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ABSTRACT

Presented is the full text of hearings before the Special Subcommittee on Education during March and April 1973 concerning bills to amend the Higher Education Act of 1965 to protect the freedom of student athletes and their coaches to participate as representatives of the United States in amateur international athletic events, and for other purposes. (JCW)

PROTECTION OF COLLEGE ATHLETES

HEARINGS BEFORE THE SPECIAL SUBCOMMITTEE ON EDUCATION OF THE COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 5623 and H.R. 5624

BILLS TO AMEND THE HIGHER EDUCATION ACT OF 1945
TO PROTECT THE FREEDOM OF STUDENT-ATHLETES AND
THEIR COACHES TO PARTICIPATE AS REPRESENTATIVES
OF THE UNITED STATES IN AMATEUR INTERNATIONAL
ATHLETIC EVENTS, AND FOR OTHER PURPOSES

HEARINGS HELD IN WASHINGTON, D.C.

MARCH 5, 19, 26, 27, 28, 29, AND APRIL 2, 1973

Printed for the use of the Committee on Education and Labor
CARL D. PERKINS, *Chairman*

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
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PROTECTION OF COLLEGE ATHLETES

MONDAY, MARCH 5, 1973

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

The subcommittee met at 9:30 a.m., pursuant to call, in room 2175, Rayburn House Office Building, Hon. James G. O'Hara (chairman of the subcommittee) presiding.

Present: Representatives O'Hara, Lehman, Brademas, Dellenback, Kemp, and Huber.

Staff members present: A. C. Franklin, counsel; Elnora Teets, clerk; and Dr. Robert Andringa, full committee minority staff director.
[Texts of H.R. 5623 and H.R. 5624 follows:]

(1)

93d CONGRESS
1st Session

H. R. 5623

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1973

Mr. O'HARA (for himself and Mr. DELLENBACK) introduced the following bill;
which was referred to the Committee on Education and Labor

A BILL

To amend the Higher Education Act of 1965 to protect the freedom of student-athletes and their coaches to participate as representatives of the United States in amateur international athletic events, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That the Higher Education Act of 1965, as amended, is
4 amended by adding the following new title:

5 "TITLE XIII—PROTECTION OF ATHLETES
6 AND COACHES

7 "Sec. 1301. No institution of higher education in the
8 United States or official, employee, or member of the faculty
9 thereof, and no organization having as members institutions

1 of higher education or officials, employees, or members of the
2 faculties thereof, may deny, withdraw, or suspend, indefi-
3 nitely or for a specified time, the eligibility of a student-
4 athlete to compete in any intercollegiate athletic events,
5 including preseason, regularly scheduled, tournament, or
6 championship events, because such student-athlete has ex-
7 pressed an intention to participate or has participated individ-
8 ually or as a member of a team representing the United
9 States in amateur international athletic competition against
10 individuals or a team or teams representing any other country
11 or countries.

12 "SEC. 1302. No union, association, federation, or other
13 organization of amateur athletic clubs, schools, colleges, uni-
14 versities, or other amateur athletic interests that sponsors,
15 approves, or sanctions amateur international competition be-
16 tween athletes representing the United States and athletes
17 of other countries may declare ineligible for such amateur
18 international competition any student-athlete because such
19 student-athlete has participated in an amateur athletic event
20 not sponsored, approved, or sanctioned by such union, asso-
21 ciation, federation, or organization.

22 "SEC. 1303. No institution of higher education in the
23 United States or official, employee, or member of the faculty
24 thereof, and no organization having as members institutions
25 of higher education or officials, employees, or members of the

1 faculties thereof, may prohibit or in any way penalize a
2 coach of student-athletes at an institution of higher educa-
3 tion from participating, or for having participated, as a coach
4 of amateur athletes representing the United States in inter-
5 national competition against a team or teams representing
6 any other country or countries, because the international
7 competition is not to be or was not sponsored, approved, or
8 sanctioned by an organization of which the institution of
9 higher education is a member.

10 "Sec. 1304. (a) Any person who willfully violates
11 section 1301, section 1302, or section 1303, of this act shall
12 upon conviction thereof be subject to a fine of not more
13 than \$10,000.

14 "(b) The district courts shall have jurisdiction for cause
15 shown to restrain violations of section 1301, section 1302,
16 and section 1303 of this Act."

93^d CONGRESS
1st Session

H. R. 5624

IN THE HOUSE OF REPRESENTATIVES

March 14, 1973

Mr. PERRY introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To protect collegiate and other amateur athletes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 *that this act be cited as the "Federal Scholastic and Amateur*
4 *Sports Act of 1973".*

5 STATEMENT OF FINDINGS

6 SEC. 2. The Congress finds that—

7 (1) amateur collegiate and other types of amateur
8 athletic competition perform a useful role in the develop-
9 ment of the individual and the enrichment of his
10 experience;

11 (2) athletic competition between citizens of dif-

1 ferent nations provides a valuable exchange of cultural
2 and personal ideas, and thereby contributes substantially
3 to the ideals of international cooperation in all fields;

4 (3) the diffusion of authority over amateur athletics
5 among various organizations in the United States has
6 resulted in a lack of coordination which handicaps the
7 individual athlete in international competition;

8 (4) the United States has a vital interest in as-
9 suring that its amateur athletes are offered the greatest
10 support in their training and development in order that
11 they will be able to successfully represent the United
12 States in international athletic competition;

13 (5) collegiate and other athletes should be given
14 the widest latitude in relation to the development and
15 refinement of their athletic talents; and

16 (6) the lack of cooperation and coordination among
17 the existing amateur athletic organizations affecting
18 amateur athletes of the United States have not provided
19 for either the best interests of the amateur athletes of the
20 United States in international competition.

21 **DECLARATION OF PURPOSE**

22 **SEC. 3. The Congress hereby declares that—**

23 (1) it is the purpose of this Act to protect and pro-
24 mote the interests of the collegiate and other amateur
25 athletes in the United States engaging in international

1 competition by establishing a Federal Scholastic and
2 Amateur Sports Commission;

3 (2) it is the purpose of the Commission to promul-
4 gate rules and regulations which will improve the coordi-
5 nation of the various amateur athletic organizations as
6 they affect the competitive ability of American athletes
7 in international athletic competition;

8 (3) it is the purpose of the Commission to promote
9 friendly international amateur athletic competition
10 among nations and between amateur athletes;

11 (4) it is the purpose of the Commission to study
12 all factors of collegiate and other organized amateur
13 athletic competition which relate to the safety and health
14 of athletes when the Commission believes there is a need
15 for such a study.

16 **SEC. 4. As used in this Act—**

17 (1) the term "amateur athlete" means an athlete
18 who is not remunerated for his athletic performances,
19 except for the payment of expenses incurred incident
20 to his athletic performances;

21 (2) the term "international athletic competition"
22 means athletic competition in which an athlete or ath-
23 letes of the United States compete with or against an
24 athlete or athletes of any other nation;

25 (3) the term "amateur organization" means any

1 organization which sponsors, sanctions, organizes, or in
2 any other manner controls or supervises the conduct of
3 amateur athletic competition in which citizens of the
4 United States participate,

5 **FEDERAL SPORTS COMMISSION**

6 **SEC. 5. (a)** A commission is hereby created and estab-
7 lished within the Department of Health, Education, and Wel-
8 fare to be known as the Federal Scholastic and Amateur
9 Sports Commission (hereafter referred to as the "Commis-
10 sion") consisting of five Commissioners who shall be ap-
11 pointed by the President, by and with the advice and con-
12 sent of the Senate, one of whom shall be designated by the
13 President as Chairman. The Chairman shall be the principal
14 executive officer of the Commission and, when so designated,
15 shall act as Chairman until the expiration of his term of
16 office. Any member of the Commission may be removed
17 by the President for neglect of duty or malfeasance in office
18 but for no other cause.

19 (b) The Commissioners first appointed under this sec-
20 tion shall continue in office for terms of three, four, and five
21 years, respectively, from the date of enactment of this Act,
22 the term of each to be designated by the President at the
23 time of nomination. Their successors shall be appointed each
24 for a term of five years from the date of expiration of the
25 term for which his predecessor was appointed and has

1 qualified, except that he shall not so continue to serve
2 beyond the expiration of the next session of Congress sub-
3 sequent to the expiration of said fixed term of office and
4 except that any person appointed to fill a vacancy occurring
5 prior to the expiration of the term for which his predecessor
6 was appointed shall be appointed only for the unexpired
7 term.

8 (c) Not more than two of the Commissioners shall be
9 appointed from the same political party. At least three of the
10 Commissioners shall have an official relation to any national
11 or international amateur athletic organization but no more
12 than one member may be chosen from any one such orga-
13 nization.

14 (d) (1) Section 5314 of title 5, United States Code,
15 is amended by adding at the end thereof the following new
16 paragraph:

17 "(58) Chairman, Federal Scholastic and Amateur
18 Sports Commission."

19 (2) Section 5315 of title 5, United States Code, is
20 amended by adding at the end thereof the following new
21 paragraph:

22 "(96) Members, Federal Scholastic and Amateur
23 Sports Commission."

24 (c) No vacancy in the Commission shall impair the
25 right of the remaining Commissioners to exercise all the

1 powers of the Commission. Three members of the Commis-
2 sion shall constitute a quorum for the transaction of business.
3 The Commission shall have an official seal of which judicial
4 notice shall be taken. The Commission shall annually select
5 a Vice Chairman to act in the absence or in the case of
6 the disability of the Chairman or in the case of a vacancy
7 in the office of Chairman.

8 (f) The Commission shall maintain a principal office
9 and may meet and exercise any or all of its powers at any
10 other place. The Commission may, by one or more of its
11 members or by such agents or agency as it may designate,
12 prosecute any inquiry necessary to its function anywhere in
13 the United States. A Commissioner who participates in such
14 an inquiry shall not be disqualified from subsequently par-
15 ticipating in a decision of the Commission in the same matter.

16 (g) The Commission shall prepare and submit to the
17 President for transmittal to the Congress on or before Octo-
18 ber 1 of each year a comprehensive report on the adminis-
19 tration of this Act for the preceding fiscal year. Such report
20 shall include—

21 (1) a thorough appraisal, including statistical anal-
22 yses, estimates, and long-term projections, of the status
23 of amateur sports including, but not limited to, the con-
24 dition of relations among other amateur sports organiza-
25 tions, the status of efforts to improve safety and health

1 in athletics, the development of programs designed to
2 promote and improve the performance of American ath-
3 letes in international competition, the status of research
4 into methods for the construction and improvement of
5 athletic facilities, and reports on any problems which
6 may be found to exist in the Commission's jurisdiction;

7 (2) an evaluation of the degree of observance of
8 Federal amateur sports rules and regulations, including
9 a list of enforcement actions, court decisions, and com-
10 promises of alleged violations;

11 (3) a summary of outstanding problems confront-
12 ing the administration of this Act, in order of priority;

13 (4) a list, with a brief statement of the issues, of
14 completed or pending judicial actions under this Act;

15 (5) the extent of cooperation between the Commis-
16 sion officials and various organizations in the imple-
17 mentation of this Act, including a log or summary of
18 meetings held between Commission officials and other
19 interested parties; and

20 (6) an appraisal of the significance and potential
21 effects of any legislation at the State, local, or Federal
22 level which relates to the responsibilities of the Com-
23 mission.

24 (h) That report required by subsection (g) shall con-
25 tain such recommendations for additional legislation as the

1 Commission deems necessary to remedy problems which
2 relate to its jurisdiction.

3 (i) The Commission shall appoint an Executive Direc-
4 tor and such other employees as are necessary in the execu-
5 tion of its functions. Commission employees shall be subject
6 to the provisions of title 5, United States Code, governing
7 appointments in the competitive service.

8 FEDERAL SPORTS RULES

9 SEC. 6. The Commission shall have authority to pro-
10 mulgate rules or other regulations which relate to the
11 participation of amateur athletes of the United States in
12 international athletic competition. Rules or other regulations
13 promulgated pursuant to the authority vested in the com-
14 mission by this subsection shall preempt any other rule or
15 regulation of any other association which relates to partici-
16 pation of amateur athletes of the United States in interna-
17 tional competition.

18 ADMINISTRATIVE PROCEDURES

19 SEC. 7. Administrative proceedings of the Commission
20 shall be conducted in accordance with the provisions of sub-
21 chapter II of chapter 5 of title 5, United States Code, and
22 judicial review, in accordance with Chapter 7 of title 5,
23 United States Code.

1 **SPORT ADVISORY COUNCIL.**

2 **SEC. 8. (a)** The Commission shall establish an Ama-
3 **teur Sports Advisory Council** which it may consult before
4 prescribing a sports rule or regulation. The Council shall
5 be appointed by the Commission and shall be composed of
6 eight members, each of whom shall be qualified by training
7 and experience in one or more of the fields within the juris-
8 diction of the Commission. No member of the Council shall
9 have held any official position with any organization whose
10 activities related to the jurisdiction of the Commission.

