athletes or governments. If it is *mandatory* that the U.S. win more medals, I would suggest eliminating the outflow of teaching of skills, etc. as the first step. Use those funds to further develop our own athletes. I would not personally agree with such drastic actions, but it would reduce the problems of being beaten by athletes who have received the benefit of being trained by our best coaches. You can't however, expect to win wars by teaching your opponents your strategy, your weapons, designs, and your plans.

I strongly urge you to consider only legislation which will provide more opportunities for the athletes to train and compete by making facilities available, by providing tax incentives to those who contribute to sports development, by providing the availability of broken-time payments and by the elimination of restrictions rather than imposing more.

I apologize if my words seem harsh, but I cannot sit idly by and watch a 90-year-old organization that has provided the sports guidance to millions of athletes and to sports that have won 80% of *all* the medals ever won by the country in the Olympic games be destroyed. Don't kill the goose that laid the golden egg because it only laid one golden egg this time instead of two. I sincerely hope that a full review of the consequences of enactment of legislation will be accomplished before the legislation is proposed. If I can be of further service please contact me.

Sincerely,

JOEL FERRELL,
President, AAU.

Senator STEVENS. Is Mrs. Charlotte West here?

Ms. West, I am informed you have your national convention going on and have to take a plane to go to it. We appreciate your being here under those circumstances.

Your full statement will appear in the record. Perhaps under the circumstances you would like to highlight it. Any way you would like to proceed is fine.

STATEMENT OF CHARLOTTE WEST, PRESIDENT-ELECT, ASSOCIATION OF INTERCOLLEGIATE ATHLETICS FOR WOMEN, AND DIRECTOR OF INTERCOLLEGIATE ATHLETICS FOR WOMEN, SOUTHERN ILLINOIS UNIVERSITY, ACCOMPANIED BY MARGOT POLIVY, LEGAL COUNSEL

Ms. WEST. Thank you.

My name is Charlotte West, representing the AIAW.

With me is Margot Polivy, from the firm of Renouf, McKenna & Polivy, legal counsel for AIAW.

I have served the AIAW as a commissioner of intercollegiate championships and am presently president-elect. Also, I am director

of the women's athletic program at Southern Illinois University. I have been a coach and administrator of women's athletics for 31 years.

I would like to tell you briefly about the AIAW. We were organized in 1971 and for the past 6 years have enjoyed phenomenal growth. The fact is we are the largest collegiate sports governing body in the United States. This year AIAW is sponsoring 17 national championships for women in 12 different sports. Over 100,000 female athletes participate in our program.

Our association generally supports the bill, S. 2036. Our support is based upon the fact that it would bring a needed structure to amateur sport, it provides funding for sport development at all levels, insures the right of the athlete to participate and provide some degree of protection to the athlete from unreasonable demands, all of which in the past have been lacking.

As the name of our association implies, AIAW's primary concern is with the female athlete. With respect to the particular needs of women, we find the bill deficient. No area exists in our society where women have endured more obvious discrimination than in sports. This fact is well-documented in many sources, including a special report by Candace Hogan appearing in the September 1977 Women Sport magazine which is attached to my testimony. I have requested it be included in the record.[1] This discrimination is well articulated in the report of the President's Commission on Olympic Sports.

I would like to read from that report if I may:

> Discrimination still operates against women athletes in this country, particularly in terms of organizational influence and authority, access to facilities and equipment, financial assistance, and opportunities for recreational and competitive programs. Women are prohibited by law, regulation, tradition or hostility from receiving either an equitable or adequate share of athletic resources and opportunities. Such discrimination will not be corrected unless positive action is incorporated in this legislation.

The intent of the bill may look good, but the present bill would simply lock women in athletics into the status quo. A status which today remains grossly inequitable.

S. 2036 must be amended to take into account the special needs of women, or present inequities will be perpetuated. For example, we would like assurance that women will be well-represented on the national sports governing bodies. Today representation for women is close to zero, even though we have a large number of participants, representation on sports governing bodies is poor and this situation will not be changed unless change is mandated. Representation in national sport governing bodies should be close to 50 percent.

An all-male sports governing body is less sensitive to the needs of female athletes than a governing body representative of both sexes. Certainly where participation is by both sexes, governance should also be by both sexes.

Another area that AIAW would like to see assured is equitable funding for women's sports. Again, as with governance, positive action is needed. The present situation permits development funds to be obtained under the basis of the underdeveloped status of programs for women, but there is no requirement that the funds so awarded must be used for women's programs. We believe that S. 2036 should require that development funds allocated for women's programs be used for women's programs.

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[1] See p. 373.

AIAW has offered amendments designed to accomplish these modest goals: fair representation of women on sports governing bodies and an equitable share of sports funding. These amendments are appended to my written testimony. I hope the committee will agree that these amendments should be incorporated into S. 2036.

AIAW supports the athletes bill of rights. Our association's commitment to the rights of athletes is exemplified in many ways. For example, we have student representation on our AIAW Executive Board; we have student representation on our appeals board; and we have a student representative on each of our 17 sport committees. In addition, AIAW member institutions are encouraged to include student athletes in decisionmaking functions on their respective campuses.

AIAW believes there are strong benefits to be derived from including athletes in the governance of their sports program. I know as an individual I was somewhat slow in accepting this concept of student representation, and as Commissioner I have witnessed excellent benefits; for example, in our golf championships, as a result of student input. We believe the requirement of athlete representation embodied in S. 2036 is a progressive and healthy provision.

As an organization, AIAW has carefully protected the due process rights of students. Our organization has a system whereby any student-athlete may seek waiver and appeal of any regulation. You may be interested to know that in every case in which an athlete has appealed an AIAW regulation to permit participation in international competition the requested waiver has been granted.

AIAW is also pleased that the bill will provide athletes with opportunities to have grievances considered individually and to have an appeal system for an adverse decision. We have found that an appeals system effectively insures equality in the particular which can be difficult to administer through a system on needed general rules.

S. 2036 represents landmark legislation with respect to amateur sports in this country. The amendments that AIAW suggests will assure that S. 2036 is also a landmark to women in sports. We urge the committee not to ignore the inequitable status of women in athletics but to amend S. 2036 to provide that they are fairly represented and their programs fairly funded. It is only through the efforts of both its male and female athletes that the United States may be assured of the finest international representation in Moscow in 1980 and in the years to come.

Thank you.

Senator STEVENS. Thank you.

Let me assure you there is no intention that the bill contains a bias against women. We will consider your amendments. We will do our very best to convince you that there is no intent to discriminate against women. As a matter of fact, yesterday, when the USOC was here, I asked them specifically what they were going to do with the money they were raising. They read off several of their programs and responded that there would be equitable distribution of funds for men and women.

Ms. WEST. We heard that and were encouraged, but I also heard this morning when Senator Stone was questioning the NCAA representatives that some section with regard to sex discrimination had been eliminated.

Senator STEVENS. I was one who voted for the equal rights amendment to the Constitution. When that is enacted you won't need sex discrimination legislation.

From my point of view there is no intent to foster or perpetuate discrimination. We have to assure that in any program using Federal funds, that the funds are used equitably in terms of participation by women and men in sports. There are some sports that women don't participate in, at least now. They might someday. If they do, as far as I am concerned, they will get their fair share.

We will take a good look at your suggested amendments. If in going over the bill, we find your suggestions have merit we certainly will include them.

We will invite you to our informal discussion so you can go over the bill line for line and word for word with us, to make certain there is no discrimination.

Ms. WEST. We will do that.

Perhaps Margot Polivy would like to make some remarks.

Ms. POLIVY. There is one thing we would like to explain because it has come up before.

In terms of athletics, women are somewhat unique when compared with other so-cal'ed minority groups. Only women have a totally separate sports program. In reality, we have a dual sports program. Domestically, national championship programs have been developed separately for men and women; men and women compete separately. Internationally, by tradition and regulation, the competition for men and women is separate. What AIAW is seeking with respect to the amendment of S. 2036 is a recognition of this unique situation and a mandate that the dual athletic system be reflected in the criteria that is used to recognize national governing bodies, that their governing body and governing boards represent that duality of program and assure women an opportunity for authority, as well as participation.

With respect to the allocation of resources, we were very pleased to hear the USOC's recitation of the distribution of development funds specifically to women's programs. We think that practice should be codified into law to insure that women are not dependent upon an isolated instance of good faith or charity. Only through amendment of S. 2036 can we be assured that women will be protected whether the present administration of USOC remains or a different one comes along.

As presently written, S. 2036 requires that governance and resources be allocated without regard to race, religion, national origin, or sex. While this provision may assure nondiscrimination on the basis of race, religion, and national origin, it will exacerbate the existing discrimination against women. Because competitive sports programs are separate for men and women, S. 2036 must recognize this reality and require equitable distribution of authority and resource to each sex. It is only by this affirmative recognition that S. 2036 can assure nondiscrimination with respect to women. For too long "without regard to sex" has meant that women in sport and women's programs are simply ignored. We want to be involved in the reorganization of amateur sport, but women need an amendment of S. 2036 to achieve that goal.

Senator STEVENS. Have you made application to join the USOC?

Ms. POLIVY. Yes; we have made application to join the USOC.

Senator STEVENS. Are you familiar with the changes they have made?

Ms. POLIVY. We are familiar with the changes. We have discussed the matter with the USOC informally, and we have been encouraged. We are hopeful it will be resolved in an equitable fashion.

Senator STEVENS. I want you to know that I am encouraged. I am encouraged that the people involved in the USOC are attempting to alleviate some of the irritants that necessitate congressional involvement. Hopefully we will have a strong base for amateur athletics in this country if we set up a system that will protect an athlete's right to compete and resolve disputes involving national governing bodies, including disputes over funding. We will submit the changes you suggest to the USOC for their comments, and see if those individuals who have been so cooperative to date, will continue to give us their best advice.

You know, it is not as difficult as you think. There aren't any of us that aren't involved in our daily lives with wives and daughters and catch more hell about some of this legislation than you would ever believe. We have no desire to have you or your organization go away with the idea that we are trying to perpetuate a pattern that leads to discrimination against women.

We will deal with that, I assure you.

Ms. POLIVY. We are encouraged by your words, and we hope that the bill that is submitted from the committee reflects it.

Senator STEVENS. The young lady on my right, Mary McAuliffe, is on the committee staff and is a very outspoken advocate for these matters. You don't need to worry.

Ms. POLIVY. Your staff has been very helpful.

Senator STEVENS. You don't need to be concerned about some of these young men on the staff. They are trying to make certain we don't create problems by trying to solve them.

We will be working together, I believe, before we are through with this bill.

We are glad to have your general support, but I hope you will be totally satisfied with S. 2036 when we are finished with it.

I thank you both very much.

[The statement follows:]

STATEMENT OF CHARLOTTE WEST, PRESIDENT-ELECT, ASSOCIATION FOR INTERCOLLEGIATE ATHLETICS FOR WOMEN

Mr. Chairman, members of the Committee, my name is Charlotte West. I am Director, Intercollegiate Athletics for Women at Southern Illinois University, Carbondale, Illinois. I am here today to present the views of the Association for Intercollegiate Athletics for Women (AIAW), of which I am President-elect, on S. 2036, the Amateur Sports Act of 1977. My testimony will focus on:

AIAW's support for an athlete's bill of rights;

AIAW's support for athlete representation in sports governance;

The failure of S. 2036 to address the present inequitable treatment of women with respect to program development and governance authority; and

AIAW's recommendations for ensuring equal opportunities for female amateur athletes.

Our positions on these matters are a logical outgrowth of AIAW's history and philosophy, both of which are unique among sports governance bodies. AIAW is the largest national organization conducting collegiate sports programs exclusively

for women. Although AIAW is only six years old, it has over 800 active two and four year collegiate member institutions and over 100,000 student-athletes participate in AIAW programs. AIAW currently offers 18 national championship programs in 12 different sports.

AIAW was founded by the National Association for Girls and Women in Sport (NAGWS), a part of the American Alliance for Health, Physical Education Education and Recreation (AAHPER). AIAW therefore differs from organizations serving male student-athletes such as the National Collegiate Athletic Association (NCAA) and the National Association for Inter-collegiate Athletics (NAIA) in that it had its genesis in an educational organization. We also differ significantly from these groups in that we have had, from the beginning, an interest in a broad range of sports, while the men's inter-collegiate governing organizations were derived out of groups with a single sport focus—basketball and football. Consistent with this history and our recognition that each sport is most important to those who compete in it, we have declined to label sports as "major" or "minor" because of their financial potential, spectator appeal or any other attribute.

AIAW SUPPORTS THE ABSOLUTE RIGHT OF ALL QUALIFIED ATHLETES TO COMPETE IN ALL UNRESTRICTED COMPETITIONS

AIAW shares the conviction of the President's Commission on Olympic Sports and the sponsors of S. 2036 that sports organizations should be committed to to development of athletes, not to their exploitation or the political aggrandizement of the sports organization. One of AIWA's primary purposes, as articulated in our Constitution, is "[t]o assist member schools in extending and enriching their programs of inter-collegiate athletics for women based on the needs, interests and capacities of the individual student."

AIWA's respect for and focus on the rights and needs of athletes is reflected in our regulations concerning transfer students and injured athletes, our liberal waiver and appeals system and our lack of a "tainting" clause. Under AIAW's rules students may transfer freely without loss of competitive eligibility. If a student is injured during the season she does not lose a year of eligibility if less than one quarter of the institution's season has elapsed. If more than one quarter of the season has elapsed, the student can petition the Ethics and Eligibility Committee for waiver. If waiver is denied, there is a further right of appeal to a three member Appeals Board selected by the petitioning student and the institution from a standing panel made up of one member from each regional organization plus a student. Should this system of waiver and appeal be exhausted without relief, the student has still a further right: to request mitigation of penalty from the AIAW Executive Board. At each stage, the AIAW procedures provide for notice of the allegations made and opportunity to respond thereto.

This appeal system applies equally in the area of international competition. Our rules " . . . encourage participation in international competition by athletes enrolled at AIWA member institutions," and specifically provide that: "When participation on an international team affects the student's eligibility for AIAW events, the student may appeal to the Ethics and Eligibility Committee for leniency. The appeal cases will be considered individually." Swimmers, basketball players and gynmasts unable to maintain normal academic progress due to late registration resulting from international competition have all filed appeal under this provision and none has yet been denied.

AIAW was pleased to see these same concepts of fairness and emphasis on the athlete embodied in S. 2036. AIAW wholeheartedly endorses Title III of S. 2036 which provides for "Athletes' Rights to Participate."

AIAW SUPPORTS THE RIGHTS OF ATHLETES TO SHARE IN SPORTS GOVERNANCE

AIAW also strongly endorses S. 2036 insofar as it embodies the concept of athlete participation in governance, a feature characteristic of AIAW's own governance structure, in which students are voting members of AIAW's Executive Board, Appeals Board Panel and each sport committee, and member institutions are formally encouraged by Delegate Assembly Resolution to include students in their delegations. We are concerned, however, that Section 203(c)(5) of S. 2036 falls far short of putting its sound theoretical concept into practical effect. We do not believe that as drafted it will achieve true athlete representation.

Section 203(c)(5) requires that USOC recognized National Governing Bodies include as voting members individuals currently engaged in amateur athletic

competition or who have represented the United States in international amateur competition within the preceding ten years. Any athlete who has participated in world class competition has certainly earned lifetime recognition as an athlete. Once the participation stage is over, however, the immediacy of personal involvement, the inside competitor's view of how things are at a particular time, is forever lost. And it is precisely because of that unique perspective, possessed only by those who are actively, personally and currently involved, that the Act seeks to bring athletes into governance. Accordingly, AIAW proposes that the definition of amateur athlete be altered by substituting four years for the ten year allowance contained in the bill. This amendment, drafted to coincide with the four year Olympic cycle, would ensure the constructive contribution of athletes to sports governance, since athletes fresh from competition can best articulate the needs of fellow competitors.

S. 2036 MUST ADDRESS THE CONCERNS OF FEMALE AMATEUR ATHLETES

While the two matters I have just discussed affect all athletes and the two I shall now discuss—equitable participation in resources and in governance—are problems directly affecting only the female athlete, they in fact reflect far more significant deficiences in S. 2036, deficiencies which must be repaired if the legislation is to achieve its long range intent for athletes of both sexes. S. 2036 must provide women, whose competitive programs are separate from men's, their fair share of resources and of governance authority. In this regard logic speaks as loudly as equity, since American Olympic success depends half on its men and half on its women and to deny full participation to American women is to deny full participation to the United States.

In 1974, the President's Commission on Olympic Sports was appointed to study the condition of amateur sports in this country and to recommend a program for improving the performance of American athletes in international competition. In 1975, the Commission released a preliminary report which reflected study and initial recommendations on a broad spectrum of issues but was startlingly silent with respect to the status of American women in sports and the difficulties and historic discrimination they faced.

After release of the preliminary report, AIAW appeared before the Commission to urge the serious need for thoughtful consideration of the plight of women in amateur sports and for formulation of recommendations designed to ensure achievement of equal opportunity. AIAW noted the prematurity of any effort to select among various hypothetical plans for the restructuring of amateur sports when none of those plans addressed the threshold problem of ensuring equitable program support and governance authority for women. Without a solution to that problem, explained AIAW, it made no difference what restructuring plan was adopted, since women athletes would be as little affected by its functioning as they had been involved in its design.

In its 1976 report, the Commission rectified its omission and made strong recommendations concerning women in sports. Unfortunately, S. 2036 as presently drafted reflects the same fundamental omission as the Commission's 1975 preliminary report. We hope that as a result of our appearance here today, the bill that finally emerges from the Committee will reflect the same sensitivity to the unique problems of women and the same recognition of the need for unique solutions as the final report of The President's Commission. Again, as with the Commission's preliminary report, the form of any remedial legislation in the sports governance area makes little difference if it fails to address this problem and AIAW will oppose any bill which remains silent on the subject.

The failure of S. 2036 to respond to the unredressed grievances of women athletes is curiously out of step with recent governmental efforts to overcome the historic and pervasive gender based inequities of our educational system. In 1972, the Congress enacted Title IX of the Education Amendments to overcome this inequitable and unconscionable reality. S. 2036 must serve the same function in amateur sports as Title IX is serving in education. This need is rendered even more acute by virtue of the unique interrelationship between amateur sports and education in this country. Under our system, replicated nowhere else in the world, school and college programs are the backbone of our amateur sports structure and the leading source of our world class athletes. For example, since 1975 the winner of the AAU Women's National Basketball Championship competition has been the collegiate team of an AIAW member institution. And in 1976, the American women's Olympic basketball team, winner of the silver medal in Montreal, was composed almost in its entirety of AIAW athletes.

For women, this strong reliance on the school community has had both benefits and detriments. As I mentioned earlier, the amateur athletic program for women is strongly rooted in sound educational philosophy. However, because women traditionally suffered from discrimination based upon sex in all facets of education, the development of athletic programs for women, on all educational levels, has been far from equal. In 1972, Congress recognized this debilitating inequality and by Title IX of the Education Amendments of 1972 made the requirement of equality of opportunity the law of the land. In the six years since that action, however, we have seen a dramatic increase in sports participation by girls and women, without a concomitant increase in the resources and support given women's sport programs. A study conducted by the National Federation of State High School Associations showed that girls' participation in interscholastic sports increased 460 percent between 1971 (prior to passage of Title IX) and 1977. Yet, by the 1976–77 school year, only 29 percent of the total participants in interscholastic athletics were female.

The increased interest of women in sports participation is reflected on the college as well as the high school level. A December 1976 AIAW survey showed that between school year 1971–72 and school year 1975–76 there was a 180 percent increase (from 301 to 843) in the number of our member schools offering intercollegiate competition for women. Unfortunately, however, athletic funding has not kept pace. In 1974 (two years after passage of Title IX), approximately 2 percent of college and university sports budgets went to women. Today the figure still remains below 10 percent. A study of seven Big Ten athletic budgets for 1976–77 showed that on the average, only 7.14 percent of those budgets was spent on women's athletics. (For a more comprehensive review of these figures I would urge Committee members to read "From Here to Equality: Title IX," a special report by Candace Hogan in Women Sport magazine, September 1977. A copy of Ms. Hogan's article has been lodged with my testimony and I respectfully request that it be included in the record of this proceeding.)

This lack of resources and support forces the serious American woman athlete to turn to private sources of funding for training twice as often as men. The result is that the typical world class female athlete comes from a white, well-educated, high socioeconomic family (Report of Carole A. Oglesby, Ph. D., to the President's Commission on Olympic Sports).

However. not even possession of both athletic skills and a financially well-off family willing and able to support her guarantees a female athlete an opportunity to enter international competition. The number and nature of athletic events available for female competitors is predetermined by a sports power structure which is sometimes as ignorant about women as it is unrepresentative of them. Thus, for example, on the basis of medical and moral myths about female anatomy and capability, long discredited both by science and the performances of women themselves, they have most recently been denied women's Olympic competition in such events as cycling, marathon running and judo. At a time when jogging and long distance running is the American family pastime it is hard to believe that only nine years ago Kathy Switzer had her number torn off her back and was reprimanded and stripped of her membership by the AAU for daring to run in the Boston Marathon. Yet aside from the fact that women have proven they can run long distances and medical evidence has indicated that they may be even better suited physically than men to do so, things have not progressed very much in those nine years. Only last July, the International Olympic Committee (IOC) rejected a proposal to include a women's 3,000 meter event in the 1980 games.

And finally, even if the female athlete has managed to finance her training and has chosen a sport in which competition is held for women, she is not likely to get the travel and expense money provided her male counterpart. For example, only defending champions received any travel or expense money for the 1974 Women's Outdoor Track and Field Championships in Bakersfield, California. Female participants in the 1975 trials for the International Cross Country Championship had to contribute their own money to ensure that the competition be held.

In light of all of these hardships, it is a wonder that American female athletes can compete at all in international events, yet their success has been as dramatic as the obstacles placed in the way of its attainment. Contrary to popularly held opinion, there has not been a decline in the international performance of all American athletes. A comparison of Summer Olympic performances of American men and women in the years 1920 and 1972, found in *The American Woman in Sport,* (Addison-Wesley, 1974) reflects that while the number of gold medals won by American men declined 32 percent during this period, the number won by

American women increased 150 percent. Similarly, in the Winter Olympics for the years 1948 to 1972, American women's gold medal performance improved by 200 percent while American men's declined by 100 percent. (While the difference in absolute numbers overwhelmingly favors the men at all times, this fact is accounted for by both their own greater numbers and the greater number of men's events.)

While women athletes have thus demonstrated both their athletic excellence and their right to the recognition and support given to their male peers, they have been denied the power and influence in the sports establishment which alone can bring this recognition and support. For example, women are absent from the governing counsels of AAU; no women served on the restructuring committee of the United States Olympic Committee; and AIAW, which runs the most extensive National basketball championships for women players, holds two votes in ABAUSA while NCAA holds eight votes, AAU holds three votes and NJCAA, NAIA and NFSHSA each hold four votes. The only sport in which an international franchise is held jointly and equally is field hockey, a sport that in this country has traditionally been female and still has few American male participants. As of April 1977, the male Field Hockey Association of America (FHAA) and the female U.S. Field Hockey Association (USFHA) share one vote on the Olympic Committee Executive Board, and hold 25 votes each and are authorized 5 delegates each in the USOC House of Delegates. It is most ironic that prior to this year, when field hockey was added as a women's event, USFHA was only a Class C member of USOC, while FHAA was a Class A member.

AIAW urges this Committee, like the President's Commission before it, to reconsider the omissions of its draft bill and to take action designed to cope with a problem whose scope was recognized in the Final Report of the President's Commission in these words:

Discrimination still operates against women athletes in this country, particularly in terms of organizational influence and authority, access to facilities and equipment, financial assistance and opportunities for recreational and competitive programs. Women are prohibited by law, regulation, tradition, or hostility from receiving either an equitable or adequate share of athletic resources and opportunities.—*The Final Report of the President's Commission on Olympic Sports*, 1975–1977, Volume I, pages 110–111.

AIAW RECOMMENDATIONS FOR INSURING EQUAL OPPORTUNITIES FOR FEMALE AMATEUR ATHLETES

There are some simple lessons to be learned from the preceding chronicle of the status of female amateur athletes: The traditional sports establishment has never voluntarily provided support or encouragement to the female athlete; given the recent history of both Title IX and its effectuating regulations, that sports establishment can in fact be expected to continue pouring resources into trying to undo what little progress has already been made for women in athletics; and anti-discrimination laws do not enforce themselves.

These harsh realities lead to the inescapable conclusion that a bill which actually increases the authority of an establishment that has ignored the aspirations of women athletes for both resource and authority, cannot at the same time work to improve the status of women. In short, at best, S. 2036 as presently drawn will only divide up the sports pie more equitably among the major male sports organizations. With this history and these considerations in mind, AIAW proposes a number of amendments to S. 2036. (See Appendix A for copies of these proposed amendments.) They are simply designed to effectuate the recommendations relating to women of the President's Commission on Olympic Sports:

. . . to ensure that women play an equitable role in all aspects of sport with reasonable opportunities for participation . . . [through] [t]he establishment of programs (grants, loans, scholarships, clinics, seminars, etc.) to provide women with both participation opportunities and careers in sports by encouraging appropriate training and equal hiring/employment practices; and [to e]nsure that all athletic planning and policy decisions and established sets of criteria (such as franchise requirements and funding qualifications) are consistent with the ultimate objective of assuring that discrimination is eliminated in the treatment of women's programs.—See *The Final Report of the President's Commission on Olympic Sports*, 1975–1977, Volume I, pages 110–111.

PROCEDURE FOR RECOGNITION OF A NATIONAL GOVERNING BODY

Section 203(c) of Title III of the Act requires that sports organizations wishing to be recognized as national governing bodies must demonstrate to the satisfaction of the corporation that they meet various equal opportunity criteria. The standard "to the satisfaction of the corporation" is subjective, making it realistically impossible to challenge any corporate determination that a national governing body is in compliance with the requisite criteria. We would suggest eliminating the phrase "to the satisfaction of the corporation" and substituting an objective standard of reasonableness. Substitution of the word "conclusively" for the deleted phrase would accomplish this end. The amended provision would then provide that a national govening body establish conclusively that it will meet the criteria.

Subsection 203(c)(3) attempts to require national governing bodies to provide an equal opportunity for participation to all individuals without discrimination on the basis of race, color, religion, age, sex or national origin. Section 203(c)(4) attempts to require that national governing bodies be governed by boards of directors, executive committees or other bodies whose members are s elected without regard to race, color, religion, age, sex or national origin. While AIAW supports what we know was a sincere effort to prohibit discrimination, we believe that these provisions as drafted will not accomplish this purpose for women, and may in fact be used in defense of the unequal status quo. First, the bill mandates sex blindness as a means of providing equal opportunity. But blind neutrality can only work where there is some equality of opportunity to begin with, which is not the case with women in sports.

Second, the bill's provisions mandate sex-blindness when many sports, in particular those on an intercollegiate and international level, are run on a dual basis, i.e., men and women compete separately. In fact, internati onal rules of competition codify this duality. Thus the Act as drafted is inconsistent with current practice and procedures and, it effectuated, would serve as a device for depriving women of opportunities for competition, of resources for program development, and of governance authority which they should and must have if 51 percent of our population is to be given equality in amateur athletics.

These provisions would result in perpetuation of the ABAUSA situation, whereby, as previously noted, AIAW has only two votes to eight for the NCAA, three for AAU, and four for the NJCAA, NAIA and NFSHSA, despite the fact that AIAW runs the nation's most extensive basketball championships for women. This disparity in voting strength also results in disparate treatment and support for female athletes. For example, in 1977, as a result of great effort by NAGWS and AIAW, an American female basketball official, Darlene May, became the first woman to officiate a basketball game in the World University Games. The press reported this as progress and officials of ABAUSA and USCSC expressed their pleasure. However, except for Darlene May, every official sent with the United States delegation had fare and expenses paid by USCSC from a grant from USOC. May was permitted to accompany the United States team to Bulgaria only after NAGWS promised to pay her fare and expenses, a not insignificant amount of some $1,300.

In order to prevent the perpetuation of such blatant inequities, AIAW recommends that 203(c)(3) be amended by adding the following: "In those sports where programs for male and female athletes are conducted separately on a national basis, such equality of opportunity shall be reflected in equitable support and encouragement of such dual programs." A similar amendment should be added to 203(c)(4), to require that members of governing boards be selected with due regard for representation of men and women, particularly in those sports where there are dual programs.

REVIEW OF NATIONAL GOVERNING BODIES

Section 206 of S. 2036 grants standing to the president of the corporation (USOC) to seek federal district court injunctions against violations by national governing bodies of the criteria set out in Section 203. Individuals and groups, however, must rely on filing administrative complaints and on binding arbitration to enforce these criteria. The shortcomings of this procedure are apparent. The specific arbitration provisions in the bill authorize an informal procedure under which arbitrators are the sole judges of the relevancy and materiality of evidence, with no need to conform to the legal rules of evidence. Nor does the bill provide judicial review of the arbitrators' decisions for error. An individual or group may only go to court to enforce an arbitrators' award. This is not a proper method for

resolving a dispute over whether or not an organization has discriminated. Discrimination cases require subjective findings and legal determinations that cannot be made without judicial guidance at some stage.

The general limitations of arbitration were discussed by the United States Supreme Court in *Wilko* v. *Swan*, 346 U.S. 427, 436: "As their award may be made without explanation of their reasons and without a complete record of their proceedings, the arbitrators' conception of the legal meaning of such statutory requirements as 'burden of proof', 'reasonaable care' or 'material'. . . cannot be determined." The Court went on to explain that failure of an arbitrator to decide in accordance with the law could not easily be overturned, since it would be hard to prove without a formal record of the proceedings.

The net result of providing individuals and organizations with this ineffective arbitration procedure is to leave enforcement of these criteria in the hands of USOC. Such a procedure is unthinkable, given the history of discriminatory treatment of women by both USOC and its member organizations. Noreover, and without regard to the special problems of women, a system which reduces as a practical matter to unreviewable self policing puts a dangerous premium on self interested self restraint in objecting to the actionable improprietes of others, lest one later need their support for one's own improprieties. Such a system can only disserve all participants in the long run, particularly in light of the fact that the bill provides for gradual phasing in of its nondiscrimination provisions. The bill provides that during the first two years of the life of the reconstituted USOC, present National Governing Bodies will be exempt from meeting the requirements of Section 203. Following this two year period, groups must come into compliance. Thus, it would be in the interest of Class A members not yet forced to comply with the criteria to set a low compliance standard that they themselves could easily meet at the end of the two years. Once the two year period has passed, continued enforcement will be left in the hands of USOC—in other words, left to the self-enforcement that history has proven to be so ineffective.

AIAW suggests that the only way to ensure full compliance is to give standing to aggrieved individuals and organizations to seek judicial review of an adverse administrative determination on a complaint of noncompliance. This right should be provided as an alternative to the arbitration procedure, just as it is under Section 304, for enforcing the Athlete's Bill of Rights.

FEDERAL FINANCIAL ASSISTANCE

The Act authorizes appropriations of up to $20 million in federal funds for the use of the U.S. Olympic Committee. The Committee would be given carte blanche in distributing these funds, except that no more than 20% could go to organizations that are not members of the U.S. Olympic Committee. The legislation includes no requirement that the money be distributed equitably with due regard for the underdeveloped status of women's sports, and no requirement that an organization receiving a grant meet nondiscrimination requirements. (As noted, the funds need not go to the national governing bodies which the bill attempts to bring under equal opportunity provisions in Section 203.)

We believe that equal opportunity provisions must be written into the financial assistance section to ensure that USOC distributes the funds equitably and that organizations receiving funds comply with nodiscrimination requirements. Otherwise, we can expect a continuance of the status quo, with franchise holders in a sport given extra credit in the allocation of development funds based on the underdeveloped nature of their women's programs while being exempted from any obligation to utilize those funds to encourage women's programs. Without a requirement that money allocated on the basis of a women's program be utilized for that program, women's programs will continue to be underdeveloped stalking horses for the dominant and better funded men's programs.

Requiring recipients of federal funds to adhere to our national policy of nondiscrimination is reasonable and a matter of basic fairness to 51 percent of the public providing those funds. AIAW urges the Committee to amend the financial assistance section of S. 2036 to require equitable distribution of funds by USOC and nondiscrimination by fund recipients; and to provide a mechanism for enforcing these requirements.

CONCLUSION

Basically, AIAW believes that S. 2036 represents a sound and necessary reorganization plan for amateur athletics. We support the concept of government financial support as necessary to achievement of competitively successful international representation for the United States. We support the attempts to impose

responsibility and order on competing amateur sport governing groups and to give athletic participants an assured voice in governance and protection of their basic rights. However, we also believe that the present draft of the Act is fatally flawed by its total failure to address the problems of women, problems which the Act itself will serve to codify and perpetuate unless it is appropriately revised. Under S. 2036 as it stands, women, the most drastically discriminated against group in amateur sport, will continue to be excluded from the mainstream of athletic participation and will continue to be without significant power to achieve equitable support and program development for female athletes.

S. 2036 greatly enhances the authority and resource of USOC—we believe this is beneficial. S. 2036 imposes certain minimal standards on national governing bodies—we believe this is beneficial. S. 2036 recognizes the basic rights of athletes—we believe this is beneficial. But unless S. 2036 also recognizes the right of women to governance authority and equitable resources, AIAW and other organizations concerned with achievement of equal opportunity for women cannot give S. 2036 their support.

AIAW has already raised these concerns informally but while we have been politely received, we have also been told that women represent just another "interest group" seeking special consideration, like "rowing" or "biathlon." While such a position might seem self evidently irrational, the fact that it has already twice been seriously advanced suggests the wisdom now of restating certain rather obvious first principles: that 51 percent of our population is not a special interest group; that AIAW neither seeks nor could support special consideration for a single sport; and that what is sought for women is not special recognition but simply removal of long term special detriments. All we look for in the way of remedial action is some minimal assurance of parity in treatment for the nation's largest majority group in a field in which it has traditionally been given about as much recognition as the thirteenth floor of a hotel.

Ironically, to the extent that S. 2036 now wholly ignores the separate needs of women, it not only acts to perpetuate past discrimination in contradiction of our national policy, as already codified in title IX, but also ignores the fact that both by tradition and by international regulation, athletics are now conducted on a sex separate basis. Thus all that we here seek is action to ensure that one half of the dual athletic system not be further disadvantaged and that S. 2036 reflect the same public policy reflected in virtually every congressional action since 1972—that discrimination on the basis of sex be prohibited in the manner relevant to the particular legislation.

APPENDIX

Proposed AIAW Amendments to S. 2036

ATHLETE REPRESENTATION IN GOVERNANCE

P. 14, line 14, substitute the word "four" for the word "ten".

Rationale.—Section 203(c)(5) of the bill requires that national governing bodies include athletes on their governing boards. The definition of an athlete includes an individual who has participated in international competition within the last ten years. The amendment would reduce this number to four years since it is unrealistic to assume that an individual who has not competed in a decade will best understand and articulate the needs and interests of athletes. Four years coincides with the Olympic cycle and is a more realistic definition of athlete.

PROCEDURE FOR RECOGNITION OF A NATIONAL GOVERNING BODY

P. 13, lines 10–11, strike out the six words between the word "demonstrate' and the word "that" and substitute the word "conclusively".

Rationale.—Section 203(c) of the bill requires that sports organizations wishing to be recognized as national governing bodies demonstrate to the satisfaction of USOC that they meet various criteria. The standard "to the satisfaction of the corporation" is subjective. Consequently, it would be impossible to challenge a USOC finding that an organization had met the criteria. By substituting "conclusively" for the phrase "to the satisfaction of the corporation", the standard would be rendered objective and the criteria therefore enforceable.

Equal Opportunity Criteria For National Governing Bodies

P. 14, line 3, substitute a period for the semi-colon and add the following: "In those sports where programs for male and female athletes are conducted

separately on a national basis, such equality of opportunity shall be reflected in equitable support and encouragement of such dual programs;"

P. 14, strike line 7 and substitute the following: "national origin or sex, but with due regard for representation of both men and women, particularly in those sports where programs for male and female athletes are conducted separately;"

Rationale.—Sections 203(c)(3) and(4) of the bill require that national governing bodies allow participation in their programs and choose their governing boards without regard to sex. Requiring sex-blindness will only perpetuate the current unequal status of women. It is inconsistent with the practice of running many sports programs, in particular those on an intercollegiate and international level, on a dual basis. It is also inconsistent with codified international rules of competition. These amendments require that due regard be given to providing equitable support and encouragement for these dual programs, and to ensuring representation of both men and women on governing boards.

Enforcement Of National Governing Body Criteria

P. 20, line 11, after the word "corporation" and before the word "shall" insert the following: ", any aggrieved individual or organization".

Rationale.—Section 206 of the bill grants the President of USOC standing to go into federal district court in order to enforce violations by national governing bodies of the criteria set out in Section 203. Individuals and groups must rely on filing administrative complaints and on binding arbitration to enforce these criteria. Arbitration in general is an informal proceeding not suited to deciding subjective factual issues and legal questions that would be involved in a complaint of organizational denial of equal opportunities to a female athlete. The particular arbitration procedures in S. 2036 authorize an informal procedure where judicial review of the decision is precluded, but even if judicial review were allowed, it would be impractical, as it is difficult to overturn a decision when there is no formal record of the proceeding. This amendment would extend standing to aggrieved individuals and organizations to go to court to enjoin violations of the criteria by national governing bodies and would not limit them to arbitration.

EQUAL OPPORTUNITY REQUIREMENTS FOR THE DISTRIBUTION AND USE OF FEDERAL FUNDS

P. 27, line 10, at the end of the word "Committee" strike the period and add the following: "and no funds shall be used in violation of subsections (f) and (g) of this section."

P. 27, after line 10 add the following new subsections (f) and (g), designate the the old subsection (f) as subsection (h) and add new subsections (i) and (j).

(f) Distribution of such monies by the United States Olympic Committee shall be made with due regard for the underdeveloped status of women's sports and for providing equitable support and encouragement of women's sports where programs for male and female athletes are conducted separately on a national basis.

(g) No person in the United States shall on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under this section, except that this prohibition shall not apply to the use of monies in furtherance of goals set out in subsection (f) of this section.

(i) District courts of the United States shall have jurisdiction to enforce the requirements of this section.

(j) Any sports organization or person aggrieved may seek to enforce the requirements of this section by instituting a civil action in district courts of the United States.

Rationale.—The bill authorizes up to $20 million in federal funds for the use of the U.S. Olympic Committee. USOC would be given almost complete discretion to distribute the funds to organizations that the bill does not prohibit from discriminating. These amendments would require that USOC distribute the money equitably with due regard for the underdeveloped status of women's sports, and that recipients of these federal funds comply with nondiscrimination requirements. The amendments also provide standing for aggrieved individuals and organizations to enforce these requirements in court. Requiring recipients of federal funds to adhere to our national policy of nondiscrimination is both reasonable and a matter of basic fairness to the 51 percent of the public who provide these funds.

Senator STEVENS. Mr. Williams, can we proceed with you. According to my schedule, that would leave Mr. Durbin and Mr. Fritz for this afternoon. I have been notified of a leadership conference for 1:30, and so it will not be possible for me to resume this hearing until 3 o'clock. Is that inconvenient to either Mr. Durbin or Mr. Fritz?

[Discussion off the record.]

As Mr. Durbin has indicated that he has a plane to catch, Mr. Williams has consented to allow Mr. Durbin to proceed first.

Senator STEVENS. Mr. Durbin will you give the names of the people who are accompanying you.

STATEMENT OF BRICE B. DURBIN, EXECUTIVE DIRECTOR OF THE NATIONAL FEDERATION OF STATE HIGH SCHOOL ASSOCIATIONS; ACCOMPANIED BY BERNIE SAGGAU, EXECUTIVE SECRETARY OF THE IOWA HIGH SCHOOL ATHLETIC ASSOCIATION; JOHN YOUNGBLOOD, DIRECTOR OF ATHLETICS FOR WASHINGTON-LEE HIGH SCHOOL, ARLINGTON, VA.; AND JACK ROBERTS, NATIONAL FEDERATION HEADQUARTERS STAFF

Mr. DURBIN. Yes, sir.

I would like to express our appreciation to Mr. Williams for this opportunity to avoid a scheduling conflict.

I am the executive director of the National Federation of State High School Associations. Today I am accompanied by Mr. Bernie Saggau, executive secretary of the Iowa High School Athletic Association, on my extreme left; Mr. John Youngblood, the athletic director of Washington-Lee High School in Arlington, Va., on my right; and Mr. Jack Roberts, executive assistant for the National Federation Headquarters staff on my immediate left.

The brief statement I am making has been authorized, and in fact, directed by the National Federation Executive Committee. The eight members on this Committee are from the States of Alabama, Arkansas, Hawaii, Idaho, Illinois, Kansas, New Hampshire, and Ohio.

Six of the executive committee members are directors of State high school associations, two are superintendents of local school districts, and all eight have been elected by the National Federation membership to represent its interests and enact its policies.

This statement supplements the documents sent to you in advance of these hearings, Mr. Chairman. I request this be included in the record.

Senator STEVENS. We will include the complete statement in the record.

Mr. DURBIN. The national federation membership is a high school association in each State. Each member is an association of schools, created by the schools and in some States by State legislatures to promote educationally sound competition on both the local and State levels.

State high school association policies are determined by the member schools, and in many States by boards of education representatives, through democratic procedures. State association offices do not make the policies; their responsibility is only to enforce policies which the schools have developed to regulate themselves.

So the legislation under consideration today does not affect merely the policies of 50 State association offices, but the policies of 20,000 schools. In other words, S. 2036 affects what is probably the broadest based, closely organized sector of amateur sports in the country, including 5,000 athletic directors, one third million coaches, and 3 million athletes.

The National Federation membership has been hopeful there would be legislation proposed to improve various aspects of the U.S. involvement in the pan-American and Olympic games.

On June 11, 1976, Federation representatives testified to the President's Commission on Olympic Sports that the federation membership would favor revision of Public Law 805 to state explicitly the manner in which group A membership in the U.S. Olympic Committee would be determined and to specify that group A members shall be subject to the scrutiny of a private review board, such as the American Arbitration Association.

Although our membership has since become generally disposed to reject Federal legislation of any kind in any area of sports administration, we will nevertheless be consistent with our statement of 16 months ago, and will attempt to have the membership accept with no more than minor revisions the sections of the proposed S. 2036 which discuss national governing bodies. We compliment Senators Culver, Stevens, and Stone for their work in this area.

The federation's presentation to the President's Commission on June 11 of last year included this statement:

> The National Federation does not now support any restructuring of the USOC which would provide it with more authority than the USOC has at present.

It should not surprise the sponsors of S. 2036, then, that the federation membership is opposed to those portions of S. 2036 which imply the USOC shall be the coordinating body for domestic amateur sports.

For example, the proposed bill would give the USOC authority "to establish national goals for amateur sports."

We find the mere suggestion of such authority disdainful in a free society. The lifestyle social structure and ideals of the United States have historically permitted diversity of purposes; and we believe organizations devoted to purposes other than or in addition to amateur athletics should remain free to pursue them without interference from the USOC.

Schools, and a myriad of youth sports organizations, religious groups, recreation societies, park districts and the military, sponsor amateur athletics as a means to an end. Their goal in sponsoring a program of amateur athletics is to achieve what they believe is a higher goal.

In the case of the schools, the higher goal is the complete education of youth. For the other organizations, the higher goal may be recreation, religious training or military training. We believe these organizations would object to the USOC dictating to all organizations what the national goals of amateur athletics should be.

The interscholastic community can support S. 2036 only if this provision and all other implications that the USOC shall direct, coordinate and control domestic amateur athletics are removed from the bill.

As we understand S. 2036, the bill would not permit schools to enforce eligibility rules following the participation by student-athletes in international competition during the interscholastic season if the athletes were selected for participation by a national governing body or one of its members.

We do not read any qualifications of that provision, such as extended absence from school or interruption of academic progress; and without such qualifications, school administrators cannot support this provision of S. 2036.

School administrators have long maintained that it is not only a right but a responsibility of those who go to the time, trouble and expense of conducting a program—athletic or nonathletic—to also determine the standards of eligibility for the program—standards consistent with the goals of the organizations.

Indeed, a principal motivation informing the state high school associations was to assure adherence to the standards in all schools.

Obviously, we would not represent either our member associations or their member schools if we reported anything but steadfast opposition to this provision of S. 2036 which attacks one of the deepest footings of the foundation to the educational basis of interscholastic athletics.

As we read a related provision of S. 2036, the proposed bill would not permit schools to enforce eligibility rules following student-athletes' participation in international competition sponsored by other than national governing bodies or their members, unless the application of the rule could be shown to be reasonable.

We find this provision superfluous, because the interscholastic community is subject to the U.S. Constitution which requires that participants in interscholastic athletics receive equal protection under law.

Both State and Federal courts have tested the reasonableness of school eligibility rules in these areas, and in the overwhelming majority of cases, the rules have been upheld. America does not need another law to provide what State and Federal constitutions already guarantee.

We support "athletes' rights," and we maintain that policies of interscholastic athletics grant athletes the appropriate right—the right to choose the program in which they wish to compete.

However, we also support "organizational rights"—the right of organizations which sponsor athletic competition to determine the standards of eligibility for that competition.

We will support legislation in this area only if it balances the rights of individuals and organizations, which S. 2036 does not do in its present form.

State, Federal courts, and State legislatures, have consistently upheld schools' authority to join associations and to delegate to those associations the authority to enforce rules which are reasonably related to the objectives of schools.

Congress, therefore, should be exceedingly cautious in making laws which infringe upon these authorities or which would make illegal the rules which courts of both State and Federal jurisdiction and widespread venue have found constitutional and reasonably related to educational objectives.

We believe the Congress should also be reluctant to create for the American people an additional agency to direct and coordinate their lives—especially the leisure and recreational aspects of their lives.

In short, we believe S. 2036 attempts to do too much. Limited to the USOC and its group A members and confined to the Pan American and Olympic games participation, S. 2036 may have the support of the interscholastic community.

But as much as we support the Olympic effort in the United States, we will not support S. 2036 as now worded. To do otherwise would be to do so at the expense of the integrity and educational basis of healthy and expanding interscholastic athletic programs.

Be assured, however, we will work with the committee to draft acceptable legislation if the Senators believe legislation is in fact necessary.

Thank you for this opportunity to be heard.

Senator STEVENS. I am heartened by your last comment and also by what you said in your prepared text that you haven't closed the door to compromise.

Do any of the rest of you gentlemen have a statement to make?

Mr. DURBIN. No; they don't.

Senator STEVENS. Is your organization a member of the USOC?

Mr. DURBIN. Yes, sir.

Senator STEVENS. Have you encountered any problems complying with the constitution of the USOC as amended in Colorado Springs?

Mr. DURBIN. In regard to the recent changes made in Colorado Springs, we haven't had the opportunity to see how they will work. I think there is one point we would like to make: When the PCOS report came out, we were of the opinion, and we were under the understanding that it would not mandate Federal legislation to help solve some of the problems that existed. We were encouraged by the fact that there were changes in the USOC in which our membership took part. However, we don't believe it is necessary that Federal legislation follow through on this. We think it—USOC changes—should be given an opportunity to work and see if it does solve the problems. We think it can. We don't believe it should be mandated by Federal law.

Senator STEVENS. We have no intention of going beyond what was adopted at Colorado Springs. We have changed our bill and have indicated we will change it further, if necessary, to comply with the USOC's constitution.

We are trying to confirm what the USOC has done, and there have been witnesses that have urged us to do that. The USOC has been very cooperative. They have, I think, taken great steps to solve many of the problems that have plagued amateur sports. If we incorporate into Federal law what the USOC has done, so that it has permanence, what is wrong with that?

Mr. DURBIN. We would be supportive of adjustments and modifications to Public Law 805. We aggressively supported S. 3500. I repeat, we aggressively supported S. 3500 and certain aspects of that.

There is strong opposition among our membership. I would like to state I am in the middle of attending State association meetings representing all schools throughout the United States and where this was discussed, and there is serious concern as to the extent of S. 2036. This is why I was directed by the executive committee yesterday to prepare this statement and present it.

Senator STEVENS. Is there any coordinating entity now, with regard to high school competition?

Mr. DURBIN. Competition to what extent?

Senator STEVENS. To coordinate competition in terms of amateur athletics. Is there any entity that coordinates high school athletic activities?

Mr. DURBIN. Yes; State associations were formed many years ago for that purpose. Also through the national federation there are major efforts to coordinate these activities and to follow the wishes of the schools and their representatives.

In fact, we spend a lot of time doing that.

Senator STEVENS. Does your association have the authority to coordinate high-school athletic activities?

Mr. DURBIN. Coordinating authority as given to us as a service agency?

We have. In fact, we are at this time in the process of preparing standards and guidelines for international competition, because our schools are becoming more active in this program. The States want this.

Senator STEVENS. I understand some people have taken exception to the word "direct' on page 4 of the bill, but has your association taken exception to having an entity coordinate the activities of amateur athletics domestically?

Mr. DURBIN. Yes, we do.

Senator STEVENS. What is the basis for that?

Mr. DURBIN. We feel the people in the schools—I am talking interscholastically now, on the high school level, since that is the only level to which I am addressing my comments—are best prepared to regulate and coordinate this type of program, mainly because they are selected by local boards of education and elected by people within the community, to form a grass roots program.

We deal with a difierent age group, a very immature group, but highly skilled in some sports. This is the reason State associations were formed—to standardize the rules and guidelines. To look to an agency which would coordinate all amateur athletics involving domestic competition, we won't support. Internationally, we support this, I hope we made this clear.

Senator STEVENS. The President's Commission on Olympic Sports found and we have heard testimony here that there is potential conflict and there has been conflict in the past, regarding who controls domestic competition and international competition.

Would you have any objection to national governing bodies having authority over domestic competition in their sports or to the USOC having coordinating authority over domestic amateur athletic competition, as long as such authority does not extend to restricted competition promoted by the local school community?

Mr. DURBIN. As long as it didn't effect nor extend to competition involving school communities, I think we and most of our constituents might support that. I am talking about extended restricted competition.

If, however, as stated in the bill of rights, certain aspects of that were to prevail, then I know there would be strong objections for some of the reasons stated earlier today, and because of the need for protecting the programs and the athletes themselves.

Senator STEVENS. We are studying the athletes bill of rights which was adopted by the USOC at the Colorado Springs meeting. I gather you are still studying it, too.

Mr. DURBIN. That is correct.

Senator STEVENS. We invite your constructive suggestions. Let me say, and I think the athletes would agree with me, that the high schools play a very important role in amateur athletics in the United States. We have no desire to erode the tremendous accomplishments of high schools in this area.

On the other hand, it does seem that there are high school athletes who, even though they are immature in the sense of age, have extraordinary capabilities and do get involved in national and international athletic competition.

We believe that they have a right to ask us to protect their rights. And we would like to see if you would help us address that problem.

Mr. DURBIN. Senator, I can answer part of that, because I had a personal experience when I was State director in Kansas.

That was when Jim Ryun was participating in the Olympics. The rules were adjusted so there was no problem for him to compete.

There are other States which have responded in the same manner, such as the State of Wisconsin. They do recognize there are athletes on the high school level who have this talent.

In fact one of the issues which will probably come to a vote by our council this July, is to set up machinery within each State association to strongly encourage and provide flexibility for athletes of the world caliber class.

Senator STEVENS. Will it go so far as to say that the athlete together with his coach and his institutional representatives, will decide if the athlete should participate in the national or international competition. Would your organization support that position?

Mr. DURBIN. We would be strongly opposed to that. The reason we would be strongly opposed is the fact, as I stated earlier, schools joined together for strength in order to set up general standards for students of this age group. The tremendous pressures which could be placed on a local administration by the parents or the student, I think, would create very inconsistent standards for competition on the high school level. It would be like each school saying, the parent and child should determine whether he or she competes, and not the school to which they have some obligation. It would be similar, I suppose, to any other analogy we might make, whereby we give the right to the individual rather than a group which has felt they should join together voluntarily, such as our State associations have done, to set up guidelines to protect their programs.

Senator STEVENS. Senator Stone wanted me to ask what the feeling of your organization would be if we amended title III of the bill to read, "Nothing in this section shall prohibit an educational institution from enforcing generally applied academic requirements."

Mr. DURBIN. Academic requirements on the interscholastic level are very, very important. In fact, that is one of the educational goals of our entire program. One of the strengths of the State associations has been to encourage students to stay in school.

We have athletes, as you well know, of high school age who would do nothing but compete in athletic competition. That is all they would

do and there wouldn't be anything to encourage them to stay in school and achieve the basic academic requirements imposed upon them for graduation. We believe athletic and activity programs are part of their education.

Therefore, would I be right in assuming that the standards involving athletic and other activity programs would be included in the educational statement, "generally applied academic requirement."

Senator STEVENS. That was going to be my next question. In terms of following up on Senator Stone's question, let me ask this. When I served on the President's Commission we ran into a 50-mile rule that said if an athlete competed more than 50 miles from his or her high school, he or she would be declared ineligible from competing in future high school competition.

I think that was one of the State association rules. And the problem was, in terms of an athlete that wanted to be involved in national competition, leading to international competition, on how that rule would be applied.

Now, would your association take a position with regard to whether or not the rule is consistent with the USOC's bill of rights and with your own association's approach to athletes' rights?

Mr. DURBIN. Senator, I can't address myself totally to that particular point unless I know more specifically what rule you are talking about. But I am familiar, I think, with most of the State association regulations.

I know of no State that has a 50-mile-limit rule. There are standards on limitation of travel distance adopted by States, which has been followed by most States throughout the national federation, to discourage long, lengthy trips during the academic year—mainly because of the amount of school time used and interference with the school academic programs.

Senator STEVENS. I will look it up. I think it is related to what you are saying. In order to prevent prolonged absence during the academic year, the State high school association enacted a rule which limited the distance high school teams or athletes could travel for competition. In the instance I am thinking of there was a competition far removed from the State. The athlete wished to participate, and apparently had the full approval of the coach and principal of the institution. But he was told that if he did compete he would not be able to continue to participate in high school athletics.

Mr. DURBIN. Senator, if you can give us the specifics, we will be more than happy to supply all the information you need. I think you are referring to a team situation mabey.

Senator STEVENS My counsel points out to me that should such a rule apply to my State, even though it might be a reasonable rule for Kansas, it would be per se unreasonable in Alaska, because in all probability there is not another school to compete with in 50 miles.