11 **(b)** The Council may propose amateur sports rules
12 and regulations to the Commission for its consideration and
13 may function through subcommittees of its members. All
14 proceedings of the Council shall be public, and record of
15 each proceeding shall be available for public inspection.

16 **(c)** Members of the Council who are not officers or
17 employees of the United States shall, while attending meet-
18 ings or conferences of the Council or while otherwise en-
19 gaged in the business of the Council, be entitled to receive
20 compensation at a rate fixed by the Commission, not exceed-
21 ing \$100 per diem, including traveltime, and while away
22 from their homes or regular places of business they may be
23 allowed travel expenses, including per diem in lieu of sub-

1 sistence, as authorized by section 5703 of title 5, United
2 States Code. Payments under this subsection shall not render
3 members of the Council officers or employees of the United
4 States for any purpose.

5 **SEC. 9.** The Commission or any three members thereof,
6 as authorized by the Commission, may conduct hearings at
7 its office or otherwise secure data and expressions of opinion
8 pertinent to the jurisdiction of the Commission. The Commis-
9 sion shall publish notice of any proposed hearings in the
10 Federal Register and shall afford a reasonable opportunity
11 for interested persons to present relevant testimony and data.

12 **(b)** The Commission shall also have the power—

13 **(1)** to require, by special or general orders, amateur
14 sports organizations, individuals, and other associations
15 to submit in writing such reports and answers to ques-
16 tions as the Commission may prescribe; such submission
17 shall be made within such reasonable period and under
18 oath or otherwise as the Commission may determine;

19 **(2)** to administer oaths;

20 **(3)** to require by subpoena the attendance and tes-
21 timony of witnesses and the production of all documen-
22 tary evidence relating to the execution of its duties;

23 **(4)** in the case of disobedience to a subpoena or
24 order issued under this subsection, to invoke the aid of

1 any district court of the United States in compliance
2 with such subpoena order;

3 (5) in any proceeding or investigation to order
4 testimony to be taken by deposition before any person
5 who is designated by the Commission and has the power
6 to administer oaths and, in such instances, to compel
7 testimony and the production of evidence in the same
8 manner as authorized under paragraphs (3) and (4)
9 of this subsection; and

10 (6) to pay witnesses the same fees and mileage as
11 are paid in like circumstances in the courts of the
12 United States.

13 (c) Any district court within the United States within
14 the jurisdiction of which any inquiry is carried on may,
15 upon petition by counsel for the Commission, in case of
16 refusal to obey a subpoena or order of the Commission under
17 subsection (b) of this section, issue an order requiring
18 compliance therewith; and any failure to obey the order of
19 the court may be punished by the court as a contempt
20 thereof.

21 (d) The Commission is authorized to enter into con-
22 tracts with governmental entities, private organizations, or
23 individuals for the conduct of activities authorized by this
24 Act.

12

1 (e) The Commission is authorized to establish such
2 policies, criteria, and procedures and to prescribe such rules
3 and regulations as it deems necessary to administer this Act
4 and its functions hereunder. Unless otherwise specified, the
5 provisions of title 5, United States Code, section 553, shall
6 apply to such proceeding.

7 COOPERATION WITH FEDERAL AGENCIES

8 SEC. 12. The Commission is authorized to obtain from
9 any Federal Department or agency such statistics, data, pro-
10 gram reports, and other materials as it may deem necessary
11 to carry out its functions under this Act. Each such depart-
12 ment or agency is authorized to cooperate with the Com-
13 mission and, to the extent permitted by law, to furnish such
14 materials to it. The Commission and the heads of other de-
15 partments and agencies engaged in administering programs
16 related to amateur athletics shall, to the maximum extent
17 practicable, cooperate and consult in order to ensure fully
18 coordinated efforts.

19 ENFORCEMENT INJUNCTIONS

20 SEC. 13. Upon applications by the Attorney General,
21 the district courts of the United States shall have jurisdiction
22 to enjoin the Commission of acts in violation of any rule or
23 regulation issued pursuant to section 6, and to compel the
24 taking or any action required by this Act.

1 **INTERPRETATIONS AND SEPARABILITY**

2 **SEC. 14.** If any provision of this Act or the application
3 thereof to any person or circumstances is held invalid, the
4 remainder of the Act and the application of such provision
5 to any other person or circumstances shall not be affected
6 thereby.

7 **SEC. 15.** There are authorized to be appropriated for the
8 purposes of carrying out the provisions of this Act, the fol-
9 lowing sums: \$500,000 for the fiscal year ending June 30,
10 1975; \$500,000 for the fiscal year ending June 30, 1976;
11 and \$500,000 for the fiscal year ending June 30, 1977.

Mr. O'HARA. The Special Subcommittee on Education of the House Committee on Education and Labor will come to order.

This morning we will begin hearings by the Special Subcommittee on Education of the House Committee on Education and Labor on the control of athletic events involving college athletes and coaches. Today we are interested particularly in a dispute that has arisen between the American Athletic Union of the United States (AAU) and the National College Athletic Association (NCAA) regarding a series of games to be played in the near future with the Soviet basketball team that won the gold medal at last year's Olympic games.

On February 13, 1973, the AAU announced that the Soviet team would tour the United States for a series of games. The AAU said the U.S. team would be announced on April 10. The series is scheduled to begin with a game on April 26 between the Russians and a team composed entirely of Utah players. The Russian team is scheduled to then play a team representing the United States on April 29th in the Forum in Inglewood, Calif., and thereafter in five other cities across the Nation. The final game of the series is to pit the Russians against AAU industrial champions in Lexington, Ky., on May 11. About a week after the AAU announcement, NCAA spokesmen declared that all college coaches and undergraduates under NCAA purview were barred by NCAA rules from participating in the games.

Everyone knows that records are made to be broken. No one is more aware of that than the AAU and the NCAA, who keep track of sports records and the shattering thereof. But their disagreement regarding the Soviet basketball team series suggests a broken record of a different kind—the wax disc kind of record which, when broken, traps the phonograph needle and produces the same bit of a tune over and over again. For the AAU and the NCAA have been warring over their respective jurisdictions over amateur athletes for most of the 20th century.

This is the latest skirmish in their war. But though only a skirmish, it is an important one. It is important because it relates to amateur basketball in this country, and the longtime AAU representation of the United States on the International Amateur Basketball Federation is ending, with no permanent successor having yet been named. A power vacuum is developing there. The fact that the dispute relates to basketball is important, too, because basketball attracts large television audiences and large television audiences attract sponsors with large advertising budgets.

The participants in the dispute are associations. The pawns in the dispute are college athletes. And that is why we are so concerned. We want to know what can be done in the national interest to end the conflict that may result in our confronting a good Russian basketball team with other than our best competitors. We want to know if the decision whether a college athlete may take advantage of a once-in-a-lifetime opportunity to represent his country on the basketball court must be made for him or if it might be one he can make himself. There are many other things we need to know, and here to help us are representatives of the National Association of Intercollegiate Athletics (NAIA), the Amateur Athletic Union of the United States (AAU), the National Collegiate Athletic Association (NCAA) and the Basketball Federation of the United States of America (BFUSA).

Before we proceed with the first witness, the Chair would like to take this opportunity to thank the ranking minority member of the committee, Mr. Dellenback of Oregon, for his excellent and total cooperation in this effort and his concern that the best interests of America's student athletes be represented. The Chair would like to ask Mr. Dellenback if he would care to make any sort of opening statement before we call the witnesses.

Mr. DELLENBACK. Thank you very much, Mr. Chairman. I would like to make a brief statement if I may.

Let me say that our primary purpose in holding this hearing is really to determine whether or not the activities or sports bodies like the AAU and NCAA have a negative impact on the college careers of student athletes in this country. If this subcommittee does find evidence that such is the case, then it is entirely possible that members of this subcommittee will introduce legislation to remedy the situation.

Going one step further, if it appears from the testimony delivered today that the continued and continual feuding between the NCAA and the AAU has a negative impact on the quality of education offered in our colleges and universities, it would be completely logical to expect Chairman O'Hara to call future hearings on this matter.

While the proposed basketball series between the United States and the U.S.S.R. will be the focus of attention this morning, and while the personal feeling that we as individuals and as members of this subcommittee may have regarding the success or failure of that series may become apparent before we conclude today, I want to emphasize the fact that our primary purpose is to talk about athletics as they impact on education.

I commend the chairman for calling these hearings today. I think that the subject matter with which we are involved is an important subject matter. I am personally hopeful that in spite of the past history of what has gone on in the Congress and outside the Congress in this general area of athletics, that we are going to find that these hearings are valuable and that what comes forth in the way of information is helpful.

I commend the chairman.

Mr. O'HARA. I thank the gentleman from Oregon.

Are there any other members of the committee who would like to make statements at this time? The Chair would then like to call our first witness, Mr. A. O. Duer, the executive secretary of the National Association of Interscholastic Athletics.

Mr. Duer, if you will take your place at the witness table we will be pleased to hear from you.

First, let me explain that Mr. Duer is scheduled to attend a meeting of the U.S. Olympic Committee at noon today in New York. He asked if he could be put on possibly early enough to make that meeting, although it might seem somewhat illogical to proceed in this order by calling someone other than one of the primary disputants first.

I thought in the light of Mr. Duer's problem we ought to make the effort to accommodate him.

Mr. Duer, would you please identify yourself for the record and then proceed with your testimony.

STATEMENT OF A. O. DUER, EXECUTIVE DIRECTOR AND SECRETARY, NATIONAL ASSOCIATION OF INTERCOLLEGIATE ATHLETICS

Mr. DUER. Yes, Mr. Representative.

I am A. O. Duer, Al Duer, the executive director and secretary of NAIA. I represent 565 colleges and universities with the aim of making athletics an integral part of the total educational program rather than a commercial and a promotional adjunct. Our feeling is very definitely that international competition is a part of this society, is a part of the total educational program of our member institutions, and I think I can give you an example of that rather quickly.

Our organization is instituting a tour. We have been asked by Israel to bring an all-star team to their country in the near future to represent our organization in competition with the Israel national team. In selecting the athletes for this tour, I called 15 college presidents of our member institutions to ask whether it would be in the best interest of their institutions for one of their athletes to participate in this tour, and without exception they were delighted to cooperate to make it possible for their athletes to participate in a tour to Israel.

This is also true of the coaches. We selected two coaches to go with this team. Both institutions were completely cooperative in making it possible for their coaches to participate and serve as coach and assistant coach of this team.

Our belief in the administration of this type of program is that the responsibility for answering the question as to whether the athletes should participate whether it is in the best interest of the institution and the athlete, should be in the hands of the college president and have him confer with the coach and with the athlete and together determine whether or not it is in the best interest of this athlete, academically and socially, to take this tour.

We only had to contact 13 to get 12 athletes. Of the 13 we contacted, 12 were completely willing and able to participate in this tour. So, I believe the college presidents who are the real guardians of the academic approach to athletics are completely in sympathy with the NAIA in developing an international exchange of tours and events.

So, I think that they are convinced that it is not only to the best interest of their athletes and their institutions, but their alumni and the public that this type of tour is a part, and an important part of their educational offering to this segment, the athletic segment, of their institutions.

I would go a step further in saying without exception, these college presidents expressed their point of view that this is the greatest thing to happen to our institutions, this is the greatest experience for our athletes to go to Israel and have this experience, and without exception, even the athlete who did not wish to compete because of personal reasons, they were completely enthusiastic about this tour.

Now, I think we should consider the power of athletics in our society and I doubt if there is any segment of our society which has as much influence with the American public as does the athletic emphasis which we have today. I think we are all aware that this is the reason that the matter of television has become somewhat of an issue, even though I can't see that it is a serious issue, because the American pub-

lie insists that this be a public interest. They have sufficient interest to make it imperative that it be shared with the American public. Even though our organization is completely autonomous from any other organization, we do have an affiliation with the AAU because of the fact that the AAU in basketball is the recognized governing body of basketball in the United States.

Our policy in this regard is that our organization, completely autonomous, will give our support to any organization which is approved by the USOC, the United States Olympic Committee, and having membership in the international federation for the control of international basketball under the IOC, we will give our support to those organizations which have such membership rather than to be in conflict with them in setting up new organizations and new powers.

Naturally, I think that is what is the problem at this time.

We are considering matters of power conflict which in my judgment are destroying the amateur process in America. It is damaging our national image in athletics. I think there is no question but what we have the strength and power, if we were united in one effort, to do a tremendous job of international competition, of national competition, and more than hold our own with international bodies, including the Olympics. But if we continue to destroy that image by conflict of organizations within the United States and tearing down of the recognized governing bodies in the United States, we will destroy the amateur image first, which I think is significant, and, second, we will weaken our teams in their strength to participate favorably in international competition.