Mr. DURBIN. I spent 3 days last week with Mr. Wells from your State. It was interesting to hear how your athletic teams travel to and from the various competitions. This points out one important point that should be made today: the importance of each State having autonomy, which our federation supports, to set up guidelines and rules and regulations to apply to their particular constituents. All that applies to Alaska certainly wouldn't apply to Kansas, Illinois, or Iowa.

Senator STEVENS. Is there any move by your association to try to get the States to address athletes rights on a State-by-State basis?

Mr. DURBIN. Yes. There are many States that do have this procedure. In fact, I might ask Mr. Saggau, from the State of Iowa, to comment as to what procedures their athletes may follow,

Mr. SAGGAU. We have built into our regulations through regulations approved by our State department of public construction and Legislative Review Committee, as a part of our law, that we have a due process for every athlete and an appeal procedure so every youngster in the State of Iowa has this.

Senator STEVENS. Well, I can assure you that I am not politically stupid. I don't want every high school coach in the country coming in and talking to my colleagues and telling them to oppose this bill. We want to find some way to open the door to compromise with your organization and at the same time try to achieve the objectives of this legislation. Is there any way we can do it?

You have made some general comments about the bill. If you could give us some specific language, that would be helpful. However, your suggestions should be consistent with what the USOC adopted in Colorado Springs. You are a member of the USOC. I don't think we can amend the USOC's Constitution for you.

Mr. DURBIN. I understnad. In my advanced statement, it does have some specifics. But I also state and I think I alluded to in my oral comments, that because of this concern we have, some of our constituents have some reservations about our continued involvement in the USOC, if it's going to interfere with the domestic program. We are more than happy to submit anything we can, and work with you very cooperatively with specifics.

Our people are concerned about it. I want you to understand, and I know you do understand, they have asked how they can help. What can be done? We will try to work with you. With the coordination of our office and the State association organizations, we will try to prevent you from having too much correspondence in that area. However, we have many constituents to represent.

Senator STEVENS. I understand your position. I would like to be sure that the letter mill doesn't start before we make those changes. I hope we can have a period of amnesty here, as far as this bill is concerned, while we try to get to the point where this legislation would be acceptable to your membership.

I have seen it happen where we have actually made the changes requested, but the telegrams and letters came in based on the original bill. We find legislation that has been changed to satisfy the objections of the people who were aroused after being defeated, because they wrote to their Senators and Congressmen opposing the original bill. So I would urge you to ask your association to use some restraint. I have great respect for the power of your association. I saw it work once, you know.

Mr. DURBIN. We are very patient and I think we will be cooperative. I understand your concern because we occasionally have the same problem.

Senator STEVENS. The compromise trail is a two-way trail. I hope that we can work together to achieve the language that you need to reassure your members that we are not trying to put the USOC in

charge of high school athletics. I don't think they want that. And I don't think we want that. I am sure you don't want that.

Mr. DURBIN. That's right.

Senator STEVENS. But what we need to do at the same time is not to destroy the objectives that we are trying to achieve; to protect an athlete's right to compete, to set criteria for national governing bodies, and to give congressional approval to the reorganizational efforts of the USOC in Colorado Springs. These are the objectives the President's Commission felt were so important. I think all these objectives can be met with this bill.

Mr. DURBIN. One of the "letter mills" you received involved aggressive support of Public Law 805. So it was a positive type of response.

I would like to refer to Mr. Youngblood.

Mr. YOUNGBLOOD. Senator, as a coach and athletic director for many years on the high school level, I am very satisfied to hear your positive comments, and I take this opportunity to say that I support wholeheartedly the position of the national federation. And as a high school director of athletics, I resent the possibility that the USOC would have any control over our programs, no matter how minute. We, of course, want to control our programs on the school and State level.

Thank you.

Senator STEVENS. Well, I appreciate your statement. I am sure we have all had our relationships with high school coaches.

I don't know, maybe it is unfair to ask this question. What if you had a star man or woman who competed in track, and you knew that he or she had the capability to become a world class athlete. But there wasn't any real competition in your school or in your league for that person to work out with, to compete with, to mature as an athlete with. And your association, your State high school athletic association, said no, your athlete cannot compete in outside competition.

Is that too tough a question to put to a high school coach?

Mr. YOUNGBLOOD. No.

Senator STEVENS. Do you think the association really ought to be supreme?

Mr. YOUNGBLOOD. As we know, the student athletes have a freedom of choice. So in this particular instance, they wouldn't have to participate on the high school track program; and even if they did, in our particular State—the State of Virginia—we do have a procedure where the gifted athlete, his principal, upon the request of the athlete, would file a form requesting of our Virginia High School League, which is composed of all the principals in our State, requesting that they be granted permission to participate in an athletic contest which could possibly result in them competing in international competition. So we do have that procedure set up in our State.

Senator STEVENS. I congratulate the Dominion State.

Again, though, I hope that we can find a middle ground. I worked on Senator Pearson's bill. I was on the committee then, and I know what the pressures were. But things have occurred since then, not the least of which is the report of the President's Commission on Olympic Sports and the subsequent actions of the USOC. We are trying to accommodate those objectives too.

I would urge you to give us your constructive suggestions that would lead to your being able to support this legislation.

We will recess until 3 p.m.

[The statement follows:]

STATEMENT OF THE NATIONAL FEDERATION OF STATE HIGH SCHOOL ASSOCIATIONS

BACKGROUND

Seventy-five to 100 years ago, athletic competition was introduced to high schools. In its earliest stages, the competition was limited to contests between students of the same school—what we now call intramural programs. Gradually, students organized clubs which competed in sports against students from neighboring schools.

Aware that students were participating in interschool competition without the benefits of proper supervision and frequently under conditions which were contrary to educational objectives, schools began to recognize the clubs as school-sponsored teams and to arrange the competition. However, standards of eligibility and conduct, as well as playing rules, varied significantly from region to region within each state. The schools determined standardization was necessary if each school was to compete on an equal basis with all other schools, and they formed associations of schools with the authority to regulate the policies and procedures for interscholastic athletics within the states.

As a result, the interscholastic program and its prestige grew rapidly and non-school personnel became involved in conducting regional, sectional and national tournaments involving the best high school teams or athletes for the monetary benefit of the promoters. So, in 1920, several of the state high school associations formed a national organization to halt the conduct of such exploitive activities. This organization, now called the National Federation of State High School Associations, has grown in the intervening years to include among its membership a high school organization in all 50 states and the District of Columbia. Although it continues to review the conduct of interstate and international competitions involving high school teams or athletes, National Federation services to interscholastic athletics have broadened to such an extent that even eight Canadian provinces, as well as Guam, Puerto Rico, the Virgin Islands and the Republic of the Philippines, have been affiliated with the National Federation in order to avail themselves of the services.

The current role of the National Federation is to provide necessary services to high school athletics and to represent the interests of high school athletics in matters such as S. 2036. It is appropriate the National Federation execute these functions because the policies and procedures of high school athletics emanate from the National Federation and its membership.

PHILOSOPHY, PURPOSE, ROLE AND BASIC POSITION

It is the philosophy of the National Federation membership, which now represents more than 20,000 schools in the United States, that interscholastic athletic programs be conducted within the total educational framework of schools. The National Federation membership believes the objectives of the interscholastic athletic program must be consistent with educational objectives.

School administrators are concerned with the quality of experiences of more than three million boys and girls who will participate in interscholastic athletics this year, including a great number who will be introduced for the first time to formal coaching and officiating and to sophisticated skills. We agree with school administrators who feel it is their obligation, because they introduced students to athletics, to see that athletics do not abuse students by narrowing their perspectives or endangering their physical or mental well-being.

We acknowledge some people are critical of standards which educational institutions and organizations establish for the conduct of their athletic programs; and it is unlikely any amount of reason can change the opinion of people who think such policies are merely devices to bind the athlete to the program. However, we concur with educators on local and state levels who have established standards which are intended not only to protect the athlete but also to protect the program; for if school athletic programs cannot be maintained within an educational framework, the programs cannot be justified. Self-imposed standards on age, awards, academic progress, and loss of school time are typical of the standards

which assure schools direct school athletics, rather than vice-versa, and which keep athletic objectives coincident to educational objectives.

Although it is obviously so, it bears repeating to say the role of schools is to educate. It is, in fact, a legal obligation—one set forth in the laws of the individual states. In all but a few states the authority of high school associations to regulate interscholastic athletic programs is based on either legislation or litigation. Inherent in the authority granted to each state high school association is the obligation to conduct interscholastic athletic programs which are in the best interests of the schools. State associations assure they meet this obligation by allowing the schools themselves to determine the policies of interscholastic athletics.

State high school associations recognize international athletic competition can contribute in an informal way to the education of youth and thus has a place in educational programs. However, school administrators have no less a responsibility to assure international competition is consistent with educational objectives than they do to assure the regular interscholastic athletic program meets those objectives. Therefore, state high school associations have felt obligated to have a role in determining the conditions under which high school students participate in international competition.

The National Federation hopes the Senate Commerce Committee will keep in mind and honor the philosophies, purposes and roles of schools and state high school associations as it considers S. 2036. While it supports an improved Olympic effort, the National Federation does not believe to accomplish an improved Olympic effort it is necessary or appropiate that interscholastic athletics be made subject to the control of the United States Olympic Committee, which S. 2036 would clearly provide and encourage.

Presently, schools have freedom in the conduct of athletic programs. Were schools doing a poor job of conducting these programs, there might be reason for outside interference; but because the quantity and quality of secondary school athletic programs in the United States is unparalleled in the world, the National Federation believes it is justified in opposing any infringement upon schools to educate youth throu h competitive athletics. This means the National Federation will work diligently to assure the U.S.O.C. is not given authority to interfere in the use of school-operated athletic facilities and with regularly scheduled, school sponsored athletic events; it means the National Federation will vigorously oppose provisions of S. 2036 which imply the U.S.O.C. shall have authority to determine national goals for amateur athletics; it means we will use the full scope of the interscholastic community to assure legislation does not pass which would usurp the role schools, state high school associations and the National Federation have in determining the conditions under which high school students participate in international competition.

SPECIFIC POSITION—S. 2036—NATIONAL GOVERNING BODIES

The National Federation membership has maintained the position that the single, most important action for improving this country's Olympic effort is to establish the strongest, most representative organization as the national governing body for each Olympic sport. This is because national governing bodies not only have the responsibility for representing the United States in specific sports in international competition, but also serve as Group A members of the U.S.O.C., thus giving these strong, representatve organizations more delegates to and votes in the affairs of the U.S.O.C.

Threfore, we have a long record of support for legislation which would improve the mechanism by which charters of national governing bodies are reviewed and re-issued. The National Federation supported such provisions in 1974 when the Congress was considering several pieces of sports legislation. On June 11, 1976, National Federation representatives testified to the President's Commission on Olympic Sports that the National Federation membership would favor revision of Public Law 805 to state explicitly the manner in which Group A membership in the United States Olympic Committee would be determined and to specify that Group A members shall be subject to the scrutiny of a private review board, such as the American Arbitration Association.

Despite a growing skepticism of late that the Congress should make laws in this area, we will be consistent with the statement to the PCOS and our position on previous legislation and assure the Committee that the National Federation will accept with only minor revisions the sections of the proposed S. 2036 which discuss national governing bodies. We compliment Senators Culver, Stevens and Stone for their work in this area.

POWERS OF THE U.S.O.C.

The National Federation's presentation to the President's Commission on June 11 of last year included this statement: "The National Federation does not now support any restructuring of the U.S.O.C. which would provide it with more authority than the U.S.O.C. has at present." It should not surprise the sponsors of S. 2036, then, that the National Federation membership is opposed to those portions of S. 2036 which imply the U.S.O.C. shall be the coordinatipg body for domestic amateur sports.

Among the provisions of the proposed bill which are unacceptable is one which would give the U.S.O.C. authority "to establish national goals for amateur sports . . ." We find the mere suggestion of such authority disdainful in a free society. The lifestyle, social structure and ideals of the United States have historically permitted diversity of purposes; and we believe organizations devoted to purposes other than or in addition to amateur athletics should remain free to pursue them without interference from the U.S.O.C.

Schools, and a myriad of youth sports organizations, religious groups, recreation societies, park districts and the military, sponsor amateur athletics as a means to an end. Their goal in sponsoring a program of amateur athletics is to achieve what they believe is a higher goal. In the case of the schools, the higher goal is the complete education of youth. For the other organizations, the higher goal may be recreation, religious training or military training. We believe these organizations would object to the U.S.O.C. dictating to all organizations what the national goals of amateur athletics should be.

The interscholastic community can support S. 2036 only if this provision and all other implications that the U.S.O.C. shall direct, coordinate and control domestic, amateur athletics are removed from the bill. Support would be appropriate if those sections of S. 2036 discussing the purposes, powers and jurisdiction of the U.S.O.C. were changed to the wording of Article II, Sections 1 through 5 of the current U.S.O.C. Constitution.

FUNDING OF THE U.S.O.C.

The National Federation has both philosophic and common sense objections to the provisions of S. 2036 which would allocate $20 million to the U.S.O.C. While the allocation is modest in the context of total federal spending and in terms of the U.S.O.C.'s needs, the provision is distasteful to the National Federation membership.

The provision of S. 2036 to spend $10 million for National Training Centers is most distressing. These would cater to a relative handful of athletes, when masses of people in this country are without jobs, food and adequate health care.

It is our view that federal funding must be confined to catastrophic problems of society and must be provided only as long as the source of federal funding can afford it. These are the philosophical and practical limits to federal spending.

Each spring which brings us stories of failures of communities to pass tax increase referenda for local schools indicates the source of federal funding—taxpayers—is running dry. Most citizens have only one opportunity to express their opposition to high taxes and excessive federal spending: local referenda. Their message of late has been "Stop! Don't raise taxes. Decrease government spending."

Consideration might be given to devices by which the public and business sectors could be encouraged to increase contributions to the U.S.O.C.; but for the schools which face rebellious voters, for the tired taxpayers and for the masses of people in more serious need of Federal financial support than amateur athletes, the National Federation urges the Commerce Committee to strike from S. 2036 all provisions for federal funding of the U.S.O.C.

ATHLETES' RIGHTS

Considering the increasing sophistication of high school athletes and the proliferation of international competition, it is not surprising that high school athletes are becoming more involved in international competition. The National Federation membership has studied this development and is not opposed to it provided the membership can be assured the conditions under which athletes who are also students are asked to compete in international competition are not contrary to the educational objectives of schools.

The National Federation membership has adopted procedure for sanctioning international competition to help assure the competition is consistent with ed-

ucational objectives. There are only six requirements and they boil down to an assurance that the U.S. student is in good standing with his or her school and state association, will participate against foreign amateurs of apporximately the same age, under rules and safety standards which are at least comparable to those of domestic competition, and at a time which does not interfere with the student's regular academic or interscholastic pursuits.

While the procedure has been applied generously and even-handedly in the past, there is some sentiment among the National Federation membership to differentiate between types of international competitions. The membership believes the proliferation of international competition involving high school students demands that international competitions in which participants represent private organizations, commercial interests or individual promoters be separated from international competitions in which participants represent their country on national teams and, in addition, that participation in the Pan American and Olympic games series be separated from other international competitions. The membership wishes to close the door to the exploitive promoter; it does not wish to penalize students who have the opportunity to represent their country on bonefide National Teams, particularly in the Pan American and Olympic games.

Consistent with this belief, there is an amendment to the National Federation By-laws presently pending ratification which would cause all member associations to permit and treat identically the participation of high school students on National Teams and in Olympic Development Programs. The membership does not wish to force a student to make a choice of competing in school or non-school programs when that student has been fortunate enough to have been selected by a national governing body to represent his or her country in athletic competition or to develop his or her skills further in an Olympic Development Program.

The National Federation makes these efforts despite its immutable conviction that athletes who commit themselves to the interscholastic program have a responsibility to fulfill that commitment. Schools assume such commitments when they make schedules. Schools depend on such commitments in order to fulfill schedules in a manner which will make them part of future schedules of other schools. Schools need such commitments to assure local interest in interscholastic athletics is sufficient to support the program. We do not believe a student's participation in just any international competition contributes to interest in a high school athletic program or is sufficient reason the student should not fulfill his or her obligation. However, at the very highest levels—specifically the Pan American and Olympic games—schools want to make exceptions; in fact, schools already have done so.

However, S. 2036 appears not to permit schools to enforce any eligibility rules following participation by student-athletes in international competition during the interscholastic season if that athlete were selected for participation by a national governing body or one of its members. Not apparent are any qualifications of that provision, such as extended absence from school or interruption of academic progress. Without such qualifications, school administrators cannot support this provision of S. 2036.

School administrators have long maintained that it is not only a right but a responsibility of those who go to the time, trouble and expense of conducting a program—athletic or non-athletic—to also determine the standards of eligibility for the program—standards consistent with the goals of the organizations. Indeed, a principal motivation in forming state high school associations was to assure adherence to certain standards in order to assure that the educational basis of the program remained real.

Obviously, the National Federation would not properly represent either its member associations or their member schools if anything but steadfast opposition was expressed to the provision of S. 2036 which attacks one of the deepest footings of the foundation to the educational basis of interscholastic athletics.

A related provision of S. 2036 appears to prohibit schools from enforcing eligibility rules after student-athletes' return from participation in international competition sponsored by other than national governing bodies or their members, unless the application of the rule could be shown to be reasonable.

The provision is superfluous, because the interscholastic community is subject to the U.S. Constitition which requires that participants in interscholastic athletics receive equal protection under law. Both state and federal courts have tested the reasonableness of school eligibility rules in these areas, and in the overwhelming majority of cases, those rules have been upheld.

Moreover, the emphasis of the provision is improper. It ought to require the athlete to prove a long-standing and well-tested rule is unreasonable, and should not place a burden on schools to prove what has been proven many times before—that the rule is reasonable.

The National Federation membership supports "athletes' rights" and maintains that policies of interscholastic athletics grant athletes the appropriate right—the right to choose the program in which they wish to compete. However, the National Federation membership also supports "organizational rights"—the right of organizations which sponsor athletic competition to determine the standards of eligibility for that competition.

We urge the Commerce Committee to investigate a middle road—a path between unrestricted "rights" for either athletes or organizations.

Summary

State and federal courts have consistently upheld schools' authority to join associations and to delegate to those associations the authority to enforce rules which are reasonably related to the objectives of schools. Congress, therefore, should be exceedingly cautious in making laws which infringe upon these authorities of which would make illegal the rules which courts of both state and federal jurisdiction and widespread venue have found constitutional and reasonably related to educational objectives.

We believe the Congress should also be reluctant to create for the American people an additional agency to direct and coordinate their lives—especially the leisure and recreational aspects of their lives—and to do so with more of the taxpayers' dollars.

In short, we believe S. 2036 attempts to do too much. Limited to the U.S.O.C. and its Group A members and confined to the Pan American and Olympic games participation, S. 2036 may have the support of the interscholastic community. But as much as we support the Olympic effort in the United States, we will not support S. 2036 as now worded. To do otherwise would be to do so at the expense of the integrity and educational basis of healthy and expanding interscholastic athletic programs.

Our present opposition to S. 2036 does not mean the National Federation will not cooperate in revising the legislation. We will not close the doors to compromise. We see no reason why the provisions relating to national governing bodies cannot be separated from the objectionable aspects of the bill and passed. If a "bill of rights" must be included, we suggest the wording which Senator Pearson put forth in S. 3500 in 1974 is an appropriate balance of the rights of athletes and organizations.

The National Federation is hopeful the Commerce Committee will be able to draft and recommend to the entire U.S. Senate a bill which will improve the United States' effort in the Olympic games, without placing existing domestic sports programs in a status subordinate to the Olympic effort.

AFTERNOON SESSION

Senator STEVENS. Mr. Williams, thank you for your courtesy this morning to Mr. Durbin and his associates.

STATEMENT OF EDWARD G. WILLIAMS, CHAIRMAN, ATHLETES' ADVISORY COUNCIL

Mr. WILLIAMS. I hope he successfully got his plane.

I guess, Mr. Chairman, I am one of those athletes that are old and out of touch, referred to this morning.

Senator STEVENS. Don't criticize us who have both conditions.

Mr. WILLIAMS. My name is Edward Williams. I am pleased to be here today to present the views of the Athletes' Advisory Council of the USOC, concerning S. 2036.

I believe, especially in view of the remarks this morning by Mr. Byers, it is important that you know something more about the

Athletes' Advisory Council so you will realize that I am not speaking today as an individual but as the representative of 42 currently competing or recently retired Olympic and pan-American athletes who were elected to the council by athletes active in their respective sports.

The AAC was formed in 1973 by the U.S. Olympic Committee upon the recommendation of the then USOC president, Philip O. Krumm. The purpose in creating the AAC was to broaden communication between the USOC and currently active athletes, and to serve as a source of opinion and advice with regard to both current and contemplated policies of the USOC.

The AAC has 42 members—six members-at-large plus athletes from each of the sports on the Olympic and pan-American programs. To insure that the AAC represents the interests of current athletes, ouown rules provide that every athlete on the council must have reprer sented the United States in the Olympic or pan-American games, or other major international competition, within the preceding 10 years. Furthermore, only currently competing or recently retired athletes can vote to elect representatives to the AAC.

The point I wish to make, and I believe it is an important one, is that the AAC membership represents all sports on the Olympic and pan-American games programs, is democratically elected, and is representative of the currently competing or recently retired amateur athletes in America.

If Mr. Byers does not think that the AAC represents currently competing active athletes in the United States, then I would ask him where is the NCAA's Athletes' Advisory Council.

For your further information, a booklet indicating the membership of the AAC is appended as exhibit E to my prepared statement.

The Athletes' Council supports the legislation embodied in S. 2036. We went on record to that effect at our last full meeting on September 11, 1977. Perhaps the word "support" does not do justice to just how we feel about this bill. Although the AAC believes that certain provisions of the bill should be modified, for example, to give greater protection to athletes to participate in amateur athletic competition, we are overwhelmingly enthusiastic about the purposes and thrust of the bill and its purposes as outlined in sections 101 and 102 of title II.

There can be no doubt that there is a real need for legislation of the type proposed in S. 2036. The report to the President's Commission has thoroughly documented what all athletes learn as soon as they start competing on the national level:

First, that there is a need for a unified amateur sports effort in the United States which, in order to be effective, must be coordinated by one organization.

Second, there is a need for a workable mechanism to resolve the disputes that inevitably arise between various sports organizations.

Third, there is a need to protect the right of every amateur athlete to participate in amateur athletic competition without fear of improper sanctions or arbitrary control.

And fourth, there is a need to fund the revitalized but currently underfinancied development programs of the U.S. Olympic Committee and the various national sports governing bodies. Moreover, if the United States is to successfully compete in international athletic

events, funding must be provided for the recently established USOC National Training Centers.

While the AAC has considered all the sections of S. 2036, our primary concern has been with title III—the athletes' bill of rights section. Therefore, it is my intention to focus my remarks on that portion of the bill.

As I have indicated, the AAC feels that an athletes' bill of rights is an essential prerequisite for the proper functioning of amateur athletics. Clearly, a similar conclusion was reached by the President's Commission on Olympic Sports. The reasons for this conclusion are not difficult to ascertain, and I cite three examples.

First, the NCAA, by threatening to impose sanctions on its member institutions, has prevented college athletes from competing in events sponsored by sports organizations considered to be rivals of the NCAA. Yesterday you heard from Kenny Moore, who gave you an example of just that type of infringement, with regard to his participation in the Boston Marathon.

Second, national sports governing bodies have prevented athletes from competing in international events simply because those events were sponsored by rival organizations. For example, in 1973 the U.S. Wrestling Federation (USWF) asked the national governing body for the sport of wrestling, which was and is the AAU, to approve a proposed match between USWF wrestlers and the Polish wrestling team. The AAU never responded. Having received no decision despite numerous requests, the USWF proceeded with the competition. The AAU then suspended the USWF from international competition for 2 years, preventing wrestlers seeking to represent the international from so doing for that period.

Third, American high school and college students have lost their eligibility to compete in school sports simply because they have represented the United States in international competition—even though taking part in such competition did not interfere with their academic, personal or certainly their athletic interests. For example, Fred Samara and Dennis Walker, two NCAA athletes, represented the United States in the AAU-sponsored U.S.A.–U.S.S.R. dual track meet in 1973. According to the NCAA, the meet was not properly certified. As a result, the athletes' schools were forced, under threat of institutional penalties from the NCAA, to rule the athletes ineligible to compete in competition.

Of course there are other examples. They demonstrate why the athletes feel that the portion of S. 2036 that addresses the athletes' bill of rights is not strong enough. The AAC respectfully submits that section 303 (a) and (b) of the proposed legislation are abridgment of rights rather than true rights to compete. Recognizing that no right can be absolute, the athletes are convinced, however, that there is no compelling justification for the dilution of these rights as contained in S. 2036.

As an alternative to the rights section contained in the bill, the AAC has proposed a version which we feel comports more closely to one of the announced purposes of the proposed legislation set forth in the bill: "To protect the rights of an amateur athlete to participate in amateur athletic competition without arbitrary controls."

The version of title III which we propose is set forth in appendix A. Appendix B is a marked-up version of title III which indicates how the athletes' version would differ from S. 2036. The athletes are not reluctant, as is apparently the NCAA, to put forth specific language which we would request that you consider.

Senator STEVENS. I notice that you have a number of appendices to your statement. We will print as much of it as we can in the record. Some of the appendices are redundant to what we already have, but we will do our best to print it and what we don't will be retained in our subcommittee files.

Mr. WILLIAMS. The athletes' version of the bill of rights simply takes out the reference to unrestricted international competition. Our version would have the right to compete pertaining to all international sanctioned competition. Further, it would add language in section 303(a) which would make clear that the section shall not absolve an athlete from satisfying the reasonable academic requirements of his or her educational institution. It was never the intent of the athletes to have the athletes' bill of rights used to circumvent the reasonable academic requirements of an educational institution.

Although our version of the bill is broader than what is contained in S. 2036, it still falls far short of an absolute right to participate in amateur athletic competition. It does not, for example, extend to domestic competitions, nor does it grant any rights with respect to participation in unsanctioned competitions. Finally, through the definition of the term "international amateur athletic competition" in the bill, the protections of the athletes' version, as with your version, extend only to an athlete or athletes representing the United States, either individually or as part of a team.

Thus, the athletes' draft is not nearly as broad as a bill of rights which grants total and absolute rights to an athlete. I am personally convinced that it will not be very long before we will find ourselves perhaps sitting here again, or in some other forum, discussing the possibility of extending athletes' rights to domestic competition.

The differences between the athletes' version of the bill and the version contained in S. 2036, as well as the amendments suggested by the school-college groups, can best be discussed in the context of several questions, as follows:

First, is the distinction between unrestricted and restricted competitions a legitimate basis for the difference in the levels of protection accorded athletes for the two classes of competition—as is provided in S. 2036?

Second, is there any compelling interest, contrary to that of the athlete's right to compete, which would justify the inclusion of a "reasonableness test" in the athletes' bill of rights?

Third, is there a contrary interest compelling enough which would justify restricting the application of the athletes' bill of rights simply to the Olympic and pan-American games, world championship teams and other "national" teams?

And finally, is there any intent on the part of the athletes to have the bill of rights applied in such a manner as to circumvent reasonable academic requirements?

Turning to my first point, I submit that there is no basis for making a distinction between unrestricted and restricted competition in the application of the athletes' bill of rights.

There appears to the athletes' council nothing inherently different between unrestricted and restricted competitions which would suggest that restricted competitions are entitled to a lesser amount of protection than unrestricted competitions. The only difference between unrestricted and restricted competitions, as they have been defined, is that restricted competitions are amateur competitions that are limited to a specific class of amateur athletes, while unrestricted competitions are not. The distinction between these two classes of competitions does not justify, in any way, a difference in the level of protection granted the two types of competitions by an athletes' bill of rights.

It is significant that the U.S. Olympic Committee, when considering proposed amendments to its constitution earlier this year, specifically rejected the proposed amendment submitted by the National Association of Collegiate Directors of Athletics on behalf of the NCAA. That is set forth in exhibit D.

The NCAA version would have incorporated a distinction between unrestricted and restricted competition into the U.S. Olympic Committee's Athletes' bill of rights. Instead, the USOC's Athletes' bill of rights protects the athlete representing the United States "in any international amateur athletic competition," regardless whether the event is restricted or unrestricted.

Furthermore, a recent article in the NCAA *News*, a copy of which I understand you have from this morning, indicates that the NCAA has abandoned its position that the distinction between unrestricted and restricted competitions should control the level of protection accorded by an athletes' bill of rights. According to the article, and and quoting from it, "Thompson"—J. Neils Thompson, former president of the NCAA—"stated that the association has expressed its willingness to forego any of its rules affecting an athlete's participation on an official U.S. team in the Olympics, pan-American games, world university games or events of similar nature. * * *" And, of of course, the world university games is a restricted competition.

Therefore, I conclude the NCAA has abandoned its prior position that the distinction between restricted and unrestricted competition justifies differing levels of protection in an athletes' bill of rights.

The athletes' second point is that there is no basis for incorporating a "reasonableness test" in the athletes' bill of rights—that is, no reasonableness test other than the test which would be applied by the athlete in deciding whether or not to compete internationally.

Under S. 2036, the protections granted restricted competitions would be subject to a reasonableness test. The NCAA would have the rights section entirely qualified by a reasonableness standard. Thus, under the NCAA's proposal, an educational institution would be permitted, at its discretion, to preclude an athlete from competing in an international competition simply by making a determination that, for whatever reason, such participation would not be "reasonable." No mention is made of the fact that the test the NCAA would apply is not whether it would be reasonable from the athlete's point of view. Rather, the NCAA's test is whether it, on behalf of the institution, deems the athlete's participation reasonable according to its own purposes and objectives.

For example, the track and field rule mentioned this morning by Mr. Byers, and I believe also by Mr. Brice Durbin, would be applied in such a manner to achieve the NCAA's objectives—not necessarily the objectives of the individual athlete.

I should point out the objectives of a school, as far as I understand them to be, are either strictly academic, or are more broadly stated, a part of programs designed to foster the development of an individual—including the student athlete. The objective of a school is not to compel attendance in a school track meet against the wishes and best interests of an athlete.

Thus, if a reasonableness test suggested by the NCAA is incorporated into the athletes' bill of rights, we would not have a true athletes' bill of rights—for, in that case, the NCAA collegiate athletes' right to compete would, initially at least, be subject to the unfettered discretion of the NCAA.

The U.S. Olympic Committee carefully considered, and rejected, the possible incorporation of a reasonableness test imposed by a member organization in its own bill of rights. I don't know what Mr. Byers had reference to this morning when he referred to conversations with USOC officials which said otherwise. I understand he had a conversation with Mr. Sullivan, the USOC counselor, after the vote. And there may have been some misunderstanding at that point; but I don't know the details of that conversation. But if you read the USOC's version of the bill of rights, it is clear that it does not contain a reasonableness test.

Senator STEVENS. What conversation are you referring to?

Mr. WILLIAMS. I understand Mr. Scott, counsel for the NCAA, had a conversation with Mr. Pat Sullivan the day after the vote in Colorado Springs, to the effect, asking Mr. Sullivan whether or not there was still a reasonableness standard incorporated in the USOC's version of the athletes' bill of rights. I understood Mr. Sullivan might have indicated there was a reasonableness test.

However, if you examine the two versions of the USOC's bill of rights, the old version which is in exhibit C, and the new version also in exhibit C, and you compare the two, you will see that the USOC specifically deleted the "reasonableness test."

In the former USOC athletes' bill of rights, you will see on the left an asterisk and a bracketed phrase, which is commonly called the "notwithstanding clause". If you will read section 6, you will see that it says the USOC shall protect the right of an athlete to compete and will do all that the athletes would have the USOC do. But then the notwithstanding sentence says, "Notwithstanding the above," the USOC shall honor the decision * * * of an educational institution * * * or other organization * * * to deny him such right, provided that it is determined—determined by the institution, that is—that it would reasonably interfere with the individual's academic or athletic interests.

The athletes lobbied very hard for the deletion of this notwithstanding sentence, which is in effect a reasonableness clause. That sentence was deleted at Colorado Springs at the last quadrennial meeting of the USOC. Thus, the USOC has specifically rejected the reasonableness test, as you can see from the more recent version of the USOC's bill of rights—which is also contained in the exhibit C.

Senator STEVENS. Wasn't Mr. Sullivan saying that because an athlete who is denied his or her right to compete can go to arbitration; that in effect reasonableness will be implied by the arbitrators or by the court?

Mr. WILLIAMS. Yes. Of course. That, of course, is true.

Senator STEVENS. To a certain extent, the fight over reasonableness is a fight between lawyers. It's not between athletes.

Mr. WILLIAMS. Yes, sir. But you see, the reasonableness test I think the NCAA would have applied is the type of reasonableness test which is contained in the old section of the USOC constitution, where in effect the NCAA gets the last say.

Under the new version, it's up to the college——

Senator STEVENS. Under the new version, it's up to the arbitrator or the court to determine——

Mr. WILLIAMS. Whether the denial of the right——

Senator STEVENS. Was unreasonable. So it's still there, although it's not explicit.

Mr. WILLIAMS. Yes, sir. But under the old version, it was of course more explicit, in that the USOC would honor the decision of the educational institution.

Senator STEVENS. I think the new version shifts the burden of proof.

Mr. WILLIAMS. Yes, sir. I might also emphasize one thing that I think people often overlook, especially the NCAA, and that is that there is a second reasonableness test still in the athletes' bill of rights provided by the USOC: the athlete, in the final analysis must determine whether it is "reasonable" in making up his or her mind whether or not to compete internationally.

I don't think we should assume that an athlete, faced with a decision whether to compete internationally or for a Big Eight Conference, would necessarily always opt for the international competition. If the domestic meet is of such a nature and importance, I don't think we can always assume that the athlete would opt for the international rather than domestic competition.

Senator STEVENS. We have to assume if he wanted to go into the pros, he would opt against competing internationally. You are right.

Mr. WILLIAMS. Yes, sir. There are different things to be considered in the various sports. One of the things we have to be very much aware of is that we cannot talk about the various sports on the Olympic agenda in a monolithic sense, because basketball is very different from ice hockey, from skiing, and track and field.

A third point I would like to make is that there is no justification, in our judgment, for limiting the athletes' rights section to "national teams," as has been suggested—not today but on prior occasions—by the NCAA. And I get this from the same article you referred to this morning, from the NCAA News.

In that article, the NCAA proposed to limit the athletes' bill of rights to "an official U.S. team in the Olympics, pan-American games, world university games or events of similar stature but not all 'international' events."

The NCAA offers no explanation for suggesting such a limitation of the athletes' bill of rights, and the athletes' advisory council is not aware of any compelling interest which would warrant such a re-

striction. Clearly, the only reason the NCAA has put forth this amendment, which no organization outside of the school-college group supports, is to protect its own empire. And this self-interest, I submit, is not the compelling type of interest which would justify limiting an athletes' bill of rights.

It is significant that neither the draft legislation of the PCOS report, nor the USOC's constitution, limits the application of the bill of rights to "national teams." The PCOS draft legislation simply would have the individual or team "officially represent the United States"; the USOC constitution requires only that an athlete represent the United States. And your own version of the athletes' rights section is similar: "athlete or athletes representing the United States".

The limitations on rights proposed by the NCAA are not justified by any compelling interest and should be rejected. And I might add, that if I had my way I would severely fine the NCAA for even suggesting such a limitation.

The fourth point—and I referred to it earlier—is that there was never an intention on the part of the athletes to have a bill of rights applied in such a manner as to circumvent reasonable academic requirements. The school-college groups have suggested that a reasonableness test must be incorporated into the athletes' bill of rights section in order to protect the educational institution and prevent the athlete from circumventing academic requirements. While it is true that the present version of the bill might be interpreted by some individuals to permit an athlete to disregard academic requirements, this was never an option even remotely considered by the athletes on the athletes' advisory council.

Senator STEVENS. We presume the institution has the final say.

Mr. WILLIAMS. Yes, of course. We would propose to make this very, very explicit by simply adding a third sentence to section 303(a). I think you offered a slightly different version this morning. I want to assure you that is completely acceptable to the athletes. It was never our intention to have anything otherwise apply and I would think this would satisfy the college-school community.

Senator STEVENS. It bothers me a little bit, and I am inclined to do whatever I can to protect an athlete's right to compete, but I should think an institution has a problem if it has 40 people on a team, and one has a chance for a spectacular involvement elsewhere, and the team's strength is based on that one person's contribution. should the one athlete be permitted to leave and, therefore, reduce the expected level of performance of the other 39. I think in this situation the institution does have a problem that has to be examined.

It is not that I am disagreeing with you. I think the institution's role is to provide educational and athletic opportunities for everybody involved.

In certain situations there is a judgment question that might go beyond what is best for the individual athlete, and also take into consideration what is best for the school.

Mr. WILLIAMS. Well, it is a very tough question. And I have been a part of such a very difficult decision which had to be made by a student and the coach as to whether he would participate in the NCAA championships which my college had a chance of winning or participate in an international event. The event, while not the Olym-

pics or the world championships, was of such importance that the coach and the individual both decided that the individual would compete overseas; and our school did not win the NCAA championships. But everyone felt that the coach had very broad shoulders; he is an extraordinary man, well respected, and I would think that he is probably the skiing equivalent to Bill Bowerman, Kenny Moore's coach, who wanted Kenny to participate in the Boston Marathon. I don't think all coaches are up to this level.

Senator STEVENS. I think they are warranted in considering the total impact of the performance of the individual.

Mr. WILLIAMS. I think I am getting the drift of where you are going, that is, that the final decision should be in part, perhaps, made by both the individual and the institution, and certainly, not by the governing scholastic organization. But I have difficulty trying to conceive, in a real-life situation, how the decision would actually be made, that is, what kind of joint mechanism would be used.

Senator STEVENS. It is as tough as the abortion question, you know, if you really want to get into it.

Mr. WILLIAMS. I won't touch that one here. In conclusion, let me say, Mr. Chairman, that the athletes on the Athletes' Advisory Council believe you have a rare opportunity in this bill. You have an opportunity to do something that no one else has ever been able to do. That is, to bring unity to amateur sports in the United States and to enact a strong athletes' bill of rights.

The athletes on the council strongly urge you to act on this bill and provide for a bill of rights section that would truly accomplish one of the announced purposes of the bill: that is, to protect the right of an athlete to participate in amateur sports competition without arbitrary control.

On a number of occasions yesterday, after a speaker had expressed dissatisfaction with a certain aspect of the bill, the question was posed whether in spite of those objections, the bill would be acceptable as a "starting point" or "as a suitable compromise." I submit, sir, that there is only one starting point in an athletes' bill of rights. And there is no room for compromise here. Either you have a bill of rights or you don't. A version of the bill of rights which protects the right of an athlete to compete, but only insofar as the competition is unrestricted, is not really an athletes' bill of rights.

A version which restricts the application of the rights section to has the right to compete, except when someone else deems it would not be reasonable, is also not an athletes' bill of rights.

A version which restricts the applications of the rights section to "National teams," and which does not pertain to all athletes representing the United States, is also, I submit, not an athletes' bill of rights.

You also heard yesterday from Mr. Kane——

Senator STEVENS. You are answering all my questions, Mr. Williams.

Mr. WILLIAMS. I don't mean to impinge on your question period, but if you will bear with me for 1 minute——

Senator STEVENS. Go right ahead.

Mr. WILLIAMS. You heard yesterday from Mr. Kane, president of the USOC, who stated that the USOC is "supportive" of the athletes' position in this matter, I should say that that is very much an under-

statement by a very modest man. The USOC has been in the forefront in recognizing athletes' rights. The USOC first incorporated an athletes bill of rights in its constitution in 1974, and at its most recent quadrennial meeting this section was considerably strengthened. As you know, the USOC version is much stronger than the version contained in S. 2036. For example, the USOC bill of rights makes no distinction between restricted and unrestricted competitions. And also, in the USOC version, there is no explicit reasonableness test. The only reasonableness test is the one that would be applied by the athlete or applied by the arbitrator. Finally, I would agree with Senator Stone's observation yesterday, and I hope that you would also agree, that this committee would not want to do less for the athletes than what the U.S. Olympic Committee has already done in the area of athletes, rights.

Thank you, on behalf of the athletes' advisory council, for your consideration.

Senator STEVENS. Thank you. You presented a very well-prepared statement. I have had to peel off my questions because you have touched on most of them.

This morning we heard from the high schools' and perhaps since you just heard the testimony as I did, you will want time to reflect on it and give us an answer later, but——

Mr. WILLIAMS. I will try to be responsive now if I can.

Senator STEVENS. Do you see any way we can accommodate the problem raised by the high schools. They rely upon the provisions of individual State law rather than upon Federal law. This results in variations in their administration of athletic programs. They are unique in that area.

Mr. WILLIAMS. Yes. They are.

Senator STEVENS. Is there a way that the athletes could see to accommodate the special problems of the high schools in view of their relationship to the individual State athletic associations?

Mr. WILLIAMS. I believe there is a way. Of course it poses a more difficult question because of the minority problems and so forth. I would suggest, however, that instead of simply having the judgment of an athlete, we should have in the case of a minor, the judgment made by the athlete and his or her parents.

With respect to State law, of course, due regard has to be made for that. But I would examine very, very closely any supposed rule of a State high school association to make sure that the "rule" was actually compelled by State law or whether it was simply a rule that was fabricated by the State high school association which has no justifiable basis from an academic or educational point of view.

For example, any rule that says you can't miss more than 10 days of class, and if you do, you are going to be suspended from all future high school athletic competitions, is not a reasonable rule in my judgment because there is no relationship—no nexus if you will—between missing 10 days of school and athletic competition.

There is, however, a nexus between missing 10 days of classes and your academic or educational obligations to a high school. Therefore, I would think a 10-day rule could be justified on an educational basis but not on an athletic basis.

I don't know if I made my point clear, I am referring specifically to the Bart Conner situation where Mr. Conner was suspended from athletic competitions for the remainder of the year, I understand, because he missed 10 days of classes to compete internationally.

If the high school association wanted to say to Mr. Conner, "We are going to suspend you from school because you failed to meet an academic requirement," that is one thing; but to say to Mr. Conner, "You have to suffer athletically because of your 10-day missed classes," is quite another thing.

Senator STEVENS. I don't think we have researched the individual 50 States statutes to determine how much of the authority of the State associations is derived from State law or from State regulation which would have the effect of law, or how much of it is self-imposed. But it does appear to me to be a very complicated problem and one which, to a great extent, is not directly involved with the athletes.

Mr. WILLIAMS. Yes, sir.

Senator STEVENS. If I am correct, and I am sure there are some notable exceptions, but I understand that Virginia has a procedure for excepting gifted athletes from its regulations, so that the problem may be of a much less magnitude.

I would like to ask you on behalf of the athletes' advisory council to examine the statement of the high school group. What I said this morning, and it is my deep intestinal feeling, that here is a group that could stop this bill colder than a mackerel if they vehemently oppose it.

Now, I don't think that every group in the United States has to warmly endorse this bill. As a matter of fact——

Mr. WILLIAMS. I wish we were organized in such a manner so we could lobby as effectively as the other groups.

I just hope when the cards and letters start coming in, as they say on that radio program, initiated by the various school and college organizations that the Senators will take the time to examine the real merits of the situation, rather than simply take a head count of the cards and letters.

Senator STEVENS. I don't think it is just a question of the number of letters. It is also a question of the role of the person that sends the letters and telegrams that you get. The high school coach in a normal community is a well respected person, and if he picks up the phone and calls his average Congressman or Senator, I guess we are all average, but just calls any Congressman or Senator, you can believe he is going to be listened to, unless, of course, there is a substantial overriding consideration.

Again, I don't think there is any reason for the high schools to be as disturbed as they have indicated they might be.

I am hopeful as the last part of their statement indicates a willingness to compromise.

What I am asking you is, Will you explore that area of compromise; so that we can try to frame a bill that will not generate their opposition.

Mr. WILLIAMS. Yes, sir. I would be pleased to work with Mr. Johansen and the other legislative assistants to examine that question.

Senator STEVENS. Do you have any problem with the coordinating role of the USOC?

Mr. WILLIAMS. No, sir.

Senator STEVENS. You heard the objection to giving them the authority to direct amateur sports programs?

Mr. WILLIAMS. Yes. I think you have to understand, and I am sure you do, but perhaps others are missing the point, that the USOC is not some small group at 57 Park Avenue, New York—where the administrators sit—but rather is composed of a large group of sports organizations. And if all the sports groups, including the NCAA, are members of the USOC—and participate in the decisionmaking and scheduling—we won't have a lot of the problems that exist today with the NCAA and AAU. The problems would simply disappear.

Senator STEVENS. That is our hope.

Mr. Williams, we are delighted to have your contribution and we will look forward to your being able to work with those of us on our staff to work out this one problem in particular. We appreciate your offer to do that.

Mr. WILLIAMS. Thank you, sir.

Senator STEVENS. Thank you very much.

[The attachments referred to follow:]

UNITED STATES OLYMPIC COMMITTEE, ATHLETES' BILL OF RIGHTS, PROPOSED BY THE ATHLETES' ADVISORY COUNCIL

ADOPTED BY VOTE OF THE AAC, OCTOBER 15–16, 1977

TITLE III—ATHLETES' RIGHTS TO PARTICIPATE

SHORT TITLE

Sec. 301. This title may be cited as the "Amateur Athletes' Bill of Rights Act".

DEFINITIONS

Sec. 302. As used in this Title, the term—

(*a*) "Amateur athlete" means any athlete who meets the standards for amateurism as defined by the national governing body for the sport in which the athlete competes;

(*b*) "Amateur athletic competition" means a contest, event, game, meet, match, tournament, or other program in which amateur athletes are permitted to compete;

(*c*) "Eligible amateur athlete" means an athlete who is qualified to participate in an amateur athletic competition under applicable age, sex, amateurism, and athletic ability or performance standards as prescribed by the national governing body for the sport in which the athlete competes;

(*d*) "International amateur athletic competition" means any amateur athletic competition between (1) any athlete or athletes representing the United States, either individually or as part of a team, and (2) any athlete or athletes representing any foreign country; and any amateur athletic competition used to qualify United States amateur athletes for such competition;

(*e*) "National governing body" means a not-for-profit corporation recognized as such by the United States Olympic Committee;

(*f*) "Sanction" means a certification of approval issued by a national governing body;

(*g*) "Sports organization" means a not-for-profit club, federation, union, association, corporation, or other group, except a 'national governing body', which sponsors or organizes any amateur athletic competition.

Sec. 303. (*a*) No national governing body, educational institution, or sports organization may deny or threaten to deny any eligible amateur athlete the opportunity to participate in any sanctioned international amateur athletic competition. Nor may a national governing body, educational institution or sports organization censure, or otherwise penalize, an athlete for having participated in such a competition. This section shall not absolve an athlete from satisfying the reasonable academic requirements of his of her educational institution.

(b) The rights granted to eligible amateur athletes under Section 303(a) of this Title shall equally apply to any coach, trainer, manager or adminstrator selected to participate in the conduct of any sanctioned international amateur athletic competition.

ENFORCEMENT

Sec. 304. (a)(1) Whenever any person is engaged in, or there are reasonable grounds to believe that any person is about to engage in, conduct resulting in a denial of opportunities to participate under Section 303 of this Title, a civil action for preventive relief, including an application for preliminary or permanent ininjunction, temporary restraining order, or other applicable order, may be instituted by the eligible amateur athlete, coach, trainer, manager, or adminstrator claiming to be aggrieved, or on behalf of the athlete, coach, trainer, manager, or adminstrator by the United States Olympic Committee, by any national governing body, or by any sports organization or institution of which such individual is a member.

(2) The district courts of the United States shall have jurisdiction to enjoin the commission of any acts or threatened acts which would result in a denial of the opportunity to participate.

(3) Upon finding that a person is engaged in or is about to engage in conduct resulting in a denial of rights under Section 303 of this Title, the court shall issue such preliminary or permanent injunction, temporary restraining order, or other applicable order.

(b)(1) Upon mutual agreement of the parties, actions for relief under the provisions of this Title may be submitted to any regional office of the American Arbitration Association for binding arbitration.

(2) The arbitration shall proceed in accordance with the rules of the American Arbitration Association in effect at the time of the filing of the action. The arbitration shall be before a panel of three arbitrators and shall begin as soon as possible but, in any event, no later than thirty days after the dispute is submitted to the American Arbitration Association. However, if the Association determines that it is necessary to expedite the arbitration in order to resolve a matter relating to an amateur athletic competition which is so scheduled that compliance with regular procedures would not be likely to produce a sufficiently early decision by the Association to do justice to the affected parties, the Association is authorized, upon forty-eight-hour notice to the parties, to hear and decide the matter under such procedures as it deems appropriate.

(3) Each contesting party may be represented by counsel or by any other duly authorized representative at the arbitration proceeding.

(4) The parties may offer evidence as they desire and shall produce such additional evidence as the arbitrators may deem necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to statutory rules of evidence shall not be necessary.

(5) The arbitrators shall have the authority to issue subpoenas to compel the attendance and the testimony of witnesses and the production of documents during the conduct of the arbitration which the arbitrators reasonably deem to be necessary or advisable for a better understanding of the dispute. Said subpeonas shall issue in the name of the arbitrators, or a majority of them, and shall be served in the same manner as subpoenas to appear and testify before the court.

If any person or persons so subpoenaed to testify or produce documents shall refuse or neglect to obey said subpoena, upon petition the United States district court for the district in which the arbitrators are sitting may compel the attendance of such person or persons and the production of documents before said arbitrators, or punish said person or persons for contempt in the same manner provided by law for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the courts of the United States.

(6) All decisions by the arbitrators shall be by majority vote unless the concurrence of all is expressly required by the contesting parties. The arbitrators shall make their decisions within thirty days after the closing of the hearings.

(7) The district courts of the United States shall have jurisdiction to enforce decisions of the arbitrators. Such action may be brought by any party to the final decision.

CONSTITUTION AS AMENDED AT THE QUADRENNIAL MEETING, COLORADO SPRINGS, COLO., APRIL 29–30, MAY 1, 1977

USOC ATHLETES' BILL OF RIGHTS ART. II, §§ 6–9

Section 6. The corporation shall, by all lawful means at its disposal, protect the right of every individual who is eligible under reasonable national and applicable international amateur athletic rules and regulations to participate if selected (or to attempt to qualify for selection to participate) as an athlete representing the United States *in any international amateur athletic competition*, if such competition (conducted in compliance with reasonable national and applicable international requirements) involves any sport included in the Olympic Games or Pan American Games program during the Olympiad period concurrent with such participation or the attempt to qualify for participation. [Emphasis supplied]

Section 7. Any amateur athlete who alleges that he or she has been denied by a person or an organization which is a member of the U.S.O.C. a right established by the preceding Section shall immediately inform the Executive Director of the U.S.O.C., who shall promptly cause an investigation to be made and steps to be taken to settle the controversy without delay. Without prejudice to any action that may be taken by the U.S.O.C., if the controversy is not settled to his or her satisfaction, the athlete may submit to any regional office of the American Arbitration Association for binding arbitration, a claim against such U.S.O.C. member documenting the alleged denial not later than six months after the date of the denial; except that the Association (upon request by the athlete in question) is authorized, upon forty-eight (48) hours' notice to the parties concerned, and to the corporation, to hear and decide the matter under such procedures as the Association deems appropriate, if the Association determines that it is necessary to expedite such arbitration in order to resolve a matter relating to an amateur athletic competition which is so scheduled that compliance with regular procedures would not be likely to produce a sufficiently early decision by the Association to do justice to the affected parties. By maintaining membership in the U.S.O.C., each member agrees that any such aforesaid controversy may be submitted to binding arbitration as provided in this Section and agrees to be bound by the arbitrators' award as a result thereof.

Section 8. Any amateur athlete who alleges that he or she has been denied a right established by Section 6 by a person or organization which is not a member of the U.S.O.C. shall immediately inform the Executive Director, who will consult with the Counselor (or Assistant Counsel) to determine whether the situation appears to be of sufficient seriousness and relevance to the obligations or responsibilities of the U.S.O.C. under its Congressional Charter to warrant action by the corporation in support of the athlete's claim. In the event that action by the U.S.O.C. appears to be warranted, the matter will be referred to the Administrative Committee, which will decide the nature and extent of the action to be taken in the case.

Section 9. The rights granted to athletes under Sections 6 and 7 of this article shall equally apply to any coach, administrator, trainer, manager, or other official seeking to participate in the conduct of any international amateur athletic competition.

CONSTITUTION AS AMENDED AT THE BIENNIAL MEETING, ORLANDO, FLA., DECEMBER 14–15, 1974

FORMER USOC ATHLETES' BILL OF RIGHTS, ART. II, §§ 6-7

Section 6. The corporation shall, by all lawful means at its disposal, protect the right of every individual who is eligible under reasonable national and applicable international amateur athletic rules and regulations to participate if selected (or to attempt to qualify for selection to praticipate) as an athlete, coach, trainer, administrator, manager, or other official representing the United States in any international amateur athletic competition, if such competition (conducted in compliance with reasonable national and applicable international requirements) involves any sport included in the Olympic Games or Pan American

Games program during the Olympiad period concurrent with such participation or the attempt to qualify for participation. [*Notwithstanding these provisions*, the corporation *shall honor the decision* of any member of the corporation or of any university, college, high school, or other educational institution which an individual is attending at the time he is selected to participate or attempts to qualify to participate, *to deny him such right, provided that*, after an appropriate hearing conducted by such member or by the educational institution at a reasonable time prior to such participation or attempt to qualify for such participation, *it is determined* that such activity would violate applicable amateur athletic rules or *would unreasonably interfere with the individual's academic or athletic interests*—or, in the case of a coach, manager or administrator, with his employment interests—at the individual's institution.] In any other instance, the corporation shall by all lawful means at its disposal, prevent any person or organization from directly or indirectly—through the imposition, or threats of imposition, of penalties or other sanctions upon the individual or the educational institution concerned—coercing or interfering with the freedom of the individual to participate or to attempt to qualify for selection to participate, in any amateur athletic competition covered by this section.

Section 7. Any individual who alleges that he has been denied by any person or organization directly or indirectly connected with the U.S.O.C. a right established by the preceding Section shall immediately inform the Executive Director of the U.S.O.C., who shall promptly cause an investigation to be made and steps to be taken to settle the controversy without delay. Without prejudice to any action that may be taken by the U.S.O.C., if the controversy is not settled, the individual may submit to to the American Arbitration Association for binding arbitration, a claim against such person or organization documenting the alleged denial not later than six months after the date of the denial; except that the Association is authorized, upon forty-eight (48) hours' notice to the parties concerned, and to the corporation, to hear and decide the matter under such procedures as the Association deems appropriate, if the Association determines that it is necessary to expedite such arbitration in order to resolve a matter relating to an amateur athletic competition which is so scheduled that compliance with regular procedures would not be likely to produce a sufficiently early decision by the Association to do justice to the affected parties.

NOTE.—The bracketed sentence in the former USOC Athletes' Bill of Rights—the so-called "notwithstanding clause"—is essentially equivalent to the "reasonableness test" to which the NCAA would subjugate any "rights" accorded to athletes in Title III, §303(a) and (b) of the proposed legislation. This "notwithstanding clause" and the reasonableness test contained therein was *specifically rejected* by the membership of the USOC when it amended its Constitution at the Quadrennial Meeting, April 29-30 and May 1, 1977.

FEBRUARY 18, 1977.

PATRICK H. SULLIVAN,
Counsellor, United States Olympic Committee,
c/o Whitman & Ransom,
New York, N.Y.

DEAR MR. SULLIVAN: Enclosed herewith please find copy of a set of proposals for amendment to the USOC Constitution, for consideration by the USOC Restructuring Committee, the USOC Board of Directors and the USOC membership at their upcoming meetings. They are contained in a letter of today's date from counsel for the National Collegiate Athletic Association.

We are submitting these proposals after consultation with representatives of the NCAA. They have advised us that the NCAA Council regards the proposals, if adopted, as a sound basis for application by the NCAA for renewed membership in the USOC. We support the concept of NCAA membership in the USOC, and are therefore using our good offices as a present USOC member to place these proposals before the various necessary USOC bodies.

As you will note, copy of this letter and its enclosure is being sent to the Secretary of the USOC, in order to meet formal USOC requirements.

Very truly yours,

STANLEY J. MARSHALL, *President.*

APPENDIX 1

(MARKED TO SHOW CHANGES)

ARTICLE II, SEC. 6 ET SEQ.

BILL OF RIGHTS

Section 6. No *member of the USOC* [national governing body, sports organization, or institution] may deny or threaten to deny any [eligible] amateur athlete the opportunity to compete in any unrestricted competition, nor may it censure, subsequent to such competition, or otherwise penalize, any such athlete who participates in such competition, except that the appropriate Group A member of the USOC may so deny, threaten to deny, censure or otherwise penalize, *if it reasonably determines, after fair notice and hearing have been provided to the athlete, that the athlete is not or was not eligible to participate in such competition under the rules, as the case may be, of the International Olympic Committee or the International Sports Federation of which it is a member.* [Standards for denial of sanction by Group A member omitted, and moved to Appendix 2.]

Section 7.[1] Any amateur athlete who alleges that he has been denied by *a USOC member* [a person or organization directly or indirectly connected with the U.S.O.C.] a right established by the preceding Section shall immediately inform the Executive Director of the U.S.O.C., who shall promptly cause an investigation to be made and steps to be taken to settle the controversy without delay. [Without prejudice to any action that may be taken by the U.S.O.C.] If the controversy is not settled *to his satisfaction,* the athlete may submit to *any regional office of* the American Arbitration Association for binding arbitration, a claim against such U.S.O.C. member documenting the alleged denial not later than six months after the date of the denial; except that the Association (upon *request by the athlete in question*) is authorized, upon forty-eight (48) hours' notice to the parties concerned, and to the U.S.O.C., to hear and decide the matter under such procedures as the Association deems appropriate, if the Association determines that it is necessary to expedite such arbitration in order to resolve a matter relating to an amateur athletic competition which is so scheduled that compliance with regular procedures would not be likely to produce a sufficiently early decision by the Association to do justice to the affected parties. *By maintaining membership in the U.S.O.C., each U.S.O.C. member agrees that any such aforesaid controversy may be submitted to binding arbitration as provided in this Section and agrees to be bound by the arbitrators' award as a result thereof.*

Section 8. As used in Sections 6 and 9 of this Article, "unrestricted competition" means any international amateur athletic competition in a sport included within the calendars of the Pan American or Olympic Games: (a) the terms of which competition require that the entrants therein be teams or individuals representing their respective nations; (b) the United States team or group of individuals for which is selected, organized and sponsored by the appropriate Group A member of the U.S.O.C.; and (c) the United States team or group selection process for which is made on a national qualification basis, either through (i) a defined and publicly-announced selection process or (ii) publicly-announced tryouts. Except for domestic amateur athletic competition expressly restricted to a specific class of amateur athletes (such as high school athletes, college athletes or members of the Armed Forces), the term "unrestricted competition" shall also include any domestic amateur athletic competition or tryouts announced by the appropriate Group A member as directly qualifying successful competitors therein as a member of the United States team or group of individuals for participation in unrestricted competition referred to in the first sentence of this Section. [See PCOS report for comparable definition.]

Section 9. The rights granted to athletes and restrictions imposed on U.S.O.C. members, under Sections 6 through 8 of this Article shall equally apply to any coach, trainer, administrator, manager or other official seeking to participate in the conduct of any unrestricted competition.

Senator STEVENS. I understand Congressman Quayle is here now.

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[1] This section is drawn from the U.S.O.C. Constitution. Substantive changes noted are those at variance with the U.S.O.C. Constitution, not to PCOS recommendation.

[NOTE.—Definition of situations in which an individual educational institution may deny the right to compete, and the new judicial remedy for athletes denied the right to compete—contained in the PCOS recommendation—are deleted for reasons stated in our letter. These recommendations cannot be implemented by amendment to the U.S.O.C. Constitution.]

STATEMENT OF HON. J. DANFORTH QUAYLE, U.S. REPRESENTATIVE FROM THE 4TH DISTRICT OF INDIANA

Mr. QUAYLE. Thank you, Mr. Chairman.

Senator STEVENS. We are delighted to have you take the time to come over. As a fellow Hoosier, I am delighted to also welcome you to the committee.

Mr. QUAYLE. Fellow Hoosier from whereabouts?

Senator STEVENS. Indianapolis.

Mr. QUAYLE. Right in the heart of Indiana. Too bad you migrated. We need another Senator down there. I will go ahead with my testimony.

Senator STEVENS. I can't win on that one, can I?

Mr. QUAYLE. Mr. Chairman, members of the committee, I appreciate having the opportunity to appear before you today and give my views on S. 2036, the Amateur Sports Act of 1977.

My testimony shall not be directed to the bill as a whole, but rather limited to my reasons why non-Olympic sports, and in particular golf, should not be included in this piece of legislation.

I shall be quite candid and tell you that my principles for opposing the inclusions of golf may be of self-interest, and as one distinguished legislator commented, "Behind every well-motivated principle, there is always a self-interest." My interest happens to be that prior to coming to Congress, and in particular during my high school and college days, I was an active golfer. I had the pleasure of captaining both my high school and college golf teams and have been very close and active with golf since I was 10 years old.

As you know, golf is an individual sport, as well as a team sport. When I learned of this bill and the possible inclusion of golf, I could only foresee the Federal Government's becoming involved in a sport which has brought a great deal of pleasure to millions of Americans. This pleasure and exercise by golfers have been enjoyed without the paternalistic guidance of Washington.

We know today the Federal Government has become involved in almost every aspect of our daily, individual, and business lives. I simply can't fathom the intrusion of the Federal Government into the area of golf which has operated privately and with extreme efficiency since its existence.

In reading the executive summary of the final report of the President's Commission on Olympic Sports, I would like to direct your attention to the present status and capability of the U.S. Golf Association which is well accepted as the final authority for the rules and regulations of golf.

First, it may be of interest to know that the USGA Executive Committee is comprised of 15 people from all over the country. Six of the officers of the executive committee must have had past experience and service in a local or regional golf association. All members of the executive committee receive no pay; they receive no expenses, and they absorb all their own expenses in traveling and officiating at golf tournaments.

Furthermore, there are about 500 to 600 members of the USGA subcommittees who supervise and organize qualifying rounds. These people also receive no pay and absorb their own expenses.

The history of the USGA goes back to 1896. The USGA, which has a common set of rules for American golf organizations works in close concert with the Royal and Ancient Golf Club of St. Andrews in establishing a set of rules for world golf. The only difference between these two golfing authorities is the size of the golf ball with the R&A rules allowing for a smaller ball.

In reviewing the reasoning for establishing the institution of a new centralized sports organization, I see that there is a concern with the separation of sports from politics. From my observance of golfing conduct, the only political involvement or political factors were the golf participation of such people as Dwight Eisenhower, Jack Kennedy, and more recently, Gerald Ford.

To my knowledge, there have never been any political overtones concerning the USGA and golf in particular. There has never been a dispute among golfers as to who was the proper and final authority of rules and regulations of golf. The USGA clearly had this responsibility and in my opinion has exercised that responsibility in a very capable manner.

The executive summary talks about success in reflecting the ability of a sports system. The success of American golf is quite obvious—not only do we dominate in the professional area, but we have domination in the amateur area, as well. The Walker Cup and the Curtis Cup, which is the female counterpart, have continued to be dominated by Americans.

The Walker Cup, which matches Great Britain and Ireland against the United States, has been won by our country during the last 25 years in all but three or four instances. The college competition has continued to be competitive and the success of the college golfers is equally well known.

The Commission report apparently is concerned about potential organizations that are fragmented and not bound by a common purpose. The Commission tells us there is no policy or direction in American sports. This is not the case in golf where the USGA officiates 10 national championships. There are numerous regional, State, and local golf associations that have tournaments. All of these qualified activities are bound by the same rules and regulations established by the private organization of the USGA. There is no competition among these organizations and there is a tremendous spirit of cooperation.

The history of golf has been a natural evolution of this cooperative attitude of local and regional golf associations working in concert and harmony with USGA standards.

The USGA, as I stated, has been organized since 1896, and there is no dispute in the golfing fraternity who that authority is. There is an unfettered guarantee of an athlete to compete actively in golf. The game of golf does not suffer from the lack of finances and the central policymaking forum has been the USGA.

In conclusion, Mr. Chairman, I want to emphasize the success of amateur golf in this country. There is no doubt amateur golf is today a well-organized, well-respected, and well-established institution. The success of amateur golf has evolved from a fraternity spirit of harmony and cooperation. The respected status of the USGA from the millions of golfing Americans has been achieved without guidance and regulation by a Federal agency or bureau.

I can only add, and I speak for many of my golfing colleagues in the House of Representatives, we adamantly feel Federal assumption of this fine private organization will do a disservice to the game of golf and all those people who participate in this sport.

I thank you for your attention and urge the indulgence of the committee, if it can clear up the language as it applies to golf.

Senator STEVENS. It was not our desire to be specific, as to golf. We are not creating a Federal agency or a bureau to govern any sport.

The USOC would be the first to stand up and object to that. We are really trying to encourage the sports organizations of this country to coordinate their efforts so as to increase participation in amateur sports. That is what was recommended by the President's Commission on Olympic Sports. If the amateur sports organizations will work together we can have a balanced sports program with an equal opportunity for every American to be involved without regard to sex. Hopefully, if we achieve the results we seek, Congress will be encouraged to provide funding for this kind of program.

What I am saying is, we are not creating any bureaucracy; we are not creating a Federal entity to govern sports.

We are willing to make sure that the golfers are excluded because they seem to express the fear that we are trying to include them in something in which they don't want to be included. As I understand the bill, they could join the USOC. However, they would have to come forward and take that initiative themselves. We would be willing to specifically say they don't have that right, that they can't join the USOC, if that is what the golfers of the country want.

There is nothing in this bill to mandate them to come to the USOC. They could, as they have in the past, stay out forever.

Mr. QUAYLE. I appreciate that, Mr. Chairman, and I want to say that the language may be on a reasonable interpretation, could conceivably include golf because it didn't specifically exclude it.

Senator STEVENS. The bill doesn't exclude anybody. It merely says that any sports organization that wants, as a final result, to represent an Olympic or pan-American sport will go to the USOC and become part of its structure. It is up to the organization.

Mr. QUAYLE. If it were voluntary——

Senator STEVENS. We will be glad to put it in there, so if they ever want it, they will have to come back to Congress and ask us to change the law. We have no intention to include golf.

I see that Carol Armstrong is here. We have noted the presence of other staff members of the President's Commission and I wanted to recognize Carol. We are glad to see you today

Next we will hear from Mr. Fritz. You have been very patient, Mr. Fritz.

STATEMENT OF DR. HARRY FRITZ, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF INTERCOLLEGIATE ATHLETICS

Dr. FRITZ. Thank you much, Mr. Chairman and staff.

I will humor myself by imagining I am the cleanup batter, rather than the last batter in the batting order.

I am Harry Fritz; I am executive director of the National Association of Intercollegiate Athletics. We sincerely appreciate the invitation

to present some of our views relative to S. 2036, and really we have enjoyed the opportunity to listen today to the statements of other witnesses and some of the questions and concerns and problems known to the presenters of this bill, and I think we have been most impressed with the promise of working together that has been extended by the committee and the conciliatory attitude expressed by the committee. The statement which we have filed here is a 5½ page brief statement. I won't be reading it.

Senator STEVENS. We will print it in full in the record.

Dr. FRITZ. Please do. It was developed with the concurrence of our executive committee and a group of college presidents that serve as our advisory committee and also with the assistance of our counsel.

You will note the first couple of pages of this statement deal with the NAIA, who we are and why. In this era of the star system and the bigness syndrome, sometimes we are unfortunately relegated to the status of an asterisk or footnote, and we do want to indicate the extent of our interest and participation in the international sports competition field.

We represent over 500 institutions, including, Senator, two in Alaska, and over 1 million students are presently enrolled in our institutions, over 70,000 students this year will be participating on the varsity teams alone, over and above the clubs, junior varsity, and so forth.

The NAIA has a fundamental belief, basic to our organization. We like to be known for that. We operate our programs as an educational enterprise, not a business adjunct, and hold that athletics are truly integral to the total educational process. As you will note from the testimony here, the NAIA grew out of a national small college basketball tournament, was founded in 1940, and has since grown to include 16 national events, quite a number of them having been functioning for more than a quarter of a century now.

We would also like to note with the committee that successful NAIA national championship programs in basketball, football, baseball, track and field, golf, cross country, swimming, and wrestling predate the availability of these competitive opportunities for smaller colleges not members of the NAIA.

We wanted it to be known that the NAIA has, in undeviating fashion, supported the national sports governing body in all sports, from the very beginning. The NAIA began requesting membership in the Olympic Committee many years ago and, after some challenges and denials, was granted USOC membership in 1963.

Senator STEVENS. Are you still a member?

Dr. FRITZ. Yes; the NAIA's international policies were commended by the President's Commission on Olympic Sports, and the final recommendations of the PCOS actually very closely parallel our existing policy.

We have solicited international opportunities for our membership, and we pride ourselves on that. We seen certain cultural and educational advantages that are unique in that particular area. In fact, 1 month from today we will be having four international teams competing with four of our association teams in the first annual international basketball tournament ever held in this country.

Prior to that, these international teams will play on 40 of the NAIA campuses.

We have 12 basketball teams out this summer, many all-star groups, including wrestling groups, tennis groups, soccer groups. In fact, last summer, we sent two football teams to Europe to attempt to introduce the game over there.

Our participation in the Olympic and pan-American games has been nominal. We do not purport to be the dominant organization in providing world class participants.

However, we did have 40 athletes in the Mexico City games. We had a good deal of quality also in the Montreal games with Bruce Jenner, a former athlete at Graceland College, participating there, and Dr. LeRoy Walker, head men's track and field coach, plus other people.

Our involvement to date leads us to believe that the United States cannot build a strong amateur sports program and mount its best effort with the power struggle that has been going on in the past two decades. The total effort of this country has been damaged in this area. We strongly endorse the USOC as the overall coordinating body for international sports. We favor putting into law a bill incorporating the recommendations of the President's Commission on Olympic Sports, and consonant with the USOC constitution. This should eliminate much of the controversy that has characterized the recent power struggle.

We think also the vertical structure that has been recommended, if it is implemented, will eliminate many of the present potential areas of conflict.

S. 2036 tracks reasonably well with the recommendations of the PCOS——

Senator STEVENS. Do you support the Colorado Springs actions taken by the USOC at its Colorado Springs meeting?

Dr. FRITZ. Yes.

Senator STEVENS. Do you have any rules regarding athletes participating in outside competition?

Dr. FRITZ. Outside competition in season?

Senator STEVENS. Yes.

Dr. FRITZ. Yes; if an athlete has commenced a season in the NAIA membership institution, he must complete the season with the team. The NAIA participated in all the lengthy discussions preceding the recent and very substantial restructuring of the USOC, and we are well aware, therefore, that the USOC membership made sincere, conscientious efforts to carry out the recommendations of the PCOS in this thorough reorganization, while staying within those parameters that are basic to affiliation with the International Olympic Committee. The contributions and views of the USOC Athletes' Avisory Council, we think, are reflected in the USOC restructuring. There is, we believe, a consensus among the athletes that their input into USOC reorganization was substantial and that athlete representation in the sports governing bodies and in the USOC is, at last, meaningful.

As this committee hears from the different organizations, we hope that modifications that will be forthcoming to S. 2036 will be consistent with the USOC constitution, and in concert with the President's Commission's recommendations. We hope that these hearings will measure the suggestions that are received in those terms. We do have a concern with respect to some of the provisions of title III, the amateur athletes' bill of rights.

We have considered these as an organization. We strongly support the amateur athletes' bill of rights, and the essential features of title III.

We feel there must be assurances of reasonableness, in the application of this, and there are certain aspects of title III that are perhaps too absolute. The collegiate multisports governing bodies, such as NCAA, AIAW, et cetera, could be seriously hampered and the athletes' educational progress endangered unless the competitions covered in the intent of title III are clearly defined.

It is our contention that institutions and the collegiate multisport governing bodies must retain reasonable control over their programs, both domestic and international, in order to permit them to serve the functions for which they were organized.

Educational institutions and sport organizations should be required to permit their world class athletes to participate in all true national team "under the flag" international competition, including the Olympic and pan-American games. However, sanctions for other international competition should take into account the nature and sponsorship of the competition, the athlete's educational program and academic progress, his/her institution's sports schedules, and related factors considered to be of critical importance by the educational institution and the sport sponsoring organization. The school/collegiate multisport sponsoring organizations must receive guarantees that the rule of reason will be applied to requirements generally pertaining to international competition.

We would like to point out also, Mr. Chairman, that sections 6 and 7 of article V of the USOC constitution, dealing with the settlement of franchise disputes, was approved by more than the two-thirds majority required in the mail vote. We recommend that these sections of the USOC constitution replace sections 206 and 207 of S. 2036. Sections 6 and 7 of article V of the USOC constitution were hammered out after months of meetings and negotiations involving all of the constituencies of the USOC, including the athletes and other national sports organizations.

I have appeared here several times in the interest of other bills, some of which are mentioned in the statement, twice as a witness for the NCAA.

I would say, Mr. Chairman, in retrospect, inasmuch as some of these were at best partial measures, incomplete measures, that their demise in one way or another may have been a blessing in disguise.

I think we have here now in this particular piece of legislation something that can serve as a catalyst, that can provide the apparatus whereby all sports sponsoring orgaizations will be required to act in the national interest and we certainly want to applaud the efforts of Senators Culver, Stevens, and Stone in introducing this legislation and sticking with a very difficult problem, and bringing about what we hope will be a speedy resolution.

With the exceptions noted, we endorse S. 2036.

I hope these hearings will provide the basis for an even further strengthening of this very important bill.

Senator STEVENS. The President's Commission on Olympic Sports found that your organization, with its 500–member institutions, permits without exception student athletes to participate in international competition.

Dr. FRITZ. That is right. We do. We have an—we defer not to the institution. Then, if we determine then a particular—the national governing body does endorse this as a solid support, in a terms of funding, so there won't be any stranded athletes, we readily approve.

We encourage it, solicit, and actually have a new staff person whose main function is to develop opportunities of this sort for the membership.

Senator STEVENS. We thank you very much for your support and for your patience. As I said, your complete statement will be printed in the record.

[The statement follows:]

STATEMENT OF DR. HARRY FRITZ, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF INTERCOLLEGIATE ATHLETICS

Mr. Chairman, members of the committee, my name is Harry Fritz and I am Executive Director of the National Association of Intercollegiate Athletics. We sincerely appreciate the invitation to present some of our views relative to S. 2036, the Amateur Sports Act of 1977.

The National Association of Intercollegiate Athletics (NAIA) is a completely autonomous Association, currently administering programs of intercollegiate athletics in 525 four-year colleges and universities. Membership is open to fully accredited baccalaureate degree granting institutions that subscribe to the fundamental tenet of the NAIA which holds that intercollegiate athletics is an integral aspect of the total educational program. This belief is strongly reflected in the governance documents, activities and organizational structure of the Association.

Established in 1940, the NAIA grew out of a "National Small College Baksetball Tournament" inaugurated in 1937. Now in its 40th year in its original 32 team format and still played in Kansas City, the NAIA Basketball Champoinship Tournament is the world's largest and oldest collegiate basketball champoinship. The NAIA competitive program has expanded through the years to include 15 national championships: basketball—40 years; golf—26 years; outdoor track and field—26 years; tennis—26 years; football—21 years (Division II—7 years); cross country—21 years; swimming—21 years; baseball—21 years; wrestling—20 years; soccer—18 years; bowling—16 years; gymnastics—14 years; indoor track and field—13 years; ice hockey—10 years; volleyball—9 years. The initial purpose of the NAIA—to provide national championship opportunities for colleges and universities of moderate enrollment, compeitng below the major level—has been well served.

Successful NAIA national championship programs in basketball, football, baseball, track and field, golf, cross country, swimming and wrestling pre-date the availability of these competitive opportunities for smaller colleges not members of the NAIA.

From its inception the NAIA has followed the undeviating policy of supporting the recognized sport governing body (SGB) as approved by the United States Olympic Committee and the appropriate international governing body. Following many years of requesting membership in the USOC, and challenges and a 1961 denial of its application, the NAIA was finally granted membership in the USOC in 1963. Games Committee representation followed in 1965.

The NAIA's international competition policies were commended by the President's Commission on Olympic Sports and, in essence, parallel the PCOS recommendations concerning international competition for school/college teams and athletes. Next month five national basketball teams will play 40 games on NAIA campuses. On November 19, 20 and 21 in Kansas City, four of these teams will be involved with four NAIA teams in the first international basketball tournament ever held in the United States.

Annually, and increasing numbers, NAIA basketball teams compete with foreign countries both on member campuses and abroad. These teams represent both institutions and "all-star" groups. Wrestling, tennis and soccer teams are increasingly finding international competitive opportunities and in 1975 the NAIA sent two football teams to Europe for a series of games.

The NAIA is a charter member of the United States Collegiate Sports Council and has provided athletes and coaches for each world university games since the formation of the USCSC.

NAIA participation in the Olympic and Pan American Games has been nominal, with a "high" of 40 athletes and coaches competing in the 1968 Olympics at Mexico City. The NAIA delegation at the Montreal Games was headed by Bruce Jenner, decathalon winner and Dr. LeRoy Walker, men's track and field head coach.

The NAIA's extensive participation in international competition and involvement in the Olympic and Pan American movement leads us to the conclusion that the United States cannot build a strong amateur sports program and mount its best effort in international competition with the power struggle that has been so obvious during the past two decades. The total effort has been damaged by our failure to freely and openly appoint the best personnel in all roles.

We strongly endorse the USOC as the Central Sports Authority, or over-all coordinating body for amateur and international sports.

The NAIA strongly favors a bill putting into law recommendations of the President's Commission on Olympic Sports and consonant with the USOC Constitution. S. 2036, if enacted into law, should eliminate much of the controversy that has characterized the power struggle for control of the United States international sports effort. Working towards full implementation of the vertical structure recommended by the VCOS, and provided in the USOC constitution, will minimize present and potential areas of conflict. S. 2036 tracks reasonably well with the PSOC recommendations and we offer strong, general support for this legislation. We see S. 2036 as setting forth a common meeting ground (the USOC) where differences between and among sports organizations can be worked out and where the United States amateur sports effort can be effectively coordinated.

The NAIA participated in all of the lengthy discussions preceding the recent and substantial restructuring of the USOC. We are well aware, therefore, that the USOC membership made sincere, conscientious efforts to carry out the recommendations of the PCOS in this thorough reorganization, while staying within those parameters that are basic to affiliation with the International Olympic Committee (IOC). The contributions and views of the USOC Athletes' Advisory Council are clearly reflected in the USOC restructuring. There is, we believe, a consensus among the athletes that their input into USOC reorganization was substantial and that athlete representation in the sports governing bodies (SGB) and in the USOC is, at last, meaningful.

The thrust of any future modifications to S. 2036 should be consistent with the USOC Constitution and in concert with PSOC recommendations. Hopefully, these hearings will measure suggestions for modifications of S. 2036 in terms of the revised USOC Constitution and Bylaws and the PSOC recommendations.

The NAIA feels that some of the provisions of Title III, "Amateur Athletes Bill of Rights Act" are too absolute. There must be assurances that reasonableness will be invoked in the application of this particular legislation. The collegiate multisport governing bodies, such as the NCAA, AIAW, NJCAA, NAIA, NF SHSA, will be seriously hampered and the athlete's educational progress may be endangered unless competitions covered in the intent of Title III are clearly defined. It is our contention that institutions and the collegiate multi-sport governing bodies must retain reasonable control over their programs, both domestic and international, in order to permit them to serve the functions for which they were organized. Educational institutions and sport organizations should be required to permit their world class athletes to participate in all true national team "Under the Flag" international competition, including the Olympic and Pan American Games. However, sanctions for other international competition should take into account the nature and sponsorship of the competition, the athlete's educational program and academic progress, his/her institution's sports schedules, and related factors considered to be of critical importance by the educational institution and the sport sponsoring organization. The school-collegiate multi-sport sponsoring organizations must receive guarantees that the rule of reason will be applied to requirements generally pertaining to international competition.

We are particularly pleased that S. 2036 permits the USOC President to go to court seeking an injunction against a sports governing body (SGB) that is not functioning properly or under the rules.

We feel that reasonable and realistic limits should apply in terms of the voting strength that any one organization can hold in a Sports Governing Body and that terms of office should be limited.

Mr. Chairman, we point out to the Committee that Sections 6 and 7 of Article V of the USOC Constitution, dealing with the settlement franchise disputes, was approved by more than the two thirds majority required in a mail vote. We recommend that these sections of the USOC Constitution replace Sections 206 and 207 of S. 2036. Sections 6 and 7 of Article V of the USOC Constitution were hammered out after months of meetings and negotiations involving all of the constituencies of the USOC, including the athletes and other national sports organizations.

In retrospect, the failure in 1973 and 1974 of earlier bills that would have materially aided the then chaotic situation in amateur and international sport in the United States was probably a blessing in disguise. At best, these measures (e.g. H.R. 7197–Wright; H.R. 9177–Teague; H.R. 11242–Mathias) were incomplete. In S. 2036 we now have a piece of legislation based on the most comprehensive study of the nation's amateur and international sports participation (PCOS study and recommendations) and the careful restructing of the USOC in accordance with the PCOS recommendations and the IOC requirements.

Through the years the NAIA has conducted serious efforts to serve as a unifying force in what has sometimes appeared to be organizational self interest in international sport administration and governance. S. 2036 provides the apparatus whereby all sport sponsoring organizations will now be required to act in the national interest. We applaud the efforts of Senators Culver, Stevens and Stone in introducing legislation designed to meet an urgent national need. With exceptions noted, we endorse S. 2036, and pray that these hearings will provide the bases for the further strengthening of this important bill.

Senator STEVENS. I want to state that the record will stay open for 2 weeks from this Friday. In the event anyone wishes to submit additional statements or comments they should contact the committee staff.

I will hold an informal session sometime during the first 10 days of December to try and resolve some of the differences which have been raised at these hearings. Between now and then I will study the comments made by each witness.

Thank you very much.

We appreciate your courtesy, Mr. Fritz.

[Whereupon, at 4:10 p.m., the hearing was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Statement of Howard Gorrell on Behalf of the American Athletic Association of the Deaf

I am Howard Gorrell and I am the Special Assistant to the Chairman of the USA-World Games for the Deaf Committee (WGD) of the American Athletic Association of the Deaf (AAAD). I was assigned by both organizations to work with the President's Commission on Olympic Sports (PCOS) and to follow and support the proposed law, S. 2036, the Amateur Sports Act of 1977. We sincerely appreciate the invitation to present our views on S. 2036. It is a significant moment for us to submit our written statement to the Committee on Commerce, Science and Transportation because it means that we have finally achieved recognition from the Congress of the United States.

I would like to discuss for a moment a little of the history of the deaf athlete in America. During World War II, deaf workers from all over the country were recruited to work in the rubber-good companies in Akron, Ohio to relieve the manpower shortage. There the athletic-minded males discussed the establishment of an annual national basketball tournament for the deaf. In 1945, the Akron Club for the Deaf backed this idea and hosted the five-team basketball championship. At a business meeting preceding the basketball games, club representatives agreed to form a national organization with the hope of making the tournament an annual affair. At this time, they named the fledgling organization, the American Athletic Union of the Deaf, (in 1947, at the request of the American Athletic Union, the name of the organization was changed to the American Athletic Association of the Deaf.)

The objectives of the AAAD were the following:

1. to foster and regulate uniform rules of athletic competition among member clubs;
2. to provide adequate competition of those members primarily interested in inter-club athletics;
3. to provide a social outlet for the deaf members and their friends;
4. to provide a means of creating better relationships among member clubs; and
5. to establish regulated means of determining athletic championships among member clubs.

Thirty-two years later, young war-time employees have become well-known deaf leaders through their AAAD experiences and they have watched the membership grow to 160 clubs. The clubs are divided into seven geographic regions, each with its own President, Vice-President and Secretary-Treasurer. The four-day annual basketball tournament is the largest social gathering among the events for the deaf, athletic and non-athletic, since as many as 4,000 persons attend.

In addition to basketball, the AAAD sanctions and promotes regional and national tournaments in softball and volleyball and ski racing championships. The other sports, golf, swimming and tennis, are in the process of establishing the national championships. The AAAD also prepares qualified athletes for participation in the quadrennial World Games for the Deaf, or "Deaf Olympics", in which athletes from some 40 nations compete. The recent Games were held at Bucharest, Romania in July 1977. There the U.S. team won 103 medals, including 38 golds, for the highest total by any country since the Games began in 1924. The AAAD did not send a whole delegation until 1957.

As the Final Report of the President's Commission on Olympic Sports mentions, the AAAD, like other organizations for the handicapped, is beset by a negative public attitude. Until early 1977, the AAAD had been a dues-paying member of the Amateur Athletic Union (AAU) for over 25 years; but we did not receive any assistance from the national AAU during that time, although our deaf athletes have been encouraged by the local AAU officials to participate in the local meets, especially swimming and track & field. At its 1977 annual convention, AAAD delegates voted to withdraw their organization from the national AAU.

Due to the PCOS recommendations, the Associated Press wire service picked up our WGD results last summer and sent them across the country—for the first time in the AAAD history. But we have been disappointed with the television media coverage; all major television networks in New York City turned down our request to show our 30-second public service announcement produced by Paramount Pictures and narrated by Ernest Borgnine. They rejected it, they said, because of "administrative complications." However, we feel that even without much news coverage, or help from other organizations, we have accomplished many things for the deaf, and the deaf athletes.

We endorse S. 2036. I personally read all the statements presented to your Committee during the 2-day hearing in October 1977. We do feel, however, that the proposed law is directed to the United States Olympic Committee (USOC) and the national sport governing bodies. We recommend, therefore, some amendments proposed by several major sport organizations, especially the Athlete's Bill of Right Act proposed by the Athlete's Advisory Council of the USOC. We also support the USOC's proposal for "broken-time" payments for athletes while training and competing in important amateur athletic competitions. We do not recommend some other proposed amendments, like the National Federation of State High School Association's proposal to strike from S. 2036 all provision for federal funding.

Regardless of these reservations, we are in general favor of the Amateur Sports Act for the following specific reasons:

1. We support Section 202(12), which reads ". . . to encourage and provide assistance to programs and competition for handicapped persons"; and

2. We support the concept of the Federal Financial Assistance, as stated in Section 205.

Section 202(12) would encourage the USOC to follow the recommendation relating to handicapped of the President's Commission: . . . to create a standing committee to deal with the needs of the handicapped in sports, composed of representatives from organizations sponsoring athletic programs for handicapped. We believe that the USOC should act as a "clearinghouse" for the handicapped, in providing suggestions for funding, assuring provision of competitive opportunities at home and abroad, and gaining access to the National Training Centers.

We feel that the Federal Financial Assistance section of this bill is the most important section to the handicapped. This financial assistance directly relates to Section 504 of the Rehabilitation Act of 1973, which provides that no organization receiving federal aid discriminate against the handicapped. This assistance requires that both USOC and national governing bodies must foster the incorporation of sports programs and opportunities for the various handicapped groups into the overall athletic environment in this country—domestically and internationally.

When the AAAD withdrew the group membership from the national AAU, we also voted to seek affiliation with the United States Olympic Committee at our delegate's meeting, which was held a few weeks before the Quadrennial USOC Meeting. As you know, this USOC meeting made a dramatic change; it did not make any provision for the American Athletic Association of the Deaf in a restructured governance organization. As the result, the Executive Director of the USOC urged our organization to affiliate with each national sports governing body whose sports are an integral part of our program for the deaf.

In S. 2036, Title I (Corporations), as I have already mentioned, encourages assistance for sports programs for handicapped persons yet does not, in Title II (National Governing Bodies) mention this as one of its enumerated obligations. Therefore, we recommend that Title II, Section 204, be amended by adding after subsection (e) the following:

"(f) . . . . to incorporate provisions for handicapped groups sponsoring programs in their respective sports in their development programs."

In addition, because of the aforementioned Rehabilitation Act of 1973, we would like you to add the word, "handicapped" in two instances following, "race, color, religion, age, sex, nation origin" on Section 203(c)4 and Section 203(c)5.

During the AAU Junior Olympic Meet in August 1977, a television commentator had a brief interview with Jeffrey Float, a hard-of-hearing swimmer from California, after winning his event. Surprisingly, this commentator failed to mention to the viewers one of Jeffrey's greatest achievements—winning 10 gold medals and breaking 10 world deaf swimming records at the recent "Deaf Olympics". We are still ignored by the television media networks. But we believe that the Amateur Sports Act could increase the public's awareness of the handicapped athlete. We greatly appreciate the sponsors—Senators Stevens, Culver and Stone—for introducing this legislation.

STATEMENT OF JOHN NELSON WASHBURN, A WASHINGTON-BASED INTERNATIONAL LAWYER AND SOVIET AFFAIRS SPECIALIST

Mr. Chairman and members of the committee: As Senator Stone noted in his Opening Statement of October 18, 1977: "If we do not work together, I am afraid that all our efforts will fail and the problems which hinder our athletes will continue."

As a Soviet Affairs Specialist whose views on the Soviet Subsidized Athletic Program in the context of the Olympic Games have been available to the Congress of the United States ever since June 15, 1955, when the late Senator Styles Bridges of New Hampshire put my April 12, 1955 article on professionalism in Soviet athletics into the CONGRESSIONAL RECORD, I wish to provide the Committee with some evidence as to how the Soviet Union has proceeded to supply its Olympic Committee with solid support. That evidence is set forth in my attached summary entitled "Censored statutes used to develop the U.S.S.R. sports complex for international competition after World War II".

During the 2 days of public hearings on S. 2036, October 18 and 19, I had occasion to talk with one of your principal witnesses, United States Olmpic Committee President Robert Kane; he readily acknowledged how valuable it would be to know what specific statutory steps Soviet authorities have taken, are taking and will take before the 1980 Winter and Summer Olmpics.

The official government newspaper of the U.S.S.R. Izvestiya, in its editorial of July 13, 1947, boasts of ever-increasing annual budgetary outlays for Soviet physical culture and sport provided by the State. From what I know those outlays have continued to climb in the past three decades. Accordingly, I would urge you, Mr. Chairman and members of the Committee, to increase tenfold to $100,000,000 the money for grants envisaged in Sec. 205(b)(1) and in Sec. 205(b)(2). Only with Federal Financial Assistance on this scale can the United States Olympic Committee mount the kind of effort required to give our long-suffering American amateur athletes the kind of support they deserve in Olympic competition, especially in Moscow in 1980.

CENSORED STATUTES USED TO DEVELOP THE U.S.S.R. SPORTS COMPLEX FOR INTERNATIONAL COMPETITION AFTER WORLD WAR II

(by John Nelson Washburn)

In the two best all-purpose books devoted to the U.S.S.R. published in 1976 in the United States—The Russians by Hedrick Smith, and Russia, The People & The Power by Robert G. Kaiser—reference is made to those aspects of the subject of Soviet sports which are within the scope of forbidden topics of the Moscow censor. The list of such topics and their description came from what these destinguished American journalists have termed "an unofficial but reliable source". Whatever the precise degree of reliability, it is well-established by now that in Moscow the censor is responsible for projecting an official image of U.S.S.R. reality which is very heavily weighted on the side of omissions.

This well-established practice about which we have been warned by both Smith and Kaiser extends to the vulnerable texts of the principal Communist Party and Soviet Government decrees and measures providing the legal and operational framework to ensure State control over sport and physical culture in the period 1917–1977. The decrees and measures cited and discussed below must be viewed in this sobering perspective whatever concessions to Soviet reality may be made for purposes of detente by the reader. It will be noted that Soviet authorities are becoming not less but ever more prone to use omission by censorship as a device to provide optimum freedom of action and flexibility as they continue to build up their mighty and complex sports empire centered in Moscow, the site of the 1980 Summer Olympic Games.

* * * * * * *

The first decree of the Soviet Government promoting physical culture and sport was the All-Russian Central Executive Committee Decree ("Dekret") of April 22, 1918 entitled "On Compulsory Training in the Art of War". In it there is no mention of physical culture or sport. But this decree as implemented made physical training an essential element of compulsory military training in Soviet Russia. Accordingly, there was complete military control of athletic endeavor.

When in 1923 such compulsory military training was phased out, State control over physical culture and sport was assumed by a Supreme Council of Physical Culture. This body was formed pursuant to the Soviet Government Decree

("Dekret") dated June 27, 1923 entitled "On the Supreme and Local Councils of Physical Culture of the Toilers of the R.S.F.S.R.". As for the decree, it was the initial one devoted exclusively and directly to the task of establishing and maintaining State control over Soviet Russian physical culture and sport. It consisted of a statement of legislative purpose followed by nine numbered sections, over the signature of M. Kalinin, Chairman of the All-Russian Central Executive Committee. As set forth in the Russian Soviet Federated Socialist Republic (R.S.F.S.R.) Collection of Statutes and Decrees, No. 62, September 8, 1923, Item No. 602, pages 1113–1115, it provided for creation of a "Supreme Council of Physical Culture" to function as a "Permanent Commission" attached to the All-Russian Central Executive Committee. The stated reason for creating it was to ensure "coordination and unification of scientific, instructional and organizational activity of the various agencies and organizations of the R.S.F.S.R. devoted to the physical education and development of toilers". Listed as a major responsibility of the new Supreme Council of Physical Culture was "representation of the R.S.F.S.R. in the Red International Society on Physical Culture (Sportintern)."

The importance of its international representational responsibility was clearly reflected in a subsequent Decree ("Postanovlenie") of the Central Committee of the Russian Communist Party of Bolsheviks. This decree of July 13, 1925 was entitled "On the Tasks of the Party in the Field of Physical Culture". One of the vital tasks specified in the decree was a Party commitment to development of physical culture as a mass movement, including not only workers but also peasants, not only young people but also grown ups. Soviet workers and the sports organizations in which they were to participate would have as a goal the strengthening of athletic ties with the international proletarian movement. Relative to this international objective was the provision of the decree requiring special attention to promotion of physical culture among the indigenous population, particularly the youngsters, of the National Republics within the Union of Soviet Socialist Republics. In all respects this Party Central Committee Decree was a fundamental one supplying in questions of physical education a unified approach on the part of Party, Soviet, economic and public organizations towards the social, education and sanitation purposes being served.

Even more noteworthy than the initial Communist Party decree of July 13, 1925 devoted to physical culture was its sequel, the Decree ("Postanovlenie") of the All-Union Communist Party of Bolsheviks dated September 23, 1929. In this decree entitled "On the Physical Culture Movement", provisions to curb abuses which had developed since the summer of 1925 were incorporated. The three abuses singled out for attack were the record-breaking deviation ("rekordsmenskii uklon"), the diversity allowed as between agancies and the parallelism characterizing the physical culture movement. To cope with all three shortcomings simultaneously and bring about a planned, organized development of physical culture and sport throughout the country an All-Union Council of Physical Culture was formed and attached to the Central Executive Committee of the U.S.S.R. Centralized State control ensued with respect to all work in the field of physical culture.

Following the introduction on March 11, 1931 of national physical fitness standards incorporated in a complex known by the initials GTO standing for the first letters in the key words Prepared for Work and Defense, and the creation in 1934–1935 of the honorary titles Honored Master of Sport of the U.S.S.R. and Master of Sport of the U.S.S.R. for those athletic stars at the pinnacle of the mass sports movement based on GTO norms, a short but important decree appeared late in June 1936. This was the Decree ("Postanovlenie") issued by the Soviet Government as a combined effort of the Central Executive Committee and the Council of People's Commissars of the U.S.S.R. It was dated June 21, 1936 and appeared over the signatures of both M. Kalinin, Chairman of the Central Executive Committee, and V. Molotov, Chairman of the Council of Ministers of the U.S.S.R. By its terms the All-Union Council of Physical Culture attached to the Central Executive Committee of the U.S.S.R. was dissolved and replaced by a new body—the All-Union Committee on Affairs of Physical Culture and Sport attached to the Council of People's Commissars of the U.S.S.R.

The rationale for the June 21, 1936 decree was set forth in the statement of purpose introducing the six numbered sections. The organizational change being made was instituted "with a view . . . to putting in order the system of physical education and strengthening States control and direction of work in physical culture and sport." The element of increased control and direction on the part of the State singled out in the June 21, 1936 decree was underscored in the January 1, 1937 editorial of *Red Sport* ("Lrasnyi Sport"), organ for the newly created All-

Union Committee on Affairs of Physical Culture and Sport. In the editorial entitled "To New Sport Victories" physical culture and sport was described as constituting "a matter of paramount State importance" being handled directly by V. M. Molotov as "the closest friend and comrade in arms of the Great Stalin.

Linkage to the Council of People's Commissars of the U.S.S.R. with Vyacheslav Molotov as its Chairman served to facilitate concrete measures designed to realize the promise inherent in the 1935 Soviet slogan "All World Records Must Belong to the U.S.S.R.!" One such statutory measure was order ("Prikaz") No. 155 dated March 14, 1939, issued over the signature of V. Snegov, Chairman of the All-Union Committee on Affairs of Physical Culture and Sport, and published in the March 25, 1939 issue of Red Sport. The thrust of this Order No. 155 was to limit subsidy payments to athletes to those certified as being genuinely promising on the basis of record-breaking performances.

But during the World War II period the system of strict financial discipline for organizations of the U.S.S.R. engaged in the field of physical culture and sport broke down. Reflecting this breakdown was a front page editorial in Red Sport for January 16, 1945. It cited the case of a one thousand ruble award bestowed by directors of the Bolshevik Sport Society on Comrade Napukh for a mere third place finish in the competition for the Championship of that particular society. Terming such a generous award a nonsensical waste of State funds for subsidization of outstanding Soviet athletes, and uttering some harsh words about how directors of the Moscow Council of the important Spartak Sport Society had been caught trying to cover up the drinking bouts arranged for carousing Spartak athletes by terming the financial outlay therefore "expenses for nutrition", the editorial concluded with a demand that State funds for athletes and athletic pursuits be guarded closely and "held sacred".

World War II may have reinforced the Bolshevik penchant for secrecy in some sports matters by placing upon it an overlay of classification, frustrating foes real and presumed by treating certain facts about sports in the U.S.S.R. and data about star athletes of the Soviet Union as equivalent to national security information. In any case, since the end of World War II all the major Communist Party and/or Soviet Government decrees establishing and maintaining State control over the development of physical culture and sport in the U.S.S.R. have been sanitized in one way or another before being made public. And the degree of sanitation resorted to has steadily increased since an undated landmark decree surfaced in early October 1945.

On October 11, 1945 there appeared on the front page of the Soviet Government newspaper Izvestiya an account consisting of ten paragraphs under the title "Increase the Progress of Athletes". In this account reference was made to a Special Decree ("Spetsialnoe Postanovlenie"), the contents of which were being summarized apparently. The fifth paragraph of the Izvestiya account indicated that the decree under discussion had as a prominent feature bestowal of certain specific money prizes ("denezhnye premii") in rubles by a grateful Soviet Government upon the U.S.S.R.'s star athletes who had produced superior performances. That paragraph contained this sentence:

"Thus, for establishing a U.S.S.R. record that surpasses the world record, a prize ranging from 15,000 to 25,000 rubles will be paid out, and for establishing a U.S.S.R. record—from 5,000 to 15,000 rubles".

Red Sport, Organ of the All-Union Committee on Affairs of Physical Culture and Sport, attached at that time to both the Council of People's Commissars of the U.S.S.R. and the All-Union Central Council of Trade Unions, devoted its front page October 16, 1945 to this landmark decree without date emanating from the Council of People's Commissars of the U.S.S.R. Given within quotation marks was ostensibly the decree's title, namely "On the Rendition of Assistance to the Committees on Affairs of Physical Culture and Sport, and on the Improvement of Their Work". Like Izvestiya, Red Sport provided its readers a 10-paragraph account. The fifth described, in the same words as Izvestiya, the various money prizes to be bestowed and the superior athletic performances corresponding thereto.

Pravda, the Communist Party Organ, also featured the undated landmark decree. It was discussed within the context of an editorial fourteen paragraphs in length entitled "On the Eve of the Winter Sport Season", appearing on the front page of the October 22, 1945 issue. The seventh paragraph of the Pravda editorial began as follows:

"In order to stimulate further growth of athletic proficiency the Council of People's Commissars of the U.S.S.R. has given permission to the All-Union Committee on Affairs of Physical Culture and Sport to give out money prizes

for outstanding athletic results. Thus, for example, for establishing a U.S.S.R. record that surpasses the world record, a prize ranging from 15,000 to 25,000 rubles will be paid out, and for establishing a U.S.S.R. record from 5,000 to 15,000 will be paid out. . . ."

A Red Sport editorial, on the front page of its October 16, 1945 issue, termed the new money prizes "substantial" and predicted considerable improvement in the material situation of those in the category of Soviet athaltic champions, the record breakers, the Honored Masters of Sport, the Masters of Sport. The title of this October 16, 1945 editorial—"We Shall Respond with New Achievements to the Concern Manifested by the State"—reflected a quid pro quo: for better financial rewards, more new prestigious records. Of course, with the unofficial rate of exchange in the autumn of 1945 being roughly 5.3 rubles to the American dollar, these newly announced money prizes for establishing U.S.S.R. All-Union and World Records were not as astounding as they appeared to be. Nevertheless, they constituted a real incentive for the best Soviet athletes.

One of the principal beneficiaries of the official money prizes, and one of the first recipient of the new ruble awards, was a Soviet weightlifter by the name of Grigorii Novak. Not only was he the U.S.S.R. Middleweight Weightlifting Champion for 1946, but also the European and World Weightlifting Champion in the Light Heavyweight Class for that same year. Late in November 1945 Grigorii Novak, who already held five world weightlifting records, added two more to his total, and each of the new records brought him a money prize of 15,000 rubles, as reported by TASS and published on the front page of Pravda, Sunday, December 2, 1945. In the January 29, 1946 issue of Red Sport, in the section devoted to official announcements entitled "In the All-Union Committee", an eight-line item appeared reporting the award to Honored Master of Sport G. Novak of an additional 15,000 ruble money prize for establishing another new world record for the light heavyweight class of weightlifters—127 kilos in the two-hand snatch.

Inasmuch as Grigorii Novak subsequently won, as a Light Heavyweight, a silver medal at the Summer Olympic Games of 1952 at Helsinki, where the unofficial 1952 Olympic team score by Soviet reckoning produced a U.S.A.-U.S.S.R. first place tie at 494 points each in this the Soviets first venture into Olympic competit on, a move to disqualify Grigorii Novak on the same ground of professionalism held applicable forty years earlier to America's great Indian athlete Jim Thorpe should be welcomed even now lest an unjust double standard as to Olympic eligibility be accepted and perpetuated. Jim Thorpe took money from a private surce for playing baseball, a non-Olympic sport, whereas Grigorii Novak was paid money to further his weightlifting career by the Soviet Government in accordance with an official governmental decree.

The next landmark decree promoting the development of sports in the U.S.S.R as a matter of paramount State importance was dated, but carefully sanitized. It was issued in Moscow not by the Soviet Government, but by the Communist Party. The issuing authority was the Central Committee of the U.S.S.R. Communist Party, know then as the All-Union Communist Party (of Bolsheviks). Its December 27, 1948 Decree ("Postanovlenie") was entitled "On the Course of the Execution by the Committee on Affairs of Physical Culture and Sport of the Directives of the Party and the Government on the Development of the Mass Physical Culture Movement in the Country and the Increase of Skill of Soviet Athletes". An extensive summary of the December 27, 1948 decree was published on January 11, 1949 by Culture and Life ("Kultura i Shizn"), Organ of the Communist Party Central Committee's Department for Propaganda and Agitation. Judging by this summary, this decree sparked a veritable renaissance of the Communist Party's role in developing physical culture and sports in the U.S.S.R. under State control and direction. The Culture and Life summary formed the basis for the January 15, 1949 editorial in the Soviet Government newspaper Soviet Sport ("Sovetskii Sport"), the successor to Red Sport, and for the important editorial of January 30, 1949 in Pravda.

On appropriate anniversaries of this landmark Party decree a very brief characterization of it has been given in the annual calendar SPORT issued by the Publishing House of Political Literature in Moscow. The 1973 calendar SPORT in celebrating the twenty fifth anniversary of the December 27, 1948 decree quoted the eleventh and twelfth paragraphs from the January 11, 1949 summary:

"Ascribing great State significance to the further development in the country of physical culture and sport, the Central Committee of the All-Union Communist Party (of Bolsheviks) has obligated the Committee on Affairs of Physical Culture and Sport attached to the Council of Ministers of the U.S.S.R., Party and Soviet

organizations, the Central Committee of the Leninist Young Communist League of the Sovist Union and All-Union Central Council of Trade Unions to remove the shortcomings indicated in the decree and to ensure the broad development of physical culture and sport among the population of city and village, regarding physical culture as one of the important means of the Communist education of toilers, of improvement of their health and of preparation of the Soviet people for toil and the defense of the Socialist motherland.

"The Central Committee of the All-Union Communist Party (of Bolsheviks) considers that the development of the mass physical culture movement in the country, the increase in the level of sport skill and, on this basis the winning by Soviet athletes in the near future of world primacy in the important sports, constitute the principal problems in the field of physical culture work".

The Soviet Union managed to make its entry into the International Olympic Committee in 1951, and has participated in international competition at the Olympic Games since the 1952 Summer Games. Less surprising to me than the tremendous success of male and female Soviet athletes in all Olympic competition was the ease, when a Swedish gentlemam was President of the International Olympic Committee in 1951, with which the U.S.S.R. qualified for admission to the family of nations committed to the Olympic movement. In May 1951 at the International Olympic Committee's series of meetings in Vienna the Olympic Committee of the U.S.S.R. was admitted by a vote of 31 to 0, with 3 abstentions. The vote was taken without requiring from the official Soviet representatives either detailed information as to the date and circumstances surrounding creation of this U.S.S.R. Olympic Committee or citations to the Party and Government decrees on sports promotion them in effect, with amendments thereto as appropriate. Only verbal assurances of Soviet athletes' amateur status were given.

To this day the actual provisions of the Communist Party Central Committee's December 27, 1948 decree remain a closely held secret within the U.S.S.R. But the outside world does at least know of that decree's importance, as acknowledged by A.O. Romanov in his 1973 textbook entitled The International Sport Movement. According to Romanov, "Realization of this decree brought about the speedy growth of International sport ties, including the bringing about of active participation of athletes in World and European Championships, and in the Olympic Games".

The statutory base of the U.S.S.R. sports complex with its formal link to the International Olympic Committee uuderwent a dramatic change early in 1959, the cause of which is not yet clear. On January 9, 1959 the Central Committee of the Communist Party of the Soviet Union and the Council of Ministers of the U.S.S.R. jointly issued a Decree ("Postanovlenie") entitled "On the Guidance of Physical Culture and Sport in the Country"). It was set forth in Issue No. 1 of 1959 of the official Collection of Decrees of the Government of the Union of Soviet Socialist Republics. It consisted of a three-paragraph statement of purpose followed by eleven numbered operative parts. In the third paragraph of the statement of statutory purpose was the surprising declaration that, with greater roles in the course of the next seven years assigned to trade unions and to the Lenninist Young Communist League of the Soviet Union, "the necessity of concentrating guidance of physical culture and sport in the hands of State organs drops off". Accordingly, on March 1, 1959, the Committee on Physical Culture and Sport attached to the Council of Minsiters of the U.S.S.R. was to be dissolved and a "Union of Sport Societies and Organizations of the U.S.R." created to take its place. The new body, which would "work under the guidance of Party organs, with daily and active participation of trade unions and the Leninist Young Communist League of the Soviet Union," was assigned "the direction and coordination of the physical culture movement in the country." Heading the new body would be a Central Council, elected for a four-year term and made up of "representatives of the trade unions, the Leninist Young Communist League of the Soviet Union, the sport societies, the Soviet Army, the ministries and agencies, the Voluntary Society for Assisting the Army, Air Force and Navy, athletes and coaches". A month's time was allowed prior to election of the Central Council's initial members for formulating the charter, establishing the structure and arranging the personnel staffing of the new Union of Sports Societies and Organizations of the U.S.S.R. Approval of all this work, to be done by an Organization Bureau designated by the Communist Party of the Soviet Union Central Committee Secretariat, would be the joint responsibility of that Party's Central Committee and the U.S.S.R. Council of Ministers.

Seven years after the January 9, 1959 decree had placed the Union of Sport Societies and Organizations of the U.S.S.R. in charge of arrangements designed

to broden the mass character in U.S.S.R. physical culture and sport development while facilitating rapid production of thousands of new athletic stars, the most comprehensive improvements ever undertaken in the U.S.S.R. sports complex were prepared. The vehicle to institute these improvements consisted of the August 11, 1966 joint Communist Party/Soviet Government Decrees ("Postanovleniya") issued under the title "On Measures for Further Development of Physical Culture and Sport".