Now we firmly believe that the real purpose of athletics is not international competition, professional athletics, whatever it might be. We firmly believe that athletics is the greatest educational experience to train leadership of high character and moral standards for leadership in just such positions as you have in heading this committee.

I think there is no other area of American life which gives the athlete the training, the moral standards, the ethical process, for leadership in almost any area in American life, and how badly we need this at this particular time. We all know that the future of America is not dependent on the strength of our power, but on the strength of our leadership and our morality and the force of our ethical standards in our relationships, as we apply them to the international world.

I think it is important that an organization such as ours, which is an educational organization, that our main aim is not that of preparing athletes for the professional ranks even though we have no problem. We are proud of having our athletes reach the professional ranks if they are highly skilled, but our main aim is to use athletics as training grounds for doctors, dentists, lawyers, senators, governors, which will give this type of training, of high moral and ethical standards, sportsmanship, if you will, to the leadership of America.

It is secondary to us that they be able to participate in professional athletics.

I feel that we must deal with the real issue. The real issue is not whether we have a Russian game even though that is the point of issue at this point, whether it is in the public interest. The real issue is whether our country is going to unite, is going to put our forces together as organizations without bickering and without pettiness, to

support the image of the United States in national and international competition.

Gentlemen, we are losing that battle at this time. We are destroying the image of the United States. I think the Olympic program was about as serious as was indicated by reports, but there was an indication of political chicanery and political exchanges which were not good. The real heart of the matter is whether we can cooperate to gain the stature in the international athletic world to influence the future of international competition and particularly the Olympic games.

We all know that the United States is no longer the focal point around which the athletic world internationally revolves. We all know that the U.S. recommendations are not accepted per se, that they are jealous of our past, in basketball especially. So that the real issue as I see it is just what you have stated.

It is in the best interest of this country to so conduct our programs that they will be a credit to the United States, will compete on a favorable basis, not win all the contests, but compete on a favorable basis on the highest ethical and moral standards, which the United States must put forth as an image, if we are to keep our stature as a nation in the world of nations today.

This, gentlemen, I feel is the real issue we must address ourselves to at this point. We have tried for 10 years to solve this problem by voluntary action and it has failed miserably. Somewhere, someplace, somebody, the American public must put pressure on all areas to bring about a unity of understanding and a unity of competition and strength so that we will not be embarrassed in international competition, because the sports area is one of the most significant.

I think that is all I have to say. I thank you very much for bringing this issue before the American public as a committee.

Mr. O'HARA. Thank you very much, Mr. Duer, for your testimony. If I could, I would like to ask a couple of questions.

Your association, the National Association of Intercollegiate Athletics, involves how many colleges and universities?

Mr. DUER. It involves 565 colleges. We have 15 national championships in as many sports each year.

Mr. O'HARA. The NCAA has a rule that limits the participation of members of athletic teams of affiliated institutions, limits their participation through the school team, but it limits participation in sports outside the regularly accepted season.

Mr. DUER. Yes.

Mr. O'HARA. The regularly accepted season for basketball, I guess, runs from the middle of October or November on up until the middle of March or so. Do you have a similar rule in the NAIA?

Mr. DUER. We do not. We have a national tournament beginning March 12, involving basketball, which incidentally was the first national tournament ever developed in intercollegiate competition in 1937. This is the 36th year. We have 32 teams that come together after a playoff in 32 districts involving some 400 teams to compete in this tournament. Our philosophy and belief on the competition, the right of their athletes to participate, is and we suggest that during the season they not play in other competition, but outside the season of play we only insist that they be amateur and that they have the approval of the president of their institution.

We do not in any way control the competition.

Mr. O'HARA. You do require they have approval of their institution?

Mr. DUER. That's right. That is the reason I call the college president to ask him, can your athlete participate in this?

Mr. O'HARA. You feel, then, that the interests of the athlete and of the institution are best served by leaving it up to the institution to decide whether or not the athlete will be permitted to participate in his particular sports activity outside the regular season. Is that right?

Mr. DUER. That's right. I have talked to some of the college presidents. Some of them have said, "We will have to check with every teacher that this boy has a class with and get his permission for him to go." This is an institutional matter. They know the academic situation of the athlete. Some of them can go without harming themselves a bit. Others cannot go because they fear they will lose a semester of credit.

Let me go a step further and say I believe this is true not only of the athlete, but I believe a coach in an institution should not be prevented by domination from participation in any area of amateur athletics which he wishes to choose.

Mr. O'HARA. Thank you, Mr. Duer.

Mr. Dellenback, do you have any questions for Mr. Duer?

Mr. DELLENBACK. Thank you, Mr. Chairman.

Mr. Duer, we appreciate your testimony. We understand your need to leave. We are grateful for your having worked this in with another trip. May I ask about that tour of the NAIA that is proposed so far as Israel is concerned? When is that to be? How long will it be? How much time will your athletes be away from their normal time in school?

Mr. DUER. We are not at this time setting the exact date of leaving and arrival because of security reasons. But it will begin somewhere around—the practice for the athletes—around the 25th of March and last until the 9th of April.

Mr. DELLENBACK. I am not seeking to pin you down on the precise dates. I understand what you are talking about from a security standpoint. But you are talking from March 25 to the 9th of April as something in excess of 2 weeks or a little bit longer than that?

Mr. DUER. That's right.

Mr. DELLENBACK. I assume from what you have said and from decisions that have been made in the individual schools that this time will not be considered fatal so far as the academic career of the young man, the individual young man involved; is that correct?

Mr. DUER. Mr. Congressman, I think we should all be aware of the change in the format of the educational process in all of our institutions. The education of an athlete or a young man in any area of an institution is not pinned down to putting his nose in a book and learning teaching from a professor. It has many areas of experience and institutions are sending groups to Europe for educational reasons, they are sending them to many areas, out on tour for 2 weeks for an educational experience. I think we need to broaden our outlook on what the institutional educational aim is.

Yes, I do not believe that 2 weeks in this type of trip is considered by the college president as being detrimental to his educational process.

Mr. DELLENBACK. Now, at this time are any of your institutions in conflict with their own examination periods?

Mr. DVER. Yes. Even this is being adjusted to.

Mr. DELLENBACK. So the individual institution is finding this is not fatal so far as these young people are concerned?

Mr. DVER. That's right.

Mr. DELLENBACK. Would another week on top of that increase the price to be paid to the point that it was in excess of the value? For example, if the time instead of beginning on the 25th of March were to begin on the 18th of March and go on until the 9th of April, in your opinion would stretching it to 3 weeks still leave the value far outweighing or at least outweighing the price to be paid by the young person?

Mr. DVER. I don't know where you set any particular time, whether it is good or bad. But I do feel that there is a place where it becomes negative.

Mr. DELLENBACK. The reason I ask the question is that the U.S. National Team proposed for a tour with the Russians is, I understand, proposed to begin its operations about the 18th of April and to go until about the 9th of May. I gather the last game, to be played in Baltimore would be on May 9. So it would be 1 week longer than your tour would take.

That is why I asked if another week would make a material difference in this value determination.

Mr. DVER. I can't answer that, I am sorry, because I can't say at what point it becomes academically wise. I think a college president can tell you.

Mr. DELLENBACK. You would be perfectly willing to let the individual college president and faculty and young person make that determination?

Mr. DVER. That's right. I feel it is his responsibility, not mine.

Mr. DELLENBACK. May I ask one further line of questioning with just a couple of brief questions on it? Now your dozen young people have already accepted. Those dozen, I assume, are among the finest of the players in the NAIA?

Mr. DVER. That's right.

Mr. DELLENBACK. They, of course, having accepted that commitment, will be unable to also participate during exactly the same time in this proposed tour with the Russians?

Mr. DVER. Yes. That has concerned me. I wasn't aware that the trips were so near until a few weeks ago. I think there will be some presidents who will feel that it is not in the best interest. However, most of these are seniors completing their college education. I don't know what judgment the college president would make.

Mr. DELLENBACK. If the dozen young people who have already committed themselves to the Israel tour stay with that commitment, then those dozen will not, of course, be available to represent the U.S. in this tour?

Mr. DVER. There is no rule that they could not. It would be up to the college president and his wisdom on the benefit of the experiences in the educational exchange.

Mr. DELLENBACK. May I check again on times? Did you say your tour is to go from April 25?

Mr. DVER. No, March 25.

Mr. DELLENBACK. I beg your pardon. Until about when?

Mr. DUER. Until April 9.

Mr. DELLENBACK. I beg your pardon. I have confused 2 different months. There would be no conflict. Your students would be able to play in both, but we are dealing with a 2-week period instead of a 3-week period?

Mr. DUER. Yes.

Mr. DELLENBACK. You are not in a position of conflict since you leave it to the individual school to say whether or not the 2 weeks plus 3 weeks would or would not be acceptable to the individual institution and to the individual athlete?

Mr. DUER. No. Many institutions today are even going to the extent where they are sending their students into business for a month or 2 or 3 to get a business experience which they count as part of their education.

Mr. DELLENBACK. Fine. Thank you very much, Mr. Duer.

Thank you, Mr. Chairman.

Mr. O'HARA. Mr. Lehman, do you have any questions you would like to direct to Mr. Duer?

Mr. LEHMAN. Just a couple. I just want, in relation to this trip to Israel, to ask how the Maccabiah Games themselves would be affected by the regulations according to the NCAA. Would a Jewish athlete that wanted to compete in a Maccabiah Game playing for a major college be able to go to the Maccabiah Games?

Mr. DUER. That I can't answer for the universities. We have worked closely with the Maccabean Games, recommending to them athletes of Jewish faith to participate in the Maccabiah Games.

Mr. LEHMAN. The whole problem seems to be, as well as I can read it, that the AAU is willing and able and wants to get the best college players they can, but the NCAA does not want its players to play on this so-called national team at this particular time. That is about the way it is, is it not?

Mr. DUER. Yes.

Mr. LEHMAN. It seems to me in these times when the kinds of regulation of athletics as a barrier begin to let down, as you can see in the restrictions on baseball players and other people trying to move from team to team, that these regulations which do not serve a purpose for the benefit of the youngster himself should be very carefully questioned at this time.

The other thing that concerns me is that to me it would serve the whole national purpose, the world purpose, better if the Russian team played more U.S. teams instead of one national team that they play over and over again. You know, like you win some and lose some. I am not even sure that a national team is a better team than a team like UCLA, which has played together for years.

I just wondered whether the so-called national team is necessarily the best team anyone could play. I would like to see more than one team play these people. It gives another group of Americans a chance to participate against the Russians. It would give a wider scope. In the future I hope we will have regional games against regional teams. As far as I am concerned, I would put in the Harlem Globes-Trotters. The more people who can play against this Russian team or any other team the better off the whole situation will be.

Mr. DUER. I will take them in order in which you have stated them.

In the first place, I will say that the decision on playing a number of games and so forth, if we could get the cooperation of all organizations, these problems would be easily solved.

Second, I feel we have to be somewhat on a common ground. We can't tell the Russians what to do in athletics. We must adjust somewhat to them as they must adjust to us. If they present their national team, I think the American people would demand that we present a quality team that can compete favorably with them.

There is some question as to whether one team like UCLA—UCLA is by far an exceptionally strong team—but generally I would say that a single team would not be in the best interest of competing against an average team, an average, even a major team; that an all-star team which has had time to coordinate would be far stronger.

Mr. O'HARA. Mr. Duer, thank you very much for appearing before us. The brief that you have furnished the committee, without objection, will be entered in full immediately following your testimony. We very much appreciate your help and your attitude of cooperation. We look forward to questioning the other witnesses. I note with pleasure that we have gotten you out in time to catch your plane.

Mr. BRADEMAs. Mr. Chairman, could I ask one question?

I don't pretend to be an expert on this particular dispute, although I suppose coming from the State of Indiana I ought to be. I would ask just one question. To what extent has an effort been made, if Mr. Duer can respond to this question, to determine the attitude of the participating institutions with respect to what appears to me to be a jurisdictional dispute?

Mr. DUER. Through the years I think there has been every opportunity for institutions through the organization to express their point of view on these games. I think they have been most favorable.

Mr. BRADEMAs. That is not my question. My question is entirely a different question. My question is this: As I understand it, what we are really faced with here is a jurisdictional dispute. Is that not correct?

Mr. DUER. That is correct.

Mr. BRADEMAs. Whoever is right, that is what we are fighting about. My question is this: Has any effort been made this year or within the last few months to determine the attitude of the college and university teams in the United States or of the institutions on the particular issue? I could put the same question to the NCAA witness. What I want to know is, has anybody done a survey, some impartial person—I don't mean you as impartial and I don't mean the NCAA as impartial, you obviously are both partial—what I am asking is has any impartial survey been made of participating institutions to determine their attitude on this particular dispute?

Is my question clear?

Mr. DUER. Yes, I think so. I can't answer that because I am not a principal to this administration of this program. We happen to be an organization of an autonomous nature, out in no man's land.