Sergei Pavlovich Pavlov, currently Chairman of the Sport Committee of the U.S.S.R., is the Soviet official best qualified to provide the text as well as the contours of these decrees. In the authoritative brochuer published in 1973 in Moscow by the Physical Culture and Sport Publishing House and entitled *The Olympic Year: Results, Lessons Perspectives*, S. P. Pavlov on pages 49 and 55 terms "The August decrees of the Central Committee of the C.P.S.U. and the Council of Ministers of the U.S.S.R. (Year 1966)" the key to the successes of the Soviet Union in the 1972 Summer Olympic Games. Pavlov alludes to them most specifically on page 49:

"The successes achieved by Soviet athletes at the XX Olympic Games is conditioned on the consistent and active work of sport organizations of the Union Republics, the Volunteer Sport Organizations and the agencies in implementation of the decrees, adopted in August 1966, of the Central Committee of the C.P.S.U. and the Council of Ministers of the U.S.S.R. 'On Measures for Further Development of Physical Culture and Sport'".

These quoted words from the aforementioned source clearly indicate that as far as Chairman Pavlov of the Sport Committee of the U.S.S.R. was concerned in the year 1973, there were at least two sports decrees adopted in August 1966 and successfully applied. Nevertheless, both legal and non-legal source material published in the U.S.S.R. since 1966 give a formal citation for only one such decree, that of August 11, 1966. And as long as that single August 11, 1966 decree remains inaccessible both within and outside the U.S.S.R., American legal scholars interested in the factors combining to produce the great athletic successes of the Soviet Union in the last decade must settle for something less. They must be satisfied for the time being with a regional decree providing implementation measures at the regional level, in this case the Russian Soviet Federated Socialist Republic, the U.S.S.R.'s largest and most important Union Republic. This Decree ("Postanovlenie") of the Council of Ministers of the R.S.F.S.R., No. 840, dated October 14, 1966, can be seen spread over pages 121–123 of Volume XII of the Systematic Collection of Laws of the R.S.F.S.R., Edicts of the Presidium of the Supreme Soviet of the R.S.F.S.R. and Decrees of the Government of the R.S.F.S.R., published in Moscow in 1969. But a close look at those pages reveals that four of nine numbered sections in that regional decree have been omitted, along with one paragraph in two other numbered sections, ostensibly because the provision dropped had "temporary significance". Although it is stated at the outset that this R.S.F.S.R. Decree No. 840 serves to implement U.S.S.R. Council of Ministers Decree No. 671 dated August 11, 1966 and this particular decree is referred to in a footnote on page 121 as being Item No. 160 in Issue No. 18 of 1966 in Collection of Decrees of the U.S.S.R., unfortunately for American legal scholars, as the Soviet authorities are well aware, the best and most complete United States holdings of that important Collection, those of the Library of Congress, reflect many classified censored omissions in the period 1961-1976.

Unsatisfactory, but not useless, of course, are those statements in random Soviet publications which pass for excerpts from an August 11, 1966 joint Communist Party/Soviet Government decree. One of three separate sentences excerpted and published in the 1973 calendar SPORT issued by the Publishing House of Political Literature in Moscow states:

"The Soviet physical culture movement must bear a genuinely all-national character and be based on a scientifically grounded system of physical education, consistently enveloping all groups of the population, commencing with children's age".

The three separate sentences from an August 11, 1966 decree as set forth in the 1973 calendar SPORT are identical with sentences found in Questions of Ideological Work of the C.P.S.U., a Collection of Documents for the Years 1965–1973, published in Moscow in 1973, at pages 396–402. Alas, as the Publisher's Note makes clear there, the text of the August 11, 1966 joint Communist Party/Soviet Government decree presented on those seven pages is given in summary form ("v izlozhenii"), one of the few documents in this second, amplified edition of 1973 so sanitized. Thus, as for the August 1966 decree or decrees lumped together

by S. P. Pavlov with this elusive but identifiable August 11, 1966 decree, the security blackout continues.

The final chapter in this short history of the statutory girders used to develop the U.S.S.R. sports complex revolves around another classified joint Communist Party/Soviet Government Decree ("Postanovlenie"). The fact that this 1968 decree is the currently operative one makes even more exasperating to American legal scholars the situation in which it was announced and the way it was announced. This Decree of the Central Committee of the Communist Party of the Soviet Union and Council of Ministers of the U.S.S.R. dated October 17, 1968 was entitled "On the Improvement of the Direction of Physical Culture and Sport in the Country". Even within the U.S.S.R. public knowledge of its existence came nearly a month later, while the attention of athletes, coaches, sportswriters and sport fans there as here was still focused on the happenings at the XIX Olympiad in Mexico October 12–27, 1968. This is how the news about the new statute was manipulated.

On November 10, 1968 both Pravda, the Communist Party organ, and Izvestiya, the Soviet Government organ, printed an identical news item under the innocuous heading CHRONICLE ("KHRONIKA"). Under this heading it was reported by each newspaper that a Committee on Physical Culture and Sport attached to the U.S.S.R. Council of Ministers had replaced the Central Council of the Union of Sport Societies and Organizations of the U.S.S.R., and that Comrade S. P. Pavlov had been made Chairman of this Committee.

On November 12, 1968 the newspaper Soviet Sport appeared with a new masthead indicating that it was now the "Organ of the Committee on Physical Culture and Sport attached to the Council of Ministers of the U.S.S.R. and the All-Union Central Council of Trade Unions". On page three of the November 12 issue the matter of the new masthead was explained, not in only fifty-two words as in Pravda and Izvestiya, but in one hundred fifty words. These words were placed under a sub-title "IN THE COUNCIL OF MINISTERS OF THE U.S.S.R." below the heading CHRONICLE. Although the first fifty-two words of the Soviet Sport item were the same ones printed in Pravda and Izvestiya, the remaining words constituted new and valuable information, consisting of the following:

"In connection with the formation of the Union Republic Committee on Physical Culture and Sport attached to the Council of Ministers of the U.S.S.R., the Presidium of the Central Council of the Union of Sport Societies and Organizations of the U.S.S.R. decreed:

> 'To consider dissolved the Central, Republic, Autonomous Soviet Socialist Republics, Regional, Provincial, Town and District Soviets of the Union of Sport Societies and Organizations of the U.S.S.R. and to turn over to the system of the Committee on Physical Culture and Sport attached to the Council of Ministers of the U.S.S.R. the tables of organization, funds for salaries of workers, allocations, plans for production and capital construction which have been approved for the year 1968 for all elements of the Union of Sport Societies and Organizations of the U.S.S.R. as well as to turn over without compensation the material and pecuniary valuables, equipment, means of transportation, enterprises and institutions belonging to this Union' ".

The October 17, 1968 joint decree did not enter into force and effect for at least several weeks. Soviet sports officials at home and abroad maintained their old titles for more than two weeks. At a Moscow Conference devoted to the psychology of sport, with Bulgarian, Hungarian, Polish, Romanian and Soviet scientists present, the October 31 Opening Address was delivered by K. P. Zahrov, described in Soviet Sport November 1 as Deputy Chairman of the Central Council of the Union of Sport Societies and Organizations of the U.S.S.R. Far away in Mexico, the scene of the XIX Olympiad being held October 12–27, S. P. Pavlov was serving as Head of the Soviet Delegation. Throughout the 1968 Summer Olympic Games Comrade Pavlov served in the capacity of Chairman of the Central Council of the Union of Sport Societies and Organizations of the U.S.S.R. Upon his return to Moscow he became the Chairman of that old governmental body newly resurrected—the Committee on Physical Culture and Sport attached to the Council of Ministers of the U.S.S.R.

The October 17, 1968 joint decree so mysteriously introduced in the autumn of 1968 was best described nearly two years later in Administrative Law, a textbook edited by A. E. Lunev and published by the Juridical Literature Publishing House in Moscow. In this textbook for students at Soviet law schools and juridical institutes, the subject of State control of physical culture and sport has been put at the end of a chapter devoted to socio-cultural aspects of Soviet public health management. Three full paragraphs provided a good idea of the nature of this

October 17, 1968 joint Communist Party Soviet Government decree. Noteworthy were these two sentences:

"The Collegium of the Union Committee on Physical Culture and Sport is organized on broad representational principles: included in it according to the post held are the Secretary of the All-Union Central Council of Trade Unions, the Secretary of the Central Committee of the Leninist Young Communist League of the Soviet Union, the Deputy Minister of Education, Deputy Minister of Higher and Specialized Secondary Education, Deputy Minister of Defense and the representatives of several other agencies. Such a composition of the Collegium of the Committee permits it to resolve operationally questions of planning and direction of physical culture and sport in the country".

Even more valuable were two citations. One was to the decree itself. The other was to the Regulations ("Polozhenie"), covering implementation of functions outlined in the statutory provisions. For the record, although both documents are unavailable in the Library of Congress collections of Soviet legal materials, the citation to the October 17, 1968 joint decree is given here as Item No. 139 in the Collection of Decrees of the U.S.S.R., Issue No. 20 of 1968, and the citation to the Regulations is given as Item No. 116 in the Collection of Decrees of the U.S.S.R., Issue No. 20 of 1969.

In view of post-Montreal charges, and denials, that athletes at the XXI Olympiad were benefiting undetected from strength-building doses of anabolic steroids applied on a massive basis in the pre-Olympic build-up phase, it would be helpful to see the text of one of the latest censored Soviet statutes, namely, the joint Order ("Prikaz") of the Ministry of Health of the U.S.S.R. and Chairman of the Committee on Physical Culture and Sport attached to the Council of Ministers of the U.S.S.R., No. 238144 of March 11, 1976, entitled "On the Improvement of the Medical Safeguarding of the Selected National Teams of the U.S.S.R. in Preparation for the Olympic Games". However, inasmuch as this Order has engendered discussion of an even more classified venture, organization of a Central Institute of Medico-Biological Problems of Physical Culture and Sport, a major undertaking involving complex issues, it is unlikely that it will ever become available to those who have not demonstrated to Moscow authorities a genuine need to know Soviet style.

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Admittedly, a recapitulation of the major postwar Soviet statutes spurring the awesome development of the U.S.S.R. sports complex which served to ensure glorious successes for Soviet athletes in all aspects of international sports competition, including the Olympic Games, may be greeted with disdain by members of this Committee as a provocation. In my own defense, let me emphasize that the information presented above came from censored Soviet publications. If mililons of readers of Sovetskii Sport in the Soviet Union are privy to the details of State support to Soviet Olympians (see, reproduced below, an 8-paragraph account given by Valentin Mankin, an Olympic gold medal winner in yacthing in the Finn Class in 1968 in Mexico and in the Tempest Class in 1972 in Germany, telling how the State "na den'gi gosudarstvennye (with State money)" bought for him in Italy the swift Tempest with which he won the Olympic gold at Kiel, an account published atop page 3 of the November 1, 1977 issue of this State-controlled newspaper), why should such information in the public domain about Olympic competition be kept a secret from interested American readers, legislators included?

STATEMENT OF ALBERT SCHOENFIELD, PUBLISHER, SWIMMING WORLD MAGAZINE, LOS ANGELES, CALIF.

I am Albert Schoenfield, publisher of Swimming World Magazine, Los Angeles, California. I am writing this statement because I have been involved in amateur competitive swimming at all levels of competition since 1956. I have been involved with the Olympics and the Pan American Games as a manager, and at present serve as the 1st vice chairman of the U.S. Olympic swimming committee, and a member of the A.A.U. Competitive Swimming Committee International Executive subcommittee. I am a member of the American Swimming Coaches Association, the College Swimming Coaches Association, the National Interscholastic Swimming Coaches Association and the American College of Sports Medicine.

However, I speak as one who has seen all amateur sports in the United States suffer because of a lack of unified amateur sports effort, and a settlement of the disputes between the Amateur Athletic Union and the National Collegiate Athletic Association, and the most paramount of all issues, the need to protect the right of every amateur athlete to participate in amateur athletic competition without fear of improper sanctions or arbitrary penalties.

I can address myself only to the sport of competitive swimming. Next to track and field, this is the most important of the summer Olympic Games, attracting in participation the second largest number of nations and the second largest viewing audience. Until 1976, it provided the U.S. with its greatest women's Olympic success, and American men have dominated competitive swimming since 1960, and all this despite a women's interscholastic and intercollegiate swimming program that is not comparable to the men's.

Over the last two decades, I have observed swimming competitions at all levels, from age group, the successful A.A.U. development program through the Olympics. Swimming, according to the 1976 A. C. Nielsen Co.'s sports survey, is the number 1 sport in the United States, with 103,000,000 participants. These participants compete in a multi number of programs, many overlapping, It is this overlapping that affects the athlete . . . that in many instances denies him the right to compete.

The National Federation of State High School Associations has vigorously opposed provisions of S. 2036 which in effect, guarantees the athletes rights to compete and where denial of opportunity occurs, actions for relief are provided.

The National Federation of State High School Associations includes among its membership all 50 states and the District of Columbia. From personal observation, I can testify that states vary in their rules and conduct of their competitive sports.

The school programs are a vital part of the educational system. It is not the program that cause the conflict but the adherence to rules that abridge the rights of athletes to compete in an international event without suffering a penalty for this freedom of choice.

This injustice touches only the elite few—those that have the ability to compete in national and world class competitions. Most schools have but a dozen or so who as high school students can meet the qualification for these competitions. But those that do are the Olympians of future Olympians to be.

Are not the high school principal, the high school coach and the parent who can best decide what is right for that individual rather than a general policy formulated at a distant state level.

High schools have abrogated an athlete's right to compete many times, and the infringements have not been confined to one or two particular states.

For the sake of brevity, I cite two of the most recent occasions that already show the need for the passage of Bill S. 2036 to include Title III—Athlete's rights to participate.

Renee Magee, Seabrook, Texas, a 1976 Olympic swimmer, was selected by the Amateur Athletic Union to be a member of the U.S. National Swimming Team that would compete in the Australian Championships Feb. 25–27, 1977, at Hobart, Amsterdam. On returning to the U.S. she was barred by her high school from competing in the Texas girls' interscholastic swimming program because of her outside competition.

The second example occurred in Southern California:

Two years ago, Mark Schubert, swimming coach of Mission Viejo High School was forced to resign or face the possibility of this swimmer being ruled ineligible to compete in high school competitions.

Schubert, American Swimming Coaches Association's coach of the year in 1975 and 1976 is also coach of the Mission Viejo Natadores, one of the nation's top A.A.U. swim teams which had such stars as Olympians Shirley Babashoff, Casey Converse and Brian Goodell.

It is a violation of the CIF Southern Section sports regulations for both boys (red book) and girls (yellow book) for a high school coach to tutor his own swimmers in AAU competition between the end of the high school swim season and May 1.

Thus Schubert could coach the above mentioned swimmers in preparing for the National AAU Championships but he could not associate with Brian Goodell and others who would compete in the AAU Championships and who attended Mission Viejo High School. The California Interscholastic Federation, Southern Section, advised Schubert that if he was even on the deck at the National AAU meet while his kids were swimming, they would be ineligible to compete in the CIF. Result—Schubert, to protect his swimmers, resigned as coach of the high school team.

But this is only one side of the coin. The Southern Section is the only one with the rule. The Central California Section of the CIF (Fresno area) allows a high school coach to be an AAU coach with students from his school working under him.

George Haines, in the CIF, North Coast Section (Santa Clara area) coached both Santa Clara High School and the Santa Clara AAU team which was something like nine straight AAU titles before he left to coach at UCLA.

It is ironic that high school swimmers from neighboring communities to Mission Viejo could legally practice for the Olympics and the National AAU Championships under Mark Schubert at his AAU team, but when he was coaching Mission Viejo High School, his high school swimmers would be ineligible to compete in high school competition if they worked out with Schubert's AAU team.

In addressing my views or the NCAA's objections to the Athlete's Bill of Rights of S. 2036, I can only speak in regard to competitive swimming. Swimming is regarded by the NCAA, AIAW and the collegiate governing bodies as a non-revenue sport. Mainly to protect their revenue sports such as basketball, football and possibly track and field, one can understand readily their reticence in approving the Bill of Rights. However, swimming has never been a problem in the collegiate programs.

Most world class college swimmers enjoy athletic scholarships. Their season is short . . . and the competitions are climaxed by a conference and the NCAA championship.

Because it is a non-revenue sport, and because the college season is in the spring, few opportunities are available for a swimmer to compete in an international meet of any consequence. If an athlete does receive an invitation to swim in an international meet, in almost all instances, they consult with their college swimming coach and faculty advisors. To my knowledge, all athletes have engaged in international competition with the approval of his coach and none were ever penalized for competing.

The Athlete's Bill of Rights is necessary to protect our athletes. No one disputes the rights of colleges and high schools to conduct their programs. But the freedom of choice must be the individuals and only Senate Bill S. 2036 guarantees this right.

STATEMENT OF THE NATIONAL JUNIOR COLLEGE ATHLETIC ASSOCIATION

We welcome and appreciate the opportunity to submit this statement for consideration by the Committee on Commerce of the United States Senate in relation to S. 2036. We hold the strong conviction that the members of the National Junior College Athletic Association have a vital interest in S. 2036 and the possible effects it might have in the future direction of our Association. The NJCAA is currently the only intercollegiate athletic organization in the country that has the responsibility of directing a program for both the men and women of its membership. The NJCAA is composed of 580 members in its Men's Division and 400 members in its Women's Division. The membership of this organization provides intercollegiate competition in eighteen (18) different sports in its Men's Division and twelve (12) in its Women's Division; in which more than 61,243 student athletes compete annually.

The NJCAA has appeared on other occasions before other Congressional committees and has always taken the position that it was unalterably opposed to any form of legislation which might place restraints on the operation of its daily (domestic) program. In reviewing S. 2036 in its present form, we see no reason to alter our longtime position. Specific areas of S. 2036 that cause us to retain this stand are:

I. Under the section entitled, "Purpose", Section (2), line 17–22, (page 3); In this section the USOC's authority is expanded to serve as a coordinating body for amateur sports. If this refers to domestic competition, then we would have to strenuously oppose this interpretation. The terminology used in our judgment implies that the NJCAA would fall under the direct control of the USOC. For domestic purposes this is absurd and is highly undesirable. As an organization that maintains membership in the USOC, we doubt strongly that the USOC itself would want to assume this responsibility. However, if it implies that it means only "international competition", then we have no qualms. If one is to assume the latter, then this particular section needs to be reworded in order to explicitly show that the entire S. 2036 bill pertains exclusively to international competition. We would further suggest that Section 4 of the "Purpose", line 1, page 4, should read: "(4) to protect the rights of an amateur athlete to parti-

cipate in international amateur athletic competition without arbitrary controls." It is our contention that the word "international" should be inserted throughout the bill so that thought of domestic control is eliminated.

II. ATHLETES BILL OF RIGHTS

The NJCAA has never in its history barred or attempted to bar a student athlete, coach, trainer, manager or administrator from participating in any international competition, when such competition was sanctioned by the national governing body. It has always been our belief that the decision making in all cases was the responsibility of the individual concerned and not the Association. The area of the Athletes Bill of Rights that causes consternation among our membership is that section which pertains to the return of the athlete from a particular competition. As we interpret this section of S. 2036, it would mean that any action taken by a college could be hardly judged to be anything but unreasonable, particularly if for example the penalty meant the loss of either tuition, room, board, books, or for that matter the entire package. We strongly believe that somewhere along the line the athlete has to make a decision and then be able to live with the results. We are not dealing with naive adolescent teenagers, but with supposedly world class athletes. Surely any world class athlete with mature intelligence can relate to the dilemma that his or her going might pose on the eventual outcome of any college athletic program. Each institution must be free to make its own decision on what terms the athlete returns. To do otherwise would further complicate the problem of administering intercollegiate athletic programs. We urge that the writers of S. 2036 work to correct this miscarriage of justice.

Consideration of these points by the writers of the bill would in the end make S. 2036 more palatable to our organization. We thank the Committee for giving us the opportunity of making this statement.

STATEMENT OF KENNETH C. MOORE

Let me express my thanks to the chairman and the members of the committee for permitting me again to attempt to represent the athletes. I have been here before. Four years ago Micki King and I carried the Athletes Advisory Council's position on the Amateur Athletic Act of 1973 (S. 3500) to this committee, and ever since then it seems I have been caught up in the rising and falling storms of talk over what needs to be done to improve the U.S. Amateur Athletic System. I testified before, and later had the opportunity to work on the staff of the President's Commission on Olympic Sports, where I edited portions of the final report. That experience gave me an appreciation of the confusing complexity of the varied issues that come together in this bill. I think the thing for me to do now is skirt the sticky tangles of finance and the delicacies of arbitration and the wonders of franchise challenges. Rather, I want to state some simple basic principles as athletes understand them, and perhaps suggest how they might find their way into legislation. But it will be enough, I think to make one or two crucial points about athletes and their careers, points that I am sure will be borne out by what my fellow athletes here will say.

Let me set down a short list of hypothetical rights, which you may notice bear some resemblance to our constitutional guarantees. (1) The right to be protected from cruel and unusual punishment, except for educational purposes. (2) The right to freedom of the press and speech unless you embarrass football coaches with them. (3) The right of freedom of religion, unless you are on a religious scholarship. (4) The right to keep and bear arms, unless the ROTC needs them. (5) The right of freedom of assembly, unless you gather at the courthouse when you're supposed to be at the stadium. (6) The right to be secure against unreasonable search and seizure, unless the athletic director thinks you have a girl in your room.

These are flippant hypotheticals, but their point is serious. When the right hand giveth and the left taketh away, we're not talking about *rights*. A right is not just something somebody gives you. It is something that under law no one can take away. Rights have a lifetime guarantee.

That does not mean that all rights are absolute, that one can perform human sacrifice in the name of freedom of religion. It means that until you violate someone else's rights, you're safe.

It is fair and proper to ask always whether an athlete in competing anywhere may be abridging someone else's rights, but unfortunately that is not what we have been hearing from opponents of a strong bill of athletes' rights. We have heard the NCAA say, in 1973 and now, something to the effect that athletes only have the right to free competition whenever there is no chance of disrupting college programs. Well, that's not a right at all. That's the scraps. That's you're free to worship anywhere you please so long as you do it in our church.

Athletes want to turn it around. We want it finally recognized in law, as it has been by the USOC in its constitution, by the AAC, by the NAIA in its rules, that all athletes are guaranteed from the start that they can take part in all the competition they are eligible and physically qualified for. If this is in fact a right, it means it is *worth* the risk of some small disruption in programs—whether they be college, high school or those run by a national governing body—because there is no perfect program. None serves all the needs of all its participating athletes. Therefore this question is not at its root one of Congress weighing the national interest in having our best athletes available for international competition against the interest the colleges and high schools have in their rules and programs. It is a case of deciding whether the athlete should be free to decide with his parents and coaches and teachers what is best for him or her.

I mention possible disruption. The NCAA will surely mention it too. I don't believe there will be any, except perhaps to disrupt restrictive programs into being open ones. Real disruption doesn't follow from the free and responsible exercise of rights. Disruption seems instead to occur in the winning of them. Civil rights laws may serve as an example. Desegregation isn't disruptive, but the fight over it sure has been. Once athletes' rights are guaranteed in law, high school and college athletes are not going to be racing off to all sorts of meets and games that conflict with their school programs. Examine the money-making sports, about which the colleges are justifiably anxious. Basketball players are vastly more concerned with NCAA play than with making international teams because pro scouts don't pay attention to the Olympics but they swarm around the NCAA tournament. (The Athletes Advisory Council can't even get a basketball player representative elected from past Olympians. They just aren't concerned about the Olympics once they've played in them.) Football players have no international temptation at all.

In other sports the disruption of an athlete exercising his right to compete outside a school program might be felt in team performance. This is a thing that must be weighed against benefit to the athlete's career. That can best be done by coaches and the athlete. I believe that a coach who is a true educator, who is true to the principle of providing optimum challenge and opportunity and education to all students, will often *want* an athlete to take advantage of beneficial outside competition. My coach at Oregon wanted me to run the Boston Marathon when I was an undergraduate—he had seen that that was where my talent was—but was frustrated by the NCAA, that being 1965 and the war with the AAU at its most heated. Had I run I may well have gone to the longer distances earlier, and so run better when I matured into an international competitor. As it was, it was three years before I ran a serious marathon and so found what I could do. I count that a disruption to my career worth quite a few wins in dual meets.

It has been alleged that a strong bill of athletes' rights will lead to disruption of academic processes. I find that absurd. The intent of athletes' rights legislation is not to absolve athletes of legitimate educational obligations. It is simply to protect them from censure because of their athletic ones. To make that absolutely clear, I would support adding a specific sentence to sec. 303(a) of the bill, stating that the section shall not relieve an athlete from such academic requirements as he has taken on.

To close, I would like to be rather presumptuous before this body of capable questioners and suggest a few questions that should be asked of any opponent of this bill's section on athletes' rights.

(1) Do you think athletes *should* have a basic right to compete wherever elegible and qualified?

(2) What disruptions can justify abridgment of such a right?

(3) Shouldn't the burden be on the potential *denyer* of such a right to prove that its abridgment is necessary to protect the rights of others?

Again I thank you for this opportunity.

[The following information was referred to on p. 168:]

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., October 11, 1977.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce, Science and Transportation, Russell Senate Office Building, Washington, D.C.

DEAR WARREN: I have received the attached letters from Dr. C. Peter Magrath and Ms. Vivian M. Barfield, the President and Women's Athletic Director, respectively, of the University of Minnesota, expressing their desire for a Congressional investigation of the National Collegiate Athletic Association.

I am also very concerned over the dispute between the University of Minnesota and the NCAA, which has led to the indefinite suspension of the University from participation in all NCAA-sponsored athletic events. Enclosed you will find additional information regarding this issue.

It is my belief that such an investigation should be held, and I would deeply appreciate it if your Committee would look into the matter. Knowing of Senator Cannon's interest in this matter, I also am sharing this recommendation with him.

It may interest you to know that the Oversight and Investigations Subcommittee of the House plans an investigation of the NCAA. It is important that the Senate do likewise in order to fully examine the allegations levied against the NCAA in connection with this matter and others.

With best wishes.

Sincerely,

HUBERT H. HUMPHREY.

Enclosures.

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., September 23, 1977.

Hon. HUBERT H. HUMPHREY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR HUBERT: I was recently contacted by Representative Jim Santini of Nevada, who suggested that I might want to send a communication to Representative John Moss encouraging him to have his Subcommittee on Oversight and Investigations look into some of the practices of the National Collegiate Athletic Association (NCAA). Since I know you are interested in this situation, and since I understand that you have joined in Representative Santini's petition, I thought you might appreciate receiving a copy of the letter I sent to Representative Moss.

I am not attaching the enclosures, but I can make them available to you if you would like to have them.

With all best wishes.

Cordially,

C. PETER MAGRATH,
President.

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., September 22, 1977.

Hon. JOHN E. MOSS,
Chairman, Oversight and Investigations Subcommittee, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C. 20515

DEAR REPRESENTATIVE MOSS: I understand that you are giving consideration to a request that your Oversight and Investigations Subcommittee undertake an inquiry into the workings of the National Collegiate Athletic Association (NCAA), particularly as that organization's operations and procedures affect the rights of individuals investigated and, in one way or another, sanctioned by the NCAA. I believe that such an inquiry by you and your subcommittee would be a constructive action that might help to clear the air and, possibly, lead to some improvements in the current workings of the NCAA.

I should perhaps make my own position clear: I strongly favor an effective national organization to police wrongdoing in collegiate athletics, and I am ashamed of the fact that too often our colleges and universities, and their representatives, have acted in ways that violate the spirit of amateurism and exploit impressionable young student athletes. The University of Minnesota has been

through a long, debilitating struggle with the NCAA as the attached statements will indicate. They also, however, clearly indicate that the University of Minnesota, under my direction, vigorously and thoroughly responded to the allegations of wrongdoing that were sent to us by the NCAA in the summer of 1975; in fact, in response to my inquiry for a thorough examination (I had only joined the University of Minnesota a few months earlier), we uncovered a number of instances of wrongdoing at this University that had escaped the attention of the NCAA.

After we completed our investigation and accepted *all* of the punishments levied against us by the NCAA, and after I instituted a variety of measures intended to avoid such wrongdoing in the future, the NCAA insisted that we hold "due process" hearings to determine whether or not certain student athletes should be declared ineligible. When we held these hearings, complying with our own University due process requirements and the requirements imposed upon us by a Minnesota state court order, the independent faculty-student committee determined after a careful inquiry that there was no evidence of wrongdoing on the part of three student athletes, and that therefore they should not be declared ineligible. To summarize a complicated controversy, because we refused to declare these three student athletes ineligible, the NCAA then launched a new set of allegations against the University of Minnesota, ultimately culminating in their placing on probation all of our men's intercollegiate athletic programs, none of whom (with the exception of the basketball program) had ever been involved in wrongdoing.

In short, because we have followed the kind of due process hearings to determine wrongdoing by student athletes that we apply in all cases involving students, and because we have complied with the requirements of a Minnesota state court order, we now find ourselves in a situation where our entire men's intercollegiate athletic program is under severe stress and punishment. Our only alternative would have been the expedient one of declaring ineligible three student athletes we believe did not do anything wrong in order to protect the interests of student athletes in other programs. Despite the costs involved, we have refused this course of action; the ultimate price we may have to pay is very heavy since the NCAA has enormous leverage and economic control over intercollegiate athletics. To the extent that we are not a member in good standing of the NCAA, we are in effect a pariah since the NCAA is basically "the only game in town" for colleges and universities. I am enclosing for your information, and that of your staff associates, the public statements we have made on our involvement with the NCAA, beginning with our original findings of wrongdoing and our willingness to accept all of the punishments that were initially levied against us.

If I can answer any further questions for you, I would be happy to do so. The issues involved in our situation here at Minnesota and in other situations around the country are complex and seemingly confusing; I am convinced, however, that they involve some very fundamental questions involving fair play, due process for individuals, and the power and practices of an organization that, while very justified in its existence, has become somewhat arbitrary and indifferent in its practices.

Cordially,

C. PETER MAGRATH,
President.

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., September 22, 1977.

Sen. HUBERT H. HUMPHREY,
Dirksen Office Building,
Washington, D.C.

DEAR SENATOR HUMPHREY: I recently read (where else?) in Sid Hartman's column that Representative John Moss, Chairman of the House Oversight and Investigations Subcommittee, was involved in determining if a full scale investigation of the NCAA was warranted. And, further, that you had contemplated a similar hearing with the NCAA. I am writing to support the hearing.

In my judgment such a hearing is not only appropriate but seems to be mandatory by the behavior of representatives of the NCAA investigative staff, as well as actions of the NCAA Council undertaken without approval of the membership. With regard to the latter, I refer to the lawsuit filed by the NCAA Executive Council against the Department of Health, Education and Welfare challenging the validity of Title IX regulations of the Education Amendments Act of 1972, which could result in questioning all civil rights legislation.

Your actions toward making this purported "state" agency under the Fourteenth Amendment to the United States Constitution more flexible and responsive to membership needs, will be appreciated.

Sincerely,

VIVIAN M. BARFIELD,
Director.

NEWS FROM CONGRESSMAN BRUCE F. VENTO

CONGRESS GETS GREEN LIGHT ON NCAA INVESTIGATION

Washington.—Congressman Bruce Vento (D–Minn.) said today that Congress has gotten the green light to go ahead with the investigation of the National Collegiate Athletic Association's policies.

An advisory opinion by the Library of Congress indicates that the NCAA investigation is definitely within the purview and jurisdiction of the Congressional Oversight and Investigation Subcommittee.

Subcommittee chairman John Moss of California has assigned several staff members to do the preparatory work and has indicated to Vento that he wants to proceed.

Vento and Congressman Jim Santini of Nevada were among the first to call for investigative hearings of the NCAA because of controversy over the NCAA actions against the University of Minnesota and other schools across the country.

Vento has written to other members of the Minnesota delegation urging them to support the move: "I believe that the NCAA as a quasi-public body should be monitored and its actions, process and decisions be held up to the light for public review. That organization has the power to end a college student's athletic career and impose harsh penalities on an institution's intercollegiate sports program."

The investigation should cover the following points, according to Vento:

Whether the NCAA is violating any antitrust laws or whether its operation can be characterized as a monopoly;

The scope and impact on interstate commerce and intercommunication of NCAA sanctioned athletic events;

Whether the fact-finding and investigative methods used by the NCAA are fair and accurate;

Whether the penalties assessed to violating institutions are fair and consistent;

Whether those accused of violating NCAA rules are given ample opportunity to defend the charges.

STATEMENT ON NATIONAL COLLEGIATE ATHLETIC ASSOCIATION BY C. PETER MAGRATH, PRESIDENT, UNIVERSITY OF MINNESOTA

I have instructed attorneys retained by the University of Minnesota to petition in Federal District Court for an order preventing the National Collegiate Athletic Association (NCAA) from instituting a new, unjustified, and severe sanction against the University of Minnesota's men's intercollegiate athletic program on our Twin Cities Campus. Specifically, this new sanction places us on indefinite probation for all men's sports. Under its provisions, none of our teams is eligible for any post-season games, nor are we permitted to appear in any NCAA-sponsored telecasts. The only more drastic step the NCAA could have taken is expulsion.

This decision by the NAAC is based on what it views as improper activities by three members of our basketball team, and the failure of the University of Minnesota to take certain subsequent steps. We disagree vigorously and completely with the NCAA in this interpretation, and I will state why shortly.

But before stating why we have taken this action, it is important to cite considerations that have *not* entered our thinking.

We have *not* gone to court in order to litigate ourselves out of the sanctions placed on our basketball program last March. As I said at that time, and as I still believe, those sanctions were totally justified, considering the number and nature of violations committed in our basketball program while it was under the leadership of a coach who is no longer in our employ.

We have *not* gone to court in order to advance the position that "anything goes" in college athletics. Rules are necessary, but they must be clear and just. Our commitment to adhere to these kinds of rule must be strict.

And we have not gone to court to assure ourselves of a winning basketball team this coming season. While we all enjoy winning, our only motive is to assure that fundamental rights such as due process and fair play are preserved, and that over 600 students involved in our men's intercollegiate athletic program not be victimized by the capriciousness of the NCAA.

On July 21, 1975, the University of Minnesota received a series of 98 allegations from the NCAA indicating that the University had engaged in a variety of rules violations in its men's intercollegiate athletics program on the Twin Cities Campus. All but one of these allegations pertained to our basketball program; the one allegation not dealing with basketball was later determined to be an innocent bookkeeping problem involving our hockey program. Upon receipt of these allegations, I ordered a thorough and intensive self-investigation, and further requested that any additional wrongdoing we discovered, over and above that cited by the NCAA, also be reported to the NCAA and to the public. It should be noted for the record that the University was forced to conduct this expensive and time-consuming investigation often without benefit of any of the evidence previously assembled by NCAA investigators.

The University's response to these allegations is a matter of public record. We were allowed by the NCAA to release all of our corroborative findings on March 10, 1976, and the picture we painted was not a pretty one. It did have the virtue, however, of identifying all major trouble spots, and it also publicly committed us to implementing corrective actions.

I stated at that time:

"There will be those who are of the opinion that the violations identified at the University of Minnesota are something that can be brushed aside on the grounds that 'everybody is doing it,' and that it is, in any event, necessary if one is to have 'winning' programs in intercollegiate athletics—particularly in such well-publicized major sports as basketball or football. I disagree with all such attitudes, for they have no place in a program run by a university dedicated to truth and honesty. If everybody is doing it, then some people should stop doing it—and the University of Minnesota should be among the leaders in that regard. If cheating and rule violations are necessary to win, then we ought not be interested in that kind of 'winning,' for it is really a loss—of moral values—that is occurring when one triumphs in an athletic contest because of rule violations. Rules can be violated off the playing field just as much as during the actual contest."

I also said:

"Our intercollegiate athletic programs must be harmonious with a university, and they must be run according to all of the rules—on and off the playing fields and courts."

Following this episode, I was personally informed by Mr. Walter Byers, Executive Director of the NCAA, and Mr. Warren Brown, Assistant Director of the NCAA, in front of many witnesses, that our investigation and cooperation had been absolutely exemplary.

Unfortunately, although I had sincerely believed that this nothing-but-the-truth approach would clear the decks and establish a basis for a sound relationship with the NCAA, we continue to find ourselves in conflict with the Association. Although the technical issues are complex, the basic facts are not.

Questions have been raised as to whether three student-athletes, Philip Saunders, Michael Thompson, and David Winey received "extra benefits" in violation of NCAA policies. Specifically, the charges are that Mike Thompson sold his complimentary season tickets; that Dave Winey went to a Wisconsin lake cabin for Christmas and for the Memorial Day weekend five months later; and that Flip Saunders used an acquaintance's car, made phone calls home on a WATS line, and spent a night at a basketball camp at Gustavus Adolphus College. These are the charges that have led to us being placed on indefinite probation.

In the context of all that was improper with our basketball program a few years ago, these charges seem minor at best, even assuming they constitute violations of clearly identifiable NCAA policies—which we do not believe is the case. At the very least, these charges seem in no fathomable way commensurate with the penalty levied by the NCAA. Moreover, each of the instances under question—instances that the NCAA is describing as violations—was either arranged, or occurred under the auspices, of two members of the coaching staff, neither of whom is any longer at the University of Minnesota. Our student-athletes naturally looked to the coaching staff for guidance. To now say that they should have known better than their coaches as to what was, and what was not, acceptable behavior seems enormously unfair. These students cannot, by any fair measure, be held to blame.

What is particularly upsetting is that we had received assurances from the NCAA that we could hold institutional hearings for Thompson, Winey, and Saunders on these charges prior to the application of any NCAA rules. In a con-

fidential report to the University dated February 19, 1976, the NCAA clearly and specifically stated:

"* * * the opportunity for an institutional hearing may be extended to the student athlete prior to such application [of the rules]."

Such hearings were indeed held by the University's Assembly Committee on Intercollegiate Athletics (ACIA). That Committee, after a careful and probing examination of the facts, determined that Thompson, Winey, and Saunders had not done anything warranting ineligibility.

But despite the NCAA's explicit communication to us that we could hold hearings, we have regrettably since discovered that the NCAA's *real* attitude is that an institution, like the University of Minnesota, really does *not* have any choice at all in matters such as these.

Yes, we are told, the NCAA does not declare players ineligible; rather, it only requires member institutions to apply Association rules to what they do. The NCAA tells us we may hold due process hearings, but they make it unmistakably clear that if such hearings do not lead to the desired results—as preordained by the NCAA—then we are in contempt of NCAA rules and regulations.

Due process hearings under these circumstances are nothing short of a sham both for students and the universities they attend. In reality, the NCAA stipulates a set of facts, and the conclusions to be drawn from them, with no discernible standards as to what constitutes a violation, or what the punishment will be. Hearing panels come to learn that they must declare students, who have fallen from grace with the NCAA, permanently ineligible, or face severe institutional penalties. This is true regardless of the guilt or innocence of a student as determined by a careful weighing of the facts. This is clearly not fair, nor does it constitute the kind of due process familiar in any American courtroom. In my meeting with NCAA officials in Kansas City last summer, I was essentially told that the University of Minnesota's primary responsibility is to the NCAA, and not to constitutional, or to the University's own, requirements for due process.

This mockery of fair play, and the fact that three of our students are being singled out to pay for other people's past sins, are at the heart of the legal action we are taking.

Yet, and despite my concern with the way the NCAA was going about determining the truth, I continued to believe up until several weeks ago, perhaps naively, that if we presented a strong case as to why Saunders, Thompson, and Winey should not be ruled ineligible, the NCAA's Committee on Infractions would eventually accept the correctness of our position. I based this belief on what I mistakenly thought the NCAA had by this time recognized: that the Assembly Committee on Intercollegiate Athletics is committed first, foremost, and only to honesty and fairness, and not to a win-at-all-cost attitude; that the University of Minnesota's interest in a clean athletic program in beyond suspicion, as witnessed by our scrupulous self-investigation of a year ago; and that three students should not be held so harshly accountable for the failures of others.

Sadly, I was wrong; the NCAA Council, meeting last week in New Orleans, did not budge.

I firmly believe there is a need for a strong and effective national organization to police abuses in college sports—including the kinds of abuses that occurred for the first, last, and only time at the University of Minnesota. I also believe a strong national organization is essential to help us maintain athletic programs that are fiscally realistic, competitively sound, and most importantly, educationally grounded. However, I have grave reservations about the NCAA as it is currently constituted and how it operates. NCAA enforcement procedures resemble a Rube Goldberg contraption gone mad. There is little that is fair about them, there is little that is rational about them, and, in truth, there is probably little that is effective about them.

As they are currently constituted, these procedures hardly represent a good example for students, be they athletes or not. I am convinced that the rights of Mike Thompson, Dave Winey, and Phil Saunders are fundamental. They must be defended, regardless of the economic and other sanctions the NCAA is attempting to impose on us.

For these reasons, I have instructed attorneys retained by the University to petition in Federal District Court for an order preventing the NCAA from maintaining its probationary sanction against the University of Minnesota. I do not like going to court, for I believe our intercollegiate athletic program in basketball ought to remain within the confines of another kind of court—the basketball court. I have also had to wrestle with the question of whether challenging the

procedures used by the NCAA is in the best interest of the entire men's intercollegiate athletic program and, for that matter, the University. The expedient course of action, I suppose, would have been to urge the Assembly Committee on Intercollegiate Athletics to reverse its decision and declare the players ineligible—if, in fact, they would so agree. The rationale behind such a move would be that it would encourage the NCAA to life its probationary judgment against our other teams. This, perhaps, would have been the expedient course, although, most assuredly, the University would still wind up in court, this time in the same dock with the NCAA in a suit brought by Messrs. Saunders, Winey, and Thompson.

But the expedient course is not always the best course, and the ultimate issues involved in this matter go far beyond our basketball team or any other parts of our men's intercollegiate program. They involve fundamental issues of fair play and due process as we have come to know and practice them in Minnesota and the rest of the United States.

It will cost money to process this legal action, and we hope very much to receive contributions from Minnesotans to assist us in this effort. One of the University of Minnesota Regents, Mr. Lester Malkerson, is coordinating a fund drive to raise approximately $75,000. We are calling this the "Fairness Fund."

Joe A. Walters, a partner in the Minneapolis law firm of O'Connor and Hannan, will be coordinating our legal efforts. He and his associates will be working closely with University Vice President Walter H. Bruning, who has supervisory responsibility for athletics.

As much as anyone, I regret that so much of the news on our sports pages involves law suits and other conflicts having nothing to do with athletic competition. The issues here are so fundamental, however, involving basic fairness to innocent students, that I hope most people in our State will agree that our decision to challenge the NCAA is correct.

I am also conscious of the fact that a university president has many other obligations in addition to intercollegiate athletics. We must never forget that the University of Minnesota exists primarily because of its academic activities. But I also believe that, in all of our activities, we must be actively concerned with precepts of due process and fair play, because they are fundamental values that must be be maintained in our society. I believe, in short, that in challenging the NCAA's extraordinary punishment of all our men's intercollegiate athletic programs, and their indifference to the due process rights of three of our students, we are fulfilling our educational and moral responsibility.

FURTHER STATEMENT ON THE UNIVERSITY OF MINNESOTA/NCAA SITUATION

I have some comments to make regarding the recent decision of the United States Circuit Court of Appeals in the case entitled, "Regents of the University of Minnesota, et al. versus the National Collegiate Athletic Association," as well as the next steps that will be taken by the University of Minnesota.

In a ruling filed one week ago today, the United States Court of Appeals for the Eighth Circuit upheld a petition brought before the three member bench by the National Collegiate Athletic Association. In so doing, the Circuit Court overturned a preliminary injunction laid down in December, 1976, by U.S. District Judge Edward Devitt. In his earlier ruling, Judge Devitt had directed the NCAA to lift an indefinite probation imposed upon the University of Minnesota's athletic teams until a legal dispute involving the eligibility of student athletes Michael Thompson, David Winey, and Philip Saunders had been resolved.

I need not go into the details of the dispute between the NCAA and the University, since its history has been well publicized for almost two years now. I would only like to emphasize that the University has consistently attempted to demonstrate a spirit of cooperation in resolving our differences with the NCAA.

It must be remembered that the University collaborated fully in the investigation of allegations into wrongdoing that were brought to our attention in the summer of 1975, and that, indeed, it was the University itself that generated much of the evidence, including evidence of violations not even identified by the NCAA. We accepted all penalties and sanctions levied against the University and, particularly, against the basketball program, which was the only program involved in any wrongdoing. The Circuit Court opinion notes, and I quote, "There appears to be no dispute that the University's investigation was a thorough one."

There is, however, an obvious dispute over the question of eligibility as it relates to the three student athletes mentioned above. Under the rules of the Big Ten Athletic Conference of which, of course, the University of Minnesota is a member, eligibility or ineligibility regarding student athletes is the sole prerogative of

faculty-student committees. In the case of the University of Minnesota, the duly authorized body is known as the Assembly Committee on Intercollegiate Athletics (ACIA). This committee, on two separate occasions, has ruled that Philip Saunders, David Winey, and Michael Thompson did not commit violations that warranted a determination of ineligibility. ACIA's judgment is based on carefully constructed, unbiased, due process hearings conducted in conformity with established University of Minnesota procedures, and the proceedings before ACIA are also consistent with state legal and constitutional requirements—as well as federal constitutional requirements.

It is not my prerogative to declare or not declare student athletes eligible or ineligible. That prerogative exists exclusively with the faculty-student committee. For the record, however, I must state that I have supported the judgment of the faculty-student committee and feel that the course of action they took was correct.

In essence, then, we are in dispute with the National Collegiate Athletic Association, not because we are opposed to the enforcement of rules against wrongdoing in intercollegiate athletics, nor because we oppose a national organization that effectively monitors this area, but because the NCAA has refused to accept our faculty-student athletic committee judgment that the three students in question are not ineligible; and because the NCAA has insisted, arbitrarily and without basis we believe, that we either conform to the rules as they define them, or accept the most severe sanctions short of expulsion that the NCAA can levy against a college or university. Because of our athletic committee's judgment that the students in question had not committed violations, the NCAA levied an indefinite probation, which has severe consequences for every single men's athletic program at the University of Minnesota.

Naturally, in a situation such as this, reasonable men and women can differ as to the course of action we have taken, but I believe that the basic issues involved are very clear, very simple, and extraordinarily important. They involve a question of fairness to three students, who are also athletes, and they involve a question of whether or not the University of Minnesota should be expedient and declare those students ineligible so that we may be relieved of the onerous sanction of indefinite probation against all of our men's programs.

It is for these reasons that the University of Minnesota has sought an injunction against the NCAA. We have sought to uphold the rights of three students to a fair and impartial due process hearing. We have further gone to court because the sanction that the NCAA has levied against us penalizes, most unfairly, hundreds of other student athletes in men's athletic programs that have not even remotely been involved in the original wrongdoing.

Just as I was gratified at the ruling of Judge Devitt in our case, I am disappointed at the result reached by the Circuit Court of Appeals last week. However, it is noteworthy that there is much in the Circuit Court opinion that supports many of the basic contentions made by the University of Minnesota: (1) The Circuit Court accepts the standing of the plaintiffs to sue in this matter, recognizing that there are indeed University and student rights involved; (2) The Circuit Court opinion accepts, without technically deciding, that the three students involved have a property interest in participating in intercollegiate athletics, and that they have a liberty interest in protecting their good names; (3) In a similar manner, the Court recognizes a University obligation to afford due process in eligibility cases, and that NCAA eligibility procedures could, in some cases, result in a meritorious claim by a member institution against the NCAA.

The Court judgment, however, rests in substantial part on the opinion that the two compus committees that held the hearings on the cases, the Campus Committee on Student Behavior and the Assembly Committee on Intercollegiate Athletics, reached findings that warranted ineligibility under NCAA rules. The Court makes this judgment because it believes that the Campus Committee on Student Behavior and the Assembly Committee on Intercollegiate Athletics found the students to be eligible because of mitigating circumstances—and the latter, the Court concludes, is not part of the due process right that is federally protected when it involves voluntary associations such as the NCAA.

Interestingly enough, the Circuit Court characterizes the violations of which students are accused as being "minor" and "not particularly serious." The Court further concludes, "Nor have we discovered an basis for doubting the University's good faith belief that the Association was in fact penalizing it for affording Thompson, Winey, and Saunders what the University genuinely believed to be required by the Fourteenth Amendment." Later in its opinion, the Court also states, "we have no authority to judge whether a voluntary association has chosen

the most desirable or efficacious means of enforcing its rules." These themes in the majority opinion are stated much more bluntly in the concurring opinion by Judge Bright. Although Judge Bright believes that the Court lacks the power in this case to take the action requested by the University, he speaks of "the apparent moral wrong" being inflicted by the NCAA and refers to "punishment which seems grossly disproportionate to the offense committed by the three student athletes." In striking language, Judge Bright goes on to say, "In my judgment * * * the Association visits the sins of the fathers (the University's basketball coaches) upon the relatively innocent sons (the basketball players). The obvious injustice of the NCAA ruling indirectly affecting the athletes in question seems to reflect some degree of vindictiveness, not necessarily against the student athletes, but against the University of Minnesota, to punish it for the previous improprieties of the basketball coaching staff."

The course of action which the University will now pursue is consistent with the proposition that fundamental fairness and due process rights must be accorded student athletes. We will not sacrifice principle for expediency; we will not throw in the legal towel; we will not practice lifeboat ethics. Rather, we have made a firm commitment to continue our court struggle. I have instructed attorneys representing the University to petition the United States Supreme Court for a writ of certiorari, which in effect is a request to the U.S. Supreme Court to hear our contention that the Circuit Court erred in not sustaining Judge Devitt's opinion. I have consulted with the Board of Regents, as well as with members of the ACIA, and have their support for this course of action. Having gone this far in asserting a principle, it seems to me not only logical, but imperative, that we carry this matter to the U.S. Surpeme Court to see whether or not we can get a final legal resolution sustaining our contentions. As I repeatedly stated, I have no liking for this legal entanglement, nor particularly for the damage and uncertainty that the NCAA's indefinite probation against all of our men's athletic programs inflicts. But I am unpersuaded that moral principles should be scuttled in favor of monetary pragmatism.

As a former student of the United States Supreme Court, I am also very much aware of the fact that a writ of certiorari is nothing more than a request to the Supreme Court that it consider taking the case, and because of its workload and other factors, the Supreme Court accepts only a small handful of cases. But it takes some, and it is my fervent hope that the Court will agree to hear our contentions. I strongly believe that the position we have taken and the moral and legal principles we have tried to assert are right, and must be asserted to the end. Meanwhile, the two students still at the University, Michael Thompson and David Winey, are eligible to play basketball under the determination of the Assembly Committee on Intercollegiate Athletics, and they are similarly eligible to participate under the judgments of the Big Ten Conference.

I believe that the course that the University has charted in this unpleasant and lengthy dispute is a course of action that has majority support, both within the University of Minnesota community, and within our State. Obviously, these are, and continue to be, troubled times for Gopher sports at the University, and we urgently seek the understanding and support of fans and citizens generally. The consequences of the indefinite probation on the men's athletic programs are extremely disheartening; they make it impossible for our athletes to participate in post-season national competition in the eleven men's sports; they keep our teams from appearing on NCAA-sanctioned television events; and they reduce our recruiting and revenue-generating abilities. Finally, the indefinite probation understandably creates difficulties and disappointments for our hard-working coaches who are deeply committed to their students and their individual programs. Unfortunately, there is no alternative, for the NCAA insists on placing all of our athletic programs under the same sanction, despite the admittedly minor nature of the alleged violations in dispute, and despite the fact that only the basketball program was involved in the wrongdoing.

There are, however, still incentives for our student athletes at the University of Minnesota. These incentives, I believe, are to aim for every conference championship in which we participate, and for the individual student athletes to put forth their best possible effort, as I am sure they and their coaches will do. Finally, it is my hope and plea that fans and citizens of the State support our stand and our men's program by attending athletic events. The greatest morale booster we could have would be to have sell-out crowds at every Gopher football, basketball, and hockey game this year.

XIII Olympic Winter Games—1980
Lake Placid, N.Y., October 17, 1977.

Hon. Warren G. Magnuson,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Offce Building, Washington, D.C.

Dear Senator Magnuson: The Organizing Committee for the XII O.ympic Winter Games in Lake Placid, New York, wishes to go on record as being in support of the general concepts set forth in Senate Bill 2036 (95th Congress.) The Organizers of the 1980 Winter Games have long been proponents of a strong amateur athletic program in this country, as may be evidenced by Lake Placid's record of having at least one participant in each Winter Olympics since their inception in 1924.

We are particularly supportive of the provisions of the Bill which call for the development of sports facilities for use by amateur athletes an assistance in making existing sports fac lities available for use by those athletes. One of the underlying aspirations of the Lake Placid Organizers when they bid for the 1980 Games in Vienna three years ago, was that through hosting the Olympics a winter sports complex would be developed that could provide a quality training site for U.S. amateur athletes for many years to come. All of our efforts in preparing for the '80 Olympics have been undertaken with this ongoing training center program in mind. The sports facilities being constructed will be among the best in the World—a true challenge to International class athletes. Continuation of the athlete's education at all levels will be emphasized in this new concept of Lake Placid's Training Center. We have taken strides to insure the perpetuity of the training facilities and have been supported in this effort by New York State Government with the passage of the one hundred million dollar lottery bill.

However, much more support is needed for this and other facilities throughout the Nation to ensure that U.S. athletes do attain a high degree of excellence. The provisions in Bill S. 2036 can provide this needed assistance. Help for the amateur athlete is long overdue. The Lake Placid Olympic Organizing Committee supports an early adoption of this significant legislation.

Sincerely,

Ronald MacKenzie,
President.

Brooklyn, N.Y., November 2, 1977.

Sen. Ted Stevens,
Chairman, Committee on Commerce, Science, and Transportation, Russell Senate Office Building, Washington, D.C.

Dear Senator Stevens: Thank you Mr. Chairman for allowing me to present my comments on S. 2036, the Amateur Sports Act of 1977. I represent women's judo in the United States as the coach of the USA–AAU Women's Judo Team and Chairwoman of the AAU Women's Judo Fund Raising Committee, and am writing in concurrence with Faye Allen, Chairwoman of the National AAU Women's Judo Sub-Committee.