Mr. BRADEMAs. I understand that.

Mr. DUER. But I do not know of any attempt, I wouldn't know of any attempt.

Mr. BRADEMAs. I would suggest, Mr. Chairman, again without representing myself as an authority on this subject, although I must say that Coach Johnny Wooten of UCLA used to coach my high school

basketball team in South Bend Central High School, that it might be useful for the benefit of the subcommittee if some such impartial survey were taken.

I thank the chairman.

Mr. O'HARA. That is a very good suggestion.

Mr. DUER. May I say in that regard that we have in a sense through our executive committee taken a test of the interest and their desire for our member organizations to cooperate in this effort. They have been unanimously in the interest of cooperation with the AAU in this regard. We have not done so with individual institutions.

Mr. O'HARA. Thank you again, Mr. Duer. We appreciate your taking the time to come before us.

Mr. DUER. I appreciate your interest.

Mr. O'HARA. Without objection the statement submitted by Mr. Duer will be entered into the record immediately following his testimony.

[The statement referred to follows:]

STATEMENT OF A. O. DUER, EXECUTIVE SECRETARY, NAIA

NAIA—The National Association of Intercollegiate Athletics—originated as a Basketball Tournament Organization and remained so until 1952, when other championship events were added. To this day our National Basketball Tournament remains our premier event, with 32 district championship teams competing in Kansas City for the National Championship.

I mention this background to point to the fact that we expect the very best basketball team in a district to represent its district at our National Basketball Tournament. The second, third or fourth best team is not allowed participation.

If in any one organization, we can be this selective in participants, how much more so should the United States of America be in its specifications for a United States All-Star Team to meet the proven finest international competitors—the Russians.

Each Olympic Sport has a United States governing body which is a member of the international governing body in that sport. For example, the American Horse Show Association is the United States Governing body for horsemanship and is a member of the Federation Equestre Internationale; the United States Figure Skating Association is the United States governing body in skating and is a member of the International Skating Union. Likewise, the Amateur Athletic Union (AAU) is the United States governing body for basketball and is a member of the Federation Internationale de Basketball Amateur. The policy of NAIA is to support the recognized governing body in the United States as approved by the United States Olympic Committee and holding membership in the international federation in that sport.

As the United States governing body for basketball, the AAU has the grave responsibility for selecting the most capable athletes and coaches possible to represent the United States on the All-Star Basketball Team to compete against the Russian All-Star Team this Spring. This annual exchange between Russia and the United States has been held, under the sponsorship of the United States Basketball Governing Body (AAU) for the past 14 years. The United States Department of State has annually approved this international exchange.

To fulfill its obligation, to not only United States basketball fans but to all loyal United States citizens interested in maintaining the highest quality of participation in international events, the AAU must have the complete assistance and support of each and every amateur organization whose membership consists of institutions participating in basketball.

Citizens of the United States have every right to expect a first class team and first class coaches to meet the powerful Russian basketball team. At the very least, any player or coach contacted to compete should be able to make an individual choice without fear of recrimination or penalty from any organization.

NAIA would hope to have athletes from some of its 565 member colleges and universities selected for participation on a team to compete against the Russian All-Star Team. However, we realize our membership does not include all of the most prestigious universities in the United States. It is our opinion, in the inter-

est of the United States' prestige as the leading nation in the free world, that it is the duty of every sports organization to rise above petty organizational partisanship and field the very best United States team possible.

If we were to disallow our best athletes or coaches participation in this great international competition, we would expect the public to be highly irate and with just cause. We feel we owe an allegiance to our country that far surpasses any petty juxtapositioning for control of any amateur sports in the United States.

Were I a coach or an athlete, I believe I would be so thoroughly nauseated with the flagrant use of authority being imposed upon me that I would probably ask for a congressional hearing. The time is long past due for a cessation in the power struggle for wresting control of an amateur sport from another organization who now is the governing body.

According to the polls, the 1972 Olympic Games were viewed by more of the American public than any other sporting event.

Since the defeat of the United States Basketball Team in the 1972 Olympic Games, national interest has been feverishly whetted for a return match. We have cried poor officiating—misunderstanding of rules—and bias of international officials. Every red-blooded American is eager for another chance—vowing this time it will be different. This is the ultimate in international competition. To field a second-rate team would be cheating the American public and be a humiliation to the Russian Team.

NAIA will continue to follow its policy of giving support to the recognized governing body of any sport and work diligently for the cooperation of all amateur sports organizations. The challenge to all of our organizations is to provide sports programs which will serve in character building for leadership with the primary purpose of strengthening the moral fibre of the nation's youth.

We feel that international competition is the best interest of our nation and serves to give practical representation of the United States' image of great competitive spirit and teamwork.

No greater force exists in our society today than the inspiration and challenge of sports. However, the destructive force of organizational conflict and self-seeking power control threatens to dissipate the potential of sports in international relations instead of acting as a unifying medium.

We deeply appreciate the interest and concern of your committee of the United States Congress in unifying all amateur sports organizations in the best interest of the athletes and the United States sports' public.

Mr. O'HARA. The next group of witnesses will be the representatives of the Amateur Athletic Union, Mr. David Rivenes, president; Mr. Ollan Cassell, executive director of the AAU, and Mr. Richard W. McArthur, who is the publicity director of the AAU.

Gentlemen, if you can take places at the table, we will be very pleased to hear from you.

Gentlemen, you can proceed in any way of several ways. If you wish, you can read a prepared statement. If you prefer, you can submit the statement for the record, where it will be printed in full, and you can summarize its contents for the committee, whichever seems to be your preference.

STATEMENT OF DAVID RIVENES, PRESIDENT, AMATEUR ATHLETIC UNION OF THE UNITED STATES (AAU), ACCOMPANIED BY OLLAN CASSELL, EXECUTIVE DIRECTOR; RICHARD W. McARTHUR, PUBLICITY DIRECTOR; AND ALBERT F. WHELTLE, COUNSEL

Mr. RIVENES. We will do both. May we have counsel at the table here, too, please?

Mr. O'HARA. Could you please identify yourself?

Mr. WHELTLE. I am Albert F. Wheltle, 509 Title Building, Baltimore.

Mr. O'HARA. Mr. Rivenes, please proceed.

[Mr. Rivenes' statement follows:]

STATEMENT OF DAVID RIVENES, PRESIDENT, AMATEUR ATHLETIC UNION OF THE UNITED STATES

Since 1958, we have been conducting athletic exchanges with the Soviet Union in several sports under the jurisdiction of the AAU. The first of these exchanges was in wrestling, followed, in that same year, with a tour of a United States basketball squad to the Soviet Union. Perhaps receiving the widest exposure have been the annual Russian-American Dual Track and Field Meets, the first one of which was held in Moscow during the summer of 1958. These exchanges, while held under the joint auspices of the AAU of the United States and its counterpart in the Soviet Union have always been encouraged and approved by the U.S. Department of State as part of a continuing cultural exchange between our two nations.

These home-and-home exchanges have continued during the ensuing years, providing excellent international competition for the players from both countries and developing a healthy rivalry on the athletic field. They have included competitions in swimming, diving, gymnastics, wrestling, weightlifting, water polo, boxing, trampolines and, of course, track and field and basketball. They have been, I'm sure you will concur, of great benefit not only to sport but to the relationships between our two countries.

As part of this continuing exchange, we met last summer during the Olympic Games with the International Amateur Basketball Federation, FIBA, the world governing body for the sport. At that time, the FIBA Central Board approved the 1973 Soviet basketball tour of the United States which had been planned jointly by officials of the AAU and the Basketball Federation of the Soviet Union and that approval was reiterated and reconfirmed by Dr. R. William Jones, Secretary-General of FIBA by cable this past weekend. These are the only organizations in their respective countries recognized by FIBA as competent to arrange these international exchanges. This is so because only one organization in each country is recognized for membership purposes by the international federation and that organization in the United States is the AAU.

Some question has arisen as to the responsibilities of the AAU with respect to its status as the governing body, for international purposes, for the sport of basketball in the United States. In that regard a brief recap of recent history is of value.

Following the 1968 Olympic Games in January 1969, a FIBA Commission to the United States formed, in cooperation with this country's governing body (the AAU) and other domestic basketball interests, the International Basketball Board (IBB). The purpose of the IBB was to approve international exchanges at the club level and send them on to the AAU for administrative handling. Specifically excluded from the authority of the IBB were national teams, which were the sole responsibility of the governing body—the AAU. Additionally, the IBB constitution of 1970 stated, "Both BFUSA and the AAU, as a policy, will not attempt to restrain any person from participating on a national basketball team. (Article VI-Section 6)"

At the meeting of the FIBA Congress last Fall in Munich, the IBB was dissolved. We have, therefore, acted in a legitimate, reasonable and responsible manner with regard to all aspects of the 1973 US-USSR basketball series. We therefore expected that all other interested parties would do likewise.

Having established our responsibilities as the international member of FIBA and the sanction of the FIBA Central Board for the 1973 exchange between the United States and the Soviet Union (under AAU and USSR Basketball Federation supervision), the AAU was then charged with fielding the best possible squad to compete against the Soviets.

There are, of course, qualified restrictions regarding the make-up of our squad. Primarily, we are restricted to inviting only amateur basketball players. However, within that context, any player eligible under FIBA and AAU rules will be considered a candidate for the United States National Team.

Nevertheless, in order not to interfere with in-season collegiate competition, we determined that the announcement of selection to the USA team would be delayed until that season ended. Accordingly, we set the date for announcement of our national team at April 10. It was our hope that this gesture of cooperation would generate a like response from the other legitimate basketball bodies in this country. To a great extent we received that response. The Armed Forces, YMCAs, National Parks and Recreation Association all indicated their support of the 1973 basketball exchange. Al Duer, executive director of the National Association

of Intercollegiate Athletics (NAIA) comprised of over 565 colleges and universities, stated that the NAIA "would give every cooperation in this series."

Unfortunately, one segment of the basketball community refused to support the national basketball effort of the United States. This group announced that any athlete competing at one of its affiliated institutions who chose to represent his country in this series would be ruled ineligible. This group chose to subordinate the best interests of our nation to its own interests, whatever they may be.

Let me reiterate for a moment. The AAU is the legitimate and only recognized representative from the United States to the body controlling international basketball (FIBA). The AAI, following the prescribed procedures, met with officials of the Basketball Federation of the Soviet Union, arranged this 1973 basketball series and obtained approval from the FIBA Central Board on September 5, 1972 in Munich.

What has subsequently occurred is that the best interests of our nation have not come before the petty in-fighting that has, unfortunately, characterized the relations between the AAU and this group for so long. We felt that, in a case of national interest, the other side would put aside the chance for further aggrandizement at our expense and exhibit a wider vision encompassing what would be best for the sport, the athlete and the nation.

Unfortunately, the vision is lacking in that quarter and so, at present, the image of the United States will apparently suffer in order to feed the self interest of these few individuals.

In the past we have sought accommodation with this group. At their instigation, the Senate Commerce Committee, in 1965, appointed the Sports Arbitration Board, chaired by Theodore Kheel. At the occasion of the naming of the members of the Kheel Commission, the President of the NCAA, Mr. Everett Barnes, stated, "Our group had complete confidence that the vice-president (Mr. Humphrey) would select a distinguished, unbiased and competent arbitration board. These selections confirm that confidence and completely satisfy us."

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And, despite the fact that Senator Warren Magnuson, Chairman of the Senate Commerce Committee, said at the time, "It is the feeling of my committee, in light of all the circumstances involved, that we must consider the decision of the Board (Kheel Commission) to be in full force and effect," the NCAA has refused to abide by these decisions. They have, in short, been openly contemptuous of the Congress and Senate of the United States of America by refusing to accept and implement the provisions of the Senate-appointed Kheel Commission.

We would ask these individuals precisely why at this point they are threatening these athletes with ineligibility. Since the collegiate season is over there is no interference. They may claim that the concern is for protection of the student athlete, but does it not seem more reasonable that an athlete and his coach are in the better position to determine what is best for his welfare? Are these students and coaches not competent judges?

We do not, quite frankly, believe that protecting student athletes is the main concern of these individuals. We believe that their main concern is to undermine the authority of the legitimate forces involved here and that the athletes over whom they hold this economic club are very convenient vehicles for accomplishing this end. If this were not the case, we ask, then why did the NCAA not rush to protect these student athletes when they competed a few weeks ago against the water polo team of the Soviet Union? If one athlete is worthy of their seemingly ubiquitous concern, why not these water polo players? Is it because water polo does not carry the prestige of basketball and, hence, offer the NCAA a forum in which to carry on their attack on the AAU? Does the inconsistency of the NCAA position strike the gentlemen of this committee as more than coincidental?

The question of which body should or should not have the status of governing body for international purposes is not at issue here. However, throughout the present controversy we have heard representatives from the NCAA's national

headquarters in Kansas City lay claim to preeminence in this field. Only last week NCAA official Jerry Miles stated, "the AAU wants to use our players". He's slightly premature, of course, since the U.S.A. team will not be announced until April 10. Nevertheless, it strikes us as incredibly presumptuous that an official of this body talks in the possessive about athletes whose institutions are merely affiliated with the NCAA.

Moreover, we've heard some of these same officials claim that they own the athletic facilities of their member affiliates. It seems more likely that these tax-supported institutions are owned by the state, and not by these gentlemen residing in Kansas City.

This, we believe, hits at one of the basic questions you, Mr. Chairman, raised in opening these hearings. And that question deals with our respective power over athletes. For our part, we disavow such power.

In the instant case, the NCAA threatens sanctions against any athlete from an NCAA-affiliate who chooses to represent his country in the US-USSR basketball series. The sanction is obvious. The athlete loses his scholarship and is denied the concomitant economic benefits which allow him to further his education. And this solely because he chooses to wear the colors of his nation in international competition.

Should he choose to compete regardless of loss of scholarship then the dilemma becomes one for his school. Do they stand behind their athlete and defy that Kansas City office? Yale University did so in 1969 in the case of Jack Langer, a basketball player who competed in the Maccabiah Games in Israel. Consequently, for honoring the just decision of Mr. Langer, Yale was placed on probation, denied access to NCAA post season play-offs and championships and, with regard to the crucial economic factor, denied the right to appear on television and thus receive the revenues from such appearances.

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What sanction has the AAU? We cannot hold an economic club over his head. We cannot threaten the athletic department or school with loss of much needed funds. We cannot demand, cajole or dictate. For, gentlemen, in the final analysis we do not have, nor would we want, that sort of absolutist control. We do not own athletes (nor do we think, despite Mr. Miles' statement, does the Kansas City office of the NCAA). These athletes are free and independent citizens and, as such, should be entitled to make the decisions of free and independent citizens.

It is only proper in the United States that the teams representing us be freely chosen and that acceptance or rejection of the honor of playing for our nation be made in an atmosphere equally free of duress and coercion.

When the national basketball team of the United States meets its counterparts from the Soviet Union we, as all Americans, would like to see our best players. If these players are free of the economic harassment and intimidation that now hangs over some of them, we will have those players representing all of us.

Mr. RIVENES. Since 1958 we have been conducting athletic exchanges with the Soviet Union in several sports under the jurisdiction of the AAU. The first of these exchanges was in wrestling, followed in the same year with a tour of a U.S. basketball squad to the Soviet Union. Perhaps receiving the widest exposure have been the annual Russian-American Dual Track and Field Meets, the first one of which was held in Moscow during the summer of 1958. These exchanges, while held under the joint auspices of the AAU of the United States and its counterpart in the Soviet Union have always been encouraged and approved by the U.S. Department of State as part of a continuing cultural exchange between our two nations.

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Mr. Chairman, with your permission I am going to ask our executive director, Mr. Ollan Cassell of Indianapolis, who himself is a former Olympian, and I believe a gold medalist in Olympic competition and, therefore, much more competent than I, to proceed with this history. With your permission I am going to ask him to proceed. Then you can come back to me, if you would like, with questions.

Mr. O'HARA. Mr. Cassell.

Mr. CASSELL. Following the 1968 Olympic Games in January 1969, a FIBA commission to the United States formed, in cooperation with this country's governing body (the AAU) and other domestic basketball interests, the International Basketball Board (IBB). The purposes of the IBB was to approve international exchanges at the club level and send them on to the AAU for administrative handling. Specifically excluded from the authority of the IBB were national teams, which were the sole responsibility of the governing body—the AAU. Additionally, the IBB constitution of 1970 states, "Both BFUSA and the AAU, as a policy, will not attempt to restrain any person from participating on a national basketball team. (Article VI—Section 6.)"

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Mr. O'HARA. Thank you very much, Mr. Cassell.

Let me ask just a couple of questions to open up the questioning. Under the arrangement that existed from January 1969 until last September when the International Basketball Federation adopted a resolution that put an end to the life of the IBB and called for the creation of a new group, under the arrangement that existed from January 1969 on, there were international exchanges and specifically there were Soviet tours. Is that right, Soviet tours?

Mr. CASSELL. That's right.

Mr. O'HARA. In basketball. In fact, I think Mr. Duer said for 14 years these Soviet team tours have been taking place.

Mr. CASSELL. That's right, sir.

Mr. O'HARA. Under the arrangement that prevailed for those several years prior to last September, who would schedule those tours, the AAU or the IBB?

Mr. CASSELL. The AAU.

Mr. O'HARA. Would you get the approval of the IBB or was the IBB involved in any way or was it strictly AAU?

Mr. CASSELL. The IBB was advised of the arrangements that had been made and that the Soviet team was coming to the United States.

Mr. O'HARA. But it was the AAU that made the arrangement and sponsored the tour in each case?

Mr. CASSELL. It was the AAU that made the arrangements with the Soviet Union and that scheduled the competition here in the United States.

Mr. O'HARA. Now last September the International Basketball Federation adopted a resolution, as I understand it, which terminated the life of the IBB but assigned certain tasks to the chairman of the IBB until March 31 or something of that nature. There is some question just what the tasks of the chairman of the IBB were. In any event they didn't pertain to national teams, for instance, they did not pertain to the team going to the Pan-American games, is that right? And who is responsible for U.S. representation, the U.S. teams, at the Pan-American games? Is it the AAU or some other group?

Mr. CASSELL. Until March 31 the AAU is a member of FIBA. AAU still holds the international membership until March 31. I think what the FIBA central board resolution indicated was that after March 31 that Mr. Carnevale would continue. Up until that time, up until that point, AAU is a member of FIBA. I might indicate that the central board at its meetings in Munich on September 5 approved this exchange with the Soviet Union.

This is the highest authority in the world in international basketball.

Mr. O'HARA. So, in September, which is at the same time that this resolution was adopted that put the IBB out of business and called for the formation of a new group, at that same series of meetings the exchange coming up at the end of April was approved?

Mr. CASSELL. Yes, sir, there is a telegram in the material that was handed out from Dr. Jones, who is the general secretary of FIBA, which indicates that this exchange is perfectly in order according to the regulations of FIBA.

Mr. RIVENES. Mr. Chairman, the U.S. Olympic Committee recognizes the Amateur Athletic Union as the governing body for basketball in the United States, even after March 31 or any date.

Mr. O'HARA. So you have submitted for the record a telegram from Dr. Jones, cablegram from Dr. Jones, confirming that the Soviet basketball team tour is in accordance with FIBA regulations?

Mr. RIVENES. That's right.

Mr. O'HARA. And it is approved by FIBA?

Mr. RIVENES. That's right.

Mr. O'HARA. Without objection that cablegram will be entered into the record at this point.

[The cablegram referred to follows:]

[Cablegram]

AMATELHIC INDIANAPOLIS

Tour Soviet basketball team in USA sponsored by AAU perfectly in order according FIBA regulations greetings.

JONES.

Mr. RIVENES. Could you read that?

Mr. O'HARA. It is directed to the American Athletic Union at its cable address in Indiana and it states,

Tour Soviet basketball team in U.S.A. sponsored by AAU perfectly in order according to FIBA regulations. Greetings. Signed Jones.

Dr. Jones. for the purpose of the record, is the Secretary General of the International Basketball Federation, is that right?

Mr. RIVENES. That is correct.

Mr. O'HARA. Now let me get to a couple of quick points if I can. The NCAA has taken a position, so I read in the paper, that they have never been contacted by you people. There are some top amateur players who are not involved in the NCAA, but most of them are involved in NCAA competition. It seems to me that it would have been prudent at some time or other to contact the NCAA and enlist their cooperation or make an effort to do so. Did you at any time try to do that, Mr. Cassell?

Mr. CASSELL. No, sir, we did not. We have conducted these exchanges, as I have indicated, for 14 years. This has not been the procedure which has been followed in any of the exchanges. We have not selected any players at this point since we have indicated in our statement that this would not be done April 10. So, none of the organizations in the United States have been contacted as to the benefits of this tour at this time because this simply has not been a procedure that was followed for the past 14 years.

Mr. O'HARA. Mr. Cassell, according to the resolution of the International Basketball Federation, which is the governing body of the sport worldwide, the IBB goes out of business as of September with certain residual duties and by March 31, according to that resolution, the FIBA anticipates and expects that a new U.S. basketball governing body, amateur governing body, will be created. In fact, they even give it a title in their resolution. What is it, the Amateur Basketball Association of the United States, something like that?

Now that is a date that is not very far away. It is the end of this month. Would you please report to us what progress has been made? I think if a new group could be formed, that might solve some of the jurisdictional problems. What progress has been made in forming that group? What has been AAU's role?

Mr. CASSELL. At our request the U.S. Olympic Committee, the president of the U.S. Olympic Committee, called a meeting on October 9 for a meeting which was supposed to take place on October 27. We felt that this was the first step that should be taken, that some recognized body in the United States which has already made a decision and been conducting business for a number of years with the organizations in this country that have good basketball programs, should make the step, and these were the organizations that should be invited to come to a meeting and sit down and try to settle this.

But the NCAA, the High School Federation of Basketball, refused to attend this meeting. That was the first step that we have taken to try to solve this problem.

At our national convention we finished on December 5. We elected a new basketball chairman, his name is Dr. Frank Spechalske, director of athletics, Montana State University. He has had a private meeting with Ed Steitz on January 9. These are the steps that we have taken to try to come to some understanding and to form this new organization.

Mr. O'HARA. Do I understand that Mr. Fagan of the high school association called a similar meeting on his own initiative. Did the AAU participate in that meeting?

Mr. CASSELL. No; we did not. He called his meeting on October 13. This was such a short notice our people were not able to attend.

The second meeting he called was on December 6 and 7, which was only 2 days after our national convention, which took place in Kansas City.

Mr. O'Hara. In other words, here is this FIBA directive to all groups involved in amateur basketball in the United States that they must form a new group on March 31. What we have had, in essence, is a sort of continuation of the functional division of amateur basketball groups.

Two efforts have been made to call meetings, one meeting not attended by some and another meeting not attended by others. So that so far you and the NCAA, which are important parties to this dispute, have not sat down in the same room with respect to the formation of a new amateur basketball association, is that right?

Mr. RIVENES. Mr. Chairman, we felt that the U.S. Olympic Committee, which certainly is completely interested in international competition, both Pan-American and Olympic competition, that this was certainly a proper organization to all such a meeting. We asked—when I say “we,” I happen to serve also on the U.S. Olympic Committee and the USOC did call such a meeting and this was the meeting that we thought had stature, and even though the AAU is still recognized as the governing body for the sport in the United States, we still felt it was the USOC that should call such a meeting. This was the one that we felt had the proper stature for solving any problems.

Mr. O'HARA. We will ask the NCAA about that. In any event, there have been two efforts to call meetings under the auspices of different groups, but on no occasion at any of these meetings have the AAU and NCAA been in the same room to try to assist in the creation of this organization?

Mr. RIVENES. That is correct.

Mr. O'HARA. Mr. Dellenback, do you have any questions?

Mr. DELLENBACK. Yes, Mr. Chairman. Thank you very much.

Let me lead off with a word of compliment to the AAU, not necessarily for the particular situation with which we are faced, but for the tremendous contributions that the AAU has made from its beginning and in the march of the years in connection with amateur athletics in the United States. I think you deserve to be commended on your opening paragraphs, Mr. Rivenes, touching on a number of sports in which the AAU has been involved. I think it is something for which this country should justly be grateful.

Mr. RIVENES. Thank you.

Mr. DELLENBACK. So far as the issues before us are concerned, we are fully aware of the fact that in the host of amateur athletic competitions that exist in the Olympic games there is somewhat of a variant pattern—I was going to say a crazy quilt pattern—as to who controls. In one sport we know the AAU will be preeminent, and in some other area somebody else will be preeminent. It varies with individual sports.

While the Olympic Committee has certain overall responsibilities, it is not true that any one organization has universal control over all amateur sports, certainly so far as the Olympic games are concerned; is that not correct?

Mr. RIVENES. That is correct.

Mr. DELLENBACK. Now to this question of basketball, which is before us. As I indicated in my opening statement, I am concerned about the basic question of education because that certainly is the responsibility of this committee. We may be deeply concerned about national prestige, about many other things, about the Olympic games, but at the moment the thrust of these hearings is a result of our concern and responsibility as members of the Higher Education Subcommittee of the House Committee on Education and Labor.

You made reference, Mr. Cassell, to the highest authority in basketball. I was not quite sure whether you were referring to FIBA or the International Olympic Committee.

Mr. CASSELL. I was referring to FIBA.

Mr. DELLENBACK. Then the August 24 resolution of FIBA is a resolution that you accept as the resolution that pertains to the issue before us, a resolution of the body that has principal responsibility in this area; is that correct?