Women's judo has been an AAU national championship sport for the past four years and the U.S. hosted the first women's Pan-American Judo Union Championship (prerequisite for world championships) in April of this year, where the U.S. placed first out of seven countries. The U.S. has entered a three women team in the first women's judo competition at the Maccabiah Games in Israel this July and teams to both the 1976 and 1977 British Open Judo Championships for Women winning first place in all three. The British Open is recognized as the highest caliber of women's judo competition until world championships (Final Report of the Presidents Commission on Olympic Sports, 1975–1977; Volume II, page 122).

From October 1976 to the present U.S. women have won seventeen gold medals in major international judo championships, however the rules of the U.S.O.C. are such that no funding can be given women's judo until it is included in the Pan-American Games in 1979. For that reason ninety-five percent of the money used to sponsor U.S. women's judo is supplied by the competitors themselves or gotten through fund raising, and our potential sources of support are becomming rapidly fewer. Therefor we feel that women's judo would benefit from the provisions of S.2036 as would our effort to continue winning and achieve equal recognition with other sports.

I hope this statement will be a usefull inclusion in the Congressional Record. I am enclosing some material which may help you to become more familiar with the hardships endured by women's judo in this country.

Respectfully,

RUSTY KANOKOGI,
Coach, U.S.A.–A.A.U. Women's Judo Team.

AMATEUR ATHLETIC UNION

A HISTORY OF WOMEN'S JUDO IN THE U.S.

(by Rusty Kanokogi, Coach, USA–AAU Women's Judo Team)

The fact that the United States has only just had its fourth AAU National Judo Championships for Women does not mean that women's judo is a newcomer to the world of judo competition. There have been women judo competitors, primarily from the east coast and the midwest lobbying for women's judo competition in the U.S. for a long time, but several factors have been in their way. The most important of those were the small number of women interested in competition at that time and the negative attitude of society regarding contact sports for women.

The pioneers of women's judo nonetheless continued to train in their own clubs, organized local competitions for women, and slowly built the foundation upon which national and international competition for women has been able to grow. Furthermore, the awareness that the Europeans were rapidly building a competitive network for their women judoka spurred many people here to support its growth in this country.

The first AAU National Judo Championship for women, held in Phoenix, Arizona in 1974 was for me a breakthrough and also a new starting point for redoubled involvement on ever higher levels of women's judo. From the continuing efforts of many concerned individuals who are working hard to bring it up to the same level of recognition as men's judo, culminating with its inclusion in the Olympics, hopefully by 1980.

Last year, on October 2 and 3 the Michigan State University Judo Club hosted the First United States Women's International Open Judo Invitationals which brought international competition for women to the U.S. Over one hundred competitors from the U.S. and Canada attended the individual, team, and kata competitions. The team champion was the United States, the members of the USA Team being Linda Richardson of Wisconsin, Diane Peirce of Minnesota, Lisa Hahn of New York, Delores Brodie of California, Karen Smith of Ohio, Heidi Bauersachs of New York, and Margaret Castro of New York, with myself as coach.

There has been U.S. participation in the British Open Judo Championships for Women for several years now, but last year an official USA-AAU Team was selected and sent to represent us. The team was composed of Lynne Lewis of Massachusetts, Diane Pierce of Minnesota, Delores Brodie of California, Frances Watkins of New York, and Maureen Braziel of New York. I was selected as coach and Elizabeth Lee as manager.

In all there were 154 competitors from 14 countries at the 1976 British Open. Lynne Lewis won a silver medal in the 52 kgs. division, Diane Pierce won a bronze in the 56 kgs. division, and Maureen Braziel won the silver in over 72 kgs. and the gold medal in the Open division, being the first non-Briton ever to do so.

Also from the U.S. Tammy Hostetler won a silver in 48 kgs., Linda Richardson won the gold in 52 kgs., Vicki Daniels won a bronze in 52 kgs., Bonnie Korte won the silver in 66 kgs., Amy Kublin won a bronze in 72 kgs., and Darleen Jones won a bronze in the over 72 kgs. division. These results gave the U.S. first place nation status and showed what our women are capable of.

This year's official team is composed of the eight 1977 AAU National gold medalists. As chairwoman of the AAU Women's Judo Fund Raising Committee I have been managing an extensive fund raising campaign to try to pay the way of this official team to England for this year's British Open as any of the funds allocated to women's judo have already been spent for the First Women's Pan American Judo Union Championship. That competition was a great step forward for women's judo, especially in that combined with similar tournaments in Europe and Oceania it completed the prerequisites for holding women's world championships. The countries which participated were Canada, Chile, Ecuador, Guyana, Panama, Puerto Rico, and the United States. The U.S. won all eight gold medals

and 19 medals in all. The coach and manager were again myself and Elizabeth Lee, respectively.

For the first time in the history of women's judo there has been a recognized world class competition as women's judo was included in the Tenth Maccabiah Games in Israel this past July. This is an important factor in achieving Olympic judo competition for women. As far as results are concerned, gold medals were won for the U.S. by Lisa Hahn of New York and Susan Feingold of New Jersey, and Nadine Winnick of New York won a bronze. I was again privileged to coach this U.S. Team.

At the Second United States Women's Open Judo Championship the big story was the entry of the Republic of China's Women's Judo Team. The Chinese team did very well winning one each of Gold, Silver, and Bronze medals. Other international entries were from Canada and Israel.

We have in the U.S. at this time many of the finest international women competitors with many more on their way up. It remains my privilege to coach them and I am certain that I will see many of them win medals in women's world championships and the Olympics.

The media have been following the growth of women's judo and giving it an increasing amount of coverage as it approaches World Championship and hopefully Olympic competition. In recent months Margaret Roach's syndicated column, originating in the Sunday New York Times Sports section, has twice brought news of our accomplishments and problems to its eight million readers. Similar coverage was given us in a nationally syndicated column by Candace Lyle Hogan and both WomenSports and Sportswoman magazines have been publishing articles about women's judo and the results of competitions.

Judo was represented at the WomenSports luncheon next to such sports greats as Billie Jean King and Dorothy Hamill.

The movement to get women's judo into the 1980 Olympics is attracting much attention, as is evidenced by a Newsweek Television Production filmstory about it that has been shot and will be aired over national television shortly.

We are pleased that women's judo has been selected as one of the growth sports at the Sporting Goods Manufacturer's Association's International Sporting Goods Exposition as women's judo is indeed going places and the general public is sitting up and taking notice.

For further information on women's judo or how you can get involved with it please contact me, Rusty Kanokogi at 2126 East 17th Street, Brooklyn, N.Y. 11229, Telephone 339/0322.

[From the New York Times, Sunday, April 24, 1977]

Judo Champion Sets Goal For Chance at '80 Olympics

(By Margaret Roach)

Maureen Braziel is the three-time national grand champion in the fifth largest Amateur Athletic Union sport. If you care to venture a guess at which A.A.U. sport, you have 22 choices. ranging from swimming to horseshoe pitching. Though the 31-year-old Miss Braziel is a native and resident of Brooklyn, local readers will probably be no more likely to guess correctly than readers in the Midwest. It is at judo that she excels, a sport a novice fan cannot easily appreciate and about which few people know more than a little.

"It gets to you sometimes," Miss Braziel says, reflecting on the innumerable hours she has devoted to judo in the last 12 years. "But you don't regret it, because it's worth it if you want something badly enough."

What Miss Braziel "wants badly enough" is a chance to compete at the Moscow Olympics in 1980, a goal that appears within reach. Competitive women's judo has begun to experience something of a heyday, considering it was illegal (because it is a contact sport) not that long ago.

Judo, a form of bare-handed fighting between two persons, was introduced in its modern form in Japan in 1882 by Jigaro Kano. Kano, a student of judo's forerunner in the martial arts, jiujitsu, developed the new discipline complete with slogan:

"Maximum efficiency with minimum effort, for the mutual effort and welfare of all."

The story goes that judo swept the Orient, and by the end of World War II became popular in the United States. American servicemen had returned from

Japan and Korea, bringing with them an enthusiasm for the discipline. National tournaments for men have been held since 1953.

For women, the going was a lot slower. The societal aversion to women being participants in contact sports prevailed until very recently. It was only four years ago that the first national championship was held. (For 11 years, women have been permitted to perform in katas at the nationals. In katas, everything is prearranged and emphasis is on performing in a technically correct manner. But the shiai, or contest, remained off-limits.)

And it is likely that women would have been shut out of competition for a lot longer if Rusty Kanokogi with all her energies had not intervened.

Mrs. Kanokogi, also of Brooklyn, is one of only a half-dozen women to hold the honor of fourth-degree black belt. She is the only woman ever to have been invited to practice with the masters in the men's dojo (practice hall) of the Kodokan, judo's Mecca. At this Tokyo facility, Kano's disciples still teach.

And she has certainly been responsible for the advancement of women's judo. She is coach, counselor and forebear. Mrs. Kanokogi (who is married to an accomplished Japanese judo player) is currently pushing for Olympic status for the women's game. She is also engaged in a full-tilt fund-raising drive to finance travel to foreign competitions for American women.

Miss Braziel and Mrs. Kanokogi have known each other for 10 years, and their student-coach relationship has grown into a deep friendship. They not only practice judo together, "but we play handball, or just talk about things," says Miss Braziel.

"I really have confidence in Rusty," she says, "and as the pressures increase. you need somebody you have confidence in."

Apparently the feeling of confidence is mutual.

When Miss Braziel mentions hopefully that "I'm going to the Olympics." Mrs. Kanokogi interrupts.

"She says she's going to the Olympics. She is going to come home with the gold medal from the Olympics," she says defiantlv.

[From the New York Times, Sunday, July 10, 1977]

Judo Foulup Nearly Puts U.S. on Shelf for Games

(By Margaret Roach)

The three female judo players who are representing the United States this week at the Maccabiah Games in Israel were each issued two patches, denoting their nationality, to be worn on their uniforms, But the players and their coach had not been issued uniforms. Nor plane tickets. Nor international travel permits. Nor food and expense money. In fact, the four women had not been given anything but a run around from the United States Committee Sports for Israel, the organization that, among other things, helps gather funds to support Jewish athletes competing in the games.

And it was only by chance that the women learned Israel had welcomed women's judo for the 10th renewal of the games. No one from the Sports for Israel group, which had been informed by the organizers in Israel of the decision to include women's judo, had called either the United States Judo Federation or the Women's Judo Association to inquire whether there were any female Jewish judo players in the country who would like to compete. It seems that no one cared to take the time.

The scenario went something like this: In early June, Rusty Kanokogi, the head of the women's judo group and one of the finest female judo competitors in the world (she is a fourth-degree black belt), had an occasion to call the president of the International Judo Federation in London. She needed to discuss routine matters, such as budget, for the coming year.

He said he had spoken to the president of the International Olympic Committee, Lord Killanin, two weeks earlier. To the surprise of the judo president, Killanin said that the Maccabiah Games could accommodate * * * ously been no time for the women to and the Netherlands had said they would send female entries. But why wasn't the United States, which has many of the finest female competitors, accepting the invitation?

SURPRISE, SURPRISE

"That was the first I had heard of it," Rusty said last week. "But I wanted to find out why. Since it would take four nations to get a division in the games for women, we started by looking for Jewish female players from England and the United States."

When an English team could not be fielded, Rusty did not give up. (She rarely does, a characteristic that has earned her the designation of forebear of women's judo.)

With the help of Mel Applembaum, president of the New York Judo Association, Rusty set out "to hit the European nations and all the Pan American Union." She piled up more than $300 in phone bills in the process, spending about 36 hours straight on the phone.

Meanwhile, the Maccabiah organizers had assumed there was no interest in women's judo this year, and that Israel two responses. So it has conceled the division. And Sports for Israel was not interested in getting the decision changed.

With the help of the London judo office, Rusty got the Israelis to reinstate women's jduo, and to accept it with only three nations—the Netherlands, the United States, and Israel.

Rusty remembers the reaction she got from Sports for Israel when she called to give them the "good news" of the reversal. "They said, 'We are not going to add additional athletes to the team at this time.' I was advised by friends to get a lawyer and get a show-cause order and an injunction against the whole team. When I suggested that, they said that all they wanted was a cable of confirmation of the reversal from the Maccabiah organizers."

Rusty called Israel. The cable had already been sent. She rushed to get international travel permits for herself (as coach) and three women players. The four showed up at the airport in time to depart with the men players. But they were still not going.

FINALLY, AN O.K.

"The chairman of the judo committee for Sports for Israel said he needed the cable, that he hadn't received it. I told him 'Here, here's a telephone credit card, call the head of the Maccabiahs in Israel, he'll tell you it's O.K.' He wouldn't. It got pretty loud, and finally he went somewhere with the credit card—which I had borrowed—to make the call. He was gone about an hour, and finally returned and said it was O.K."

What Rusty calls "O.K." is that she and the three women players each paid $2,000 to travel to Israel to compete in the Maccabiah Games. (The men had been supported by funds raised by Sports for Israel, but there had obviously not been enough time to do fund raising.) Why?

"This represents the first step for women's judo on the path to getting accepted in the 1980 Olympics," Rusty says. "Now we have national finals for women, and there is the open in Britain each year. But to gain acceptance and compete like the men do in the Olympics, we need international competitive experience."

Short a total of $8,000 in expenses plus the price of four uniforms, Nadine Winnick of Spring Valley, N.Y.; Lisa Hahn of Armonk, N.Y.; Susan Feingold of Westfield, N.J.; and Rusty Kanokogi are representing this country and their sport in Israel. Oh—they are also short four dinners. Guess who wasn't invited to the Sports for Israel dinner that night at the airport for the Maccabiah competitors and coaches?

The four women will fly to Israel tomorrow, the rest of the United States team having departed.

[From the St. Louis Post Dispatch, Aug. 12, 1977]

JUDO CHAMP THROWN BY IOC

(By Candace Lyle Hogan)

Rusty Kanokogi, 42 years old, is too old to be the judo champion she once was, but she's still up for the game that organizations and governments play.

Rusty wants women's judo to be part of the 1980 Olympic Games, and she's having to tackle the international sports establishment by herself to get that to happen.

Rusty's accustomed to being a lone fighter. She and Sandi Cornelius, a full-blooded American Indian from Wisconsin, were the best women judo experts 10 years ago. They were competitors, but they had nobody to compete with. Unlike men's judo, which has been an Olympic sport since 1964, women's judo was not part of the Olympics then. It still isn't, even though there are now many American judo women as good as Rusty once was.

In fact, they're so good that judo experts believe that American women would be the ones to bring home the gold in any international contest. "If each of the eight women now on the national team kept up her level of training, we could clean up in 1980," says Rusty. Rusty makes that point when she campaigns among men to get them to take women's judo seriously.

Rusty also argues that women's judo is more dramatic to watch than men's judo. Men spend five minutes stalling for strategy and working for grip, says Rusty, "but women bow in and go to town and play it like it's meant to be played. American men think they weight lift with each other's bodies—all their emphasis is on the waist up. But judo technique comes from the toes up, not from the arms down, and women, like Japanese men, are strong from the toes up—in the legs, behind and hips. Women's judo doesn't emphasize supreme reservation like men's does, but rather agressiveness, daring agility and graceful technique."

Women judo players also have world class competitive experience, which is an official requirement to qualify a sport for Olympic status. But so far none of these arguments have impressed the International Olympic Committee (IOC). In a meeting in Prague on June 17, the IOC voted down the women's proposal.

The IOC said its decision not to admit women's judo in 1980 is final. But final doesn't impress Rusty anymore, and she keeps lobbying anyway. Rusty is the AAU women's judo team national coach, and she tries not to "blow the athletes' minds psychologically" by telling them too much about her troubles in getting judo admitted. But she's not averse to pressing officials and the media about it.

"I don't mind getting the reputation of a bothersome person," says Rusty. "This is a step by step process, and I'm willing to go through all the steps. I feel there is some kind of force behind me." More compelling, it seems, is a force within her.

Her best argument is the one she is too proud to mention to officials of the IOC. Rusty knows what it's like to work all your life at a sport and then miss out on the opportunity to test your fullest potential. It's already too late for Rusty, but two sportswomen she knows still have one more chance to become Olympians.

One of the two for whom 1980 is the last and only chance is Maureen Braziel, Rusty's best friend. Maureen is the No. 1 woman judo player in the world in her weight division. She won the British Open last year. It was the first time that gold in the highly competitive open division has ever been taken away from England.

Maureen has been training 12 years. She continues to train in the weight room, on the track, in the gym, not knowing whether she'll have her Olympic chance or not. She hopes that by the time the Olympics is officially within women's grasp, she'll be good enough to reach for it.

Maureen is 31 now. She'll be capable of winning in 1980, but maybe the synapses won't fire as well come 1984. Athletic prime rarely follows one into the late 30s.

The other woman on the national team for whom 1980 is a last chance dream it Diane Pierce from Minnesota, also 31. Rusty calls Diane "one of the finess lightweight competitors I've ever seen."

It seems pretty heartless of the IOC to say no to women's judo. The official refusal in June could be the result of the IOC's characteristic conservatism. But then again, maybe it's just the play of international politics.

Most of the countries that field national women's judo teams are non-Communist. The Soviet Union frowns on women in contact sports, and might not want its Moscow Olympics to offer a sport in which the Soviets would not even have an entry. For that reason and because of a feeling that the Games have become unwieldly, women's judo might not make the Olympics until 1984.

But 1984 is not soon enough for Maureen Braziel and Diane Pierce. So Rusty persists and looks for good omens. Last June Rusty had to go through all kinds of red tape to get her security card to the Maccabiah Games. But when the card finally came, it was worth it. The identification number on the card was 1–9–8–0, and that, to Rusty, spells d-e-s-t-i-n-y.

AMATEUR FENCERS LEAGUE OF AMERICA, INC.,
Westfield, N.J., November 5, 1977.

Hon. TED STEVENS
Senate Committee on Commerce, Science, and Transportation U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: I am grateful for this opportunity to comment on S. 2036, which is so vital to the future development of amateur sports in our country.

My associates and I, who have represented fencing within the US Olympic Committee over the past several years, participated fully in the laborious process of restructuring the USOC to meet today's needs for an overall sports authority and to implement most of the recommendations of the President's Commission on Olympic Sports. Much time was expended during this process to accommodate the important concerns of all constituencies: athletes, independent sports governing bodies, umbrella organizations, school associations, etc. I am convinced that the Constitution adopted by the USOC in April 1977 represents the most practical solution to today's needs. I would urge that this document be the guide to the details of the legislation where details are needed, so the same difficult issues we resolved don't have to be worked on anew. I would urge even further that wherever the legislation does not actually need to go into detail that this be left to the USOC Constitution, which can much more easily be amended as conditions require.

There is one issue in the legislation that is vital to governing bodies such as the AFLA. The President's Commission proposed restrictions on service as an officer or director of a governing body. I can readily see the need for preventing a small group from dominating the administration of a sport; the provision of an easy method to change officers and directors is essential. However, to limit the number of years that they may serve is to limit the availability of one of the vital resources of any sports governing body. To use the example of the AFLA, we have 6 national officers and a Board of Directors over 100 strong. The directors represent divisions which follow state or major city lines. In many areas we have just a few administrators who have kept fencing alive for many years. If the proposed limit on service is included in the legislation, we might be left without effective leadership in some areas. As long as leaders must stand for re-election frequently, I see no reason to arbitrarily limit their service.

There is another issue of overwhelming concern to fencing and I'm sure to many other sports as well. I don't know if it belongs within S. 2036 but it certainly falls within the scope of your committee; the issue is air fare. In 1978 the AFLA will receive unprecedented financial support from the USOC for its development projects. Yet most of the money will go towards air fare for domestic and overseas travel of athletes, coaches, etc. and it will still leave a sizable burden to be borne by the individuals involved. If there was a cooperative effort by the various airlines and enabling legislation to permit special rates for participants in official projects of sports governing bodies, we could solve the biggest handicap we have to accelerating the development of our sport. In fencing in particular, the major international competition is in Europe. In order for us to develop as international competitors we must travel to Europe regularly. In addition, even within our own country, we must cope with travel distances comparable to the movement among countries within Europe. Although we obviously can't change geography, can't we reduce the enormous costs of all this essential travel?

Let me close by stating that the attention being paid to the problems of amateur sports and the likelihood that effective legislation will soon be a reality is a great source of hope and encouragement to those of us who have worked within this field as volunteers for many years. Whatever the final details in the bill, I'm confident that it will result in a new era of amateur sports progress in our country.

Sincerely,

IRWIN F. BERNSTEIN,
President.

AMATEUR ATHLETIC UNION,
Indianapolis, Ind., November 7, 1977.

Hon. TED STEVENS,
U.S. Senator, State of Alaska,
Russell Building, Washington, D.C.

DEAR SENATOR STEVENS: I am making reference to your recent letter concerning S. 2036 in which you asked for my comments to be furnished to you not later than

November 10, 1977. The compressed timeframe certainly limits complete comprehensive study and comments, but I am highlighting my principal thoughts below. I am in complete agreement with the current USOC constitution.

There is one basic question before I get to the specifics. As I read the proposed bill, the intent is to give whatever organization evolves from the present U.S. Olympic Committee the authority to coordinate all amateur sports, not only sports that are a part of the Pan American/Olympic Games. This appears to be a deviation which is unwarranted and would place the burden on the new USOC to be responsible for more than is necessary, particularly since I feel that the intent of all proposed bills was; (1) to enhance our Olympic Team efforts and, (2) to protect the rights of the athletes who wish to become members of Pan American or Olympic Teams.

I refer to page 4, line 23. The word "direct" in line 23 seems to be out of context with later provisions of the bill. It appears that by adding after the word "direct" the term "through the approved National Governing Bodies" would be more in line with further provisions of the bill.

On page 6, line 9, the term "coordinating authority for amateur sports" seems too ambiguous and the authority should be limited to only Pan American and Olympic-type sports. In addition, it appears that the Junior Olympic Program for which the present USOC has no responsibility would also have to become an important part of the new organization's authority.

Again, on page 6, line 15, the word "select" seems to be out of context with later provisions of the bill. The selection of the teams must be by the National Governing Bodies in accordance with rules of the particular International Sports Federation. It might be advantageous to delete the word "select" and add the words "approve the selection of the National Governing Bodies" to further define responsibilities.

On page 9, line 18, between the words "the" and "standards", insert the word "eligibility" in accordance with the International Sports Federation and International Olympic Committee regulations.

On page 11, lines 16 and 17, after the word "organization" in line 17 it appears that this recognition should only be for sports which compete in the Pan American and Olympic Games.

On page 13, line 15, "and is autonomous in the administration of the sports" should be added after the word "sought" and should be made a part of the qualification requirements. On line 22 of page 13, the same individuals shown in line 17 should also be shown in line 22.

On page 17, lines 7 through 10, the amateur sports organization "must be a member or affiliated to the National Governing Body". This should be added as a separate paragraph.

On page 19, add to line 13, "and to conduct international amateur competitions in the United States of America in accordance with the rules of the International Sports Federation".

Senator Stevens, I certainly appreciate the opportunity to comment on Proposed Bill S. 2036. I know the tremendous effort which has gone into the proposed bill through personal study of the report previously issued by the Presidential Commission on Olympic sports.

I am sincerely hopeful that as a result of the proposed bill, amateur sports in the United States will take a great step forward and that all of us will have one common cause and that is to furnish the best possible representation in international competitions that this great country of ours is capable of.

I have attached additional copies for the Honorable Mr. Culver and Mr. Stone.

Respectfully yours,

ROBERT J. SURKEIN, *Chairman.*

UNITED STATES BASEBALL FEDERATION, INC.,
November 7, 1977.

Mr. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR MR. STEVENS: Thank you for your letter of November 2, 1977 which just arrived. I hope that my reply will reach you on or before the deadline of November 10th.

The United States Baseball Federation supports, in full, the Statement of Mr. Robert J. Kane, President of the United States Olympic Committee before the Senate Commerce Committee, October 18, 1977. We thoroughly agree with his recommendations concerning Senate Bill 2036.

Your, and your associates', interest in amateur sports in the United States is most appreciated and I hope that Bill 2036 will be adopted as amended by Mr. Kane's recommendations.

Respectfully,

WILLIAM P. FEHRING.

UNITED STATES AMATEUR
CONFEDERATION OF ROLLER SKATING,
Lincoln, Nebr., November 8, 1977.

Senator TED STEVENS,
Assistant Majority Leader,
U.S. Senate, Washington, D.C.

DEAR SENATOR STEVENS: Our Confederation was honored to receive your letter dated November 2, 1977, offering us the opportunity to introduce our organization's views into the hearing record for S. 2036, the "Amateur Sports Act of 1977." For the record, allow me to give you brief background information on our Confederation's structure. The United States Amateur Confederation of Roller Skating annually registers 25,000 amateur athletes in three disciplines of roller skating; figure skating, speed skating and hockey. These individual memberships flow from 695 clubs located in approximately 45 of the 50 states. USAC–RS grew out of a merger on September 6, 1971, of two national amateur roller skating organizations, the United States Federation of Amateur Roller Skating and the United States Amateur Roller Skating Association. Both groups were previously afforded recognition by our international, as well as both being allied members of the Amateur Athletic Union. At the urging of the international federation and with the cooperation of the AAU, a merger was effected that united roller skating toward a common goal for Pan American and Olympic participation. In 1975 we achieved Pan American recognition and will participate for the first time in the 1979 Puerto Rican Games. Our sport still aspires for the Olympic Games, and we are doing all in our power to cooperate with National and International Sports' Organizations toward this goal.

As a Class A Member of the United States Olympic Committee, the Roller Skating Confederation has followed with keen interest the reports filed by the President's Commission on Olympic Sports. Our Board Chairman, Mrs. Marie Walker, who is a member of the Executive Committee of the USOC, has participated in the drafting of the USOC's compliance to the guidelines recommended by the final report of the President's Commission. We endorse the changes to the USOC Constitution and have modified our own Constitution to put it in direct compliance with the USOC's membership criteria for National Governing Bodies.

Our Confederation was afforded a copy of the statements made by USOC President Robert J. Kane before the Committee on October 14, 1977. The position of the Roller Skating Confederation is essentially in agreement with the Olympic Committee viewpoint as expressed in that testimony; and we, likewise, support the fundamental concepts of athletes' rights and enhancement of the United State's position in International sports competition, espoused by Senate Bill 2036.

We would like to reinforce Mr. Kane's concern over one phase of the Senate Bill, which we found to be in need of greater definition as to the responsibilities of National Governing Bodies. USAC-RS is in compliance with all specifications for gaining recognition as a National Governing Body, under Section 202 of this title. There is no question that our Confederation is the most representative and capable organization to carry out the purposes of your Bill; and, in fact, have a grass roots competitive program that encompasses five-year-olds to those well past middle age. As pointed out by USOC President Kane, "The 'creation' of strong National Governing Bodies which are truly 'national' and 'governing' with a clear definition of their jurisdiction and that of any other organization, together with the provision of safety valves against alleged abuses of power by organizations having any kind of jurisdiction over amateur athletics," becomes the essential ingredient to sports progress and compliance with the spirit of your Bill.

USAC-RS has had some on-going difficulties with how to handle regional splinter groups in compliance with an athlete's right to unrestricted competition. USAC

dissidents who, for a variety of mostly personal reasons, have elected to form their own "national organization," set up their own "national championships" and attempt to undermine and disrupt USAC-RS. They bill their largely local contest rather grandiosely as a "national championship," and their organizations as national, when, at best, they are essentially confined to three or four states. The most recent creation of a new national roller skating association was made by a former national championship speed skater, who was suspended from our 1978 National Championships after making obscene remarks and gestures in public to meet officials during the performance of their duties in a contest in which he was competing.

We feel that greater definition of the rights of athletes to compete in such organizations is essential to developing a National Governing Body with the capability of moving its sport in the direction of the Olympic Games. Self-appointed amateur groups who do not contribute to the advancement of the sport and who have no standing with the normally accepted sports group, both internationally and in this country, should not be allowed to interfere with the aspirations of the majority in the name of individual "rights."

We support USOC President Kane's statement that "The USOC firmly believes that for any sports organization to receive a sanction to hold international amateur athletic competition in the United States that a revision of 204(d) would include a provision that such an organization would have to hold membership in the Group A NGB members, or be affilated with the Group A member." Furthermore, we believe that qualifications should be set for an amateur organization to meet in order for it to qualify as a National Organization, so that such misrepresentation not be given greater stature than they deserve through the desire of an organization such as ours, to comply with the code and spirit, the USOC and Senate Bill S. 2036.

Thank you for the opportunity to express these opinions of our Confederation.

Sincerely,

GEORGE PICKARD, *Secretary.*

UNITED STATES OLYMPIC COMMITTEE,
New York, N.Y., November 8, 1977.

Hon. TED STEVENS,
U.S. Senate, Russell Building, Washington, D.C.

DEAR SENATOR STEVENS. The subject of my discussion is the recently introduced Senate Bill S. 2036, The Amateur Sports Act of 1977, in which you, your colleagues and your staff did a monumental job, particularly Title III—Athlete's Rights to Participate.

It seems that history repeats itself—freeing the slaves, letting women have vote, giving amateur atheletes the right to freely compete indicate milestones in this great country's history.

There is no doubt that the type of legislation introduced in S. 2036 is not only timely but an absolute must to amateur athletes in the United States. The unity that S. 2036 provides is essential to the existance of amateur sports under the present democratic structure. A unified amateur sport effort in the United States is desperately needed to provide leadership and a mechanism to all sports to function effectively.

It is clear that disputes between various amateur sport organizations effect only the athletes in every level of competition. It is also clear that one of the United States' most powerfull amateur athletic organization, the NCAA, hiding behind appealing educational slogans, is a breeding ground for professional athletics, a part of the U.S. entertainment industry.

For an amateur athlete to represent the United States and compete under her colors is a right and an honor, and being such must be protected by public law. It is an honor which many of us strive for but few can achieve, and must be recognized as the highest level an amateur athlete can reach.

In behalf of my sport, canoeing, I fully support S. 2036, The Amateur Sport Act of 1977, particularly the A.A.C.'s version of the Athlete's Bill of Rights, and sincerely hope that this piece of legislation will be acted upon in such a manner that all amateur athletes will benefit from it in years to come.

Yours in sport,

ANDY TORO,
Member, Executive Board.

WESTLAND, MICH., *November 9, 1977.*

Senator TED STEVENS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: I am writing you in regards to Bill S–2036—the Amateur Sports Act of 1977.

As a parent whose daughter has been caught in the maze of rules and regulations set forth by school districts and high school athletic associations, I fully support any action Congress can take regarding the amateur athletes right to participate in amateur competition without arbitrary controls and to eliminate disputes among sports organizations.

Attached is a letter exemplifying what I consider is an arbitrary rule controlling an athlete. It was in answer to my efforts to help my daughter joint her school swim team last winter. Because of the Michigan High School Athletic Association rule which prohibits "dual participation" in interscholastics and A.A.U. competition, my daughter had to chose between the school team and the A.A.U. team she swims with. Even though there is no confliction between high school and A.A.U. competition (high school events take place during the week while A.A.U. events are generally on weekends) the Michigan High School Athletic Association has seen fit to bar any form of dual participation whether it be an A.A.U. team, church team, neighborhood team or whatever. It is this type of rule that serves no purpose except to throttle amateur sports in this country that Congress must come to grips with. No such rule exists regarding dual participation in high school and city band or orchestra and no such rule exists regarding dual participation in high school and city debate teams. Indeed, this type of rule appears directed only at the amateur athlete. Needless to say, the Michigan High School Athletic Association rule book (as I am sure are the rule books of athletic associations in other states) is filled with such pointless rules.

I am forwarding copies of this letter to Senators Robert Griffin and Donald Riegle in the sincere hope they will lend their support to your regarding this bill.

If possible, I would like my letter to become a statement of record on Bill S–2036. I also wish to thank you and Senators John Culver and Richard Stone for your efforts to bring some order out of the chaos that currently surrounds the United States Amateur Athletic program.

Sincerely,

RONALD D. FINNEY.

Enclosure.

WAYNE-WESTLAND COMMUNITY SCHOOLS,
Wayne, Mich., March 9, 1977.

Mr. and Mrs. RONALD FINNEY,
Westland, Mich.

DEAR MR. AND MRS. FINNEY: Subsequent to our meeting last night, I have reviewed the many ramifications of your concern regarding you daughter's participation in the Stevenson swimming program. Article I which is the Preface of the Wayne-Westland Community Schools Junior High Athletics Rules and Regulations contains the following paragraph:

"The intent of this document is to provide orderly procedures for the implementation of interscholastic athletics for our junior high athletics. Further, it is the intention of the Board of Education to provide equal opportunities for all students."

With this as a background to establish the need for rules and regulations, Section 6 under Article II, General Rules, reads as follows:

"The cut-off date after which students may no longer be considered for the participation in a sport is the second scheduled contest in that sport (including scheduled byes)."

You have decided to withdraw your daughter from the first two weeks of swimming competition which had four scheduled meets (including the bye) and amounts to two-fifths (2/5) of the competition season. Your reason for this action was to comply with the Michigan High School Athletic Association rule which prchibits dual participation (at the same time) in interscholastics and A.A.U. competition. Because the A.A.U. program will be completed by Monday, March 14, 1977, the beginning of the third week of swimming competition, you have requested that a waiver be granted so that Section 6 of Article II, General Rules, of the Wayne-Westland Junior High Athletics Rules and Regulations, as cited above, would not apply.

The purpose of our junior high athletic program is to offer a wide range of opportunities and competition while keeping the program compatible with the students total junior high school learning experience. Most of our athletes are not starters so the sport serves as a learning experience for all students. Sacrifice, participation and fair play are just as important as winning, perhaps more so. Allowing your daughter to begin her interscholastic competition season next week would mean that some other swimmer who has competed for Stevenson these first two weeks would be "bumped." This is not fair play as it places the emphasis on winning rather than participation.

Because you elected to withdraw your daughter from competition for Stevenson these first two weeks of the season, I must deny your request for a waiver or a change in our school district rules. In other similar situations throughout the district, a student who preferred A.A.U. competition has been allowed to serve as a manager of that sport at school and thus, have the practice time and develop a "team relationship" which our interscholastic program provides. Hopefully, some arrangement like this can be made with Mr. Higgins, the coach.

Sincerely,

Dr. TIMOTHY J. DYER, *Superintendent.*

AMATEUR SOFTBALL ASSOCIATION,
Oklahoma City, Okla., November 23, 1977.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: Thank you for allowing us additional time in order for our Association to submit a written statement regarding S. 2036, the "Amateur Sports Act of 1977".

For the most part the Amateur Softball Association (ASA) is opposed to the concept of government involvement in amateur sports. We realize that the type of involvement as proposed by S. 2036 is not the same type of involvement as in certain other countries but in essence it is still the involvement of the government in heretofore areas that was traditionally the responsibility and concern of the private sector.

While there was documentation and testimony that some amateur sports organizations were not operating in the interest of some athletes this does not mean that all amateur sport organizations were lacking in interest and concern for the athletes.

The general statement in the Congressional Record of August 5, 1977, that the President's Commission "identified problems and weaknesses within that system" and that the "Commission found that the current structure of amateur sports was fragmented, Ill-defined, and nondirected", is an affront to a large number of amateur sports organizations who have worked hard and long in the interest of amateur sports and those that participate in amateur sports.

We realize the hour is late regarding the proposed legislation however in fairness to a large number of amateur sports organizations it should be noted and made a matter of record that the reason for legislation and government involvement was not because of a large number of organizations were doing a bad job in administering amateur sports but, more because several organizations were not able to resolve their problems thus affecting in a few instances the eligibility or performances of some athletes.

The result of this could be an overdone on the part of the government and while it may result in some abuses being curtailed the end result will be what most people in this country do not want, is the government becoming more involved in areas they should become less involved.

What will be created by S. 2036 are more laws that will only be understood by the legal profession and which eventually will involve the courts who already are too involved and overburdened in this spectrum of American life.

It is furthered acknowledged that considerable time, work and effort has gone in to the consideration and preparation of this legislation by many well meaning and sincere people and their efforts are not to be underscored.

We do appreciate the extension of time to provide a statement reflecting the views of our Association.

Kind regards.

Sincerely,

D. E. PORTER, *Executive Director.*

UNITED STATES TENNIS ASSOCIATION, INC.,
New York, N.Y., November 25, 1977.

Hon. TED STEVENS,
U.S. Senate, Washington, D.C.

DEAR SENATOR: We understand that at recent hearings Chaired by you of the Senate Commerce Committee, you expressed a desire to receive suggested amendments from interested parties so that a revised draft of the Amateur Sports Act of 1977 could be prepared in December.

While it is not clear that tennis was intended to be covered by the proposed Act, the United States Tennis Association believes the uncertainty should be removed and respectfully requests that tennis be specifically excluded from the Act.

The proposed Act has a fourfold purpose: (1) Coordination of amateur athletic activity in the United States, (2) provision for the resolution of jurisdictional disputes, (3) creation of rights of athletes, and (4) Federal subsidy for the U.S. Olympic team. The game of tennis, both as an individual participant sport for all ages and levels of athletic ability and as the world's most international game, is clearly not in need of Federal intervention.

The President's Commission on Olympic Sports recently analyzed 30 sports and issued its report in January, 1977. Tennis was not included among the sports analyzed. It should not be included in the proposed Act.

We submit the following reasons for this conclusion:

Tennis, without Federal intervention or Olympic involvement, is enjoying an unprecedental boom as a participant and spectator sport in this country.

Amateur and professional tennis players probably enjoy a freedom of choice and opportunity greater than that available to athletes in other sports.

The jurisdictional disputes which have plagued some amateur athletics do not carry over to tennis to any significant degree.

Artificial distinctions between amateur and professionals were largely removed from tennis in 1968.

While strictly amateur tournaments are still encouraged, they are primarily limited to age groups of 18 years and under and to inter-scholastic events.

Unlike the Olympic movement which concentrates on younger athletes, the USTA actively promotes tennis for virtually all age groups. Among the over 3,000 tournaments sanctioned annually by the USTA are separate events and National Championships for 12, 14, 16, 18, 35, 45, 55, 60, 65, 75 and 80 year olds.

At the international level, tennis is now included in the Pan American games but not the Olympics. Even if tennis should, as proposed by some, be included in the Olympic games, the Olympics would be but a small part of the international aspect of American tennis. The USTA on an annual basis is directly involved with the following international matches: Davis Cup, Federation Cup, Wightman Cup, Dubler Cup, Stevens Cup, Bell Cup, BP Cup and others. Historically, the success of American teams in these competitions has been outstanding. While the U.S. has not won the Davis Cup in five years, it won the Cup in each the five years prior to 1973. In 1977 American teams won the Federation, Wightman, Dubler, Stevens, Bell and BP Cups. In 1977 American junior players won the following international tennis tournaments: Orange Bowl, Banana Bowl, French Junior, Junior Wimbledon, Junior U.S. Open and the Stockholm Junior Open.

The proposed Act would provide Federal funding for amateur sports through the Secretary of Commerce. It would undoubtedly follow that an addition to the Federal bureaucracy would be created. Ultimately, for every one dollar received there would probably be two dollars of bureaucratic override and administrative expense at the government level and at the compliance level of the private sector. Tennis does not seek or need such funding.

An additional drawback to the proposed Act is that American tennis might become further emeshed in the politics and problems of the U.S. Olympic Committee and the Olympic Games. The fact that the 1980 Olympics are to be held in Moscow gives us little comfort. The fear has been expressed that politics will become increasingly the dominant consideration of the Olympics and that individual rights and abilities will be subservient to nationalistic goals. The Olympics continue to perpetuate discrimination between so-called amateur and professional athletes, often to the disadvantage of American teams.

The USTA does not wish to suggest that the Olympics are not deserving of Federal subsidy, but the USTA can and does say that tennis in the United States does not need to be included within the scope of the Amateur Sports Act of 1977. The thirty-five million Americans who play and enjoy tennis do so without government involvement. International tennis competition should not and need not be added to the burdens already shouldered by the American taxpayer.

Copies of this letter are being delivered to the Senate Committee on Commerce, Science and Transportation for the convenience of its members and staff.

Respectfully submitted.

W. E. HESTER, Jr., *President.*

STOCKTON, CALIF, *November 26, 1977.*

DEAR Senator STEVENS, I recently spent a week at the Olympic Training and Development Center at Olympic Village, California. It is my understanding that you played a major part in getting this camp started and I want to thank you. I also would like to tell you how much I benefited from the experience.

When the opportunity to go to this camp was opened to me I was just ecstatic. The camp gave me a chance to run when and where I felt like it and to experience a whole new surge of love and determination for my running. It has always been one of my dreams to represent the U.S. in the Olympic games, and I feel this camp is a step in the right direction.

The testing at the camp helped to show me where my weaknesses were, and so in what areas to improve. One of my tests showed that my right leg is stronger than my left, so I was shown some exercises to help even the strength levels out. I also learned a lot from the lectures we heard, such as; how to care for and prevent injuries, how to relax before and during a race and how to stretch-out before and after running. I thought all these things were great, before no one had really bothered to do and show all these things to us. It was super fantastic!

The camp was neat, and unique, in the fact that I was able to learn some new work outs and techniques from my fellow runners and other coaches. The tension of that campetitive feeling that "training secrets" might be given away was not present, and so a learning atmosphere was present and it was very open.

I hope in the future that I and other athletes will be able to return to this camp for more weeks of training. I think the camp is a wonderful idea and pray that it gets favorable passage in Congress. I think all American athletes deserve the chance I was given. It is a marvelous feeling to know that there is a place to go to help a person obtain a dream.

Thank you for your interest and support,

Sincerely,

KARIN PASCOE, (long distance runner).

FAIRFAX COUNTY SOCCER ASSOCIATION,
Fairfax, Va., December 1, 1977.

HON. TED STEVENS,
U.S. Senate, Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: On behalf of the Fairfax County Soccer Association, by resolution of its Executive Committee, we wish to add our strong endorsement and approval of your bill S. 2036 aimed at providing some coherence to the administration of amateur sports in America.

The FCSA, through its member clubs, represents the concerns of some 20,000 youth soccer players and their parents in Northern Virginia and in Montgomery and Prince Georges County, Maryland. Soccer is a sport expanding enormously in this country * * * recent estimates of more than 600,000 youth players may be conservative * * * but one which also suffers from the constraints of multiple and conflicting jurisdictions addressed in S. 2036.

We realize that hearings have been held on S. 2036, however, we would be happy to provide our views on the substance of the bill as well as the soccer scenario as seen from one of the premier youth leagues in the country (two national champions in the past two years).

Any additional assistance we can provide to help move the bill along and to develop counterpart consideration in the House will be enthusiastically provided.

Please let us know how we can help.

Sincerely,

T. R. DONNELLY, JR.,
Chairman of the Board.

UNITED STATES WOMEN'S INTERNATIONAL RIFLE ORGANIZATION,
Mesa, Ariz., December 20, 1977.

Senator TED STEVENS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: This letter concerns bill S. 2036, the "Amateur Sports Act of 1977".

On behalf of our 200 USWIRO members, men, women and junior international rifle shooters, who are governed by the National Rifle Association as NGB for the shooting sports, I am writing to ask that you keep S. 2036 a strong bill concerning the rights of athletes. The need for strong, responsible legislation is necessary because NGB's are not showing good faith with regard to the representation of athletes.

Therefore, USWIRO completely endorses the presentation of Edward Williams, chairman of the Athlete's Advisory Council. We hope the revised S. 2036 will contain changes endorsed by AAC.

I now wish to address Title II, Sec. 203, paragraph (5). We would prefer to see the word "and" to "or" in the first and last sentence which reads, "its Board of Directors, executive committee, or (insert and) other governing body (bodies) will at all times . . ." This would bring the NGB's in line with what USOC is doing in that the Board as well as all governing committees include 20% athlete representation.

Also, the NGB are trying to circumvent this requirement by interpreting "actively engaged in amateur athletic competition" as anyone who attempts the sport, rather than world class athletes which was the intent of PCOS and the revised USOC Constitution. The key here, is not so much definition of athlete, which was proven difficult, but ELECTION BY ATHLETES. I suggest, therefore, that you include at the end of paragraph (5), the statement from PCOS National Governing Body Criterion No. 5—"These representatives must be elected by active amateur athletes who are representative of the full range of athlete interests in that sport."

My sister, Margaret Murdock, (Silver Medalist, 1976 Olympic Games), spoke with Mr. Gary Johansen, on her recent trip to Washington, D.C. The National Rifle Association held a Nominating Committee meeting in November for the purpose of nominating persons for election to the NRA Board of Directors. The Committee did not address the USOC Constitution requirement that NGB's "be governed by a board . . . whose voting membership on a current basis is composed of at least 20% of individuals who are actively engaged in amateur athletic competition . . ." It is our understanding from a telephone conversation from our AAC representative John Satterwhite to President Lloyd Mustin, that NRA lawyers are researching an interpretation of athlete to mean anyone in NRA who has fired a shot. Because NRA is a widely diversified organization, rather than an NGB whose only responsibility is to an Olympic sport, we have a greater problem. Conversations with other world class athletes, however indicate that a number of NGB's are trying to circumvent this requirement. Election of athlete representation by athletes would solve this key requirement.

Under separate cover, Margaret Murdock will send a list of NRA Board of Director Nominees. Only two, Bill McMillian and Lucy Chambliss meet the requirement of international athlete. Ms. Murdock has been nominated by member petition. I am also attempting to get a written statement from NRA President Mustin regarding the fulfillment of the 20% requirement. When obtained, this will be forwarded to you and to AAC.

Through close contact with AAC, I know you to be a great friend of athletes. We are in need of a strong S. 2036 if the work of the President's Commission on Olympic Sports, on which we all worked so diligently, is to bear fruit. Please give every consideration to athlete representation being elected by athletes! Thank you.

Sincerely,

MARIE ALKIRE, *Executive Director.*

[TELEGRAM]

FIELD HOCKEY ASSOCIATION OF AMERICA,
Rowayton, Conn., November 10, 1977.

Senator TED STEVENS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: The Field Hockey Association of America is in agreement with both the terms and principals of S. 2036. We hope the Congress will take prompt and affirmative action by enacting this much needed legislation into law.

ALLAN WOODS, *Secretary.*

[The following information was referred to on pp. 169, 182:]

The National Collegiate Athletic Association

President
J. NEILS THOMPSON
University of Texas
Austin, Texas 78758

Executive Director
WALTER BYERS

Secretary-Treasurer
EDGAR A. SHERMAN
Muskingum College
New Concord, Ohio 43762

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University of California, Davis

EDWARD S. STEITZ
Springfield College

December 7, 1977

The Honorable Warren G. Magnuson
United States Senate
127 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Magnuson:

At the recent hearings of the Senate Committee on Commerce, Science and Transportation on S.2036, the National Collegiate Athletic Association (NCAA) was requested to submit, for inclusion in the record, written answers to several questions raised by Senators Cannon, Stone and Stevens. In particular, the NCAA was asked to:

(1) provide a detailed explanation of NCAA fact finding and investigative methods;

(2) provide an explanation of NCAA actions taken against the University of Minnesota, and referred to in a letter dated October 11, 1977 from Hubert H. Humphrey to Warren C. Magnuson; and

(3) provide some guidance on the manner in which NCAA "balances the equities" between providing rules and procedures reasonable for institutions, and rules and procedures reasonable for athletes.1/

I am writing, on behalf of NCAA, to provide the information requested.

1/ In this context, NCAA also offered to submit to the Committee a summary of court cases holding that the NCAA procedures are fair both with respect to athletes and to institutions.

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I. Fact Finding and Investigative Procedures of the NCAA

The basic policies and procedures governing the NCAA's enforcement program are set forth in two documents: (1) the "Official Procedure Governing the NCAA Enforcement Program" ("Official Procedure"), which was adopted by the NCAA Council and Convention in 1973, and which has been published as part of the NCAA Manual since that time; and (2) the "Established Operating Policies and Procedures of the NCAA Committee on Infractions" ("Established Policies"), a consolidated statement of the Committee on Infractions' present operating procedures to be published in the NCAA Manual. Copies of these documents are enclosed as Appendices A and B to this letter. In addition, we are enclosing for your information a sample enforcement case study ("Sample Case") prepared by the NCAA for its 1977 Media Seminar (Appendix C). This study contains a sample of each document sent by the NCAA to an institution involved in an infractions case. Also included (Appendix D) is an article which appeared in the November 15, 1977, NCAA NEWS which describes how an infractions case is processed.

Since these documents describe the NCAA enforcement procedures in considerable detail, this statement simply summarizes those procedures, referring where appropriate to specific portions of the enclosed documents.

The NCAA is a voluntary Association of four-year colleges and universities. Among the basic purposes of the NCAA are initiating and stimulating intercollegiate athletic programs for student-athletes and encouraging its members to adopt eligibility rules to promote satisfactory standards of scholarship, sportsmanship, and amateurism. Since the NCAA's members are educational institutions, it is important to achieve these purposes while maintaining collegiate athletic programs as an integral part of the educational process, insuring that student-athletes are an integral part of the student body.

Because the NCAA is a voluntary Association of member institutions which adopt their own regulations, the primary responsibility to enforce these regulations rests with the institutions themselves. The members have agreed to administer their programs in accordance with NCAA rules [NCAA Constitution 4-2-(a)] and to uphold the principal of institutional control of intercollegiate sports [NCAA Constitution 2-1-(b)]. Experience has shown that the vast majority of NCAA members abide by this legislation.

In part because of the constant pressure at NCAA member institutions to maintain winning programs, a national enforcement program has been adopted by the membership

to control those institutions attempting to obtain a competitive advantage over their sister institutions through violations of the Association's regulations. Obviously, without this enforcement program, only those institutions able and willing to abide by the established rules of the membership would be controlled by those rules. Under such conditions each member institution would find itself in a position to determine for itself whether it wished to comply with the regulations. If that were the case, the balancing influence of regulations applied on a national basis would be lost, mistrust would likely prevail, and the regulations which were adopted to apply to the membership in general would be meaningless.

Time and again, the NCAA membership has made it clear that it supports a national enforcement program and strong sanctions against member institutions which fail to adhere to NCAA regulations. For example, during the NCAA's January 1974 annual Convention, the membership voted to double its yearly dues for the express purpose of funding an increased enforcement staff.

With this information in mind, I will review the basic procedures which NCAA follows in processing an infractions case. The first responsibility for screening reports of possible violations rests with the enforcement staff. This staff, which consists of 12 members (seven of whom are attorneys), operates under the general guidance of the Committee on Infractions. The Committee on Infractions in turn consists of five members, all of whom are distinguished educators and a majority of whom are law professors.2/ If it appears that a field investigation of a particular member institution is warranted, the NCAA enforcement staff notifies

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2/ As stated by the Court in Hunt v. NCAA, No. G76-370 C.A. (W.D. Mich., Sept. 10, 1976), the Committee on Infractions is "a distinguished panel of jurisprudential scholars keenly sensitive to constitutional rights, particularly due process, and are beyond reproach as an impartial decisionmaking body."

In 1977, the Committee was composed of:

Charles Allen Wright, Professor of Law, University of Texas;
Arthur Reynolds, Dean, Graduate School, University of Northern Colorado;
Harry M. Cross, Associate Dean and Professor of Law, University of Washington;
John W. Sawyer, Professor of Mathematics, Wake Forest University; and
William L. Matthews, Jr., Professor of Law, University of Kentucky.

that institution by letter that the NCAA is conducting a preliminary inquiry into the institution's athletic policies and practices. The NCAA letter also informs the institution that if the preliminary inquiry discloses evidence sufficient to warrant an official inquiry, the Committee on Infractions will provide the details of the alleged violations. See "Letter of Preliminary Inquiry", Sample Case at 4-5.

The NCAA enforcement staff then proceeds to conduct its preliminary inquiry according to certain rules. For example, when interviewing enrolled student-athletes on the institution's campus, the staff must first contact and arrange the interviewing schedule with the Director of Athletics or other appropriate official of the institution. In addition, an institutional representative is permitted to attend the interview, at least so long as the subject matter relates directly to the institution. If the interview is likely to develop information detrimental to the interest of the individual being questioned, the individual may also be represented by personal legal counsel. Wherever possible, individuals who have reported information to the enforcement staff are given the opportunity to review the investigator's report, and to make additions or corrections to it. Established Policies at 2-4.

If information developed during the preliminary investigation does indicate that there is substantial reason to believe that the institution has operated in violation of NCAA rules, then the Committee on Infractions (not the NCAA staff) may authorize the filing of a "Letter of Official Inquiry" with the involved institution. Sample Case at 6-19. This letter notifies the institution in detail of each allegation concerning the institution (Sample Case at 9-19). The institution is specifically asked to indicate whether the information contained in those allegations is substantially correct and to submit evidence to support its response. In addition, the institution is requested to provide full details of the circumstances surrounding the incidents alleged, including any mitigating circumstances, and is invited to submit any other information or comments that it might wish.

The Letter of Official Inquiry also informs the institution of the date on which the Committee on Infractions will hold a hearing on the allegations made against the institution. The institution is, of course, invited to appear at that hearing. Furthermore, the institution is requested to read to each currently enrolled student-athlete and present or former institutional staff member every allegation concerning him and provide him with the opportunity to submit orally and in writing any information which he feels is relevant to the allegation in question. The institution should also notify such an individual in person as well as in writing that he and his legal counsel may

appear before the NCAA Committee on Infractions at the time the Committee considers any allegation in which the student-athlete or staff member is involved.3/ NCAA specifically requests that coaches and student-athletes involved in significant allegations appear at the hearings on behalf of the institution.

The next step is a full hearing conducted by the Committee on Infractions.4/ Shortly before that hearing, the NCAA sends to the member institution an "Infractions Committee Appearance Letter". Sample Case at 21-22. That letter informs the institution of the specific time of the hearing and describes generally the procedures which will be followed during the hearing.

At the hearing, both the NCAA staff and the institution are given full opportunity to present any evidence and to comment fully on the allegations in issue.5/6/ In addition, under the direction of the Committee, questions and information may be exchanged between all parties participating in hearing. In the event the hearing is not concluded in one session it is continued at a later date, which permits the involved institution to develop, in whatever way it seems fit, additional information or commentary on the allegations

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3/ Assuring the representation of the student-athlete's interests in the NCAA infractions process rests entirely with the institution. Since there is almost always an identity of interest between the institution and the involved student-athlete, at least at this stage, such representation of the student-athlete by the institution assures, both in theory and in practice, full representation of the factors and circumstances most favorable to the student-athlete. See, e.g., Howard University v. NCAA, 510 F.2d 213 (D.C. Cir. 1975); Hunt v. NCAA, No. G76-370 C.A. (W.D. Mich. Sept. 10, 1976).