Mr. CASSELL. Yes.

Mr. DELLENBACK. The resolution was an August 24, 1972, resolution. Thus it goes back a number of months. It called for certain action. Did you feel that the AAU, so far as it was concerned about basketball, had any sort of responsibility to comply with the thrust of that resolution?

Mr. CASSELL. Yes, sir; we did.

Mr. DELLENBACK. If, then, that is the case, was it not true that under that resolution the president of the IBB was given certain responsibilities? Is that not correct?

Mr. CASSELL. Yes, sir; after March 31.

Mr. DELLENBACK. Were the meetings called between August 24 and the present date called under the authority of that resolution or not? I refer particularly to the meeting called by Mr. Carnevale. Were there not certain meetings that were called by the president of the International Basketball Board of the United States who was asked to serve as coordinator of these efforts?

Mr. CASSELL. Sir, I don't think any particular person was directed to call meetings here in the United States to solve the situation. That is one of the reasons we asked USOC to call the October 9 meeting, because we felt if AAU called the meeting that the other side would not attend. We felt if the other side had called the meeting, that many of our people would not attend. So, we were looking for an organization or a body that seemed to stand in the middle and that both our organization and the other organization would have respect for.

That was the primary reason we asked the U.S. Olympic Committee to call the October 9 meeting. At that meeting the NCAA was invited, the National Junior College Association was invited, as well as the National High School Association.

Mr. DELLENBACK. The reason that the AAU did not participate in the meeting or meetings called by the president of the IBB Board of the United States, and this I understand is Mr. Ben Carnevale, was not because there was a conflict, but because you were not prepared to accept his authority to call such a meeting?

Mr. CASSELL. No, sir. We surveyed our people to see if they could attend a meeting and they were all committed to previous engagements.

Mr. DELLENBACK. I am always troubled by this kind of thing. Mr. Cassell, because so far at least as the second meeting is concerned, you have indicated it was after you had concluded your meeting in December. Was that not correct? So there was no direct conflict in time.

Mr. CASSELL. Other than our convention finished on December 5 and there were an innumerable number of information items and accomplishments that had to be taken care of by our people.

Mr. DELLENBACK. I don't quarrel with you on that. That is your announced reason. I always recognize that what we are wrestling with in that kind of thing, whether we are dealing with it as individuals or officials, is that we are really talking priorities. We could say right now that you and I have this responsibility and must be here; and yet if something arose that was of higher priority, and you would have to establish for yourselves what that is, this would give way to that in spite of your high commitment. What you are saying is that the priority of that called meeting was of such a nature that it was lower than other things that a host of people had to do.

I assumed if you had wanted to do so, you could have had your president, yourself in your capacity, your counsel, your publicity director, you have had some official of the AAU there if you had deemed it sufficiently important. But you decided it was not. It is not up to me to decide if it should or should not be, but it is a fact you did not have representatives at that meeting.

In the event that by April 1 there is no resolution of this dispute, do I understand correctly that under the terms of the FIBA resolution of August the responsibility is expected to become that of the international basketball committee of the United States; is that correct?

Mr. CASSELL. Yes.

Mr. DELLENBACK. Who is the international basketball committee of the United States?

Mr. CASSELL. The U.S. Olympic Committee recognized AAU as the governing body.

Mr. DELLENBACK. In the event there is no resolution of this controversy at the end of this month, the ball will be in your court and you will have responsibility through your committee to go forward with whatever is done in basketball. Am I correct in saying that? And again I don't mean to impute motive, but if we go through the end of March without anything having been done in the way of the creation of any new organization, you have control after that time. Is that right?

Mr. RIVENES. That is correct.

Mr. DELLENBACK. Which would put intense pressure—again I don't mean to impute motives to you, but it looks objectively as if it is a natural for you to go into a stall—whether we are in a 2-minute stall or 4-minute stall or 27-minute stall or how many days stall you want to go to—because if nothing happens by the end of this month, you have the ball. Is that not correct?

Mr. RIVENES. That is correct.

Mr. DELLENBACK. I don't mean that is the reason why you did not cooperate, but that is the result of this particular situation.

Mr. CASSELL. I might say that would only be for the Olympic games, pan-American games and world championships.

Mr. DELLENBACK. Let me just conclude with a question because there are other members of the committee and there are also other witnesses. Do you think the Congress ought to legislate in this field to resolve this controversy?

Mr. RIVENES. Personally I don't think so. I am sure not, because in international sports the international groups all frown on government intervention in sports. They all feel, and especially in the International Olympic Committee, that there should be no intervention on the part of governments, no politics in sports.

Mr. DELLENBACK. Let me indicate my own personal feeling in this regard. I agree; I personally am very reluctant to see us legislate. But let me say the longer this issue remains unresolved and this kind of exasperating sword remains before us, that is the kind of thing that causes some of us to feel we have no alternative but to legislate. It causes members of the public to put pressure on their elected representatives in the government to do something about it. The pressure is on us to move. Some of us are deeply concerned that this issue is being fought as it is, and I don't think anybody's hands are completely clean on this. I would close by asking you if you have a resolution for us? Do you have a suggestion that you would make as to what ought to happen under these circumstances?

Mr. RIVENES. We are still willing to abide by the decisions of the Kheel Committee which was organized for this particular purpose.

Mr. DELLENBACK. Is it possible to break the problem into two, to leave the long-run problem to be resolved under some such suggestion as you have made and to solve this local problem of what to do about this tour in different ways, or must they all be part of the same package?

Mr. CASSELL. Sir, the Kheel agreement, in effect, left college athletics with the various institutions that have an interest. For instance, NCAA for the institutions that are affiliated with them, NAIA for organizations affiliated with them, and the open or international competition was with the AAU. This is, in effect, what the Kheel Commission did.

It seems to us that that is a sensible and fair resolution.

Mr. DELLENBACK. So instead of resolving this problem of the moment in a unique ad hoc manner, you would feel that this particular situation should fit under that fabric, under the general procedure you have outlined, and that is the single way to handle both the long-run and short-run problem; is that correct?

Mr. CASSELL. Yes, sir.

Mr. DELLENBACK. Thank you very much.

Thank you, Mr. Chairman.

Mr. O'HARA. Mr. Kemp.

Mr. KEMP. Thank you, Mr. Chairman.

I would like to reiterate what my colleague, Mr. Dellenback, said, that I think all of us deplore not only the problem, but the fact that the U.S. Congress at some point will have to enter the dispute if, in fact, we can't get together and resolve this problem. This is true not only in amateur athletics, but also professional athletics. To that end I congratulate the chairman and thank him for providing a catalyst that might indeed bring you together with the other party in hopes of resolving this very difficult question.

You mentioned in your testimony Mr. Cassell, that you have no economic sanctions over the athlete. Is that true?

Mr. CASSELL. Yes, sir.

Mr. KEMP. And you want none?

Mr. CASSELL. No, sir.

Mr. KEMP. What legal authority would the NCAA have in using their economic sanctions, taking away a scholarship or other particular sanctions?

Mr. CASSELL. I think that is the type of sanction that they would have, take away a scholarship.

Mr. KEMP. Under what authority?

Mr. CASSELL. It would be under the rules and regulations, I suppose, that have been made by the National Collegiate Athletic Association. That is something probably that you should ask—

Mr. KEMP. I wanted your conceptual view as to what type of economic sanction or under what authority those economic sanctions could be instituted by the NCAA.

Mr. CASSELL. That would be something that they could probably answer better than I. I am not that familiar with NCAA's constitution, by laws and operations.

Mr. KEMP. What is the selection process? Hypothetically if this were resolved and there were some agreement about the game and its continuation, what would be the process by which the athletes themselves were chosen?

Mr. CASSELL. Our National Basketball Committee would select 15 or 20 of the best basketball players in the country and take them to a training camp and at the conclusion of the training camp we would put together a nucleus of a national team of 8 to 10 players that would then play the Soviet team across the country.

Mr. KEMP. What about the coaches?

Mr. CASSELL. We would also attempt to get the best coaches available in the country to coach the team. The athletes at the training camp would certainly be under the direction of the coaches that were going to coach the team.

Mr. RIVENES. The coach would have much to say about the selection of his players, too.

Mr. KEMP. Would the coaches be selected first?

Mr. RIVENES. Yes, sir.

Mr. KEMP. They would pick the athletes?

Mr. RIVENES. He would assist in it.

Mr. KEMP. Talking about that date of March 31, have you had any communications with the NCAA as to attempts to resolve this dispute among yourselves rather than relying on an outside body such as the Congress?

Mr. CASSELL. The FIBA resolution calls for the AAU and BFUSA to get together. As I indicated before, our National Basketball Tournament that was elected at Kansas City at our convention, Mr. Frank Spechalske had a confidential meeting with Dr. Steitz on January 9. It was at his request, at Dr. Spechalske's request, that this meeting was held.

Mr. KEMP. You mentioned earlier, in response to a question, that for the last 14 years you have been holding events in which, up until this time, the NCAA had not intervened in, or am I taking too much out of context?

Mr. CASSELL. For the past 14 or 15 years we have had these exchanges with the Soviet Union. The first one started in 1958. Up until this time we haven't had any difficulty with the NCAA in basketball. We have fielded responsible teams, teams that have been competitive, and this is the first year we have sort of run into this situation.

Mr. KEMP. When you say no difficulty between you and the NCAA, did you have any communications? Did you relay to them certain information that was necessary for the game to take place or was there any discussion between the two parties regarding the contest?

Mr. CASSELL. It was never necessary to let them know that this tour was going on.

Mr. KEMP. So there was never any attempt to bring in the NCAA nor did they impose themselves on the selection process up until this year?

Mr. RIVENES. There was no reason to contact them. In fact, there have always been NCAA representatives on the AAU Basketball Committee and also on the U.S. Olympic Basketball Committee.

Mr. KEMP. Until this year?

Mr. RIVENES. Yes. I might point out that we have also had competition for many years, exchanges in other sports, too, in which there has been no difficulty whatsoever. These are some of them, NCAA sports, for example. Just recently in the last couple of weeks the Russians' water polo team was here for a series of games. They played directly against college NCAA teams and there is no question about it at all, no difficulties. We have had exchanges and still do in wrestling, in boxing, in many sports. No problem. Track and field, too, of course.

Mr. KEMP. What makes you think that this dispute is taking place at this particular time? Why do you think this is taking place?

Mr. RIVENES. Personally I don't know because there is no reason for it so far as I can see. Things are just the same as they were before in the past 14 years. Would you agree with that, Mr. Cassell?

Mr. CASSELL. I think that is spelled out in our statement, our reasons and our feeling why this particular action is being taken at this time.

Mr. KEMP. Why don't you just go over it very briefly. Don't read the statement, but just give me in your own words why you feel at this time this is taking place, recognizing, of course, that there has been a dispute for a number of years?

Mr. CASSELL. It is basically we feel to embarrass the recognized authorities in the United States that have been carrying on these programs for a number of years.

Mr. KEMP. It is the athletes themselves who are certainly coming out on the short end of this dispute. What in your view is happening to the athletes who see this dispute taking place in the higher echelons? How do you think they view it?

Mr. CASSELL. I think the athletes are a bit confused as to exactly what is going on, and they have been for a number of years, although we recognize this as an attempt by an organization in the United States to disrupt whoever has international membership, whoever holds international membership in these different international organizations.

Mr. RIVENES. I might point out in the selection of the 15-man squad or whatever it is, that certainly there will be some NCAA athletes invited to take part. They can, of course, refuse to play and decide not—

maybe for family reasons or economic reasons—decide that they can't accept, but they will certainly, if they are in the eyes of the committee and the coaching staff the top ones. Then they will be invited regardless of whether they are an NCAA school, NAIA, Armed Forces, whatever they are. They will have to decide for themselves whether they can accept the invitation to play.

I am sure almost all of them, as Mr. Duer stated earlier, they contacted 12 NAIA athletes and presidents of their schools and all but one were very happy to accept.

Mr. CASSELL. Being an athlete myself, for 13-odd years in track and field, what they are interested in is getting into competition and playing. Actually they are really not concerned about who has authority or who doesn't have authority. It is my own personal feeling and opinion that if there were no boycott or no threats, you would get 99 percent of the ones who were asked to be on the team.

Mr. KEMP. I imagine that is true. It is a tremendous honor to participate. I think certainly the focus of attention alone would compel someone to want to participate. I think athletes are concerned, deeply concerned. I have talked to a number of them. It is true they are not totally concerned about who is going to have ultimate jurisdiction, but I think they are deeply interested in making sure that there is a resolution of this problem. Recognizing that both you and the executive director of the NCAA, who is going to be with us as a witness are in Washington today. Are you prepared to meet with them on an informal basis today, tomorrow, in Washington, anyplace? Has anything been conveyed to the NCAA from your offices as to the possibility of getting together on an ad hoc basis?