4/ By this time the institution has conducted its own investigation and has submitted its written response to each allegation in the Letter of Inquiry. That response will have been distributed to each member of the Committee on Infractions and to the NCAA staff.

5/ It should be noted that specific information and evidence developed by the staff relating to alleged violations of the NCAA regulations is not presented to the Committee prior to the institution's appearance. Furthermore, the NCAA staff is not permitted to give to the Committee any information received from unidentified informants.

6/ The Committee does not follow the rules of evidence used in the court system at these hearings. However, as noted in

(Continued on next page)

presented by the NCAA staff. It should be reemphasized, however, that every allegation is supplied to the institution well in advance of the initial hearing.

After the hearing or series of hearings is completed, a Confidential Report is prepared by the NCAA Committee on Infractions,7/ Sample Case at 23-31, and sent to the involved institution. This report notifies the institution of the findings and proposed penalties of the Committee on Infractions and of the institution's resulting obligations under the NCAA rules and regulations. Each violation found by the Committee, as well as each proposed penalty, is set forth in the report in detail. Finally, the report advises the institution that it may appeal the Committee's findings or proposed penalties to the NCAA Council.

Among the penalties which may be imposed upon an institution, and which may therefore appear in the Confidential Report, are:

1. Reprimand and censure;

2. Probation for one year;

3. Probation for more than one year;

4. Ineligibility for one or more National Collegiate Championship event;

5. Ineligibility for invitational and post-season meets and tournaments;

6. Ineligibility for any television programs subject to the Association's control or administration;

(Footnote 6 continued...)
Hunt v. NCAA, supra, (quoting Mr. Justice Frankfurter, concurring, in Joint Anti-Facist Committee v. McGrath, 341 U.S. at 171-72))," [T]he judicial model of an evidentiary hearing is neither a required, nor even the most effective, method of decisionmaking in all circumstances. The essence of due process is the requirement that 'a person in jeopardy of serious loss' [be given] notice of the case against him and an opportunity to meet it." We believe that NCAA's policies and procedures set forth in this submission go much further toward effectuating those goals than would the formal and technical rules of evidence used by the judiciary.

7/ Although the NCAA staff prepares the preliminary draft of this report, the staff is under an obligation to ensure that the report conforms in all respects to the findings of the Committee. The Committee also thoroughly reviews the report before its adoption.

7. Ineligibility of the member to vote or its personnel to serve on committees of the Association, or both;

8. Prohibition against an intercollegiate sports team or teams participating in outside competition for a specified period;

9. Prohibition against the recruitment of prospective student-athletes for a sport or sports for a specified period;

10. A reduction in the number of either initial or total financial aid awards [as defined by NCAA Bylaw 5-3-(C)-O.I.500] which may be awarded during a specified period;

11. Requirement that an institution which has been represented in an NCAA championship by a student-athlete who was recruited or received improper benefits (which would not necessarily render him ineligible) in violation of NCAA legislation shall return its share of net receipts from such competition in excess of the regular expense reimbursement, or if those funds have not been distributed, they shall be withheld by the NCAA executive director; or individual or team records and performances shall be vacated or stricken; or individual or team awards shall be returned to the Association, or any combination of the preceding penalties; and

12. Requirement that a member institution which has been found in violation show cause why a penalty or an additional penalty should not be imposed if (in the opinion of the Committee or Council) it does not take appropriate disciplinary or corrective action against athletic department personnel involved in the infractions case, any other institutional employee if the circumstances warrant, or representatives of the institution's athletic interests.

If after review of the Confidential Report, the institution elects to exercise its privilege of appeal to the NCAA Council, the Committee on Infractions must prepare an Expanded Confidential Report, which is submitted both to the Council and to the institution. Sample Case at 35-43. This expanded report includes all the information contained in the Confidential Report, plus a summary of the origin of the case, a description of the basis for all of the Committee on Infractions findings and penalties which are being appealed, a list of factors appropriate for consideration in judgment of the case, and a

summary of the disciplinary or corrective actions already taken by the institution.8/

Prior to the hearing of the appeal before the Council, the institution is notified, in writing, of the procedures which will be followed during the hearing. See Sample Case at 33-34. Generally, certain time limits are placed on verbal presentations. (No limitations, however, are placed upon the written submissions which will be considered by the Council.) In addition, time is allotted to permit members of the Council to question the institution's representatives and the Committee on Infractions. Any present or former institutional staff member or currently enrolled student-athlete involved in any appealed findings or penalties, and his personal attorney, may attend and participate in the hearing.

If after review of all written submissions and oral presentations, the Council upholds some or all of the Committee on Infractions' findings of violations and penalties, a press release is prepared. This press release outlines the findings made and the penalties imposed on the institution, but does not identify by name the individuals involved in the particular case. Sample Case at 45-48. Before the public announcement is released, the institution is notified of the Council's decision and is given an opportunity to review the text of the release.

The enforcement of NCAA regulations, either by the institutions themselves or through the processing of an infractions case, often results in applying an eligibility regulation to a student-athlete. When the Committee on Infractions or Council finds that there has been a violation of the Constitution or Bylaws affecting the eligibility of an individual student-athlete, the institution involved is notified of the name and violation of the student-athlete involved. It is understood that if the institution fails to take appropriate action, it may be cited to show cause under the Association's regular enforcement procedures why it should not be disciplined for failure to do so. In such

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3/ In addition to reviewing the Expanded Confidential Report, the institution may, at any point, request to listen to the tape recording of the hearing held before the Committee on Infractions. In order to maintain insofar as possible the confidentiality of the Committee's proceedings, no official transcript is taken at those proceedings.

cases, the institution is also reminded of its responsibility to provide a hearing for the student-athlete before any action is taken concerning his eligibility.9/

Once a declaration of eligibility has been made, the institution may (and frequently does) immediately apply to the NCAA for restoration of the student's eligibility. Such applications are handled by the NCAA Council's Subcommittee on Eligibility Appeals,10/whose decisions are appealable to the full Council. During the "eligibility hearings" of both the Subcommittee and the Council, the student-athlete is permitted to be present and to be represented by counsel. The student-athlete, as well as the institution, is also permitted to present any material he wishes to show that his period of ineligibility should be lessened.

In considering these presentations and determining the appropriate reduction of the student's period of ineligibility, the NCAA is fully responsive to mitigating circumstances and aware of the desire of the student-athlete to develop and demonstrate his athletic skills. The NCAA's practice of acting promptly and fairly in such proceedings has been specifically noted by at least one court, see, Regents of

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9/ Generally, the institution's hearing will occur before the decision of the Committee on Infractions is appealed (if it is appealed) and possibly even before the initial hearing before the Committee. Thus, any relevant facts found by the institution can be considered by the NCAA in its original decisionmaking process. Even if the institution's due process hearing is held after the NCAA proceedings are completed, the institution may request a hearing before the Committee on Infractions based on "newly discovered evidence" if the facts found at the University's due process hearing differ from those found by the Committee. If the facts related to a particular finding are in dispute, the Committee on Infractions or the Council (on appeal) has the final authority to determine the proper application of NCAA legislation. This is essential in order to avoid a situation in which a member institution would decide not to apply an NCAA eligibility regulation in a case involving its own student-athletes.

10/ In 1977, the Subcommittee was composed of:

Louis A. Myers, Professor of Accounting, University of Arizona;
John R. Eiler, Director of Athletics, East Stroudsburg State College; and
Ross H. Smith, Director of Athletics, Massachusetts Institute of Technology.

the Univ. of Minnesota v. NCAA, 560 F.2d 352 (8th Cir. 1977), and is further confirmed by NCAA records. For example, between October 1975 and October 1977, the Subcommittee on Eligibility considered 67 petitions for the restoration of eligibility of student-athletes. (Several of these petitions involved more than one student.) Many of the original declarations of ineligibility of the students involved were a direct result of investigations undertaken by the Committee on Infractions. Of the 67 cases considered, the Subcommittee on Eligibility reduced the penalty of ineligibility in all but five cases (each involving only one student).11/ We have provided, in a separate letter dated December 7, 1977, a table which indicates the result reached by the Subcommittee (or in case of appeal, by the Council) in each of these cases, as well as a brief description of the circumstances of each case. A review of these actions demonstrates beyond doubt the ultimate fairness of the NCAA's procedures and policies towards individual student-athletes.

NCAA rules and regulations represent in the judgment of the NCAA's member institutions, and of the Court of Appeals for the Eighth Circuit, a reasonable compromise between the need to deter institutions (or those acting on their behalf) from violating NCAA rules and the need to preserve the athletic opportunities of the student-athletes.

II. NCAA Actions Against the University of Minnesota

Senator Cannon asked at the recent hearings that NCAA specifically respond to allegations made by C. Peter Magrath, President of the University of Minnesota, in letters to John B. Moss, Chairman of the House Oversight and Investigations Subcommittee of the Interstate and Foreign Commerce Committee, and to Senator Hubert H. Humphrey. President Magrath's letters alleged that NCAA had ignored the "due process" hearings held by the University of Minnesota to determine whether or not certain student athletes should be declared ineligible. In particular, President Magrath stated that:

11/ In one of the five cases, the student-athlete, in an attempt to qualify for a Canadian professional golf tour, had participated in a Canadian golf tournament which offered a $2,000 prize to the winner. Prior to participation in the match, he had signed a statement relinquishing his amateur status. In each of the other four cases, the student-athlete wished to participate in intercollegiate athletics during his sixth year at his educational institution.

> [T]he NCAA insisted that [the University of Minnesota] hold "due process" hearings to determine whether or not certain student athletes should be declared ineligible. When we held these hearings, complying with our own university due process requirements and the requirements imposed upon us by a Minnesota state court order, the independent faculty-student committee determined after a careful inquiry that there was no evidence of wrongdoing on the part of three student-athletes, and that therefore, they should not be declared ineligible. To summarize a complicated controversy, because we refused to declare the three student-athletes ineligible, the NCAA then launched a new set of allegations against the University of Minnesota ultimately culminating in their placing on probation all of our mens intercollegiate athletic programs, none of whom [sic] (with the exception of the basketball program) had ever been involved in wrongdoing . . . [T]he only alternative would have been the expedient one of declaring ineligible three student-athletes we believed did not do anything wrong in order to protect the interests of student-athletes in other programs . . ."

Unfortunately, President Magrath is using the terms "wrongdoing" and "wrong" in a misleading manner. As will be seen, President Magrath is not saying that the three student-athletes did not violate NCAA's eligibility (in particular, the "pay for play") rules. Indeed, the very same independent faculty-student committee of the University of Minnesota to which President Magrath referred had twice determined that the three student-athletes involved had indeed been involved in incidents which the NCAA had found to be violations of NCAA rules,12/ violations which under those rules result in automatic ineligibility. What President Magrath is saying is that the University of Minnesota does not believe that ineligibility is an appropriate sanction for the young men's involvement. As explained in some detail in Part I of this submission, however, the appropriateness of applying an

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12/ Student athlete Michael Thompson had sold his complimentary season tickets for $180; student-athlete David Winey had twice received transportation to, and meals, lodging and entertainment at, a Wisconsin cabin owned by a member of the University basketball booster group; and student-athlete Phil Saunders had used a WATS line to place long-distance calls to his parents, used an automobile belonging to an assistant coach's mother-in-law, and utilized cost-free lodging for one night at a basketball camp. Arrangements for Winey's use of the cabin and for Saunder's use of the WATS line had been made, at least in part, by an assistant basketball coach.

eligibility rule is not a decision to be made by the institution. Rather, the institution must measure the student-athlete's eligibility against NCAA regulations. It is understood that the institution may appeal for restoration of eligibility if it so desires.

The reason for assigning to the NCAA the responsibility of considering appeals is obvious: an institution frequently has every conceivable reason to avoid imposing any sanction whatsoever upon its student-athletes. Often the student-athletes involved in violations of NCAA rules are prominent athletes. These are the athletes most likely to obtain advantages unavailable to their fellow students. These athletes are also precisely the same athletes whom the university wishes, often desperately, to keep on its teams. To expect an institution to make impartial, or even meaningful, decisions on the appropriateness of a declaration of ineligibility with respect to these athletes would be unrealistic. To avoid this situation, NCAA rules require the institution automatically to declare a student-athlete ineligible if his participation in NCAA programs is found by it or the NCAA to violate an NCAA eligibility rule. Then, and only then, may the institution appeal to the NCAA Subcommittee on Eligibility for restoration of the student's eligibility.

As set forth in Part I, the procedures followed by the NCAA in infractions hearings and in eligibility hearings permit the student-athletes involved to bring to the attention of the hearing officers, in writing and orally, as well as through his personal legal counsel, any facts or circumstances in explanation or mitigation concerning his involvement in a violation. Needless to say, all of these procedures were followed in the University of Minnesota case. For your convenience, we have attached a timetable of the proceedings in that case (Exhibit E). As you can see from this timetable, the NCAA afforded both the University of Minnesota and the student-athletes involved every opportunity to provide any evidence whatsoever which would indicate that the three student-athletes had not in fact participated in the activities which were found to violate NCAA rules. In fact, NCAA held a total of four hearings on this issue, and both the University and the students were given numerous additional opportunities to submit in writing any facts or circumstances not presented at the hearings. The NCAA also encouraged the University to afford additional hearings to the students to ensure that the facts found by the NCAA -- i.e., that the students had violated certain NCAA rules -- were correct. The University, on its own, held a total of seven hearings on this matter. Yet, in no hearing, either before the University or before the NCAA, did the students or the University contest the fact that the students had participated in activities which violated NCAA regulations. (Indeed, at various points, these activities were admitted both by the students themselves and by the University.)

Under these circumstances, it then became the University of Minnesota's responsibility to declare the three student-athletes ineligible, and to appeal, if it believed this sanction too harsh, for restoration of their eligibility to the NCAA. In the case of Thompson, one of the student-athletes, the University did in fact follow this procedure, with the result that Thompson's period of ineligibility was reduced by the Subcommittee on Eligibility Appeals to the remainder of the 1975-76 season (approximately 14 games).13/ The University appealed this decision to the NCAA Council, but its appeal was denied. It should be noted that Thompson was present at the appeal and was again permitted to offer evidence to show that his period of ineligibility should be further reduced.

In the case of student-athletes Winey and Saunders, however, the University of Minnesota refused to make the declarations of ineligibility required by NCAA rules. Due to the continued refusal of the University to take this action, additional penalties were assessed against the University by the Committee on Infractions after full hearings. In this regard, the Committee noted that the University violated its conditions and obligations of membership by refusing to apply the same regulations to its student-athletes as required of all other members of the NCAA.

The additional penalties, which included public reprimand and censure and indefinite probation in all sports until the University could certify that its program was being conducted in accordance with all NCAA requirements, were affirmed on appeal by the NCAA Council. The Council, like the Committee on Infractions, emphasized repeatedly that "if the University applies applicable provisions of the NCAA constitution to the eligibility of the young men in question, penalties in this case would be reconsidered and reduced or eliminated". The Council particularly emphasized that once the three students were declared ineligible, the University could immediately seek restoration of their eligibility.

At that point, instead of taking the actions required by the NCAA Constitution, the University of Minnesota chose to file suit seeking declaratory and injunctive relief. Although such relief was granted in the District Court, the Court of Appeals for the Eighth Circuit reversed. In particular, as will be seen, the court rejected outright the position that the University, rather than the NCAA,

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13/ As it turned out, due to a state court action by Thompson against the University of Minnesota, and possibly due to additional delay on the part of the University of Minnesota, the end of the basketball season passed without Thompson's ineligibility actually taking effect.

should determine the appropriateness of a declaration of ineligibility as applied to individual student-athletes. The court noted that the student-athletes involved in this case had been accorded hearings before two university groups, the CCSB and the ACIA; that the fact-finding processes of both groups had fairly disclosed infractions of NCAA rules by each athlete; and that such infractions in each case carried the mandatory penalty of ineligibility. The court further pointed out that all parties agreed that the CCSB and ACIA hearings fulfilled, at a minimum, any applicable due process requirements, and that there was no contention that the substantive NCAA rules for athletes were themselves arbitrary or capricious, or that the goal of amateurism that these rules promoted was illegitimate.

The court also noted that NCAA procedures as adopted by its membership give to the NCAA the authority both to interpret its own rules and to consider and take account of any mitigating circumstances. Stating that the NCAA's authority to interpret its own rules is "an authority which [we] agree is of utmost importance to the execution of the Association's salutary goals," and noting that the NCAA is not obligated by any constitutional mandate to provide any consideration of mitigating circumstances, the court praised the promptness and the thoroughness of the consideration which the NCAA has chosen to provide. In particular, the court praised the speed with which the NCAA typically acts (for example, the partial restoration of Thompson's eligibility took place within six days after the University of Minnesota had originally declared him ineligible) and the fact that both the student-athletes and their attorneys are permitted to participate in the eligibility hearings. Under these circumstances, the court concluded that:

> "It cannot seriously be maintained that the student-athletes were entitled to consideration of the mitigating circumstances prior to a declaration of ineligibility."

Finally, the court specifically found that in the particular cases involved, the NCAA had given fair warning to the athletes "in language that the common world understands" of what would result if the athletes engaged in the activities they did in fact engage in. Thus, the court emphasized that, quite apart from constitutional limitations, the NCAA's treatment of the University of Minnesota and its student-athletes could hardly be viewed as unduly harsh or abusive.

As the Committee no doubt already knows, the University of Minnesota, as a result of the Court's decision, has just recently declared the three student-athletes involved (Thompson,

Saunders and Winey) ineligible. The University has also, in accordance with both NCAA procedure and with the procedure suggested by the Court of Appeals, applied to the NCAA Subcommittee on Eligibility for restoration of eligibility for those athletes. In reconsidering the institutional probationary period the Committee on Infractions terminated the indefinite probation in all sports with exception of basketball, which will remain on probation for one additional year. Further, the Subcommittee of Eligibility Appeals determined that the period of Thompson's eligibility should be reduced to seven games, and Winey has been charged with the loss of eligibility for three games. (Saunders is no longer enrolled in the University.)

III. Fairness of NCAA Rules With Respect to Athletes

As discussed in the preceding sections, the NCAA rules -- both procedural and substantive -- are the product of considerable effort on the part of the member institutions to develop a set of principles which will ensure the maintenance of intercollegiate athletic programs as an integral part of the educational process, while fully providing for the legitimate needs and aspirations of student-athletes. We believe -- and the courts have found -- that the balance struck in the NCAA program on both the procedural and substantive levels is reasonable. See, e.g., Regents of the University of Minnesota v. NCAA, 560 F.2d 352 (8th Cir. 1977); Shelton v. NCAA, 539 F.2d 1197 (9th Cir. 1976); Howard University v. NCAA, 510 F.2d 213 (D.C. 1975); Associated Students, Inc. v. NCAA, 493 F.2d 1251 (1974); Parish v. NCAA, 506 F.2d 1028 (5th Cir. 1975); Colorado Seminary v. NCAA, 417 F.Supp. 884 (D. Col. 1976); Hunt v. NCAA, No. G76-370 C.A. (W.D. Mich. Sept. 10, 1976); Jones v. NCAA, 392 F.Supp. 295 (D. Mass. 1975); Samara v. NCAA, 1973 T.C. ¶74,536 (E.D.Va. 1973).

Some concern was expressed at the hearings, however, that the courts do not sufficiently examine the issue of whether or not the NCAA rules are reasonable with respect to student-athletes (as opposed to institutions), and, in particular, whether the rules are reasonable as applied to individual student-athletes. To address this concern, it is necessary to differentiate between the cases which deal with due process and those which deal with equal protection. Generally, courts consider the reasonableness of NCAA's procedural rules and practices under the due process test; they consider the reasonableness of NCAA's substantive rules under the test of equal protection. As set forth below, we believe that a fair reading of cases in both categories indicates that the courts have found that NCAA's procedural and substantive rules are reasonable both with respect to student-athletes in general and in their application to individual student-athletes.

Due Process

In at least three cases, the courts have specifically considered the fairness of the NCAA's procedural rules as applied to individual student-athletes.14/ Regents of the University of Minnesota v. NCAA, supra; Hunt v. NCAA, supra; and Howard University v. NCAA, supra. In each of these cases, the courts concluded that the NCAA's procedures and practices, as well as the end results reached by the NCAA, were fair, reasonable and responsive to the needs of the student-athletes involved.15/ Thus, in Minnesota, the Court of Appeals for the Eighth Circuit made a straightforward finding that:

> "Here, factfindings ascertained in procedures which unquestionably afforded due process reflected conduct reasonably understood as proscribed and reasonably understood as mandating ineligibility."

Having fulfilled its constitutional duties, the Court nevertheless proceeded to balance explicitly the needs of the institution and the athletes against the needs of the NCAA and the intercollegiate athletic program. In doing so, the Court recognized that the institutions will sometimes find themselves in situations under NCAA rules where "fairness to the individual and adherence to contractual obligations [to NCAA] may seemingly conflict." Similarly, the Court appreciated that the violations of the NCAA rules by the three student-athletes involved were not "particularly serious". Nonetheless, the Court found that the NCAA's retention of authority to determine whether certain factual situations violated NCAA rules "is of the utmost importance to the execution of the Association's salutary goals." In addition, the Court praised the NCAA's procedures for mitigating sanctions imposed upon institutions and ineligibility periods imposed upon student-athletes, stating that "[t]he very record before us attests to the fact that those procedures afford meaningful consideration."

14/ In the majority of cases brought by student-athletes against the NCAA which have alleged a failure to grant "due process", the courts have determined that the athlete does not have a property or liberty interest entitled to "due process" protection under the Fourteenth Amendment. See, e.g., Parish v. NCAA, 506 F.2d 1028, 1034 (5th Cir. 1975); Colorado Seminary v. NCAA, 417 F.Supp. 885 (Col. 1976).

15/ Given the NCAA rules and practices set forth in the preceding sections, it is difficult to believe that a court -- or any other forum -- could find otherwise. As set forth in those sections, a student-athlete is given a multitude of opportunities to present, both in writing and orally, and with the aid of counsel, all the facts relating

(continued on next page)

The other cases which have specifically considered NCAA's procedures also found that the student-athletes involved were treated fairly and appropriately. In Hunt, the court specifically found that

> "It appears from the evidence presented that as to each plaintiff, either the individual athlete or the university acting on his behalf was notified of the allegations concerning the player, was given an opportunity to formulate a response to the allegation and present a defense contesting the factual predicates or rule interpretations underlying the charge, and ultimately to appeal the findings of violations and the penalties imposed."

Like the Minnesota court, the court went on to place considerable emphasis upon the availability of NCAA's "eligibility hearings", and upon the fact that the plaintiffs had, "at that critical stage", received the unquestionably capable assistance of Dr. John Fuzak, NCAA president and the member of the MSU faculty most familiar with NCAA procedures and practices. Finally, the Court noted that as a result of those eligibility hearings the NCAA had reduced the ineligibility periods applicable to particular student-athletes in accord with those student-athletes' culpability. Thus, for example, the four plaintiffs with very slight culpability had their period of ineligibility reduced to only one game.

Finally, in Howard, the Court of Appeals for the District of Columbia similarly stressed the opportunity given to the individual student-athlete (in that case, Mori Diane) to appear on his own behalf in the eligibility hearings,16/ and the significant reduction granted by the NCAA in those hearings.

Equal Protection

Under the "equal protection test", the courts have fully considered the reasonableness of NCAA substantive rules with respect to student-athletes. Basically, the question in an equal protection case is:

(Footnote 15 continued...)
to the case in which he is involved. Furthermore, even if it is concluded that the participation of the student-athlete in intercollegiate athletics is in violation of certain NCAA rules, a full and separate hearing -- the eligibility hearing -- is then accorded to the student-athlete so that he can present any circumstances which would indicate that a reduction in the ineligibility period is appropriate in his individual case.

16/ Diane in fact elected not to appear personally during those hearings, "presumably because he was satisfied with Howard's representation of his interests." 510 F.2d at 222.

"Does the challenged NCAA rule unfairly discriminate against the student-athlete who has brought this suit?"

To answer this question, the courts apply a two-pronged test: (1) Is the goal which the rule attempts to further a legitimate goal? and (2) Is the rule reasonably calculated to achieve that goal? In all cases attacking NCAA rules, with the exception of certain cases which have attacked alienage classifications,17/ the courts have found that the goals which NCAA attempts to achieve (amateurism and fair competition in intercollegiate athletics) are legitimate and praiseworthy goals and also that the specific rules which NCAA has enacted to achieve those goals are reasonable.

In so holding, the courts have considered all the arguments student-athletes harmed by those rules have devised to show that the questioned rule discriminates against student-athletes. For example:

-- In both Howard, supra, and Associated Students, supra, the Courts of Appeals for the District of Columbia and for the Ninth Circuit, respectively, gave considerable thought to whether the NCAA's rule mandating a one-year period of ineligibility for student athletes who had failed to predict on the basis of high school grades and test scores a grade point average of at least 1.600 should be modified for students such as Diane (in Howard) and Martinez and Lopez (in Associated Students). Those students had failed to predict a 1.600 grade point average, but had participated in college athletics during their freshman year,18/ and had in fact achieved grade point averages well above 1.600 during that year. In both cases, the Courts determined that modification would not be appropriate, for such exceptions would "allow colleges to recruit ineligible athletes with the hope that they would meet graduation prediction standards after their first year in college so as to become eligible for athletics during their college life. It would also permit ineligible students to engage in first year athletics along with those who proved to be eligible during the first year which, in effect, would destroy the purpose of the 1.600 rule." 493 F.2d at 1256. Accord, Howard University v. NCAA, supra at 221.

-- In Colorado Seminary v. NCAA, supra, the Court carefully examined the contention that the ineligibility

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17/ These classifications have now been eliminated from the NCAA rules.

18/ In both cases, the student-athletes had been improperly certified by their schools.

of certain plaintiffs, such as Falcone and Glanville, who received aid from outside teams while not in school, was inappropriate. It concluded that policy considerations supported NCAA's clear and reasonable rules mandating ineligibility under such circumstances. 417 F.Supp. at 898. Accord, Jones v. NCAA, supra.

-- In Parish v. NCAA, supra, the Court of Appeals for the Fifth Circuit examined, but rejected, the plaintiff student-athlete's contentions that the 1.600 rule discriminated against "at least seven potential suspect classes."

-- In Shelton, supra, the Court of Appeals for the Ninth Circuit examined both the reasonableness of the NCAA's rule, which mandates the ineligibility of a student who has signed a professional contract, and Shelton's contention that such rule should not be applicable in his case because alleged defects in the contract might render it unenforceable. The Court found, however, that under Shelton's interpretation, a student-athlete "could sign a contract, then allege that it was unenforceable and participate at will in college athletics while maintaining an option to enter the professional ranks at any time." Such a procedure would, said the court, "clearly obliterate any remaining distinctions between amateur and professional athletics." Since Shelton's other suggestions would similarly result in "a tangled set of affairs," the court upheld the NCAA's "easily applied and generally reliable" criteria. Furthermore, noted the Court pragmatically, any hardship suffered by Shelton could have been simply and easily avoided by not signing a pro contract.

-- Finally, in Samara v. NCAA, supra, the Court addressed and rejected Samara's contention that the application to a particular meet of an NCAA rule mandating the ineligibility of student-athletes who participate in uncertified meets was unreasonable. The meet in question would clearly have been certified if certification had been requested. The Court found, however, that the policy considerations behind the rule -- the maintenance of quality in college athletics and the elimination of past abuses -- required the application of the rule to that particular meet.19/

19/ It is of particular interest to note that in this case, the District Court -- while upholding the NCAA's substantive rule -- expressly retained jurisdiction to determine whether the students in question were accorded due process in the necessary subsequent procedures (1) by the institutions in declaring the students ineligible and (2) by the NCAA during

(continued on next page)

Thus, although the courts generally use the standards of "minimum rationality" in equal protection cases involving NCAA, disavowing their desire to go beyond that standard, it is clear from the cases that careful consideration is nonetheless given to the NCAA rule's effect on student-athletes in general and to the particular case then before the court. Just as in the "due process" cases, the courts, after such consideration, have uniformly determined that the NCAA rule in question (with the exception of the now-repealed rules which referred to alienage) is in fact fair both in its general terms and in its application to the student-athletes involved.

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Thank you for giving us this opportunity to explain, in some detail, the investigative and fact-finding methods of the NCAA, and to address the concerns raised by Senators Cannon, Stevens and Stone at the recent hearings. If you or your staff have any further questions, please feel free to contact me.

Sincerely,

Walter Byers

Walter Byers
Executive Director

Footnote 19 continued...)
the appeal by the institutions and the affected students for an amelioration of the penalty period. Although it appears nowhere in the record of the case, it was evident to all concerned that the Court's retention of jurisdiction evinced the Court's interest, not only in NCAA procedural fairness, but also in the substantive result vis-a-vis the students in question.

Official Procedure Governing The NCAA Enforcement Program

As approved and adopted by the Council and Convention of the Association

Individuals employed by or associated with member institutions for the administration, the conduct or the coaching of intercollegiate athletics are, in the final analysis, teachers of young people. Their responsibility is an affirmative one, and they must do more than avoid improper conduct or questionable acts. Their own moral values must be so certain and positive that those younger and more pliable will be influenced by a fine example. Much more is expected of them than of the less critically placed citizen.

All representatives of educational institutions are expected to cooperate fully with the NCAA investigative staff, Committee on Infractions and Council to further the objectives of the Association and its enforcement program. The enforcement procedures are an essential part of the intercollegiate athletic program of each member institution and require full and complete disclosure by all institutional representatives of any relevant information requested by the NCAA investigative staff, Committee on Infractions or Council during the course of an inquiry.

Section 1. The Council shall designate a Committee on Infractions which shall be responsible for administration of the NCAA enforcement program.

(a) The Committee shall:

(1) Consider complaints which may be filed with the Association charging the failure of any member to maintain the academic or athletic standards required for membership or the failure of any member to meet the conditions and obligations of membership in the Association;

(2) Provide general guidance to the NCAA investigative staff in the development of information related to alleged violations;

(3) Determine facts related to alleged violations and find violations of NCAA rules and requirements;

(4) Impose appropriate penalties on a member found to be in violation, or recommend to the Council suspension or termination of membership, and

(5) Carry out any other duties directly related to the administration of the Association's enforcement program.

(b) The Committee shall be composed of five members, one of whom shall serve as chairman. Three members present and voting shall

constitute a quorum for conduct of Committee business, it being understood that the chairman shall make a special effort to have full Committee attendance when major infractions cases involving violations are to be considered.

Section 2. (a) All allegations and complaints relative to a member's failure to maintain the academic or athletic standards required for membership, the member's violation of the legislation or regulations of the Association or the member's failure otherwise to meet the conditions and obligations of membership shall be received by the Committee or the Association's executive director and channeled to the NCAA investigative staff.

(b) The investigative staff, so far as practicable and under the general guidance of the Committee, shall make a thorough investigation of all such charges which are received from responsible sources and are reasonably substantial. The investigative staff may conduct a preliminary inquiry to determine whether there is adequate evidence to warrant an official inquiry, and in conducting this inquiry the services of a field investigator may be used.

(c) Under the general guidance of the Committee, the investigative staff also may initiate an investigation on its own motion when it has reasonable cause to believe that a member is or has been in violation of its obligations as a member of the Association.

Section 3. (a) If the Committee on Infractions, after consideration of the information which has been developed and after consultation with the investigative staff, determines that there has been a violation not of a serious nature, it may privately reprimand and censure without a hearing.

(b) If it determines that an allegation or complaint warrants an official inquiry, it shall determine its scope and thrust and direct a letter to the chief executive officer of the member involved (with copies to the faculty representative and athletic director of the member and to the executive officer of the allied conference of which the institution is a member) fully informing him of the matter under inquiry and requesting his cooperation to the end that the facts may be discovered. By this letter, the Committee shall call upon the chief executive officer of the member involved for the disclosure of all relevant information and may require his appearance or the appearance of his representative before the Committee at a time and place which is mutually convenient, if such appearance is deemed necessary by the Committee. If a member declines to meet with the Committee after having been requested to do so, the member shall not have the right to appeal either the Committee's findings of facts and violations or the resultant penalty.

(c) A member which is subject to official inquiry shall be given, upon its request, the opportunity to have representatives appear before the Committee.

Section 4. (a) If a member appears before the Committee to discuss its response to the Committee's official inquiry, the hearing shall be directed toward the general scope of the official inquiry but shall not preclude the Committee from finding any violation resulting from information developed or discussed during the hearing.

(1) During the hearing, the investigative staff first shall

present the information which its investigation has developed.

(2) The member will then present its explanation of the alleged violations and questionable practices and any other arguments or information which it deems appropriate in the Committee's consideration of the case.

(3) The Committee, at the discretion of any of its members, shall question representatives of the member or the investigative staff, as well as any other persons appearing before it, in order to determine the facts of the case. Further, under the direction of the Committee, questions and information may be exchanged between and among all parties participating in the hearing.

(4) The exact procedure to be followed in the conduct of the hearing will be determined by the Committee.

(b) After all presentations have been made and the hearing has been concluded, the Committee shall excuse all others from the hearing and the Committee shall make its determinations of fact and violation.

(1) In arriving at its determinations, it may request additional information from any appropriate source including the member or the investigative staff.

(2) If the Committee determines there has been a violation or questionable practice, it shall impose an appropriate penalty, or it may recommend to the Council suspension or termination of membership in an appropriate case.

(3) The finding of a violation or questionable practice shall be by majority vote of the members of the Committee present and voting. The imposition of a penalty or recommended action shall require the favorable vote of at least three members of the Committee.

Section 5. (a) The Committee, without prior public announcement, shall be obligated to submit promptly a written report, which sets forth its findings and penalty to be imposed, to the chief executive officer of the member (with copies to those individuals receiving copies of the official inquiry) which has been subject to the official inquiry.

(b) The member then shall have the right to give written notice of appeal of the Committee's findings, the penalty, or both, to the Council. To be considered by the Council, the notice of appeal must be received by the NCAA executive director not later than 15 calendar days from the date the member institution received the Committee's report. The member's notice of appeal shall contain a statement of the date the Committee's report was received by the chief executive officer.

(c) If the notice of appeal is not received within the 15-day period, or the member determines not to appeal, the action of the Committee will be announced promptly by the Committee through the NCAA executive office or at any other site determined by the Committee. The Committee shall forward a report of the case to the Council at the time of public announcement.

(d) If appropriate notice of appeal is received, no public announcement will be made until conclusion of the case by the Council.

(e) Determinations of fact and violations arrived at in the foregoing manner by the Committee, or by the Council on appeal, shall be final, binding and conclusive and shall not be subject to further review by the Council or any other authority.

Section 6. (a) The Committee shall be obligated to submit a written summary statement to the Council on each case that is subject to appeal, and it shall include:

(1) Violations of NCAA requirements or questionable practices in light of NCAA requirements, as determined by the Committee;

(2) A statement of the Committee's proposed penalties;

(3) A statement of the origin of the case;

(4) Related factors appropriate for consideration in judgment of the case, and

(5) Disciplinary or corrective actions taken by the institution or conference or any other agency involved in the particular incident.

(b) During an appeal to the Council, the chairman or another member of the Committee shall present the Committee's report. The member institution, if it desires to be represented before the Council, may challenge the Committee's finding of fact or penalty, or both. The Council then shall act upon the member's appeal and may accept the Committee's findings and penalty, alter either one or both or make its own findings and impose a penalty which it believes appropriate.

Section 7. (a) The Constitution of the Association provides that disciplinary or corrective actions other than termination or suspension of membership may be effected during the period between annual Conventions by the Committee on Infractions. As a guiding principle, the NCAA penalty should be broad and severe if the violation or violations reflect a general disregard for the governing rules; in those instances in which the violation or violations are isolated and of relative insignificance, then the NCAA penalty shall be specific and limited. Previous violations of NCAA legislation shall be a contributing factor in determining the degree of penalty.

(b) Among the disciplinary measures, singly or in combination, which may be adopted by the Committee or Council and imposed against an institution are:

(1) Reprimand and censure;

(2) Probation for one year;

(3) Probation for more than one year;

(4) Ineligibility for one or more National Collegiate Championship events;

(5) Ineligibility for invitational and postseason meets and tournaments;

(6) Ineligibility for any television programs subject to the Association's control or administration;

(7) Ineligibility of the member to vote or its personnel to serve on committees of the Association, or both;

(8) Prohibition against an intercollegiate sports team or teams participating against outside competition for a specified period;

(9) Prohibition against the recruitment of prospective student-athletes for a sport or sports for a specified period;

(10) A reduction in the number of either initial or total financial aid awards (as defined by O.I. 500) which may be awarded during a specified period;

(11) Requirement that an institution which has been represented in an NCAA championship by a student-athlete who was recruited or received improper benefits (which would not necessarily render him ineligible) in violation of NCAA legislation shall return its share of net receipts from such competition in excess of the regular expense reimbursement, or if said funds have not been distributed, they shall be withheld by the NCAA executive director; or individual or team records and performances shall be vacated or stricken; or individual or team awards shall be returned to the Association, or any combination of the preceding penalties;

(12) Requirement that a member institution which has been found in violation show cause why:

(i) A penalty or an additional penalty should not be imposed if, in the opinion of the Committee (or Council), it does not take appropriate disciplinary or corrective action against athletic department personnel involved in the infractions case, any other institutional employee if the circumstances warrant or representatives of the institution's athletic interests; or

(ii) A recommendation should not be made to the membership that the institution's membership in the Association be suspended or terminated if, in the opinion of the Committee (or Council), it does not take appropriate disciplinary or corrective action against the head coach of the sport involved, any other institutional employee if the circumstances warrant or representatives of the institution's athletic interests.

(iii) "Appropriate disciplinary or corrective action" as specified in paragraphs (i) and (ii) above, may include, for example, termination of the coaching contract of the head coach and any assistants involved; suspension or termination of the employment status of any other institutional employee who may be involved; severance of relations with any representative of the institution's athletic interests who may be involved; the debarment of the head or assistant coach from any coaching, recruiting or speaking engagements for a specified period, and the prohibition of all recruiting in a specified sport for a specified period.

(iv) The nature and extent of such action shall be the determination of the institution after due notice and hearing to the individuals concerned; but the determination of whether or not the action is appropriate in the fulfillment of NCAA policies and principles, and its resulting effect on any institutional penalty, shall be solely that of the Committee (or Council).

(v) Where this requirement is made, the institution shall show cause, or in the alternative, shall show the appropriate disciplinary or corrective action taken, in writing, to the Committee (or Council) within 15 days thereafter. The Committee (or Council) may, without further hearing, determine on the basis of such writing whether or not in its opinion appropriate disciplinary or corrective action has been taken and may impose a penalty or additional penalty, take no further action or, by notice to the institution, conduct a

further hearing at a later date before making a final determination.

(c) In some instances an institution is rendered ineligible to appear on television programs administered or controlled by the Association. When an institution is banned from such television programs, the penalty shall specify that the institution may not enter into any contracts or agreements for such appearances until the institution's probationary status has been terminated and it has been restored to full rights and privileges of membership.

(d) When an institution has been found to be in violation of NCAA requirements, and the report reflects academic violations or questionable academic procedures, the NCAA executive director shall be authorized to forward a copy of the report to the appropriate regional accrediting agency.

(e) If the Committee, after a review of institutional or conference action taken in connection with a rule infraction, concludes that the corrective or punitive action taken by the institution or conference is representative of and consistent with NCAA policies and principles, the Committee may exercise the discretion to take no further action. Further, self-disclosure shall be considered in establishing penalties; and if an institution uncovers a violation prior to its being reported to the NCAA and/or its conference, such disclosure shall be considered as a mitigating factor in determining the penalty. Also, the Committee may adopt a penalty comparable to the institutional or conference penalty without conducting a hearing with the member; however, the Committee shall notify the member of the NCAA rules or regulations violated and the proposed penalty and advise the member of the opportunity for a hearing.

(1) The member must request such a hearing within 15 days of the receipt of the Committee's notification, if such a hearing is to be held. If a member requests such a hearing, the procedures outlined in Section 4 shall be followed.

(2) In the absence of a member's request for a hearing, the Committee shall impose the penalty and, if appropriate, make public announcement of its action. Punitive or corrective action taken by an institution or conference shall not prevent the Committee from taking any punitive action which it deems advisable or warranted in any case. In cases of serious violation, the NCAA should not leave the discipline exclusively to an institution or conference.

(f) The appropriate infractions report of the Committee on Infractions and Council shall contain a consolidated statement of all penalties, corrective actions, requirements and other conditions and obligations of membership imposed upon a member institution found in violation of NCAA legislation. The statement of such actions shall include, but not be limited to, penalties imposed upon the institution, eligibility rules to be applied, applicable Executive Regulations, the adjustment of individual and team standings in NCAA championship events and the request for the return of any awards and net receipts received for participation in an NCAA championship.

Section 8. (a) When a penalty has been imposed and publicly announced, there shall be no review of the penalty except upon a

showing of newly discovered evidence which is directly related to the findings in the case, or that there was a prejudicial error in the procedure which was followed in the processing of the case by the Committee.

(b) Any institution which initiates such a review shall be required to submit a brief of its appeal to the Committee at least 30 days prior to a Committee meeting and furnish sufficient copies of the brief for distribution to all members of the Committee; thereupon, the Committee shall review the brief and decide by majority vote whether it shall grant a hearing of the appeal.

(c) Disciplinary measures imposed by the institution or its conference, subsequent to the NCAA's action, may be considered to be "newly discovered evidence" for the purposes of this Section.

(d) If a hearing of the appeal is granted, the Committee may reduce or eliminate any penalty but may not impose any new penalty. The Committee's decision with respect to the penalty shall be final and conclusive for all purposes.

Section 9. (a) When the Committee or NCAA Council finds that there has been a violation of the Constitution or Bylaws affecting the eligibility of an individual student-athlete or student-athletes, the institution involved and its conference (if the institution holds such affiliation with an allied member) shall be notified of the violation and the name(s) of the student-athlete(s) involved, it being understood that if the institution fails to take appropriate action, the involved institution shall be cited to show cause under the Association's regular enforcement procedures why it should not be disciplined for failure to do so.

(b) It is understood that if an institution concludes that continued application of the rule(s) would work an injustice on any student-athlete, an appeal shall be submitted to the Council and promptly acted upon by the body or a subcommittee designated by it.

Section 10. If a student-athlete who is ineligible under the terms of the Constitution, Bylaws or other legislation of the Association is permitted to participate in intercollegiate competition contrary to such NCAA legislation but in accordance with the terms of a court restraining order or injunction operative against the institution attended by such student-athlete or the Association, or both, and said injunction is subsequently voluntarily vacated, stayed, reversed or finally determined by the courts that injunctive relief is not or was not justified, the Council may take any one or more of the following actions against such institution in the interest of restitution and fairness to competing institutions:

(a) Requirement that individual or team records and performances achieved during participation by such ineligible student-athlete shall be vacated or stricken;

(b) Requirement that team victories achieved during participation by such ineligible student-athlete shall be abrogated and the games or events forfeited to the opposing institutions;

(c) Requirement that individual or team awards earned during participation by such ineligible student-athlete shall be returned to the Association, the sponsor or the competing institution supplying same;

(d) Determination of ineligibility for one or more National Collegiate Championships in the sports and in the seasons in which such ineligible student-athlete participated;

(e) Determination of ineligibility for invitational and postseason meets and tournaments in the sports and in the seasons in which such ineligible student-athlete participated;

(f) Requirement that the institution shall remit to the NCAA the institution's share of television receipts for appearing in any national or regional telecast under the NCAA football television plan where the Council concludes that the institution would not have been selected for such telecast but for the participation of such ineligible student-athlete during the season of the telecast; any such funds thus remitted shall be devoted to the NCAA postgraduate scholarship program, and

(g) Requirement that the institution which has been represented in an NCAA championship by such a student-athlete shall return its share of the net receipts from such competition in excess of the regular expense reimbursement, or if said funds have not been distributed, requirement that they be withheld by the NCAA executive director.

Section 11. The Committee on Infractions and the Council shall treat all cases before them as confidential, except as provided above, until the same have been announced in accordance with the prescribed procedures. Any member of the Committee on Infractions or Council who is directly connected with an institution under inquiry shall not take part in any NCAA proceedings connected with the case before the Committee or the Council.

APPENDIX "B"
[Per Minute No. 8-c]

ESTABLISHED OPERATING POLICIES AND PROCEDURES

OF THE NCAA COMMITTEE ON INFRACTIONS

The Official Procedure Governing the NCAA Enforcement Program (as set forth in the NCAA Manual) is established by the Council, approved and adopted by the NCAA membership, and implemented by the Committee on Infractions in accordance with the authority vested in the Committee under the Association's Constitution, Bylaws and the Official Procedure itself. During the processing of infractions cases, the Committee acts under this authority to implement the Official Procedure and respond as necessary to questions which arise concerning the guidelines, policies and procedures of the Committee in situations not specifically described under the Official Procedure.

The following compilation is a statement of present guidelines, policies and procedures established in accordance with this authority by the Committee on Infractions as a result of its experience in processing infractions cases under the Official Procedure adopted by the membership in 1973. It should be noted that these guidelines, policies and procedures are subject to continual review and possible change by the Committee on Infractions in the light of reason and experience. To the extent that the Committee may revise these guidelines, policies and procedures, appropriate notification will be sent to any member institution involved in the processing of an infractions case; further, a statement of such revisions will be made available to any other member institution.

In this regard, it must be emphasized that, as provided in Sections 1-(a)-(2), 1-(a)-(5), 2-(b), 2-(c) and 4-(a)-(4) of the Official Procedure Governing the NCAA Enforcement Program, the Committee on Infractions retains ultimate responsibility in each infractions case to provide general guidance to the NCAA investigative staff, to determine the exact procedure to be followed in the conduct of hearings, and to carry out any other duties directly related to the administration of the Association's enforcement program.

Finally, it should be noted that the distribution of the Committee on Infractions' established operating policies and procedures to the NCAA membership in general will not eliminate the need for institutions to contact the Committee to request answers to new procedural questions which may arise in a particular infractions case. Obviously, new procedural questions will arise which will require consideration by the Committee on a case-by-case basis. Accordingly, it will be necessary for the Committee to continue to advise involved member institutions of applicable policies and procedures in their particular cases.

[NOTE: Any questions concerning the proper application of these guidelines, policies and procedures should be directed to the Committee on Infractions through the NCAA national office.]

A. INVESTIGATIVE GUIDELINES

1. The Committee shall provide general guidance to the enforcement staff through approved and established investigative and procedural guidelines. The enforcement staff is responsible for reviewing information reported to the NCAA office and determining the manner in which such information should be investigated and the identity of the individuals to be interviewed. If unusual questions arise concerning investigative procedures during the course of an investigation, the chairman (or the full Committee, if necessary) should be consulted.

2. The enforcement staff shall submit letters to notify member institutions of preliminary inquiries into their athletic policies and practices when information has been developed to indicate that violations of the Association's governing legislation may have occurred which will require further in-person investigation. Such a letter shall advise the institution that the preliminary inquiry will entail the use of a field investigator; further, the letter shall state that in the event the allegations appear to be of a substantial nature, the Committee will submit an official inquiry to the institution in accordance with the provisions of Section 3 of the Official Procedure Governing the NCAA Enforcement Program or, in the alternative, the institution will be notified that the matter has been closed.

3. The director of athletics or other appropriate official of an institution shall be contacted by the enforcement staff in order to schedule interviews with enrolled student-athletes on the institution's campus. If possible, such interviews should be conducted without disrupting the normally scheduled academic activities of the student-athlete.

4. If an interview with an enrolled student-athlete is conducted on the campus of a member institution, an institutional representative (as designated by the institution) will be permitted to be present during the interview, provided the subject matter to be discussed in the interview relates directly to the student-athlete's institution. If the investigator wishes to discuss information with the student-athlete related solely to institutions other than the one in which he is enrolled, the institutional representative shall be requested to excuse himself from that portion of the interview; further, in such a situation (after the institutional representative has departed), any information inadvertently reported by the young man related to his own institution shall not be utilized against the young man or his institution.

5. When an NCAA enforcement staff member conducts an interview which may develop information detrimental to the interests of the individual being questioned, that individual may be represented by his personal legal counsel throughout the interview.

6. In no case shall an enforcement staff member misrepresent his identity or title; further, when an enforcement representative requests information which could be detrimental to the interests of the student-athlete or institutional employee being interviewed, that individual shall be advised that the purpose of the interview is to determine whether the individual has been involved directly or indirectly in any violation of NCAA legislation.

7. At the request of the enforcement staff, the Committee may grant limited immunity to student-athletes providing information in infractions cases when such individuals otherwise might be declared ineligible for intercollegiate competition based on the information they report, it being understood that such immunity shall not apply to the student-athletes' involvement in violations of NCAA regulations which they fail to report or to their future involvement in violations of NCAA legislation. In any case, such immunity shall not be granted unless the student-athlete voluntarily provides information not otherwise available to the enforcement staff when no previous information had been developed to jeopardize the young man's eligibility.

8. It shall not be permissible for any individuals involved in interviews conducted by the enforcement staff to record such interviews through the use of a court reporter or other individual, or any mechanical device; however, it shall be permissible for all individuals involved in such interviews to take handwritten notes of the proceedings.

9. Whenever possible, individuals who have reported information to the enforcement staff should be given the opportunity to review the information set forth in the investigator's report of the interview and be provided the opportunity to make additions or corrections. Copies of such reports are confidential and shall not be provided to individuals (or their institutions) who may be involved in reporting information during the processing of an infractions case.

10. The enforcement staff shall attempt to develop any information which would corroborate or refute alleged violations of NCAA legislation reported in previous interviews.

11. The enforcement staff shall terminate the investigation related to any preliminary inquiry in which information is developed which does not appear to be of sufficient substance or reliability to warrant an official inquiry, it being understood the enforcement staff shall report to the Committee the reasons such a case is closed.

12. The Committee may authorize an enforcement staff member to meet personally with the chief executive officer of the involved institution to discuss the allegations investigated and information developed by the NCAA in a case which has been terminated.

13. The enforcement staff shall attempt to coordinate the processing of infractions cases with the involved allied member conference unless it would hinder the development of the NCAA investigation to do so.

14. Subsequent to the filing of an official inquiry in an infractions case, the primary investigator in the case shall be available to assist the involved institution for purposes such as meeting with the institution to discuss the development of its response, and assisting in locating various principals in the case.

15. The enforcement staff shall not confirm or deny the existence of an infractions case prior to complete resolution of the case through normal NCAA enforcement procedures. However, if the involved institution makes a public announcement concerning a case, the enforcement staff may confirm the information made public by the institution.

B. LETTERS OF OFFICIAL INQUIRY

1. The enforcement staff shall report to the Committee the general scope of the matters under investigation in order to obtain authorization to file a letter of official inquiry with the involved institution; further, the chairman may authorize the filing of such inquiries in the interim between meetings of the full Committee.

2. In the event the representative of a member institution refuses to submit relevant information to the Committee or the enforcement staff upon request, the Committee may authorize an official inquiry to be filed with the institution alleging a violation of the cooperative principles of the NCAA Bylaws and enforcement procedure; further, institutional representatives may be requested to appear before the Committee at the time the allegation is considered.

3. At the time an official inquiry is filed, the enforcement staff shall suggest a date and time for the involved institution's representatives to meet with the Committee. If an objection to this suggestion is expressed by the institution, the chairman (or the full Committee, when necessary) shall be contacted to resolve the matter. [NOTE: Although every effort will be made to schedule a meeting at a mutually convenient time and place, the Committee reserves the right to determine the actual date and site.]

4. The cover letter accompanying each official inquiry shall contain notification that the institution is requested to: (a) read each allegation involving a present or former institutional staff member, or a currently enrolled student-athlete, to the identified individual, and (b) provide him the opportunity to submit in writing and orally any information he desires which is relevant to the allegation in question. In addition, the institution shall be advised that each identified present or former institutional staff

member, or enrolled student-athlete, should be notified in person, as well as in writing, by the institution that he and his legal counsel (if any) may appear before the Committee at the time it considers each allegation in which the staff member or student-athlete is involved.

5. The cover letter accompanying each official inquiry shall contain a specific reference to Section 4 of the Official Procedure Governing the NCAA Enforcement Program (which describes the general procedures to be followed during a hearing), as well as notice in extensive cases that the primary NCAA investigator in the case is available to assist the institution in the development of its response to the official inquiry.

6. The institution's response to the Committee's official inquiry should be on file with members of the Committee and the NCAA enforcement department at least two weeks prior to the institution's appearance before the Committee. An institution may not submit additional documentary evidence (in addition to its initial response) without prior authorization from the Committee.

C. INSTITUTIONAL HEARINGS

1. When the Committee on Infractions does not request that an institution be represented in person before the Committee, the institution may choose to have the matter in question reviewed on the basis of the written record before the Committee.

2. An institution shall be advised in writing prior to its appearance before the Committee of the general procedures to be followed during the hearing. Such notification shall contain a specific reference to Section 4 of the Official Procedure Governing the NCAA Enforcement Program and shall indicate that as a general rule, the discussion during the hearing will follow the numbering of the allegations in the official inquiry.

3. In cases requiring an institutional hearing before the Committee, specific information and evidence developed by the staff related to alleged violations of NCAA regulations shall not be presented to the Committee prior to the University's appearance.

4. A member of the Committee or the NCAA Council who is prohibited under the provisions of Section 11 of the NCAA enforcement procedure from participating in any NCAA proceedings, may not attend a Committee on Infractions hearing involving his institution unless specifically requested by the Committee to be present as a witness.

5. At the time the institution appears before the Committee, its representatives may include: (a) currently enrolled student-athletes involved in allegations; (b) present or former institutional staff members involved in allegations; (c) legal counsel for the student-athletes or staff members in question, and (d) officials of the institution and the institution's legal counsel. None of these individuals who appear before the Committee may be represented by an individual other than his personal legal counsel. No other individuals may be included among the institution's representatives during an institutional hearing unless specifically requested to be present by the Committee.

6. Institutional officials, staff members or enrolled student-athletes who are specifically requested to appear before the Committee at an institutional hearing are expected to appear in person and may be represented by personal legal counsel. Any student-athlete (and his legal counsel) included among the institution's representatives may attend the hearing only during the discussion of the allegations in which he is involved.

7. The commissioner or other representative of an allied conference's executive office may attend an institutional hearing involving a conference member, subject to approval of the involved institution.

8. The chairman shall request each institution appearing before the Committee to select one person to coordinate institutional responses during the hearing. In addition, one individual from the NCAA enforcement department will be responsible for coordinating the responses of the investigative staff.

9. The enforcement staff shall prepare a worksheet listing all allegations and applicable NCAA regulations in infractions cases to assist Committee members in following discussion of each allegation during the hearing. At the time of the hearing, the institution will be provided copies of the allegation worksheet, and if any variation exists between the statement of allegations in the official inquiry and the worksheet, the allegations contained in the official inquiry shall be controlling.

10. The proceedings of institutional hearings shall be tape-recorded by the Committee. No additional verbatim recording of these proceedings will be permitted by the Committee. An institution shall not be provided the Committee's recording or a copy of the transcript of the hearing. However, subject to approval of the Committee, authorized representatives of the institution may be permitted to review the tape recording at the NCAA executive office, it being understood a verbatim transcript of the recording shall not be taken by institutional representatives during such a review.

11. In presenting information and evidence for consideration by the Committee during an institutional hearing, the enforcement staff shall present only information which can be attributed to individuals who are willing to be identified. Information obtained from individuals not wishing to be identified shall not be presented. Such confidential sources shall not be identified to either the Committee on Infractions or the institution.

12. At the conclusion of the hearing, the institutional representatives and the NCAA enforcement staff will be dismissed in order that the Committee may deliberate in private to determine findings of violations and penalties to be imposed, if any.

13. In arriving at its determinations, the Committee may request additional information from any appropriate source, including the institution or the investigative staff.

D. CONFIDENTIAL REPORTS

1. Subsequent to an institutional hearing, the enforcement staff shall be authorized to draft the Committee's confidential report of the findings of violations and penalties determined by the Committee. Further, the staff shall be authorized to draft the Committee's expanded confidential report to the NCAA Council upon appeal of any of the Committee's findings or penalties. The confidential reports shall reflect accurately the Committee's actions and the reasons therefor, and are subject to the approval of the chairman (and, if necessary, the full Committee).

2. The Committee's confidential report (as described in Section 5 of the Official Procedure Governing the NCAA Enforcement Program) shall be forwarded to the involved institution under the chairman's signature or under the signature of a Committee member selected to act for the chairman. Further, the report shall be sent by certified mail, return-receipt requested in order that the 15-day appeal period applicable to this report may be firmly established.

3. In the event an institution appeals any of the Committee on Infractions' findings of violations or penalties to the NCAA Council, a copy of the Committee's expanded confidential report to the Council (as described in Section 6 of the Official Procedure Governing the NCAA Enforcement Program) shall be provided the institution prior to the time of its appearance before the Council.

E. PENALTIES

1. Once the Committee has made its findings of violations in an infractions case but prior to its determination of the penalties to be imposed, information may be obtained from the enforcement staff concerning penalties imposed in previous cases involving findings similar in number and significance.

2. In the event the Committee imposes a penalty involving a probationary period, the institution shall be notified that after the penalty becomes effective, the NCAA investigative staff will review the athletic policies and practices of the institution prior to action by the Committee to restore the institution to full rights and privileges of membership in the Association; further, the institution shall be notified that should any of the penalties in the case be set aside for any reason other than by appropriate action of the Association, the penalties shall be reconsidered by the NCAA.

3. In the event the Committee considers additional penalties to be imposed upon an institution in accordance with the procedures outlined in Section 7-(b)-(12) of the Official Procedure Governing the NCAA Enforcement Program, the involved institution shall be provided the opportunity to appear before the Committee; further, the institution will be provided the opportunity to appeal any additional penalties imposed by the Committee to the NCAA Council.

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F. PRESS RELEASES

1. The enforcement staff shall draft the Committee's press release related to an infractions case involving a public penalty, it being understood that the press release shall reflect accurately the Committee's thinking and shall be subject to the approval of the chairman (and, if necessary, the full Committee). Further, the most serious and significant findings of violations of NCAA legislation shall appear at the beginning of the summary of violations in the release.

2. The Committee's public announcement related to an infractions case shall be made available to the national wire services and other media outlets. In this regard, the involved institution shall be advised of the text of the announcement prior to its release and shall be requested not to comment publicly concerning the case prior to the time the NCAA's public announcement is released.

# # #

AN ENFORCEMENT CASE STUDY

FOR THE

1977 NCAA MEDIA SEMINAR

UNIVERSITY OF TENNESSEE, KNOXVILLE

NCAA PUBLIC RELATIONS COMMITTEE

MAY 9-11, 1977

CONTENTS

WHITE -- Letter of Preliminary Inquiry

Purpose: To notify the institution that its athletic program is under inquiry.

Legislative Source: Section 2 of the "Official Procedure Governing the NCAA Enforcement Program," page 122, 1977-78 NCAA MANUAL.

BLUE -- Letter of Official Inquiry (cover letter included)

Purpose: To notify the institution of the specific matters under inquiry and to request institutional cooperation in discovering facts related to specific allegations.

Legislative Source: Section 3 of the "Official Procedure Governing the NCAA Enforcement Program," page 122, 1977-78 NCAA MANUAL.

GRAY -- Infractions Committee Appearance Letter

Purpose: To notify the institution of date of the institution's appearance before the Committee on Infractions and to generally describe the procedures to be followed during the hearing.

PINK -- Confidential Report (cover letter included)

Purpose: To notify the institution of the Committee on Infractions' findings, and proposed penalty as a result of the Official Inquiry and to notify the institution of appeal procedures, application of related rules and regulations and resultant conditions and obligations of membership.

Legislative Source: Section 5 of the "Official Procedure Governing the NCAA Enforcement Program," page 123, 1977-78 NCAA MANUAL.

GREEN -- Council Appearance Letter

Purpose: To notify the institution of the date of the institution's appearance before the NCAA Council and to generally describe the procedures to be followed during the appearance.

SALMON — Expanded Confidential Report (cover letter included)

Purpose: Committee on Infractions' Report to the NCAA Council summarizing the evidentary basis for the appealed findings and/or explanation of the proposed penalty.

Legislative Source: Section 6 of the "Official Procedure Governing the NCAA Enforcement Program," page 124, 1977-78 NCAA MANUAL.

YELLOW — Press Release

Purpose: To publicly announce the Committee on Infractions' and/or Council's findings and penalty

Legislative Source: Section 5 of the "Official Procedure Governing the NCAA Enforcement Program," page 123, 1977-78 NCAA MANUAL.

National Collegiate Athletic Association
April 28, 1977/met

The National Collegiate Athletic Association

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University of Texas
Austin, Texas 78758

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Confidential

Dr. John Doe
President
Infractions Institute
Penalty, Pennsylvania 10101

Dear President Doe:

Undoubtedly, you are familiar with the enforcement program of the NCAA and the responsibilities and obligations of the Association's Committee on Infractions. This letter is to advise you of a preliminary inquiry into the athletic policies and practices of Infractions Institute.

Allegations have been received which charge the violation of NCAA requirements on the part of the institution and its representatives. As of this date, the allegations have not been sufficiently investigated to determine whether an official inquiry is warranted. Consequently, the NCAA investigative staff is undertaking a preliminary inquiry into these allegations in accordance with the provisions of Section 2 of the "Official Procedure Governing the NCAA Enforcement Program," page 122, 1977-78 NCAA MANUAL. The inquiry will entail the use of a field investigator.

As noted, the purpose of a preliminary inquiry is to determine whether there is adequate evidence to warrant an official inquiry. If, following this preliminary checking, the information developed appears to be of a reasonable and substantial nature, the Committee on Infractions will correspond with you in accordance with the provisions of Section 3 of the "Official Procedure Governing the NCAA Enforcement Program." If not, you will be notified that the matter has been closed.

This letter is merely intended to acquaint you with the developments to date and assure you that you and your institution will be fully advised if there is sufficient evidence developed to warrant an official inquiry.

Sincerely,

William B. Hunt
Assistant Executive Director

WBH:xx
cc: Conference Commissioner
Director of Athletics
Faculty Athletic Representative
NCAA Committee on Infractions

The National Collegiate Athletic Association

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University of Texas
Austin, Texas 78758

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April 10, 1980

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Edward S. Steitz
Springfield College

Confidential

Dr. John Doe
President
Infractions Institute
Penalty, Pennsylvania 10101

Dear President Doe:

This letter (and enclosure) is the result of a preliminary inquiry which has been conducted by the NCAA into the athletic policies and practices of Infractions Institute. This inquiry was initiated in accordance with Section 2 of the Official Procedure Governing the NCAA Enforcement Program, page 122, 1977-78 NCAA MANUAL.

The allegations and charges filed have been investigated and appear to be of sufficient substance and reliability to warrant an official inquiry. Accordingly, this letter (and enclosure) constitutes an official inquiry as described in Section 3 of the Official Procedure Governing the NCAA Enforcement Program. In order that complete information may be developed, several questions are submitted to obtain the facts of these matters and to determine the policies and practices of Infractions Institute in certain areas of athletic administration.

In the interest of clarity and in accordance with general procedures established by the Committee on Infractions, Infractions Institute is requested to copy each item contained in the official inquiry and each of its subparagraphs. The Institute's response should immediately follow each numbered item or subparagraph to which the information submitted is directly responsive.

Six copies of your response should be forwarded to the writer at the NCAA executive office and one copy should be forwarded to each member of the Committee on Infractions at the following addresses:

Mr. Harry M. Cross
Professor of Law
University of Washington
Seattle, Washington 98195

Mr. John W. Sawyer
Box 7401
Wake Forest University
Winston-Salem, North Carolina 271

Mr. William L. Matthews
Professor of Law
University of Kentucky
Lexington, Kentucky 40506

Mr. Charles A. Wright
2500 Red River
University of Texas
Austin, Texas 78705

Mr. Arthur R. Reynolds
Dean, Graduate School
University of Northern Colorado
Greeley, Colorado 80631

Mr. William B. Hunt (6 copies)
NCAA
P.O. Box 1906
Shawnee Mission, Kansas 66222

All responses should be on file with these individuals, including the writer, by July 7, 1980. The Committee on Infractions will consider your response during its July 21-23 meeting in Kansas City, Missouri. The Committee would welcome an appearance by representatives of the Institute at that time. In this regard, it is requested that assistant basketball coaches John Smith and Jack Taylor, as well as head basketball coach Wayne Winn be included among Infractions Institute's representatives who will appear before the Committee. Please note that Messrs. Smith, Taylor and Winn may be represented by independent legal counsel at the time of their appearance before the Committee, it being understood that participation of their attorneys shall be limited to discussion of allegations involving their clients.

You will note the statement immediately following each allegation requests that the Institute indicate whether the allegation is substantially correct and submit information to support its response. In accordance with the cooperative principle of the enforcement program, the Institute should make every effort to interview the principals identified in the allegations and collect related information, regardless of whether a request to do so is specifically contained in the allegation. The Committee's interest is for both the NCAA investigative staff and the Institute to collect, where possible, all available information for consideration in determining the validity of the allegations.

If the Institute does not believe the allegation is substantially correct, it should support its position with any evidence upon which the conclusion is based. Further, if the Institute concludes the allegation is substantially correct, but not complete or accurate in all respects, it should submit additional information to clarify or adjust the allegation as written.

In accordance with procedures adopted by the Committee on Infractions, the Institute is requested to read each allegation involving a currently enrolled student-athlete and/or institutional staff member to the identified individual and provide him the opportunity to submit in writing and orally any information he desires which is relevant to the allegation in question. In addition, each identified student-athlete and/or institutional staff member should be notified in person as well as in writing by the institution that he and his legal counsel, if any, may appear before the Committee at the time it considers any allegation in which the student-athlete or staff member is involved. Please submit copies of any written notification provided each individual at the time the Institute's response is submitted to the Committee and describe the procedure by which each individual was provided the opportunity to submit information to the Committee concerning the specific allegations involving him.

The enforcement program of the NCAA is a cooperative undertaking involving individual member institutions and allied conferences working together through the NCAA — a unified effort designed to improve the administration and conduct of intercollegiate athletics.

You are called upon as the chief executive officer of Infractions Institute for your cooperation and assistance to the end that complete information related to this matter may be developed.

Sincerely,

William B. Hunt
Assistant Executive Director

WBH:xx
Enclosure
cc: Conference Commissioner
Director of Athletics
Faculty Athletic Representative
NCAA Committee on Infractions

OFFICIAL INQUIRY

to the

Chief Executive Officer of Infractions Institute

[Allegations: Infractions Institute violated the provisions of NCAA Constitution 3-1-(g)-(5), 3-2, 3-4-(a) and 3-6-(a), and Bylaws 1-1-(a), 1-7-(a), 1-7-(c), 1-7-(d), and the official interpretations therof, in that: (a) a member of the Institute's basketball coaching staff and a representative of the Institute's athletic interests arranged and/or provided extra benefits and improper financial assistance to a student-athlete; (b) the Institute failed to apply the principles of institutional control and responsibility to certain representatives of its athletic interests and certain members of its athletic coaching staff; (c) the involvement of certain members of the Institute's coaching staff in the alleged violations is contrary to the principles of ethical conduct; (d) members of the Institute's basketball coaching staff and certain representatives of the Institute's athletic interests recruited certain prospective student-athletes with the promise or provision of improper inducements; (e) a prospective student-athlete was provided two paid visits to the Institute's campus, and (f) certain prospective student-athletes were provided improper transportation in a private aircraft.]

1. It is alleged that during the recruitment of then prospective student-athlete John Humble in June 1977, head basketball coach Wayne Winn and Aaron Aide, a representative of the Institute's athletic interests, traveled to Humble's hometown (Apex, South Carolina) to meet with the young man; further, for a period of time during this meeting, Winn excused himself while Aide promised Humble that if he attended the Institute, Humble would receive at no personal expense: (1) an automobile; (2) $150 cash per month in addition to a full scholarship, and (3) commercial airline transportation for Humble's parents to attend the Institute's basketball games; finally, Winn was knowledgeable that these promises were to be made and subsequently were made by Aide.

   Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

   a. The reasons Aide made these promises to Humble.

   b. A statement indicating the source of funds to be utilized by Aide to pay the costs of these benefits.

   c. The identity of all athletic department staff members, including Winn, involved in or knowledgeable of the promise of these benefits, and a description of such knowledge and/or involvement prior to, at the time of and subsequent to Aide's meeting with Humble.

   d. A statement indicating and describing the relationship of Aide to Winn, Humble and the Institute's athletic program. In this regard, include information indicating whether he: (1) has been involved in the recruitment of prospective student-athletes for the Institute; (2) has been a member of either the Institute's alumni organization or an athletic booster group; (3) is an alumnus of the Institute, and (4) has ever contributed funds to the Institute and/or its athletic program.

2. It is alleged that during his attendance at the Institute (1977-78 and 1978-79 academic years), student-athlete John Humble was provided (in addition to a full scholarship) a monthly cash allowance of approximately $150 for his personal use by head basketball coach Wayne Winn; further, these funds were provided to Winn for this purpose by Aaron Aide, a representative of the Institute's athletic interests.

   Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

a. The reasons this money was given to Humble.

b. The number of monthly payments which were made to Humble.

c. A statement indicating the source of funds utilized by Aide to provide this money to Winn.

d. The identity of all athletic department staff members, including Winn, involved in or knowledgeable of the provision of this money to Humble, and a description of such knowledge and/or involvement prior to, at the time of and subsequent to its provision.

3. It is alleged that on numerous occasions during his attendance at the Institute (1977-78 and 1978-79 academic years), student-athlete John Humble was provided (in addition to a full scholarship and the monthly allowance described in Allegation 2 of this inquiry) cash in amounts ranging from $10-$25 by head basketball coach Wayne Winn and Aaron Aide, a representative of the Institute's athletic interests, to utilize for personal reasons.

Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

a. The reasons this money was given to Humble.

b. A statement of the number of times this money was provided and the amount involved on each occasion.

c. A statement indicating the source of funds utilized by Winn and Aide to provide this money to Humble.

d. The identity of all athletic department staff members, including Winn, involved in or knowledgeable of the provision of money to Humble on these occasions, and a description of such knowledge and/or involvement prior to, at the time of and subsequent to its provision.

4. It is alleged that during his attendance at the Institute (1977-78 and 1978-79 academic years), student-athlete John Humble was provided commercial airline transportation at no personal expense between Penalty, Pennsylvania, and his hometown (Apex, South Carolina) on at least one occasion during each academic year through the arrangements of head basketball coach Wayne Winn.

Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

a. The reasons Humble was provided commercial airline transportation without charge to him.

b. The number of times and dates Humble was provided such transportation.

c. A statement indicating the actual cost of this transportation and the source of funds utilized by Winn to pay this cost on each occasion.

d. The identity of all athletic department staff members, including Winn, involved in or knowledgeable of the provision of this transportation for Humble, and a description of such involvement and/or knowledge prior to, at the time of and subsequent to its occurrence on each occasion.

5. It is alleged that in January 1979, through the arrangements and at the expense of Aaron Aide, a representative of the Institute's athletic interests, student-athlete John Humble's two brothers (Cubby and Fred) were provided round-trip, commercial airline transportation at no personal expense to them between Apex, South Carolina, and Penalty, Pennsylvania, to attend the Institute's January 9 basketball game with the University of the West.

Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

a. The reasons Humble's brothers were provided commercial airline transportation on this occasion at no charge to them.

b. A description of the arrangements made by Aide to provide commercial airline tickets for Humble's brothers on this occasion, and a statement indicating the actual cost of the tickets and the source of funds utilized by Aide to pay this cost.

c. The identity of all athletic department staff members involved in or knowledgeable of this matter, and a description of such involvement and/or knowledge prior to, at the time of and subsequent to its occurrence.

6. It is alleged that during his attendance at the Institute (1977-78 and 1978-79 academic years), student-athlete John Humble was provided tickets at no personal expense to local entertainment events (Beatles Concert, June 1977, Penalty Arena; Johnny Cash Concert, September 1977, Penalty Forum, and Jefferson Airplane Concert, December 1977, Felt Arena) through the arrangements of Aaron Aide, a representative of the Institute's athletic interests.

   Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

   a. A description of all entertainment events for which Aide provided or arranged Humble's free admission.

   b. The reasons Humble was provided tickets to entertainment events at no charge to him.

   c. A statement indicating the amount and source of funds utilized to pay these entertainment costs on each occasion.

7. It is alleged that during the 1977-78 and 1978-79 academic years, head basketball coach Wayne Winn and Aaron Aide, a representative of the Institute's athletic interests, arranged for student-athlete John Humble to be provided a 1978 Oldsmobile Ninety-Eight automobile for his personal use without charge to him; further, Winn arranged for this automobile to be leased from the Friendly Alumni Oldsmobile Dealership in Penalty, Pennsylvania, at Aide's expense.

   Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

   a. The reasons Humble was permitted to use this automobile at no cost to him.

   b. A description of the automobile and the financial arrangements for its use, including supporting documentation, related to leasing the automobile.

   c. A description of the involvement of Aide in the arrangements for the use of the automobile.

   d. A statement indicating the source of funds utilized to make the monthly payments for the automobile.

e. The identity of all athletic department staff members, including Winn, involved in or knowledgeable of the provision of this automobile to Humble, and a description of such involvement and/or knowledge prior to, at the time of and subsequent to Humble's use of the automobile.

8. It is alleged that while recruiting then prospective student-athlete Leon Luck during the 1977-78 academic year, Samuel Sad, a representative of the Institute's athletic interests, promised that if Luck would attend the Institute, he would receive: (1) extra spending money when needed; (2) an automobile; (3) a cost-free apartment, and (4) cost-free transportation between the Institute and his home during vacation periods; further, assistant basketball coach John Smith was present at the time Sad made these promises to Luck.

Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

a. The reasons Sad made these promises to Luck.

b. A statement indicating the source of funds available to Sad to provide these benefits.

c. The identity of all athletic department staff members, including Smith, involved in or knowledgeable of these promises, and a description of this knowledge and/or involvement prior to, at the time of and subsequent to the time the promises were made.

d. A statement indicating the relationship of Sad to Smith, Luck and the Institute's athletic program. In this regard, include information indicating whether he: (1) has been involved in the recruitment of prospective student-athletes for the Institute; (2) has been a member of either the Institute's alumni organization or an athletic booster group; (3) is an alumnus of the Institute, and (4) has ever contributed funds to the Institute and its athletic program.

9. It is alleged that at the conclusion of a campus tour during then prospective student-athlete Leon Luck's official paid visit to the Institute on February 14, 1978, assistant basketball coach John Smith gave $20 cash to Luck to spend for his own personal reasons.

Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

a. The reasons Smith provided this cash to Luck.

b. A statement indicating the source of funds utilized by Smith to give this cash to Luck.

c. The identity of all athletic department staff members, including Smith, involved in or knowledgeable of this incident, and a description of this knowledge and/or involvement prior to, at the time of and subsequent to its occurrence.

d. A statement indicating whether Smith or any other coach has provided cash directly to prospects during their official paid visits or on other occasions not set forth in this inquiry during the 1975-76 or 1976-77 academic years. If so, identify the coaches involved, describe the source of these funds and indicate whether each prospective student-athlete is currently enrolled in the Institute with eligibility remaining.

10. It is alleged that on several occasions during the 1976-77 academic year, head basketball coach Wayne Winn gave $20 cash to then prospective student-athlete Milan Miller. Specifically, on December 18, 1976, at the conclusion of a visit to Miller's home, Winn provided the young man $20 cash in the presence of Devious Dixon, a representative of the Institute's athletic interests; further, Winn visited the young man approximately once a week between December and February and provided him approximately $20 cash on virtually every occasion.

Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

a. The reasons Winn provided cash to Miller.

b. A statement of the actual dates cash was provided Miller and the source of funds utilized by Winn for this purpose.

c. A statement of the total amount of cash Winn provided Miller during his recruitment.

d. A statement indicating the relationship of Dixon to Winn, Miller and the Institute's athletic program. In this regard, include information indicating whether he: (1) has been involved in the recruitment of prospective student-athletes for the Institute; (2) has been a member of either the Institute's alumni organization or an athletic booster group; (3) is an alumnus of the Institute and its athletic interests, and (4) has ever contributed funds to the Institute or its athletic program.

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e. The identity of all athletic department staff members, including Winn, involved in or knowledgeable of the gift of this cash, and a description of such involvement and/or knowledge prior to, at the time of and subsequent to the gift of this cash.

11. It is alleged that during the 1976-77 academic year, then prospective student-athlete Simon Skyhook was provided two expense-paid visits to the Institute's campus. Specifically, on November 20, 1976, Skyhook was transported via automobile by and at the expense of Devious Dixon, a representative of the Institute's athletic interests, to attend a football game on campus; further, Skyhook was lodged at the Paradise Inn Hotel in Penalty at the expense of the Institute through the arrangements of assistant basketball coach Jack Taylor; finally, on February 5 and 6, 1977, through the arrangements of Taylor, Skyhook again visited the campus and was provided room, board, entertainment and transportation at the expense of the Institute.

Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

a. The actual dates of each visit by Skyhook.

b. A description and documentation of the source of payment for Skyhook's room, board, transportation and entertainment expenses during each visit.

c. The reasons Taylor arranged a second paid visit for Skyhook in light of NCAA legislation.

d. The identity of all athletic department staff members, including Taylor, involved in or knowledgeable of the arrangements for each visit, and a description of such involvement and/or knowledge prior to, at the time of and subsequent to each visit.

12. It is alleged that on February 10, 1978, through the arrangements of assistant basketball coach Jack Taylor, then prospective student-athletes Blaze Eng and Scott Black (both from Honolulu, Hawaii) were transported round trip between Honolulu and Penalty, Pennsylvania, for their official paid visits to the Institute in a privately owned aircraft which was not accompanied by its owner.

Please indicate whether this information is substantially correct and submit evidence to support your response. Also, provide the following:

a. The actual dates of this transportation.

b. The identity of the owner and title holder of the aircraft and documentation thereof.

c. The identity of all individuals on board the aircraft on each portion of each flight.

d. A detailed description of the arrangements to use the aircraft to transport these prospective student-athletes and the identity of all individuals involved in the arrangements.

e. The reasons the aircraft was used to transport the young men.

f. The identity of all athletic department staff members, including Taylor, involved in or knowledgeable of the arrangements to use this aircraft on this occasion, and a description of this involvement and/or knowledge prior to, at the time of and subsequent to its use.

13. It is alleged that head basketball coach Wayne Winn and assistant basketball coaches John Smith and Jack Taylor acted contrary to the principles of ethical conduct inasmuch as they did not, on all occasions, deport themselves in accordance with the generally recognized high standards normally associated with the conduct and administration of intercollegiate athletics, in that their involvement in the alleged violations set forth in this inquiry demonstrates a knowing and willful effort on their part to operate the Institute's intercollegiate basketball program contrary to NCAA legislation.

Please indicate whether this information is substantially correct and submit evidence to support your response.

14. Please provide a detailed description and explanation of all corrective and punitive actions, if any, taken against head basketball coach Wayne Winn and assistant basketball coaches John Smith and Jack Taylor for their involvement in violations of NCAA legislation as set forth in this inquiry. In this regard, explain the reasons the Institute believed these actions to be appropriate, identify the allegations upon which such actions were based, indicate the dates the Institute became aware of each individual's involvement in each violation, indicate the date any disciplinary or corrective action was taken for each violation and submit copies of all correspondence written from the Institute to each individual describing these actions.

15. Please indicate whether it is the policy of the Institute to enlist the assistance of representatives of its athletic interests to recruit prospective student-athletes, as well as to establish a relationship with enrolled student-athletes for the purpose of providing personal guidance or assistance. If your response is in the affirmative in any degree, describe the Institute's policies in this regard and explain what controls, if any, are exercised to insure that these athletic representatives conduct themselves in accordance with institutional and NCAA rules and regulations. In addition, describe all corrective actions, if any, taken against identified representatives of the Institute's athletic interests for their involvement in the alleged violations of NCAA legislation set forth in this inquiry and the basis for such action.

16. In light of the considerable amount of money involved in the numerous allegations contained in this inquiry, there is the possibility that outside funds or other sources of money not administered by the Institute are being made available for the purpose of providing financial assistance to members of the basketball coaching staff and prospective and/or enrolled student-athletes. Accordingly, the Institute is requested to review carefully these allegations with a view toward determining whether such funds exist; further, the Institute is requested to submit the results of this review in writing in its response to this inquiry, and its representatives be prepared to discuss this matter at the time of their appearance before the Committee on Infractions.

    In conducting this review, the Institute should take into consideration the close relationship of representatives of the Institute's athletic interests identified in this inquiry to members of the basketball coaching staff and student-athletes enrolled in the Institute, as well as the resources available to these individuals to furnish such financial assistance.

17. Any additional comments or information regarding this case would be welcomed.

# # #

The National Collegiate Athletic Association

President
J. NEILS THOMPSON
University of Texas
Austin, Texas 78758

Executive Director
WALTER BYERS

Secretary-Treasurer
EDGAR A. SHERMAN
Muskingum College
New Concord, Ohio 43762

May 15, 1980

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EDWARD S. STEITZ
Springfield College

Confidential

Dr. John Doe
President
Infractions Institute
Penalty, Pennsylvania 10101

Dear President Doe:

The NCAA Committee on Infractions has scheduled an appearance by representatives of Infractions Institute for Monday, July 21, 1980, beginning at 9:00 a.m. (CDT), at the Inn Hotel, Kansas City, Missouri.

In order to finalize the agenda, it would be appreciated if you would identify at your earliest opportunity the individuals who will represent the Institute at that time. As noted in my April 10 letter, it is requested that the Institute be represented by at least John Smith, Jack Taylor and Wayne Winn. Also, please review the contents of my April 10 letter concerning the attendance of enrolled student-athletes, institutional staff members and their personal attorneys.

To assist you in preparing for the appearance, your attention is directed to Section 4 of the Official Procedure Governing the NCAA Enforcement Program, page 122, 1977-78 NCAA MANUAL. Section 4 establishes the general guidelines which will be followed at the hearing. At the outset, an Institute spokesman will be given the opportunity to make a brief introductory statement concerning the case in general, the contents of which should not relate to the substance of any specific allegation contained in the official inquiry. A representative of the NCAA enforcement staff will also be given the opportunity to make a similar introductory statement.

Thereafter, each item of the official inquiry will be discussed for the most part in numerical order with the institutional representatives and enforcement staff presenting relevant information pertaining to the allegations and the Committee taking part in the discussion as it desires. Please note that the Committee encourages both the enforcement staff and institutional representatives to present only that information relevant to the substance of the allegation in order that there will not be unnecessary, extended discussion concerning the allegation.

After each allegation has been discussed, there will then be an opportunity for both the institutional spokesman and enforcement staff to make summary statements concerning the case in general.

Please contact me if you have any questions concerning the hearing procedures.

Sincerely,

William B. Hunt
Assistant Executive Director

WBH:xx
cc: Conference Commissioner
Director of Athletics
Faculty Athletic Representative
NCAA Committee on Infractions

The National Collegiate Athletic Association

President
J. NEILS THOMPSON
University of Texas
Austin, Texas 78758

Executive Director
WALTER BYERS

Secretary-Treasurer
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Muskingum College
New Concord, Ohio 43762

August 1, 1980

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EDWARD S. STEITZ
Springfield College

Confidential

Dr. John Doe
President
Infractions Institute
Penalty, Pennsylvania 10101

Dear President Doe:

The enclosed Confidential Report No. 999 (70) [Case No. 13, Infractions Institute] is forwarded to you in accordance with Section 5 of the Official Procedure Governing the NCAA Enforcement Program, page 123, 1977-78 NCAA MANUAL, and contains the Committee on Infractions' findings of violations of NCAA legislation or questionable practices and a statement of the proposed penalty to be imposed upon the Institute.

Section 5 provides that Infractions Institute has the opportunity to appeal the Committee on Infractions' findings, penalty or both to the NCAA Council. Written notice of appeal must be received by the NCAA executive director no later than 15 calendar days from the date the Institute receives the enclosed report. Receipt of the appeal notice, if any, prior to the expiration of the 15-day period would be appreciated if convenient to the Institute.

Such a notice of appeal shall contain a statement of the date the Committee's report was received by the Institute's chief executive officer and a statement of each finding and/or penalty being appealed. In the case of appeal, please forward 30 copies of the written appeal notice, which shall not only contain a statement of the specific items being appealed, but also the reasons therefor in each instance. The Council may accept the Committee's findings and penalty, alter either one or both, or make its own findings and impose a penalty it believes appropriate.

If the Institute desires to appeal, it may do so by appearing before the NCAA Council during its October 1-5, 1980, meeting at the Sheraton Hotel, Gatlinburg, Tennessee. Note that at the time of appearance, the Institute's presentation and comments shall relate only to the actual findings of violation(s) and/or penalty which the Institute has identified to the NCAA executive director in its notice of appeal. Upon receipt of the notice of appeal, if any, the executive director will notify you of the actual appearance time. Please note that any currently employed institutional staff member, or enrolled student-athlete involved in any appealed finding or penalty and their personal attorneys may attend the hearing.

This letter and enclosed report have been forwarded by certified mail, return receipt requested, in order that the actual date the 15-day period begins will be firmly established. If the Institute decides not to appeal to the NCAA Council before the 15-day period expires, it should notify the executive director without delay.

After the 15-day period expires or the Institute indicates earlier that it does not desire to appeal, the Committee on Infractions will make a public announcement of the findings of violations and the NCAA penalty. You will be advised of the time and date in advance of any such public announcement.

You are requested not to make any public announcement concerning the Committee on Infractions' findings or the proposed penalty until such time as the Committee on Infractions makes a public announcement or the matter has been resolved by the NCAA through its regular enforcement procedures.

The Committee on Infractions extends its appreciation to the executive and athletic administrations of Infractions Institute for their cooperation in this matter.

Sincerely,

Arthur R. Reynolds, Chairman
NCAA Committee on Infractions

ARR:xx
Enclosure
Certified Mail - Special Delivery
cc: Conference Commissioner
Director of Athletics
Faculty Athletic Representative
NCAA Committee on Infractions

CONFIDENTIAL REPORT NO. 999 (70)

By the NCAA Committee on Infractions

August 1, 1980

Case No. 13 - Infractions Institute

This report is filed in accordance with Sections 5 and 7 of the NCAA enforcement procedure, and is organized in two sections, as follows:

I. Violations of NCAA requirements or questionable practices in light of NCAA requirements, as determined by Committee.

II. Penalty to be imposed upon institution, as proposed by Committee.

Case No. 13

[Infractions Institute, Penalty, Pennsylvania]

I. Violations of NCAA requirements or questionable practices in light of NCAA requirements, as determined by Committee.

A. Violations of the principles governing extra benefits and financial aid to student-athletes [NCAA Constitution 3-1-(g)-(5) and 3-4-(a)].

1. During the 1977-78 and 1978-79 academic years, student-athlete John Humble was provided (in addition to a full scholarship) a monthly allowance of approximately $150 by head basketball coach Wayne Winn; further, funds for this purpose were provided to Winn by Aaron Aide, a representative of the Institute's athletic interests.

2. On one occasion during the 1977-78 academic year, through the arrangements of head basketball coach Wayne Winn, student-athlete John Humble received round-trip commercial airline transportation at no cost to him between Penalty, Pennsylvania, and Apex, South Carolina, in order to return home for Christmas vacation.

3. During both the 1977-78 and 1978-79 academic years, through the arrangements of Aaron Aide, a representative of the Institute's athletic interests, student-athlete John Humble was provided tickets to the following entertainment events at no personal expense to Humble: Beatles Concert (June 1977, Penalty Arena); Johnny Cash Concert (September 1977, Penalty Forum), and Jefferson Airplane Concert (December 1977, Felt Arena).

4. During the 1977-78 and 1978-79 academic years, head basketball coach Wayne Winn and Aaron Aide, a representative of the Institute's athletic interests, arranged for student-athlete John Humble to be provided the use of a 1978 Oldsmobile Ninety-Eight automobile for Humble's personal use without charge to him; further, Winn arranged for this automobile to be leased from the Friendly Alumni Oldsmobile Dealership in Penalty, Pennsylvania, at Aide's expense.

B. Violation of the principles governing institutional control [NCAA Constitution 3-2].

1. The involvement of Samuel Sad, Devious Dixon, Aaron Aide and Tricky Tredwell, representatives of the Institute's athletic interests, in the violations set forth in this report demonstrates that Infractions Institute did not adequately exercise institutional control and responsibility over these individuals.

C. Violation of the principles governing ethical conduct [NCAA Constitution 3-6-(a)].

1. Head basketball coach Wayne Winn acted contrary to the principles of ethical conduct inasmuch as he did not, on all occasions, deport himself in accordance with the generally recognized high standards normally associated with the conduct and administration of intercollegiate athletics, in that his involvement in the violations set forth in Parts I-A-1, 2 and 4 and I-D-3 and 4 of this report demonstrates a knowing and willful effort on his part to operate the Institute's intercollegiate basketball program contrary to NCAA legislation.

D. Violations of the provisions governing recruiting [NCAA Bylaw 1-1-(a)].

1. While recruiting then prospective student-athlete Leon Luck during the 1977-78 academic year, Samuel Sad, a representative of the Institute's athletic interests, promised that if Luck would attend the Institute he would receive: (a) extra spending money when needed; (b) an automobile; (c) a cost-free apartment, and (d) cost-free transportation between the Institute and his home during vacation periods.

2. During his official paid visit (February 14-16, 1978) to the Institute's campus, then prospective student-athlete Leon Luck was given $20 cash by assistant basketball coach John Smith to spend for his own personal reasons.

3. On several occasions during the 1976-77 academic year, head basketball coach Wayne Winn gave $20 cash to then prospective student-athlete Milan Miller to spend for his own personal reasons.

4. During the recruitment of then prospective student-athlete John Humble in the summer of 1977, Aaron Aide, a representative of the Institute's athletic interests, promised Humble that if he attended the Institute, he would receive at no personal expense: (a) an automobile; (b) $150 cash per month, and (c) commercial airline transportation for Humble's parents to attend the Institute's basketball games; further, these promises were made to Humble with the knowledge of head basketball coach Wayne Winn.

E. Violations of the provisions governing recruiting [NCAA Bylaws 1-1-(a), 1-7-(a) and 1-7-(d)].

1. During the 1976-77 academic year, then prospective student-athlete Simon Skyhook was provided two expense-paid visits to the Institute's campus.

F. Violation of the provisions governing recruiting [NCAA Bylaw 1-7-(c).]

1. On February 10, 1978, through the arrangements of assistant basketball coach Jack Taylor and Tricky Tredwell, a representative of the Institute's athletic interests, then prospective student-athletes Blaze Eng and Scott Black (both from Honolulu, Hawaii) were transported round trip between Honolulu, Hawaii, and Penalty, Pennsylvania, for their official paid visits to the Institute in an aircraft privately owned by Tricky Tredwell who did not accompany the aircraft during its use.

II. Penalty to be imposed upon institution, as proposed by Committee.

A. Infractions Institute shall be publicly reprimanded and censured, and placed on probation for a period of two years from the date the penalty is imposed, which shall be the date the 15-day appeal period expires or the date the Institute notifies the executive director that it will not appeal to the NCAA Council, whichever is earlier, or the date established by NCAA Council action as a result of an appeal by the Institute to the Council, it being understood that should any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalty will be reconsidered by the NCAA; further, prior to the expiration of this probationary period, the NCAA shall review the athletic policies and practices of the Institute.

B. During the first year of the probationary period, Infractions Institute's intercollegiate basketball team shall end its season with the playing of its last, regularly scheduled, inseason contest, and the Institute shall not be eligible to participate in the National Collegiate Basketball Championship or any other postseason basketball competition.

C. During the 1981-82 academic year, no more than three student-athletes in the sport of basketball shall receive initial, athletically related, financial aid (as set forth in O.I. 500) which has been arranged for or awarded by Infractions Institute, regardless of the time such aid is countable under the requirements of NCAA Bylaw 5.

D. The Committee on Infractions requests Infractions Institute to show cause, in accordance with Section 7-(b)-(12)-(i) of the Official Procedure Governing the NCAA Enforcement Program, page 125, 1977-78 NCAA MANUAL, why additional penalties should not be imposed upon the Institute if it does not take appropriate disciplinary and corrective action with regard to:

1. Head basketball coach Wayne Winn, which in the Committee's present view should be complete and permanent severance of any and all relations Winn may have, formal or informal, with the Institute's intercollegiate athletic program including, but not limited to, his financial support, recruiting efforts and membership in institutional booster groups.

2. Assistant basketball coach Jack Taylor which in the Committee's present view should at least preclude Taylor from engaging in any off-campus recruiting activities during the first year of the Institute's probationary period.

3. Assistant basketball coach John Smith, which in the Committee's present view should at least be a public reprimand for Smith's involvement in a violation of NCAA legislation.

4. Aaron Aide, Devious Dixon, Samuel Sad and Tricky Tredwell, representatives of the Institute's athletic interests, which in the Committee's present view should be complete and permanent severance of any and all relations these individuals may have, formal or informal, with the Institute's intercollegiate athletic program, including, but not limited to, their financial support, recruiting efforts and membership in institutional athletic booster groups.

[NOTE: Your attention is directed to Section 7-(b)-(12) and its subparagraphs of the Official Procedure Governing the NCAA Enforcement Program, pages 125-126, 1977-78 NCAA MANUAL. You will note in subparagraph (v) that inasmuch as the show cause requirement is made, the Institute shall show cause or, in the alternative, show the appropriate disciplinary or corrective action taken in writing to the Committee within 15 days upon receipt of this Confidential Report No. 999 (70), except as follows.

In the event the Institute appeals a finding of violation to the NCAA Council as set forth in Part I and the subparagraphs thereof of this report involving an individual identified in Parts II-D-1,2,3 or 4 of this report, the show cause requirements of Paragraph D will not be in effect with regard to the individual identified pending NCAA Council action on the appeal. If the Council arrives at a conclusion with regard to the appealed finding which substantially sustains the Committee on Infractions' finding of violation involving the individual, the 15-day period of the show cause requirement set forth in Subparagraph (v) shall begin with the date of receipt by the Institute of notification of the Council's action with regard to the finding of violation which was the

subject of the Institute's appeal. If the Council substantially alters the Committee's finding of violation involving the individual, the Committee will reconsider the show cause requirement involving the individual and you will be notified of the Committee's conclusion.

Your attention is directed to pages 125-126 of the 1977-78 NCAA MANUAL where the show cause procedures are clearly described, including the responsibility of the institution to provide due notice and hearing to the involved individual before taking any disciplinary or corrective action. Also, information set forth on page 125 describes the responsibilities of the institution with regard to written notification to the NCAA within the appropriate 15-day period applied to the show cause requirement. Also, note that the determination of whether the action(s) taken by the Institute are appropriate shall be solely that of the Committee on Infractions. Please feel free to contact the NCAA executive office for answers to any questions with regard to the mechanics of the show cause requirements imposed by the Committee on Infractions.]

[NOTE: Should Infractions Institute appeal either the findings of violations or proposed penalties to the NCAA Council, the Committee on Infractions will submit an expanded confidential report to the Council which will include additional information in accordance with Section 6 of the Official Procedure Governing the NCAA Enforcement Program. Although not required by the Procedure, a copy of the Committee's report will be provided to you at the time of the institution's appearance before the Council or, if possible, prior thereto.

Further, the Committee on Infractions wishes to advise Infractions Institute that when the penalties and corrective actions set forth in Part II of this report become effective, the Institute should take every precaution to insure that the terms of the proposed penalties and corrective actions are observed. Further, the Committee intends to monitor the penalties and corrective actions during their effective periods, and any actions contrary to their terms shall be considered grounds for extending their provisions and the Institute's probationary period.]

NOTIFICATION AS REQUIRED BY NCAA ENFORCEMENT PROCEDURE

[NOTE: The following is notification of applicable NCAA legislation as required by Section 7-(f) of the Official Procedure Governing the NCAA Enforcement Program and IS NOT a penalty proposed by the NCAA Committee on Infractions upon the Institute or its student-athletes.]

A. Certain findings of violations of NCAA rules set forth in this report relate to the eligibility of the student-athletes cited in each instance. Therefore, this is notification by the Committee on Infractions in accordance with the

provisions of Section 7-(f), of the NCAA eligibility rules found by the Committee to have been violated and the identity of the student-athlete whose eligibility is affected. Please note that should the Institute appeal any of the findings cited hereafter, application of the applicable rules to the student-athlete involved shall not be necessary until the NCAA Council has acted on the appeal.

Specifically, student-athlete John Humble's eligibility is affected by the following sections of this report: Part I-A-1,2,3 and 4.

Please note that under the conditions and obligations of membership, Constitution 4-2-(a)-O.I. 11 and Section 9 of the Official Procedure Governing the NCAA Enforcement Program, once the appropriate regulations become applicable either because the Institute accepts the findings within the 15-day appeal period or the Council finds such violations as a result of an appeal, whichever is earlier, the following NCAA membership obligations are applicable. The Institute is obligated to apply immediately the applicable rules to the eligibility of the student-athlete cited if he has eligibility remaining and is presently enrolled in the Institute. In the alternative and in accordance with Section 9, the Institute would be cited to show cause to the Committee on Infractions why the Institute should not be disciplined additionally for failure to apply the applicable NCAA legislation.

Also, in accordance with Constitution 4-2-(a)-O.I. 11 and Section 9, once the appropriate eligibility rules have been applied by the Institute, the institution may appeal for restoration of the young man's eligibility.

B. Further, this is notification in accordance with Section 7-(f) that other findings of violations set forth in this report (unless altered by the Council upon appeal) affect the eligibility of certain student-athletes for participation in an NCAA championship event or postseason football game under the provisions of NCAA Bylaw 4-1-(i) and 4-6-(e), pages 57 and 66 of the 1977-78 NCAA MANUAL. Specifically, these student-athletes and the sections of this report relating to their eligibility under this legislation are: John Humble, Part I-D-4, and Leon Luck, Parts I-D-1 and I-D-2. In accordance with the appeal opportunity of this legislation, the Institute may appeal to the NCAA Eligibility Committee for restoration of the student-athletes' eligibility for NCAA championship events or postseason football contests.

# # #

The National Collegiate Athletic Association

President
J. NEILS THOMPSON
University of Texas
Austin, Texas 78758

Executive Director
WALTER BYERS

Secretary-Treasurer
EDGAR A. SHERMAN
Muskingum College
New Concord, Ohio 43762

September 1, 1980

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University of California, Davis

EDWARD S. STEITZ
Springfield College

Confidential

Dr. John Doe
President
Infractions Institute
Penalty, Pennsylvania 10101

Dear President Doe:

This is in regard to the Institute's appeal of the NCAA Committee on Infractions' Confidential Report No. 999 (70). The appearance of the Institute's representatives before the NCAA Council to orally supplement the Institute's written appeal has been scheduled for 2:30 p.m., October 5, at the Sheraton Hotel, Gatlinburg, Tennessee.

Based upon the limited nature of the appeal, the Institute's representatives and the Committee on Infractions shall be limited to a total of 30 minutes each for any verbal presentation to supplement the written information before the Council. Following these presentations, there will be questions from members of the Council of both parties as well as a possible exchange between the Institute's representatives and the Committee on Infractions. It is requested that Wayne Winn be present during the Institute's appearance. Also, please note that any currently employed institutional staff member, or enrolled student-athlete involved in any appealed finding or penalty and their attorneys may attend the hearing.

Prior to its appearance, the Institute's August 15, 1980, letter of appeal and the Committee on Infractions' expanded Confidential Report, which will be constructed in accordance with Section 6 of the Official Procedure Governing the NCAA Enforcement Program, will have been distributed to the Council. A copy of the Committee's expanded Confidential Report will be forwarded to you in advance of the hearing.

If you have questions concerning the procedure to be followed before the Council, please contact me.

Sincerely,

William B. Hunt
Assistant Executive Director

WBH:xx
cc: Conference Commissioner
Director of Athletics
Faculty Athletic Representative
NCAA Committee on Infractions

23-084 O - 78 - 23

The National Collegiate Athletic Association

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Austin, Texas 78758

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EDWARD S. STEITZ
Springfield College

September 15, 1980

Confidential

Dr. John Doe
President
Infractions Institute
Penalty, Pennsylvania 10101

Dear President Doe:

Enclosed is a copy of the Committee on Infractions' expanded Confidential Report No. 999 (70) prepared for the NCAA Council in accordance with Section 6 of the Official Procedure Governing the NCAA Enforcement Program. This copy is being forwarded to you as indicated in my September 1 letter to you.

Sincerely,

William B. Hunt
Assistant Executive Director

WBH:xx
Enclosure
Special Delivery
cc: Conference Commissioner
Director of Athletics
Faculty Athletic Representative
NCAA Committee on Infractions

CONFIDENTIAL REPORT NO. 999 (70)

By the NCAA Committee on Infractions

to the

Case No. 13 — Infractions Institute

This report is filed in accordance with Section 6 of the NCAA enforcement procedure, and is organized in five sections, as follows:

I. Violations of NCAA requirements or questionable practices in light of NCAA requirements, as determined by Committee.

II. Penalty to be imposed upon institution, as proposed by Committee.

III. Origin of case.

IV. Related factors appropriate for consideration in judgment of case.

V. Disciplinary or corrective actions taken by institution or conference, or any other agency involved in particular incident.

Pursuant to the appeal initiated by Infractions Institute under Section 5 of the enforcement procedure, the Committee on Infractions will submit Report No. 999 (70) to the Council of the National Collegiate Athletic Association at its meeting in Gatlinburg, Tennessee, October 5, 1980.

Case No. 13

[Infractions Institute, Penalty, Pennsylvania]

[NOTE: Each finding of violation appealed by Infractions Institute is identified by an asterisk (*). Information submitted by the Committee on Infractions related to each appealed finding of violation directly follows the finding and is separated by a line.]

I. Violations of NCAA requirements or questionable practices in light of NCAA requirements, as determined by Committee.

A. Violations of the principles governing extra benefits and financial aid to student-athletes [NCAA Constitution 3-1-(g)-(5) and 3-4-(a)].

1. During the 1977-78 and 1978-79 academic years, student-athlete John Humble was provided (in addition to a full scholarship) a monthly allowance of approximately $150 by head basketball coach Wayne Winn; further, funds for this purpose were provided to Winn by Aaron Aide, a representative of the Institute's athletic interests.

2. On one occasion during the 1977-78 academic year, through the arrangements of head basketball coach Wayne Winn, student-athlete John Humble received round-trip commercial airline transportation at no cost to him between Penalty, Pennsylvania, and Apex, South Carolina, in order to return home for Christmas vacation.

3. During both the 1977-78 and 1978-79 academic years, through the arrangements of Aaron Aide, a representative of the Institute's athletic interests, student-athlete John Humble was provided tickets to the following entertainment events at no personal expense to Humble: Beatles Concert (June 1977, Penalty Arena); Johnny Cash Concert (September 1977, Penalty Forum), and Jefferson Airplane Concert (December 1977, Felt Arena).

4. During the 1977-78 and 1978-79 academic years, head basketball coach Wayne Winn and Aaron Aide, a representative of the Institute's athletic interests, arranged for student-athlete John Humble to be provided the use of a 1978 Oldsmobile Ninety-Eight automobile for Humble's personal use without charge to him; further, Winn arranged for this automobile to be leased from the Friendly Alumni Oldsmobile Dealership in Penalty, Pennsylvania, at Aide's expense.

B. Violation of the principles governing institutional control [NCAA Constitution 3-2].

1. The involvement of Samuel Sad, Devious Dixon, Aaron Aide and Tricky Tredwell, representatives of the Institute's athletic interests, in the violations set forth in this report demonstrates that Infractions Institute did not adequately exercise institutional control and responsibility over these individuals.

C. Violation of the principles governing ethical conduct [NCAA Constitution 3-6-(a)].

1. Head basketball coach Wayne Winn acted contrary to the principles of ethical conduct inasmuch as he did not, on all occasions, deport himself in accordance with the generally recognized high standards normally associated with the conduct and administration of intercollegiate athletics, in that his involvement in the violations set forth in Parts I-A-1, 2 and 4 and I-D-3 and 4 of this report demonstrates a knowing and willful effort on his part to operate the Institute's intercollegiate basketball program contrary to NCAA legislation.

D. Violations of the provisions governing recruiting [NCAA Bylaw 1-1-(a)].

*1. While recruiting then prospective student-athlete Leon Luck during the 1977-78 academic year, Samuel Sad, a representative of the Institute's athletic interests, promised that if Luck would attend the Institute he would receive: (a) extra spending money when needed; (b) an automobile; (c) a cost-free apartment, and (d) cost-free transportation between the Institute and his home during vacation periods.

The Committee believes Sad is a representative of the Institute's athletic interests for the following reasons: (a) he is an alumnus of the Institute; (b) he participated in the recruitment of prospective student-athlete Luck with the knowledge and, on occasion, in the presence of assistant basketball coach Smith and (c) he provided local automobile transportation in the Fairbanks, Alaska, area to Smith while recruiting prospective student-athletes, including Luck, on two occasions.

The Committee's finding is based on information reported to the NCAA by Luck and Sad indicating that Sad assured Luck that these items would be provided during Luck's enrollment in the Institute.

It is the Committee's position that even if these offers were discussed between Sad and Luck without the knowledge of the Institute's coaching staff, which the Committee does not necessarily believe to be the case, the finding as stated should stand inasmuch as Sad is a representative of the Institute's athletic interests and a member institution must be responsible for the actions of its representatives (see NCAA Constitution 3-2-(a) and Official Interpretation 102).

2. During his official paid visit (February 14-16, 1978) to the Institute's campus, then prospective student-athlete Leon Luck was given $20 cash by assistant basketball coach John Smith to spend for his own personal reasons.

3. On several occasions during the 1976-77 academic year, head basketball coach Wayne Winn gave $20 cash to then prospective student-athlete Milan Miller to spend for his own personal reasons.

4. During the recruitment of then prospective student-athlete John Humble in the summer of 1977, Aaron Aide, a representative of the Institute's athletic interests, promised Humble that if he attended the Institute, he would receive at no personal expense: (a) an automobile; (b) $150 cash per month, and (c) commercial airline transportation for Humble's parents to attend the Institute's basketball games; further, these promises were made to Humble with the knowledge of head basketball coach Wayne Winn.

E. Violations of the provisions governing recruiting [NCAA Bylaws 1-1-(a), 1-7-(a) and 1-7-(d)].

1. During the 1976-77 academic year, then prospective student-athlete Simon Skyhook was provided two expense-paid visits to the Institute's campus.

F. Violation of the provisions governing recruiting [NCAA Bylaw 1-7-(c)].

*1. On February 10, 1978, through the arrangements of assistant basketball coach Jack Taylor and Tricky Tredwell, a representative of the Institute's athletic interests, then prospective student-athletes Blaze Eng and Scott Black (both from Honolulu, Hawaii) were transported round trip between Honolulu, Hawaii, and Penalty, Pennsylvania, for their official paid visits to the Institute in an aircraft privately owned by Tricky Tredwell who did not accompany the aircraft during its use.

This finding is based on the undisputed fact that Mr. Tredwell did not accompany the aircraft as required by NCAA legislation. Both the Council and Committee have made similar findings in numerous cases in the past; further, it is the Committee's opinion that this requirement is well known by the Association's membership both as to its technicality and intent.

The Institute's actions in this instance were violative of the intent of this legislation in that Tredwell reported to both the NCAA and the Institute that he "had no intention of wasting his valuable time to accompany the aircraft."

The Council should note the membership's basic rationale underlying the adoption of Bylaw 1-7-(c). The membership was alert to the competitive advantage an institution would gain if its affluent supporters made available private airplanes on a carte blanche basis for the transportation of prospective student-athletes on their official campus visits. In an effort to mitigate this recruiting and/or economic advantage, the membership required the owner of the airplane to be present in the aircraft during the transportation of the prospective student-athlete. It was the membership's feeling that if such a personal sacrifice was involved, use of this type of arrangement would be curtailed to a degree.

II. Penalty to be imposed upon institution, as proposed by Committee.

[NOTE: Infractions Institute has determined that it will not appeal any of the Committee on Infractions' proposed penalties.]

A. Infractions Institute shall be publicly reprimanded and censured, and placed on probation for a period of two years from the date the penalty is imposed, which shall be the date the 15-day appeal period expires or the date the Institute notifies the executive director that it will not appeal to the NCAA Council, whichever is earlier, or the date established by NCAA Council action as a result of an appeal by the Institute to the Council, it being understood that should any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalty will be reconsidered by the NCAA; further, prior to the expiration of this probationary period, the NCAA shall review the athletic policies and practices of the Institute.

B. During the first year of the probationary period, Infractions Institute's intercollegiate basketball team shall end its season with the playing of its last, regularly scheduled, inseason contest, and the

Institute shall not be eligible to participate in the National Collegiate Basketball Championship or any other postseason basketball competition.