Mr. RIVENES. Yes; I think we would be willing to meet with them today or just about any time that didn't interfere with other commitments. Yes; we would be very happy to meet.

Mr. CASSELL. I might say, Mr. Kemp, we have made repeated attempts to have NCAA come to our meetings and be represented. As a matter of fact, we invited Walter Byers, the executive director of NCAA, to be a speaker at our national convention when it was in Kansas City during the latter part of November.

Mr. KEMP. Did he do it?

Mr. CASSELL. No.

Mr. KEMP. Again, the athletes are the ones who are being unduly punished. I think it is incumbent upon you and the NCAA to resolve this uncertainty before March 31.

Mr. Chairman. I thank you for bringing together this committee to at least provide hopefully, a catalyst toward that end.

Mr. O'HARA. Thank you, Mr. Kemp, for your contribution.

Mr. Huber, do you have any questions you would like to direct to the witness?

Mr. Huber. Yes; just one. I understood one of the gentlemen to testify that the NCAA had members that served on the AAU board, the basketball group; is that right?

Mr. RIVENES. Have had in the past.

Mr. Huber. Always in the past except this year?

Mr. CASSELL. There are some college coaches that are members of our National Basketball Committee at this time, although they are not placed there directly by NCAA.

Mr. HUBER. In the past was this a policy that you had followed to invite members of the NCAA to serve on your board?

Mr. CASSELL. Yes, sir; in the past we have invited them to serve on our National Basketball Committee as well as our executive committee.

Mr. HUBER. Was that invitation extended to NCAA or to particular members you particularly wanted to serve?

Mr. CASSELL. It was extended to NCAA as an organization.

Mr. HUBER. Did they take action as an organization to place men on your board?

Mr. CASSELL. In the past, in past years they have.

Mr. HUBER. As an organization?

Mr. CASSELL. As an organization, yes.

Mr. HUBER. They were invited to do that this year and haven't; they declined?

Mr. CASSELL. They were invited to do this that year by letter and there was no response.

Mr. HUBER. This is the first year they have not answered your letters?

Mr. CASSELL. No; this is not the first year. I don't remember the exact year, but this must have been since 1961 and 1962.

Mr. HUBER. At that time did they indicate they were no longer interested in serving on your board when they declined?

Mr. CASSELL. I think that is correct, sir. I would have to go back and find the exact correspondence.

Mr. HUBER. Do you remember what the reason was why they didn't want to participate at that time?

Mr. RIVENES. I don't recall exactly if any reason was stated. But there have been, even since then, individuals who were the board of directors—

Mr. HUBER. I wondered if they had adopted a policy at some time that they were no longer going to participate with you jointly.

Mr. RIVENES. I would like to point out to you, Mr. Huber, that in the structure of the sports committees in the AAU there have always been blank spots, four or five blank spots on the committees for both the NCAA and also the NAIA, and the NAIA does choose to go to those spots and they attend our meetings regularly and the NCAA always had the same right.

We are glad to have them.

Mr. HUBER. Thank you.

Mr. O'HARA. Thank you.

Let me get in one more question so that we can get the answer on the record. It has been suggested by some cynics that the fight is about power and prestige between the two organizations. It has even been suggested that the fight is about money and that there are considerable financial rewards associated with this tour, at least there might be this year when interest has been stimulated by, of course, the events at the Olympic games last summer.

Could you tell us what are the financial arrangements for this forthcoming Soviet basketball team tour?

Mr. CASSELL. As you gentlemen know, the Amateur Athletic Union is a nonprofit organization, so any of the funds that are received from any of the competitions that are arranged by AAU or through AAU go back into the sport. The financial arrangements that have been made

at this point are that we have eight different sponsors across the country that are prepared to sponsor one of these games in their city. We have asked for a contribution of \$5,000 from each one of them to help offset the expenses of the Russian team when they come here as well as the American squad that will finally be put together and participate against them.

So the advanced funds would be used for the training camp and for the selection of a team, for paying the expenses of the Russian team as they travel across the country and their room and board. In addition to that, we have asked that we share with each of the sponsors; we receive 50 percent of the net and the sponsors receive 50 percent of the net. I might indicate in each of the places where there is a sponsor, these organizations, with the exception of one, are also not for profit organizations that are sponsoring these games in different cities.

Mr. O'HARA. Do you have any television agreement? What does that provide?

Mr. CASSELL. Yes; we have one game that will appear on television. It will appear on CBS national network. The AAU is receiving \$35,000 for that game. The reason that the price is so high, you might say, is that in the beginning we were only receiving \$10,000 for it, but the Los Angeles Times is sponsoring that game in Los Angeles. They were asked to move the game to a 12:30 start in Los Angeles.

When that request was made, the Los Angeles Times felt that with the 12:30 start they would not be able to have sufficient paid attendance to pay the bill to meet the expenses. That was the figure that the Los Angeles Times placed on this game from television revenues.

Mr. O'HARA. That will be \$35,000 that will go to the AAU; is that right?

Mr. CASSELL. No. This money that comes from television will go into what we call our common income with the gate receipts and so forth at the Los Angeles Times.

Mr. O'HARA. For a 50-50 split then?

Mr. CASSELL. Yes. The expenses will come off the top. The expenses of the arena, the expenses that the Los Angeles Times has and AAU has, and then there will be a 50-50 split after that.

Mr. O'HARA. The AAU will use the proceeds of this tour to finance its activities. Just in basketball or all of its activities?

Mr. CASSELL. Mainly this year it will be in basketball. Since the AAU is the type of organization that it is, we sort of have a common fund that we help out all our sports with. That is one of the reasons we feel that the international picture has grown to the point that it has in the United States in some of the other sports. For instance, in judo, in boxing, in some of the sports that the colleges are not concerned with at all.

This year the international program that our people have set forth comes to about \$149,000. The funds that are received from this trip will go back into basketball directly.

Mr. O'HARA. What are some of the things you plan to finance with that \$149,000? Give us a few examples.

Mr. CASSELL. We will be sending a team to the First World Basketball Festival in Lima. We will be also sending a cadet team or a team of youngsters to Europe for four or five games. There is the Seventh International Cup in São Paulo, Brazil. The First Basketball Festival

in Peru is also mens and womens teams. There is an Independence Day tournament in São Paulo, Brazil, we have been invited to send a team to.

We are in the process of planning an international coaches and officials clinic which will take place this year to familiarize the coaches and the officials in the United States with international rules. Then, of course, since this is a home-to-home series with the Soviet Union, we always hold in escrow sufficient amounts of money to get our team back over to the Soviet Union in 1974 to continue this home-and-home series.

Mr. O'HARA. Thank you.

Mr. Dellenback?

Mr. DELLENBACK. If I may very briefly.

Mr. Cassell, you referred to the Kheel Report. I have a copy of the Arbitration Board report here. Is it not true that the Kheel Board was basically set up to deal with track and field?

Mr. CASSELL. That's right, sir.

Mr. DELLENBACK. So there is no such agreement under Kheel that would deal with basketball.

Mr. CASSELL. No, there isn't but the same correlation is there in basketball that exists in track and field.

Mr. DELLENBACK. So that my thinking will be clear, you are not here talking about adhering to something which is established and which is not being conformed to by NCAA or anybody else, but you are talking about taking a Kheel-type agreement and moving it over into a new field where it was not originally set up to be?

Mr. CASSELL. The Kheel document as the way we read it and as the way Mr. Kheel reads it now is not being followed by the NCAA.

Mr. DELLENBACK. Are we talking about track and field or basketball?

Mr. CASSELL. No, sir, we are talking about basketball.

Mr. DELLENBACK. Now the Kheel Report is the testament referring to track and field?

Mr. CASSELL. Yes, sir. But also in Mr. Kheel's statement he said it should be used as a model for other sports as well.

Mr. DELLENBACK. May I ask briefly this? Do you plan to go ahead with the plans as you have set them up? Are you still considering alternatives or are you marching inexorably ahead?

Mr. CASSELL. We are considering every aspect. Certainly we look forward to havin a good series and to having a good team participate.

Mr. DELLENBACK. Mr. Lehman in making comment earlier touched on the possibility of going into local areas. Have you considered going to UCLA or North Carolina State or Minnesota or Marquette or Long Beach State or anybody along the line and playing individual teams at the top of the list?

Mr. CASSELL. That is a possibility and it is something that we would certainly take back to our basketball people and consider. From the experience we have had, when the Soviet Union brings their international team here, we feel we should put a similar team on the floor.

Mr. DELLENBACK. Is there any concern at all in your minds that in 10 days from the 16th of April to the 26th, when the first game is scheduled, that there will be any difficulty in 10 days welding stars together into a single top-rate competitor?

Mr. CASSELL. That has normally been the period of time that we have used, 10 days to 2 weeks, as a training camp in putting the team together. With the experience that the basketball people have, and as much as they play, I think the coaches will be able to put them into a well-oiled team in a 10 to 14 days' period of time.

Mr. DELLENBACK. We only have 10 days under your schedule?

Mr. CASSELL. Yes, sir.

Mr. DELLENBACK. Thank you Mr. Chairman.

Mr. O'HARA. Mr. Kemp.

Mr. KEMP. How was the proposed television package put together? Did CBS come to the AAU or did you go to CBS and how did the Russian team figure into it? Can you relate that information to me?

Mr. CASSELL. The AAU has had now for 5 years a series of television events with CBS. This will be one of the games or one of the events in this television series that we have with CBS.

Mr. KEMP. Who decided that, CBS or AAU?

Mr. CASSELL. We present certain events to CBS and CBS decides which ones they would like to put on the particular show.

Mr. KEMP. So you, in fact, presented to CBS as part of this on-going sports programming the idea of this basketball game?

Mr. CASSELL. Yes. We present all our championships and all the international events we compete in to CBS. Some of them they like and some of them they don't. This is one that they liked.

Mr. RIVENES. Mr. Kemp, in our television package we feel that the less popular sports in the United States also deserve coverage and in an attempt to popularize them and in an attempt to improve our international status in such sports, we have asked some of the other sports, so-called independent federations, if they would like to take part in the AAU television package. They, of course, were delighted because they needed that exposure.

So, we have had, for example, figure skating, we have had hockey, track and field, water polo, ski flying, skiing, gymnastics.

Mr. KEMP. Let me interrupt you to make my final point. The dispute obviously is over your authority to set up this particular game. Were you not suggesting that your authority had evolved throughout the 14 previous years? What makes this different from those previous 14 years, the television package, for instance?

Mr. CASSELL. No; we have had the television for 5 years, as I indicated. We could delete this game from the television series and CBS would continue to put our events on their show.

Mr. RIVENES. I am sure the American public wants to see the basketball game, however.

Mr. KEMP. No further questions, Mr. Chairman.

Mr. O'HARA. Thank you very much.

Gentleman, what I would like to do if it is at all possible for you to do this, I would like to excuse you at this time. I would appreciate it if you would remain in the room in case some other question may arise that the committee would like to direct to you. Could you do that?

Mr. RIVENES. We will be very happy to. Thank you for having us here.

Mr. O'HARA. Without objection, there will be printed at this point a letter, dated November 15, 1971 from Messrs. Wright and Giegenack of AAU to Senator Magnuson.

[The letter referred to follows:]

AMATEUR ATHLETIC UNION OF THE UNITED STATES, INC.,
Indianapolis, Ind., November 13, 1971.

The Honorable WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: AAU president Jack Kelly has referred your letter of October 22, 1971 to our respective offices for reply. We are sure that Mr. Kelly explained that because of the function of our committee as a virtually autonomous body within the AAU, it might be more relevant for us to review the successes and failures with regard to the implementation of the Sports Arbitration Board's report to the United States Senate Commerce Committee. We think it pertinent, in this regard, to briefly trace the history of the dispute between the Amateur Athletic Union (AAU) of the United States and the other sports bodies to which you referred.

In the early and mid-1960's, the feuding between the bodies involved in the conduct of the sport of track and field in this country became so bitter as to threaten the very survival of that sport. At the specific request of the National Collegiate Athletic Association and the United States Track and Field Federation, the Senate of the United States appointed an Arbitration Panel known as the Sports Arbitration Board and chaired by the eminent Mr. Theodore H. Kheel.

Following twenty-five (25) months deliberation, the Sports Arbitration Board arrived at a settlement which Mr. Kheel felt was more than generous to the NCAA and its track group. He was quoted as having said at the time that he was fearful "the AAU would object to the extent to which we had permitted the NCAA to force its way into the domain the AAU had governed for the better part of the century." (New York Times, Friday, November 8, 1968).

We did object; we did feel that it "constituted a signal victory for the NCAA and arbitrarily stripped the AAU of many of its traditional and legal prerogatives." (Robert Giegengack, Re-statement of Position and Projection of Policy by the Men's Track and Field Committee of the Amateur Athletic Union of the U.S. vis-a-vis the NCAA). For some eighty-one (81) years, since its founding in 1888, the AAU had made as a requisite for any sanction the agreement that AAU sanction, and AAU sanction alone, would be used for athletic event. However, in order to implement the Kheel Agreement, the AAU for the first time agreed to permit dual sanctioning in order to facilitate cooperation between itself and the other groups interested in the sport of track and field. This policy decision has been in effect, without interruption, since February, 1968.