C. During the 1981-82 academic year, no more than three student-athletes in the sport of basketball shall receive initial, athletically related, financial aid (as set forth in O.I. 500) which has been arranged for or awarded by Infractions Institute, regardless of the time such aid is countable under the requirements of NCAA Bylaw 5.

D. The Committee on Infractions requests Infractions Institute to show cause, in accordance with Section 7-(b)-(12)-(i) of the Official Procedure Governing the NCAA Enforcement Program, page 125, 1977-78 NCAA MANUAL, why additional penalties should not be imposed upon the Institute if it does not take appropriate disciplinary and corrective action with regard to:

1. Head basketball coach Wayne Winn, which in the Committee's present view should be complete and permanent severance of any and all relations Winn may have, formal or informal, with the Institute's intercollegiate athletic program including, but not limited to, his financial support, recruiting efforts and membership in institutional booster groups.

2. Assistant basketball coach Jack Taylor which in the Committee's present view should at least preclude Taylor from engaging in any off-campus recruiting activities during the first year of the Institute's probationary period.

3. Assistant basketball coach John Smith, which in the Committee's present view should at least be a public reprimand for Smith's involvement in a violation of NCAA legislation.

4. Aaron Aide, Devious Dixon, Samuel Sad and Tricky Tredwell, representatives of the Institute's athletic interests, which in the Committee's present view should be complete and permanent severance of any and all relations these individuals may have, formal or informal, with the Institute's intercollegiate athletic program, including, but not limited to, their financial support, recruiting efforts and membership in institutional athletic booster groups.

III. Origin of case.

During October 1979, a letter written by Samuel Sad, Fairbanks, Alaska, was forwarded to the NCAA executive office alleging the improper recruitment of prospective student-athlete Leon Luck during the summer 1977 by representatives of the Institute.

Under date of November 15, 1979, the Committee on Infractions notified the Institute of a preliminary inquiry into its athletic polices and practices. Preliminary investigation by the NCAA staff revealed additional allegations involving the Institute's intercollegiate basketball program.

Under date of April 10, 1980, the Committee on Infractions submitted an official inquiry to the chief executive officer of Infractions Institute.

On July 7, 1980, the Institute's response to the Committee on Infractions' official inquiry was received. Representatives of the Institute met with the Committee on Infractions on July 21, 1980.

Upon consideration of the Committee on Infractions' Confidential Report No. 999 (70) dated August 1, 1980, the Institute initiated an appeal to the Council in accordance with Section 5 of the Official Procedure Governing the NCAA Enforcement Program.

IV. Related factors appropriate for consideration in judgment of case.

Under date of June 1, 1976, Infractions Institute was placed on probation for a period of one year by the NCAA Committee on Infractions for recruiting violations in the conduct of the Institute's basketball program; further, the Institute's current head basketball coach was directly involved in the findings of violations in the previous case.

V. Disciplinary or corrective actions taken by institution or conference, or any other agency involved in particular incident.

A. As of this date, Infractions Institute has taken no action related to this infractions case.

B. As of this date, the Blue Sky Conference has taken no action related to the Infractions Institute infractions case, and the Committee is not aware of any other agency taking action related to this case.

NOTIFICATION AS REQUIRED BY NCAA ENFORCEMENT PROCEDURE

[NOTE: The following is notification of applicable NCAA legislation as required by Section 7-(f) of the Official Procedure Governing the NCAA Enforcement Program

and IS NOT a penalty proposed by the NCAA Committee on Infractions upon the Institute or its student-athletes.]

A. Certain findings of violations of NCAA rules set forth in this report relate to the eligibility of the student-athletes cited in each instance. Therefore, this is notification by the Committee on Infractions in accordance with the provisions of Section 7-(f), of the NCAA eligibility rules found by the Committee to have been violated and the identity of the student-athlete whose eligibility is affected. Please note that should the Institute appeal any of the findings cited hereafter, application of the applicable rules to the student-athlete involved shall not be necessary until the NCAA Council has acted on the appeal.

Specifically, student-athlete John Humble's eligibility is affected by the following sections of this report: Part I-A-1,2,3 and 4.

Please note that under the conditions and obligations of membership, Constitution 4-2-(a)-O.I. 11 and Section 9 of the Official Procedure Governing the NCAA Enforcement Program, once the appropriate regulations become applicable either because the Institute accepts the findings within the 15-day appeal period or the Council finds such violations as a result of an appeal, whichever is earlier, the following NCAA membership obligations are applicable. The Institute is obligated to apply immediately the applicable rules to the eligibility of the student-athlete cited if he has eligibility remaining and is presently enrolled in the Institute. In the alternative and in accordance with Section 9, the Institute would be cited to show cause to the Committee on Infractions why the Institute should not be disciplined additionally for failure to apply the applicable NCAA legislation.

Also, in accordance with Constitution 4-2-(a)-O.I. 11 and Section 9, once the appropriate eligibility rules have been applied by the Institute, the institution may appeal for restoration of the young man's eligibility.

B. Further, this is notification in accordance with Section 7-(f) that other findings of violations set forth in this report (unless altered by the Council upon appeal) affect the eligibility of certain student-athletes for participation in an NCAA championship event or postseason football game under the provisions of NCAA Bylaw 4-1-(i) and 4-6-(e), pages 57 and 66 of the 1977-78 NCAA MANUAL. Specifically, these student-athletes and the sections of this report relating to their eligibility under this legislation are: John Humble, Part I-D-4, and Leon Luck, Parts I-D-2. In accordance with the appeal opportunity of this legislation, the Institute may appeal to the NCAA Eligibility Committee for restoration of the student-athletes' eligibility for NCAA championship events or postseason football contests.

# # #

NEWS RELEASE
THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION
U.S. Highway 50 and Nall Avenue / P.O. Box 1906 / Shawnee Mission, Kansas 66222 • 913/384-3220

For Release 9:00 a.m., Friday, October 15 Contact: Dave Cawood

INFRACTIONS INSTITUTE PLACED ON NCAA PROBATION

MISSION, Kans.--Infractions Institute has been placed on probation for a period of two years it was announced today by the National Collegiate Athletic Association's Committee on Infractions as a result of violations in the conduct of the Institute's basketball program.

The penalty includes sanctions which will prohibit the Institute's basketball team from participating in any postseason competition during the 1980-81 academic year. In addition, the Institute will be permitted to award only three new basketball scholarships for the 1981-82 academic year.

In accordance with the "show cause" provision of the NCAA penalty structure, the Institute has severed all relations between four representatives of its athletic interests and its intercollegiate athletic program, including their financial support, recruiting efforts and membership in athletic booster clubs. Also, the Institute will prohibit an assistant basketball coach from engaging in any off-campus recruiting activities during the probationary period and will publicly reprimand a second assistant basketball coach. In addition, the Institute has fired its head basketball coach for his involvement in certain violations of NCAA legislation. Several instances of violations of the NCAA Constitution and Bylaws were uncovered during the NCAA's investigation, primarily involving certain representatives of the Institute's athletic interests and two members of the basketball coaching staff.

"During the probationary period, the conduct of the Institute's athletic program will be monitored by the NCAA to insure compliance with NCAA legislation," stated Arthur R. Reynolds, chairman of the NCAA Committee on Infractions.

"Although the violations in this case are of a serious nature, the Institute has taken meaningful steps to insure that in the future the Institute conducts its athletic program in compliance with NCAA legislation," remarked Reynolds.

The penalties imposed by the Committee on Infractions were for violations involving the provision of extra benefits to a student-athlete which were not available to the student body in general, improper financial aid to a student-athlete, payment of improper expenses for a student-athlete, and violations of NCAA recruiting legislation related to the recruitment of four prospective student-athletes.

Following is a complete text of the penalties imposed upon Infractions Institute and a summary of the violations by the Institute.

Penalty to be Imposed Upon Institution

1. Infractions Institute shall be publicly reprimanded and censured, and placed on probation for a period of two years, effective October 5, 1980, it being understood that should any of the penalties in this case be set aside for any reason other than by appropriate action of the Association, the penalties will be reconsidered by the NCAA; further, prior to the expiration of this period of probation, the NCAA shall review the athletic policies and practices of the Institute.

2. During the first year of the probationary period, Infractions Institute's intercollegiate basketball team shall end its season with the playing of its last, regularly scheduled, inseason contest and the Institute shall not be eligible to participate in the National Collegiate Basketball Championship or in any other postseason basketball competition.

3. During the first year of the probationary period, Infractions Institute's basketball team shall not be eligible to appear on any television program subject to the administration and control of this Association, and the Institute shall not make any commitments for such appearances during that time.

4. During the 1981-82 academic year, no more than three student-athletes in the sport of basketball shall receive initial, athletically related, financial aid (as set forth in O.I. 500) which has been arranged for or awarded by Infractions Institute regardless of the time such aid is countable under the requirements of NCAA Bylaw 5.

5. In accordance with the "show cause" provision of the NCAA penalty structure, the Institute shall:

   a. Completely and permanently sever any and all relations the Institute's head basketball coach may have, whether formal or informal, with its intercollegiate athletic program including, but not limited to, his financial support, recruiting efforts, and membership in institutional booster groups.

   b. Prohibit a certain assistant basketball coach from engaging in any off-campus recruiting activities during the first year of the Institute's probationary period.

   c. Publicly reprimand a certain assistant basketball coach for his involvement in a violation of NCAA legislation.

   d. Completely and permanently sever any and all relations four representatives of the Institute's athletic interests may have, whether formal or informal, with the Institute's intercollegiate athletic program including, but not limited to, their financial support, recruiting efforts and membership in institutional athletic booster groups.

SUMMARY OF VIOLATIONS OF NCAA LEGISLATION AND QUESTIONABLE PRACTICES IN LIGHT OF NCAA REQUIREMENTS

1. NCAA Constitution 3-1-(g)-(5) and 3-4-(a) [extra benefits and financial aid to student-athletes] -- (a) for an extended period, a student-athlete was provided a monthly cash allowance, in addition to a full scholarship, by the Institute's head basketball coach; further, the funds for this purpose were provided to the coach by a representative of the Institute's athletic interests; (b) through the arrangements of the Institute's head basketball coach, a student-athlete received round-trip commercial airline transportation at no cost to him on one occasion between Penalty, Pennsylvania, and the young man's home; (c) a representative of the Institute's athletic interests provided a student-athlete with tickets to

various entertainment events in the Penalty area at no personal expense to the student-athlete, and (d) the Institute's head basketball coach and a representative of the Institute's athletic interests arranged for a student-athlete to be provided the use of an automobile for an extended period without charge to him.

2. NCAA Constitution 3-2 [institutional control] -- The involvement of certain representatives of the Institute's athletic interests in certain violations in this case demonstrates that Infractions Institute did not adequately exercise institutional control and responsibility over the representatives' recruiting activities.

3. NCAA Constitution 3-6-(a) [ethical conduct] -- The Institute's head basketball coach acted contrary to the principles of ethical conduct inasmuch as he did not, on all occasions, deport himself in accordance with the generally recognized high standards normally associated with the conduct and administration of intercollegiate athletics in that his involvement in certain violations in this case demonstrates a negligible attempt on his part to operate the intercollegiate program of the Institute in accordance with NCAA regulations.

4. NCAA Bylaw 1-1-(a) [improper recruiting inducements] -- (a) a representative of the Institute's athletic interests promised a prospect that if he would enroll in the Institute, he would receive extra spending money when needed, an automobile, a cost-free apartment and cost-free transportation between the Institute and his home during vacations; (b) on several occasions, the Institute's head basketball coach gave a prospective student-athlete cash to spend for his own personal reasons; (c) an assistant basketball coach gave cash to a prospective student-athlete during his official paid visit to the campus, and (d) a representative of the Institute's athletic interests promised a prospect that if he would enroll in the Institute he would receive an automobile, cash on a monthly basis and commercial airline transportation for the prospective student-athlete's parents to attend the Institute's basketball games.

5. NCAA Bylaws 1-1-(a), 1-7-(a) and 1-7-(d) [improper recruiting inducements and multiple campus visits] -- A prospective student-athlete was provided two expense-paid visits to the Institute's campus.

6. NCAA Bylaw 1-7-(c) [improper transportation] -- Through the arrangements of an assistant basketball coach and a representative of the Institute's athletic interests, two prospective student-athletes were transported round trip between their homes and Penalty, Pennsylvania, for their official paid visits to the Institute in the privately owned aircraft of the representative, who did not accompany the aircraft during its use.

NCAA NEWS
(November 15, 1977

How the NCAA Conducts an Investigation

Few things in this world are talked about more by the public and understood less than the NCAA's Enforcement Program.

Basically, here is how an infractions case is handled by the NCAA's Committee on Infractions:

When information is developed indicating that violations of NCAA legislation may have occurred by a member institution, the NCAA's investigative staff, acting under the general guidance of the Committee on Infractions, notifies the involved institution that a preliminary inquiry will be conducted. In the event the preliminary inquiry indicates that no violations have occurred, the case is terminated and this information is reported to the Committee and the institution.

If information related to alleged violations appears to be of substance, the Committee authorizes a letter of official inquiry to request information from the institution which will assist the Committee in determining the facts in the case.

Through this inquiry, the institution is made aware of specific information, including names and dates, concerning each alleged violation to enable it to investigate and respond in writing to the Committee in an enlightened manner. The institution is requested to investigate by contacting all individuals involved and to support its position in regard to each allegation with any available evidence.

Once the institution has collected all available information and prepared a written response to the allegations in the official inquiry, a hearing is held to review the case before the Committee on Infractions. The institution's written response is submitted to the Committee about two weeks prior to this hearing, which enables the Committee members to familiarize themselves with the institution's position before the hearing. Prior to the hearing, the Committee has received no specific information related to the case from the NCAA staff other than a copy the letter of official inquiry.

During the hearing, the institution's representatives and the NCAA investigative staff present specific information to the Committee concerning each alleged violation set forth in the official inquiry.

This procedure provides the opportunity for the institutional representatives, including any involved coach or student-athlete and his legal counsel, to discuss any of the information presented to the Committee by the investigative staff or the institution. Further, the institution is advised of the evidence developed by the investigative staff, and all individuals who have reported information substantiating an allegation are identified.

Frequently, the institution, investigative staff and the Committee agree as to whether the weight of the evidence indicates that a violation has occurred. When there is disagreement, it is the responsibility of the Committee on Infractions to determine whether a finding of violation should be made.

For example, in the University of Nevada-Las Vegas, infractions case, the Committee conducted four separate days of hearings involving more than 26 hours. More than 70 alleged violations were included in the official inquiry to the University, and eventually the Committee made 39 separate findings of violations.

After each allegation has been discussed, the institution's representatives and the NCAA investigative staff are dismissed from the hearing, and the Committee determines whether findings of violations should be made and, if so, what penalties should be imposed upon the institution. Once the Committee arrives at its conclusions, a confidential report consisting of all findings and the proposed penalty is drafted and sent to the institution. The institution then has an opportunity to appeal any of the Committee's findings, the proposed penalty or both to the NCAA Council.

If such an appeal is made, the institution's representatives and their legal counsel may appear during the hearing before the 18-member Council. The Committee on Infractions also prepares an expanded confidential report to the Council, a copy of which is forwarded to the institution before the hearing, describing the Committee's reasons for the findings and proposed penalties which have been appealed.

No public announcement is made by the NCAA until the conclusion of the processing of the case.

Appendix "D"

Appendix "E"

REGENTS OF THE UNIVERSITY OF MINNESOTA v. NCAA, 560 F.2d. 352 (8th Cir. 1977)

Relevant Dates - As Summarized by the Court of Appeals for the Eighth Circuit

July 21, 1975	NCAA Committee on Infractions sent Official Letter of Inquiry to C. Peter McGrath, President of the University of Minnesota. Letter of Inquiry included list of 38 alleged violations of NCAA rules.
--	University undertook investigation, aided by outside attorney and by the Assembly Committee on Intercollegiate Athletics (ACIA), a faculty committee charged with overseeing intercollegiate athletics.
September 26, 1975	Student-athlete Thompson admitted he had sold his season tickets for $180. (This was not one of the listed violations.)
November 26, 1975	ACIA informed Thompson that his ticket sales appeared to violate NCAA rules; but that ACIA had specifically excluded recommending ineligibility as a possible punishment.
--	Thompson elected not to attend ACIA hearing.
December 5, 1975	ACIA hearing on the Thompson matter (Thompson did not appear.) Noting Thompson's own admission of sale, ACIA determined that Thompson's activity "clearly violate[d] the principle that an amateur athlete should not profit from his or her athletic ability. The NCAA regulations are quite specific on this point; they require that the athletes involved be declared ineligible to compete." Nonetheless, ACIA did not assess ineligibility as a sanction, but limited sanctions to restitution and withdrawal of the complimentary ticket privilege.
--	University submitted formal response to NCAA's July 21 letter of inquiry. The 546 page response disclosed approximately 33 possible infractions of NCAA rules in addition to those originally cited by the NCAA, among them Thompson's complimentary ticket sale. University's response advised that student-athlete Winey had

	received transportation to and was provided with entertainment at a cabin owned by a booster. Response also detailed Saunder's use of a WATS line, an automobile of the assistant coach's mother-in-law, and a cost-free room for one night at Adolphus Gastavus College. (Saunder's activities had in large part been learned from Saunders himself.)
December 18, 1975	NCAA Committee on Infractions Hearings. After considering the response of the University, Committee advised University that it was obligated to declare Thompson ineligible, but that University could appeal to NCAA's Subcommittee on Eligibility Appeals for restoration of eligibility based on mitigating circumstances.
January 7, 1976	University notified Thompson of NCAA's position, informed him of second ACIA hearing, and advised him that he could appear personally or by counsel at the hearing. He was also told that the University would appeal to NCAA for restoration of eligibility, and that the appeal was likely to be successful.
January 12, 1976	Thompson signed waiver of right to attend ACIA hearings.
--	ACIA hearing resulted in declaration of ineligibility for Thompson.
--	University appealed to Subcommittee on Eligibility Appeals for restoration of Thompson's eligibility.
--	Hearing before NCAA Subcommittee on Eligibility Appeals. Subcommittee reduced Thompson's period of ineligibility from permanent ineligibility to ineligibility for the remainder of 1975-1976 season (approximately 14 games).
--	University appealed decision of Subcommittee on Eligibility Appeals.
January 18, 1976	NCAA Council held hearing and denied University's appeal from subcommittee decision. (Thompson was present at the hearing.)

January 18, 1976	Minnesota state court issued TRO against enforcement of University's declaration of ineligibility against Thompson.
February 10, 1976	Preliminary injunction issued enjoining University from prohibiting Thompson's participation in intercollegiate athletics until such time as a hearing meeting specified minimum due process standards was held. (The court held that Thompson's waiver of appearance by the ACIA was based on erroneous University representations that ineligibility was not a possible sanction, and/or that appeal was likely to be successful.)
February 23, 1976	University received Confidential Report No. 111(35), dated February 19. Violations listed included Thompson's sale of tickets, Winey's excursions to Wisconsin, and Saunder's use of the WATS line, auto and overnight lodging. Report reiterated that institutions must apply NCAA rules on eligibility; however, opportunity for institutional hearings may be extended to student-athlete prior to such application, it being understood that an ineligible student-athlete should not be permitted to participate in athletic competition prior to restoration of his eligibility by NCAA.
March 4, 1976	President Magrath accepted findings and proposed penalties of Confidential Report 111(35).
March 9, 1976	Hearings for Saunders held by Campus Committee on Student Behavior (CCSB), a committee of students, faculty and staff charged with administering the University's conduct code. Saunders was represented by counsel.
March 11, 1976	CCSB hearings for Thompson. Thompson was represented by counsel.
March 18, 1976	CCSB hearings for Winey. Winey was represented by counsel.
May 4, 1976	ACIA hearings for Thompson, Saunders, and Winey. All three were represented by counsel.

	"As a result of these procedures, ACIA determined not to declare the students ineligible. In general the CCSB and ACIA findings conformed to underlying facts as charged by the Association; but set forth allegedly mitigating circumstances which purportedly rendered ineligibility an inappropriate sanction."
May 6, 1976	President Magrath confirmed in writing to NCAA that University would not declare the students ineligible.
June 25, 1976	NCAA sent letter to McGrath stating that since the University had, under date of March 4, accepted violations as charged in Confidential Report 111(35), it had no alternative but to declare the students ineligible. It also advised University that findings in the report could be challenged only on basis of "newly discovered evidence."
July 7, 1976	University requested hearing on basis of newly discovered evidence.
July 30, 1976	Committee on Infractions granted request for new hearing; advised University that Committee would also consider at that time whether University had violated NCAA Constitution by allowing Thompson, Saunders and Winey to compete while ineligible, and whether additional penalties should be assessed.
August 21, 1976	Hearing before Committee on Infractions. (Thompson, Winey and Saunders were invited to appear, but declined.)
September 8, 1976	Confidential Report No. 118(42) issued by Committee on Infractions. Report upheld Confidential Report No. 111(35) and listed two new violations -- both based on failure of University to apply applicable NCAA provisions to Thompson, Saunders, and Winey. (Report also questioned University's procedures which postponed resolution of Thompson case until after close of basketball season.)

	Report 118(42) set forth additional penalties: public reprimand and censure, and indefinite probation in all sports until the University certified that its program is conducted in accordance with all NCAA requirements. (Penalties to be reconsidered upon compliance.) (The report also noted that once the University declared the three students ineligible, it could request restoration of eligibility.)
September 24, 1976	University appealed findings and penalties of Confidential Report 118(42) to the NCAA Council.
October 12, 1976	Hearing before NCAA Council. (Thompson, Winey, and Saunders invited to attend, but declined.)
October 13, 1976	NCAA Council informed University by telephone that it affirmed findings and penalties of Committee on Infractions, but reemphasized that "if the University applies applicable provisions of NCAA Constitution to the eligibility of the young men in question, and then certifies that it is conducting its intercollegiate athletic program in accordance with all requirements and interpretations of NCAA legislation, penalties in this case will be reconsidered and reduced or eliminated." It also reemphasized that once the three students were declared ineligible, the University could seek restoration of eligibility.
October 23, 1976	NCAA letter confirming telephone call of October 13th.
October 26, 1976	University filed suit seeking declaratory and injunctive relief with respect to penalties imposed by Confidential Report 118(42).
December 2, 1976	District Court granted preliminary injunction directing NCAA to lift indefinite probation imposed on University and from imposing further sanctions until legal dispute resolved on the merits.
	- - - - -
August 2, 1977	Court of Appeals dissolved preliminary injunction. (For discussion of holdings, see pp. 26-28, supra.

[The following information was referred to on p. 196:]

FROM HERE TO EQUALITY

TITLE IX

With one year left till D-Day, how far have we really advanced?

by Candace Lyle Hogan

Everybody is talking about the boom in women's athletics. We have some vague idea about where it came from, but no one has anything but the foggiest notion about where it's going. We hear the roll of drums in the distance. Is it a parade? Or is it a wake?

womenSports has been following the progress of women in sports for the past four years, the period of time in which the beat has built to a boom that is suddenly beginning to be reported in newspapers. Our prognosis is perhaps less bright than the fireworks of newspaper boom stories, but that's because we've been following the issues longer. In the following pages, *womenSports* will examine the past and present status of women in school sports, and then report the emerging trends that may determine the future status of women athletes.

THE LONG MARCH

Fueled by an almost chemical interaction of a federal anti-sex-discrimination law, the women's liberation movement, and what is called the temper of the times, women's sports took off like a rocket in 1972. Women's opportunity in school sports was practically nil before, so naturally the initial winnings seem to rank right up there with hitting the number on a roulette wheel.

In 1972, when women students were staying up all night in line outside of the gym to make sure they could get a coveted spot in a p.e. class when sign-ups opened in the morning, the University of California at Berkeley was budgeting $5,000 toward women's athletics. The following year the women's budget jumped to $50,000. This fall it will be $448,000, almost 90 times what it was five years ago.

In 1974, two years after Title IX was law, an average of only 2% of the money budgeted by colleges and universities for athletics was earmarked for women. This year, estimates of women's share of athletic funding average anywhere from 4 to 8%. In 1974 about 60 colleges offered athletic scholarships to women; now more than 460 do. (See Scholarship Guide.)

The public consciousness has been raised, as it were, and is manifesting liberal behavior toward women in sports. Organizations from community leagues to state legislatures are beginning to play sugar daddy to women athletes. Backing the notion of "equal pay for equal play" for the first time in 31 years, the Delaware Association of Pushmobile Derby awarded the same prizes to girl winners as to boy winners last month. In a $1.3 million measure for funding non-revenue-producing collegiate sports, the House Education Committee of the Oregon legislature earmarked a special $986,480 grant for women's intercollegiate athletics in a one-shot deal intended to avoid elimination of minor sports and cutbacks in major sports in the state's university system.

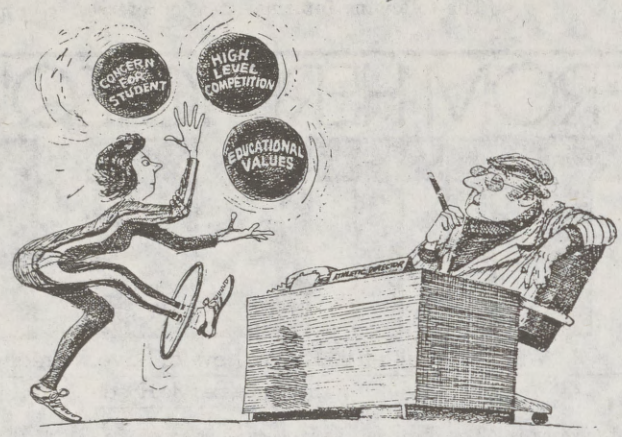
Girls' participation in interscholastic sports has increased 460% in the six-year period between 1971 and 1977. A survey by the National Federation of State High School Associations reports that in the 1970–71 school year, 3,666,000 boys and 294,000 girls played sports on an interscholastic level. In other words, only 7% of all students participating in high school sports in 1970 were girls. During the 1976–77 school year, 1,645,000 girls played interscholastic sports—29% of the 5,754,000 total.

These sudden and rapid increases, which appear substantial because of the previous dearth of support and participation, constitute the boom in women's school sports. But what assurances are there that this boom will be sustained? Those who care that women achieve equal opportunity in sports know that the present is not just a time for celebration of progress, but a time for vigilance to ensure the continuation of support and to guide its direction.

There are indications that progress is not a sure bet just because you hit the number once on a roulette wheel. According to educated guessers, the factors involved in the initial blast-off in women's sports might get women's budgets from zero to 20% of total budgets. But what are the factors that will move them nearer to equality—from 20% to 50%?

There are already signs of a slowdown in growth rate in high school sports participation. Girls' interscholastic participation increased by 345,000 in the past two years, but this is significantly less growth for girls than the increase of 483,000 between the 1972–73 and the 1974–75 surveys, and the increase of 523,000 between the 1970–71 and the 1972–73 surveys.

The National High School Federation cites "the deteriorating financial situation of school districts in many areas of the country" as the reason for the slowdown in growth. But women students and coaches who feel the rate of growth slowing down could cite discrimination. Many administrators simply are refusing to upgrade women's programs when they think it means changing or cutting back on



"I LIKE YOUR ACT, BUT WILL IT SELL?."

men's programs. It seems that when economics and law meet in the minds of school administrators, money gets tighter and their interpretation of the law gets looser. Push is coming to shove.

THE LAY OF THE LAW

If practicing sex discrimination were analogous to cigarette smoking, Title IX would be like taking an entire country to Smokenders. Title IX feels as prickly to the nervous system as withdrawing from an old habit. But it feels as good to some as breathing fresh air.

Title IX is a revolutionary federal law that, along with the embattled Equal Rights Amendment, takes into consideration the fact that women hold up half the sky. It is the piece of legislation that could change everything, because it forbids sex discrimination in a socializing agent that has long perpetuated it—the educational system. Title IX applies to virtually every elementary, secondary, and higher educational institution in the country, and outlaws sex discrimination in every activity in every school that receives federal funds.

Title IX means that a boy who wants to study art can no longer be automatically routed into a mechanical drawing class. Title IX means that if a girl wants to study medicine, she's no longer pointed toward the nursing school. And it means that a girl who wants to wield a hockey stick at center halfback is no longer shunted off to sign up for cheerleading tryouts.

Title IX of the Education Amendments of 1972 has been the law for five years; yet there are still boys who are told they shouldn't be homemakers and artists, and there are still girls who are told they can't become doctors and athletes. But now a great risk is involved in telling them no when the law requires schools to say yes. Schools risk loss of all federal funds, and they risk it now. Elementary schools should have been in compliance by July 1976. High schools, colleges, and universities must be in full compliance by July 1978.

Though there are complaints of unequal access to courses still pending, elementary schools seem to be the closest to compliance at the present time. High schools are offering more opportunities, but rarely equal opportunity. Parity seems farthest away at the college and university level, perhaps because sex bias is more deeply rooted there.

Almost all schools are moving with at least mincing steps toward compliance, but not swiftly enough for the law or for the public. Parents are taking schools to court to make them stop socializing their children out of rightful opportunity. Students, teachers, and coaches are filing complaints under Title IX with the Department of Health, Education, and Welfare's Office for Civil Rights, the enforcement arm of Title IX, and it is expected that some drastic measures are in store for schools that do not comply on time.

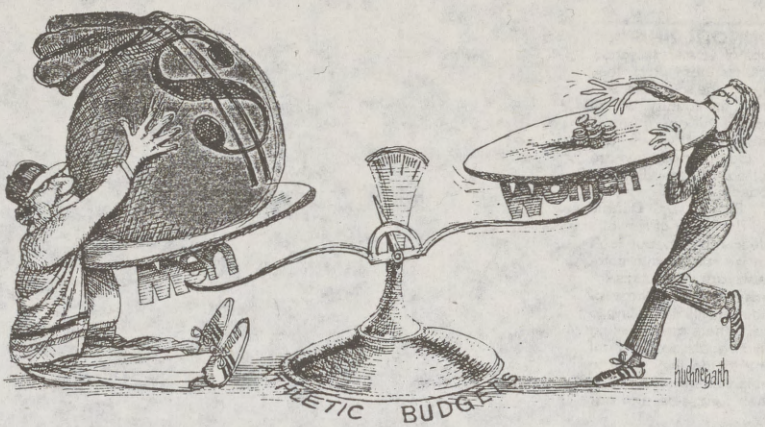
The Office for Civil Rights (OCR), understaffed and underfinanced, has been slow to investigate complaints so far. But now the OCR is under court order to clear up its backlog of Title IX complaints in elementary and secondary schools. So far, there are more than 871 complaints to be investigated. If, after investigation, a complaint is found to be valid, OCR tells the school how to comply. From the time a completed complaint is filed, OCR has approximately seven months to determine whether or not a school is in compliance with Title IX. If in that time a school does not correct its inequities, HEW sends it notification of a hearing in court to determine whether its federal funds will be terminated.

School districts in many states are under the gun at present, and major investigations of the University of Minnesota, University of Michigan are under way. What the investigators are finding is that many schools are giving lip service to equal opportunity while dragging their feet on Title IX.

In July 1975, when the guidelines to Title IX regulations were published, school administrators were told to undertake a "self-evaluation" to identify types of inequality in their institutions and draw up a plan for what they were going to do about it. It was due in HEW's Office for Civil Rights by July 1976, but few schools have sent theirs in. It's understandable. Education, one of the most conservative establishments in this country, does not like being told what to do. Some schools were even downright reactionary, declaring publicly that they had no intention of complying with federal law.

But most of the tardiness of schools was due to confusion over what Title IX really demanded of them and to their uncomprehending surprise that they were guilty of something so heinous as sex discrimination.

It takes a lot to root out old habits, but it takes even more effort to create new and better ways. That many schools are having a difficult time dealing with Title IX is traceable to ignorance about what sex discrimination is, what



"EQUAL OPPORTUNITY IS A RIGHT NOT A FAVOR"

equality might be like, and what the difference between the sexes is. After all, sex discrimination has been entrenched for a long time—and nowhere more so than in sports.

BEHIND THE LINES

Sports has been a masculine domain, and, until recently, that was thought to be as justified by biology as it was by habit. The task of ending sex discrimination in schools is complicated more in sports than in any other area because of two common but fallacious notions. First the myth persists that the aggressive physical world of sports is one that women can not, should not, and do not want to inhabit; second, the notion abounds that competitive sports, because it is extracurricular in most schools, is a privilege and not a right.

The National Collegiate Athletic Association (NCAA), the watchdog for men's collegiate sports, has lobbied against Title IX in Congress as well as on campuses. Although the men's group failed to persuade legislators to exempt athletics from the regulations, the NCAA did succeed in stalling Title IX implementation. The NCAA is still trying to reverse the "jock bill" through a lawsuit in Kansas against HEW. Even while trying to woo the women athletes into joining its programs, the NCAA continues to fight the law which offers women equal opportunity.

The NCAA has contributed to the tendency to resist change already inherent in the flexibility of the Title IX guidelines published in July 1975. "We have received interpretations of the guidelines and interpretations of the interpretations," says Sharon Holmberg, coordinator of women's intercollegiate atheletics at Oklahoma State University. "Some schools don't want to do anything with the guidelines because by next week they could be wrong." Sometimes the result of this "confusion" or resistance is either no action toward compliance, or actions which seem contrary to the spirit of equal opportunity in the law. Many administrators have put the word out to stay mum about budgets so that women athletic directors, fearing loss of their jobs, hesitate to complain publicly. The atmosphere has become very touchy.

Title IX is monumental, complex in its dimensions, and, as a revolutionary tool, it is much loved and much hated. To some it is a scapegoat for financial ills, to others a banner pronouncing ultimate equality for women in all facets of society.

In 1972, when the NCAA first realized that the law banned bias in athletics, officials of that men's organization struck up a chorus of panicked protest, much like yelling "Fire!" in a crowded theater. "Title IX spells the doom of intercollegiate athletics as we know it," was the NCAA party line on the subject. Fear of the "ruination" of big-time football and basketball also inspired the NCAA's response to an Internal Revenue Service Ruling last June which declared that college athletic income derived from television and radio was to be no longer tax-exempt. Citing the $150 million in back taxes its member institutions would owe, NCAA president, J. Neils Thompson, said, "It could lead to the destruction of intercollegiate athletics as we know it." And then he added, "It also will have a great effect on women's programs. If this (IRS ruling) goes through, Title IX goes down the drain." Such threats and counterthreats are the order of the day.

Indeed, the reaction to Title IX in the sports establishment could be likened to the furor over prohibition in the '20s. The major difference is that women in school sports have no Carrie Nation making it her business to force those drunk on discrimination to toe the line. Feminists, many of whom have no taste for sports, have skipped over the plight of women athletes, opining sports to be merely a knee-jerk issue of the women's liberation movement.

With no national activist organization to lead the fight against sex bias in school sports, the responsibility seems to rest squarely on the shoulders of the schools. Responsibility for school sports programs, as over all programs, ultimately rests with the school principal and the college or university president. But because of the dominant influence wielded by men's varsity sports in many American schools, in practice it is the male athletic director and/or football coach who presently is in control. Potentially, the parents, the students, and the taxpayers have the real power to determine the future of women's sports, but they rarely use it.

In short, the persons who have been most guilty of sex bias are the ones who are first in line to direct its elimination. Men who have built their sports programs on the cornerstone of the macho ethic are being told to uproot their very foundations. The degree of resistance witnessed today is ironic testimony to the dire need for schools to do just that.

RECONNOITERING

When groups of women in schoo sports get together these days, they are concluding, as one said, that "90% of colleges across the country are still not providing equal opportunity." Some women among them are pleased with sudden support and are willing to wait past the deadline for Title IX compliance, because equality "takes time." But as Dr. Donnis Thompson, the University of Hawaii's women's athletic director, put it: "I don't care that we started with nothing; it's where we are that counts."

Where women are is in the throes of transition. Some are still struggling to win the basics. Others are wrestling with philosophical goals: do they want to go "big time" or do they want to create a lower-key alternative, somewhere between Lear jets and car pools?

In general, women's athletics are being treated the way men's "minor" sports have always been dealt with, low on the totem pole compared with revenue-producing sports like football, but higher in priority than intramural sports. Yet many women in education do not believe in the practice of allocating funds according to how much a sport brings in at the gate. It is interesting to note that Judy Sweet of the University of California at San Diego—the first female athletic director in the nation in charge of both men's and women's athletics—has instituted a policy to regard all sports there as "major." Her budget for the 30 intercollegiate teams there this past year was $117,000, while $132,000 were spent on intramurals. San Diego offers no athletic scholarships and recruits neither men nor women. Participation-oriented, her program is admired but not yet copied.

In general, though, schools have been trying to fit women's athletics into the established sports structure instead of trying to change the entire structure to accommodate a more participation-oriented philosophy. The result is a potpourri of approaches which tells more about the established system of intercollegiate sports in this country than it does about women's potential place in it.

Nationwide, schools seem to be spending the new money for women on the basics first—equipment, uniforms and travel—and on coaches' pay last. Equalization of practice times and use of facilities are among the most thorny problems, and the solutions range from the sublime to the ridiculous.

High Schools

In some high schools, problems of scheduling and facilities have been



"I DON'T KNOW... SOMEHOW IT DOESN'T FEEL RIGHT PLAYING OUT OF SEASON..."

solved by sharing. In Morgan Hill, California, co-ed track meets have been instituted with boys' and girls' events run alternately. But in high schools throughout the state of Michigan, the "share-solution" was passed over in favor of a rather bizarre shuffling of seasons. Instead of sharing use of the gym and prime times, high school girls in the state of Michigan will play basketball out of season in the fall, while boys will still compete in the traditional winter season.

The decision to shuffle seasons "to avoid a facilities conflict" was made by the Michigan High School Athletic Association, a rule-making body of 720 principals. At the time the decision was made, in the spring of 1973, that body had one woman in it. Since then, a group of women coaches has tried to get the ruling changed, but it still stands; and now girls' volleyball, traditionally a fall sport, has been moved to the winter.

The consequences: Michigan schools have lost women field hockey players to basketball; women who previously coached both basketball and field hockey can't coach them both in the same season, and the number of high school field-hockey teams has diminished from 35 to 22. "Changing the girls' basketball season literally killed field hockey in the state," says Fran Koenig, athletic director of Central Michigan University. "The only thing the ruling did was avoid the hassle of who had the gym in the winter."

When the California State Department of Education surveyed 700 public high schools in May 1975, five types of inequality emerged: during the school year 1973–74, the average high school spent $14,227 on the boys' program and $3,271 on the girls'; most high schools fielded boys' teams in 11 sports, with varsity and junior-varsity levels, and girls' teams in seven sports; the average athletic staff had 21 coaches for the boys' program and eight for the girls'; the average boys' coach earned $505 per sport, and the average girls' coach, $343; and the average equipment expenditure for boys was $7,727, and for girls, $2,197.

Soon after Title IX was passed, some California state legislators began to push for bills which would spur opportunities for girls in athletics. Perhaps as a result, some school districts in California have been in the forefront of Title IX compliance. In the Los Angeles City School District, most schools now offer nine sports for boys and eight for girls. For three out of the past four years, the city board has allocated $5,000 to each high school for athletic equipment, with $2,000 earmarked for each sex and $1,000 for either sex.

Facing Title IX head-on, the Los Angeles district has published pamphlets and has scheduled workshops to explain the law to parents, students, and teachers. Still, there are hazy areas of inequity that have yet to be resolved. In noncontact sports, the boys' team is called the student team and is open to both sexes, a resolution potentially limiting to girls' opportunities to be chosen for the team. Often girls' games are still scheduled after school rather than in prime evening hours, resulting in fewer spectators and less coverage. As many as seven pages are devoted to boys' sports in the Los Angeles city schools' weekly press-release, while only one page is given to girls' athletics.

The imbalance in coaches' pay, however, is causing more headaches nationwide than any other administrative issue. Even so recently as this past school year, the average salaries of most women coaches were only one-third as much as those of their male counterparts. According to a survey by the Connecticut Education Association, last year the salaries for head coaches of boys' high school sports in Meriden ranged from $17,000 for football to $900 for cross-country, tennis, and golf. All coaches of girls' sports received $300, except for the cheerleading coach who got $450.

In California, coaches returning to San Ramón Valley High School in the fall of 1975 found that salaries for coaching girls' sports were only 60% of the salaries for coaching boys in that sport. Men who were receiving $400 for coaching girls while other men received $600 for coaching boys in the same sport soon realized what the women had been talking about. They joined the women in protest through the grievance process of Title IX, and within three months the school board voted equal pay for equal teaching.

About 50 miles from San Ramón is Live Oak High School in Morgan Hill. Like most high schools, it still seems far from Title IX compliance mandated by July of next year, but it's moving toward it. Director of boys' sports Bob Brooks points out that the women's sports budget is "about five times what it was five years ago." In many girls' sports a 6-game season has been increased to a 20-game season. According to Brooks, as the quality of coaching and scheduling have improved, so have the girls' performances.

Such increases are altering the tra-

ditional lower-class status of women's sports across the country, but to Myrna Staal, director of the girls' program at Live Oaks, change seems slow and laborious. Her budget is still only about one-third of the boys' budget, and the girls don't have the facilities yet, either, because the gym is always booked up. "Most of our sports take place at 3:00 P.M.," she says. "Who can draw at that time? What we'd like is some prime-time exposure like basketball and football." When girls do compete at the same time as the boys, "it's more fashionable, of course, to attend the boys' contest, and they have the cheerleaders, while we usually don't." Staal feels lucky when her girls are provided with one set of uniforms, whereas the boys have both a home and an away wardrobe.

Meanwhile, at West Morris Central High School in Washington State, school officials were tangling with the co-ed or separate-but-equal issue. The night before soccer practices were to begin last year, Tricia LaGrua, 17, was notified by high school officials that she would not be permitted to try out for the boys' soccer team. Elizabeth LaGrua went to the Regional Board of Education meeting in March to protest her daughter's exclusion, and to accuse the board of not obeying state laws in providing equal opportunities in athletics for both sexes. As a result,

(Continued on page 24)

GROWTH IN COLLEGE PARTICIPATION, 1971–76

SPORTS	NUMBER OF SCHOOLS				
	'71–72	'72–73	'73–74	'74–75	'75–76
Basketball	215	346	466	600	640
Volleyball	181	285	396	467	594
Tennis	198	300	417	506	560
Softball	120	175	254	303	342
Swimming & Diving	135	213	265	298	327
Track & Field	76	138	180	226	283
Field hockey	165	213	249	284	256
Gymnastics	123	182	238	263	246
Golf	77	132	145	155	165
Badminton	70	98	124	125	117
Total AIAW member schools	301	409	603	739	843

From a December 1976 survey by the Association for Intercollegiate Athletics for Women of the number of its member schools offering intercollegiate competition for women.

GROWTH IN HIGH SCHOOL PARTICIPATION

	1970–71		1972–73		1976–77	
SPORTS	SCHOOLS	ATHLETES	SCHOOLS	ATHLETES	SCHOOLS	ATHLETES
Track & Field	2,992	62,211	7,292	178,209	12,636	395,271
Basketball	4,856	132,299	8,718	203,207	14,931	387,507
Volleyball	1,550	17,952	6,158	108,298	10,607	245,032
Softball	373	9,813	4,251	81,379	6,496	133,458
Tennis	2,648	26,010	4,219	53,940	6,991	112,166
Swimming & Diving	853	17,229	2,079	41,820	3,285	85,013
Gymnastics	1,006	17,225	2,154	35,224	3,379	79,461
Field hockey	159	4,260	1,572	45,252	1,675	59,944
Golf	116	1,118	1,228	10,106	2,596	32,190
Cross-country	77	1,719	433	4,921	2,631	30,798

From girls' interscholastic sports participation surveys by the National Federation of State High School Associations.

girls at West Morris Central will be able to try out for the previously all-male soccer and lacrosse teams this year, and boys will be eligible for the previously all-female field hockey teams.

The high school's athletic director, however, warned that it might be difficult for the girls to make the grade on the teams and warned parents of the potential for injury in contact sports.

The inadvisability of co-ed teams on the highly competitive level and the reluctance of schools to cut back boys' programs in order to add teams for girls combine to form the stickiest problem in high school athletics. Most state high school athletic associations were set up to make rules and league regulations for boys. Now, in response to state and federal laws, and sometimes in reaction to individual law suits, many state high school athletic associations have simply erased their "boys only" wording and replaced it with the phrase "student team." Literally, this means that any student, male or female, is eligible to compete for a place on any team, male or female. But in practice, single-sex teams, especially in contact sports, have preference over co-ed athletic teams in public opinion as well as in the courts' interpretations of the law.

Title IX even prohibits merging boys' and girls' teams when such a merger would result in the limitation of opportunities of one or the other sex. In the case of women, whose opportunities to develop have been limited in the past, says Title IX, the institution of one co-ed team that is predominantly male, instead of one boys' team and one girls' team, would not constitute compliance with the equal-opportunity mandate.

Despite court rulings favoring the separate-but-equal approach in the realm of sports, school administrators are resisting. District Superintendent Richard Mirshak thinks his board's decision to integrate teams at West Morris was justified because he does not want to see boys' programs suffer. "If we have been unfair to girls in the past, it would be equally unfair to stagnate the boys' programs just because it is difficult to find comparable sports for girls," says Mirshak. His is the hard-line answer heard from administrators throughout the country.

Colleges and Universities

At the University of Kansas the women have been operating on a budget of $120,000. Last spring, the program was caught in the middle of a passing-the-buck play between students and the university. The student senate, which had provided $54,405 to the women in a lump activities-fee, passed a resolution to discontinue its funding. Student Body President Steve Leben said that funding of women's intercollegiate athletics should be the responsibility of the university, not the student senate. As a result, Women's Athletic Director Marian Washington's budget this year is, she thinks, an amount too low to be competitive. Prospects for extra funds from outside sources look dim. "It's so hard to get ourselves established here," she said, "that I'm not sure we're solid enough to ask for alumni donations."

In contrast, the students at Vanderbilt University have risen to the aid of their women's program, such as it is. A campus women's organization called the Title IX in Tennessee Committee formed this past school year to fight for parity in women's sports. After the TNT Committee contacted HEW, the government wrote Vanderbilt asking for a report on its self-evaluation for compliance with Title IX, a document which was one year overdue. Vanderbilt offers teams for women in five sports, none of which have varsity status since none are funded through the athletic department, but rather through general university funds to the tune of $5,220 last year. Football alone was allocated $1 million out of the $2.8 million men's budget.

There were no paid professional coaches at Vanderbilt; rather, the women's teams were coached by volunteers. In June 1976, Athletic Director Clay Stapleton told *womenSports* that since there was not much interest from women students, there was little need to increase their budget.

Apparently student interest has increased markedly in one year. Last March, the TNT Committee retained legal counsel in preparation for a meeting the group had called with the university's legal counsel and with Senior Vice-Chancellor Dr. Rob Roy

SEVEN BIG-TEN BUDGETS, 1976–77

*SCHOOLS	WOMEN'S ATHLETICS	MEN'S ATHLETICS	WOMEN'S % OF TOTAL
Indiana	$218,000	$3,500,000	5.86%
Iowa	250,000	2,000,000	11.11%
Michigan	180,000	5,000,000	3.47%
Michigan State	256,000	4,500,000	5.38%
Minnesota	400,000	3,400,000	10.53%
Ohio State	300,000	5,700,000	5.00%
Wisconsin	209,000	2,217,000	8.62%
Average	259,000	3,759,714	7.14%

*Figures unavailable for Illinois, Purdue, and Northwestern. Budgets listed may not include the total money spent since some salaries and administrative costs may be reflected in other budgets.

Purdy, the faculty chairman of the Vanderbilt Committee on Athletics.

At the meeting, the women's group asked for paid coaches for women's teams, facilities "in kind," and more funding for women's sports. Freshman Donna Eldridge from Darien, Connecticut, spokesman for the group, said that women students are not asking for *equal* support—just for *some*. "We are not just concerned with the varsity sports, but recreational facilities in general for women on campus," she said. "They are just not available. We still get run off the tennis, handball, and racquetball courts by the men's varsity players. We would like some place to go."

Dr. Purdy explained that the athletic department is set up for so-called revenue-producing sports and that those just happen to be men's sports. "We don't fund anything except revenue-producing sports," he said. "I think that women's tennis might produce revenue to justify varsity status, but I really worry about women's basketball. We can provide a professional coach for women's basketball, but I don't know whether the team could provide any revenue. Maybe it could."

Purdy's reasoning, typical of that of many other school administrators, is something of a "Catch-22" package. As Howard Hughes might have said, "You've got to have money to make money." In the words of Donna B. Cleland, professor at the University of Mississippi, "Women's athletics can generate income if as much time, energy, and money used to market male teams are also contributed to female teams." More people in Iowa pay to see women's basketball than men's basketball, and in West Texas, women's volleyball draws bigger crowds than men's football and basketball.

Be that as it may, federal law doesn't care if women can earn their keep or not. Title IX does not say a sport has to produce revenue to earn equal support. It says equal opportunity in athletics is a right, and defined its purview to include provision of coaches, equipment, locker rooms, training facilities, scheduling, publicity, the whole ball of wax.

"We don't have any of this," says Donna Eldridge of Vanderbilt. "We have no present intentions to bring suit against the university but we are certainly prepared to take legal action."

In April, as a result of that March meeting, Vanderbilt appointed Emily Harsh the assistant athletic director for women. Harsh expects the women's budget to be increased this fall to a figure somewhere between $15,000 and $25,000.

Fortunately, most students are not having to go to court to gain opportunities for participation. Many women athletic directors are enjoying budget increases this fall and some have even retained a voice in the development and direction of their own programs. Women's Athletic Director Judy Holland has seen the UCLA women's budget almost triple, from $180,000 in 1974–75 to $450,000 this fall. UCLA has 11 head coaches, eight assistants, a head trainer, a sports information director, and five staff positions including Holland. About half of those positions didn't exist a few years ago. Last year 65 of 200 (or 23%) of UCLA women athletes were on an athletic scholarship, and that number is increasing this fall.

Cal Berkeley's $50,000 women's athletic budget in 1973–74 was 1000% better than that of the previous year, but it was still only 2% of the total athletic budget then. This year the $448,000 women's budget amounts to 14% of the total budget. On top of that, the state legislature voted a one-time-only $100,000 allocation for equipment grants-in-aid, and $10,000 to set up a Berkeley women's alumni booster club.

The number of scholarships offered and the number of schools offering them have skyrocketed since schools began giving them in 1973. But then so have the skill levels of the women athletes competing for them. Coaching positions and coaching salaries, however, have not increased as fast as the availability of talent and the interest of women in building competitive programs. Although they may carry a full load in hours, most coaches of women's teams are still paid on a part-time basis. Even UCLA, considered to be something of a model-of-progress program because it devoted big money early, waited until this year to hire its first full-time women's coach—former Olympic basketball coach Billie Moore.

The they're-going-to-rob-Peter-to-pay-Paula rumor buzzing around the country's campuses is one of the biggest fallacies surrounding Title IX. Last April, explaining why the Big Eight conference schools were raising their ticket prices to football games this fall, Commissioner Chuck Neinas told the newspapers that "most of this increase is to help fund women's athletics." The University of Oklahoma football fan will have to shell out ten bucks a ticket to watch Big Red battle this fall, and now he thinks it's because of those damn women.

The Big Red fan should know that

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the budget for the women's program at OSU comes from recreation department funds, not from the Big Eight. As Oklahoma's director of athletics, Amy Dahl, says: "Football dollars do cover other sports. But I'd hate to say that football money covers women's sports in all Big Eight schools." In fact, it does not. The women's programs at Colorado and Kansas, for example, are separately funded, and not supported by gate receipts from men's football at all.

Starting this fall, Yale University will have the biggest women's budget in the Ivy League and more varsity women's sports than UCLA. But, according to Yale officials, to do that required no "significant" changes in men's sports budgets either up or down. Yale Athletic Director Frank Ryan says that he does not expect the women's budgeting program to affect Yale's football program.

Football coaches and NCAA spokesmen may blame women for causing the financial crisis in intercollegiate athletics today, but the truth is that 95% of men's football programs have been running in the red for years. It may be convenient to use women as a scapegoat and to portray the current conflicts over Title IX implementation as a "battle of the sexes"; but in fact, if there are only two sides to the many questions troubling colleges, there are women and men on each side. The issue is equal rights, no matter how much it may or may not hurt Big Red football.

It is true that instant dollar-for-dollar equality would require dipping into money budgeted for the so-called revenue-producing sports of men's football and basketball. But women aren't asking for and they're not getting equal money, and schools are not cutting back their support of big-time sports to fund women. Instead, when cutbacks are made, they sometimes hit men's minor sports but most often affect intramural-recreational programs, usually part of the school's physical education departments.

Women coaches, unlike men coaches, usually come from a background in physical education rather than competitive athletics and, as a group, they are more concerned than anybody about cutbacks in participation-oriented as opposed to spectator-oriented sports. The women's athletic department at Kent State University in Ohio returned one-third of its budget last year because the women felt enough money had been spent. Kent State's women's athletic director Judy Devine explains, "At Kent we're spending more slowly by choice. Too many athletic departments rush to spend money simply because they never had it to spend before. The only guideline they have to follow is the men's athletic department. And they make the same mistakes that the men make. Things are moving too fast."

Hard-line phrases abound in these boom days, and the women have them, too. When the women say they "don't want to move too fast," or "make the same mistakes as the men," such declarations are often misinterpreted to mean, "I have cold feet." More to the point, however, is a long-simmering and recently escalating conflict between two philosophies of sport within the educational system.

The conflict is about emphasis: should more money be spent on intramural and recreational programs which offer participation opportunities for many, or should sports monies be focussed on intercollegiate athletics for the most talented few? Educators believe that a school ideally can offer both types of sports programs; but in practice, most schools opt to emphasize one or the other.

The women want the chance to set their own pace and to even make their own mistakes, not "the same mistakes the men have made" such as spending in the red on recruitment and scholarships. It's an intricate problem, one that not all women are concerned about and one that not all men are ignoring.

THE BUCK STOPS HERE

It seems that what many schools define as "confusion over what Title IX means" is really frustration over their own useless attempts to avoid the law. Economic problems are real, but they do not exempt schools from obeying Title IX. Title IX doesn't order schools to double their money; it just says that they must split equitably what they have.

It is a formidable law, and schools cannot keep hiding behind economics to avoid it. As Elizabeth LaGrua said after West Morris High School had denied her daughter the opportunity to play soccer, "I have been told that the board has a problem with insufficient funds to set up more girls' programs. Well, income tax is a problem for me, too, but I pay it."