It was not the AAU that announced the demand for governmental intervention in this dispute; it was not the AAU that threatened the total disruption of our national athletic program; it was not the AAU that called upon the gentlemen of the Arbitration Panel to sacrifice twenty-five (25) months of deliberation.

It was the United States Track and Field Federation.

And, having made these demands and threats the federation has, to this date, refused to abide by the decision of the Sports Arbitration Board, despite the fact that Mr. Kheel stated upon the completion of the report, "This is a final decision in an arbitration matter which is final and binding . . ." (Sports Arbitration Board Report, Hearing Before the Committee on Commerce United States Senate 90th Congress Second Session on the opinion and decision of the Board of Arbitration on Track and Field.)

And, you yourself stated, Senator, as the Chairman of the Senate Commerce Committee, when it became apparent that the USTFF was stalling in the acceptance of the report that, "It is the feeling of my committee, in light of all the circumstances involved, that we must consider the decision of the board to be in full force and effect . . ." (Associated Press story) While the nation's press and other interested parties to this dispute condemned the USTFF for its failure to accept the report, it does not change the fact that the solution upon which we had based our hopes for peace in his matter has fallen short of its promise, solely because the USTFF has steadfastly refused to accept any solution which does not give it complete control over track and field in this country.

We at the AAU charge that the real intent then, and now, behind this federation is to usurp the power and prerogatives of the AAU domestically and internationally. The USTFF was prepared then, and is obviously prepared now, to use any method possible to achieve this end. They have tried to use the athlete, the spectator, the Senate of the United States and the designated Sports Arbitration Board to achieve this end. They have been openly contemptuous of

the findings of this Board, of the Board itself and of the Congress and Senate of the United States of America which authorized that some decision be made regarding this matter.

We do not wish now to restate our stand on the issues that confronted the Sports Arbitration Board. We felt that the make-up of the panel was such as to render a fair decision based upon the facts. The NCAA, too, was quite explicit about its satisfaction with the make-up of the Board. On the occasion of the appointment of this Board, the president of the NCAA, Mr. Everett Barnes, stated, "Our group had complete confidence that the vice-president would select a distinguished, unbiased and competent arbitration board. These selections confirm that confidence and completely satisfy us." (Stenographic Transcript, Press Conference of Vice-President Hubert H. Humphrey, Washington, D.C., December 14, 1965)

The question remains, of course, why did the USTFF refuse to accept the binding decision of the Board?

We would like to review briefly the decisions of the Sports Arbitration Board. You will recall that one of the major areas of disagreement between the AAU and the federation was over the question of sanctioning. Your Board made the decision that in strictly "closed" competition, the USTFF would be allowed to conduct competition without AAU sanction; but that in meets declared "open", that is involving other than "students" as defined by the Sports Arbitration Board, the federation would be required to apply for sanction from the AAU, based upon the AAU's position as the governing body for the sport in the United States for international purposes. We did not agree entirely, but as we said at the time, "Neither pride nor selfish interest has prevented us from this generous solution", and we permitted dual sanctioning. (Robert Glegengack, op. cit.)

What has happened, as a result, is this: The USTFF has continued, in open defiance of the findings of the Board, to conduct "open" competitions without application for AAU sanction. Thus, not only have they exhibited contempt for the arbitration agreement, but they have placed in jeopardy the amateur standing of those "open" athletes competing in their illegal meets. Already they have been responsible for the possible loss of one world record for an athlete for whom they purported to speak. (*Syndicated column by Red Smith, attached*)

Additionally, rather than openly announce to athletes entering their meets that they were in conflict with international rules, the federation used subterfuge and deceit. Many athletes entered the federation meets under the belief, implicit in the entry blanks for the federation meets which ask for an AAU registration number or card as proof of amateur standing, that the meet was sanctioned by the IAAF representative (the AAU of the U.S.) and was therefore a legitimate meet. (See attached entry blank for 1971, USTFF meet). Subsequently, many wrote to the AAU expressing surprise that the sanctioning dispute had once again broken out, since they went under the impression that the decision of the Sports Arbitration Board had settled the issue in 1968. (*See attached letter from Oklahoma athlete Darl Locke, September 1, 1971*)

There are pertinent adjuncts to this question of sanctioning. Rarely in the course of its short existence has the USTFF applied to the AAU for sanction, even after they were formally bound to do so as a result of the decision of the Sports Arbitration Board. Therefore, all such meets involving "open" athletes—including the many indoor, outdoor and cross country meets sponsored by the USTFF since the Sports Arbitration Board decision was handed down in 1968—are in violation of the spirit and law of the IAAF and as such, the AAU, as the member-representative in the United States, would be well within its legal bounds to suspend athletes involved in such meets.

Since the decision was passed down by the Sports Arbitration Board, we have refrained from any such action, feeling that it is the USTFF that deserves the criticism for its total disregard of the athletes welfare. We do not wish to become a party to the oft-used USTFF tactic of hiding behind the athlete and allowing him to take the blunt of the punishment.

Another related point in sanctioning—the AAU was never required to permit dual sanctioning of its meets by the USTFF. However, over the past two years we have applied and used the sanction of this federation to avoid further internal injuries to the nation's track and field program. We realize that, despite the inflated costs of the sanction, we would better preserve the peace by utilizing their arbitrary approval.

Additionally, with regard to the question of sanctioning, the USTFF is the only track group in this country that refuses to apply for AAU sanctioning of

"open" meets or events. Even the NCAA, with whom this dispute originally started, complies with these provisions as they relate to AAU sanction. (See attached material on 1970 NCAA Indoor Meet, Detroit, Michigan)

The pervasive attitude of distrust that exists between the AAU and the USTFF is due, in part, to the latter's disregard of reality in its relations with us. In the December 1970 NCAA Newsletter, an article entitled "The Federation Movement" stated, "The USTFF sponsored three international tours to Latin America and the Caribbean without AAU sanction being applied." (NCAA Newsletter, December 1970)

Prima facie, of course, it is untrue, because no member-representative of the IAAF would allow a foreign team in its country which was not authorized by that team's home governing body. Notwithstanding that, the Executive Director of the federation, Carl Cooper, wrote on May 21, 1970 to the AAU saying, "Your office grants permission to the Brigham Young University track and field team to take a tour every other year to the Scandinavian countries. The tours outlined above (to the Caribbean and Central America) will be very similar in nature and we would like to have similar permission from your office." (Emphasis ours)

Following this, correspondence was received from the president of the federation, Wayne Cooley, complying with all the information needed before AAU permission could be granted to them for such a tour.

We might point out, parenthetically, that the AAU, were it intent upon diminishing or destroying this federation, might easily have refused permission for any tour. We did not, since we felt that such a move would not contribute to a resolution of this conflict.

Perhaps the most offensive disregard of reality with which the federation amuses itself is the myth that the USTFF "has" 100% of the athletes and "owns" 100% of the track and field facilities in this country. (For the Record . . . A Statement from the United States Track and Field Federation, page 7) At the outset, the federation can no more lay claim to an athlete than can our organization or any organization. The athlete belongs to no one but himself. He may compete under the auspices of the AAU one day, the NAIA (National Association of Intercollegiate Athletics, a group of 537 colleges and universities which are allied with the AAC) another and the NCAA on a third, but surely he is not bound to any one organization. If the USTFF wishes to claim athletes as their property, they are free to make such a claim. But as for us, we relinquish any claim to the remaining 10% that the federation ceded to us. We do not wish to claim property rights to athletes, be it with USTFF blessing or not.

The claim to ownership by the federation of 100% of the track and field facilities in this country is incredible. The vast majority of these facilities obviously belong not to the USTFF, but to the taxpayers of the state, county or city where they are located. How audacious of his federation to usurp that ownership.

Throughout the period following the decision of the Sports Arbitration Board, the AAU has sought not only to abide by the Agreement, but to encourage the USTFF to abide by that agreement. Only recently the president of the AAU appealed to USTFF president Cooley, urging him to meet with members of the virtually autonomous national track and field committee of the AAU. Mr. Cooley coldly declined to do so, saying, "I will not be available as president of the USTFF for meetings with Messrs. Cassell, Glegenguck and/or Wright. It is pointless to pursue this any further . . ." In the most recent editorial of the AAU Newsletter, we asked that the USTFF join with the AAU by signing the Articles of Alliance in order to end this interecneine strife (Amateur Athlete Newsletter, October 1971). We have received no response.

We have been supported in our position not only by the decision of the Sports Arbitration Board, but also by the United States Olympic Committee, which refuses to recognize the federation, by the International Amateur Athletic Federation (IAAF), by the member national governing track and field bodies throughout the world, who refuse uniformly to deal with the Federation (See attached letter from Arthur Gold of the British Amateur Athletic Association) and by the United States Department of State which recently informed the USTFF, "We require an authorized letter from the governing sports body (the AAU) before consideration can be given to co-sponsorship of any overseas tour." (See attached)

With respect to this federated organization, we are not out to destroy it. It may well be that the federation could make a contribution to domestic track and field in this country. Certainly the AAU would support any organization that strengthens the sport of track and field in the United States. What we will not support,

cannot support and will not tolerate is an organization that is set upon a course of destruction with respect to the AAU, and without respect for any of the millions of others—athletes, fans, volunteers and coaches—who are being irreparably harmed by the federation's actions.

We think that, in the main, these are men of good will. We think that they are genuinely interested in furthering the sport. But we equally feel that there are those whose motives are dictated by the imperatives of raw power. In this respect, it is illuminating to refer to a recent incident regarding the submission of an application for world record for a young hurdler named Tom Hill. His pending record was set at the USTFF Championships at Wichita, Kansas, June 1970. Despite the fact that the AAU urged the federation to apply for sanction, that such a sanction would not have been given immediately under the terms of the Sports Arbitration Board and that the AAU, after the fact, offered to issue a retroactive sanction for the meet "Without fanfare" so that this athlete would receive world recognition, the USTFF refused to make application.

In a letter from the track coach at Duke University (an institution affiliated with the NCAA), Al Buehler, is one of the AAU representatives to the USOC and president of the United States Track and Field Coaches Association, he stated, "Carl Cooper (Executive Director of the USTFF) said in effect . . . that he could not and would not request a 'retro-active' sanction from the Missouri Valley AAU . . . Carl said he had been given these instructions by his Executive Council composed of Cooley, Crowley, Byers, etc. and if he would request said Missouri Valley AAU sanction he would be fired tomorrow."

In summary, we would like to reiterate briefly the areas in which the USTFF has failed to abide by the Sports Arbitration Board decision we have discussed:

1. the USTFF has failed to accept the Sports Arbitration Board definition of "open" competition as that competition where other than students participate.

2. despite repeated AAU offers to supply immediate sanction for USTFF "open" events, that body has failed to apply to the AAU for sanction of its "open" meets as it is specifically bound to do under the Sports Arbitration Board agreement.

3. the USTFF has deliberately attempted to disguise the fact that its meets are unsanctioned and hence, under the terms of the Sports Arbitration Board, illegal, from various athletes who therefore unknowingly compete in these events.

4. the USTFF has, we feel, misrepresented the truth and subverted the best interests of the sport of track and field to its own ambitions.

5. finally, the USTFF has constantly and arbitrarily refused to meet with the AAU in order to discuss solutions to the problems that plague the sport of track and field in this country. They have done so, we contend, maliciously and without thought of the consequences to all parties involved in our sport.

We feel, and we cannot but hope that you will agree, that we have done more than our share to end this strife. We have done so in the interests of preserving the place of the United States at the pinnacle of track and field competition in the world, of providing proper developmental programs and of creating an atmosphere in which the sport can prosper in this country. We have done so at the cost of some of our traditional authority, but, we thought, the price for peace was not too great to pay. We have received neither response nor support from the USTFF. We do not wish to climb down the evolutionary scale and revert to the threats and intemperate statements that characterize their communications with us. But this cannot long continue. We ask, Senator Magnuson, that you make known your views on the subject so that we may clarify this situation to all concerned and bring some harmony to track and field in the United States.

Most sincerely,

ROBERT GEIGENACK,

AAU Liaison to the Sports Arbitration Board.

STANLEY V. WRIGHT,

Chairman, National AAU Track and Field Committee.

Mr. O'HARA, Our next witness will represent the National Collegiate Athletic Association. Thomas Hansen, assistant executive director of the NCAA and Mr. Philip Brown, counsel to the NCAA, who is a Washington attorney.

In addition Mr. Brown is accompanied by Mr. Ritchie Thomas of the same firm.

Gentlemen, you can submit your statement for the record and summarize it or you may read your statement, whichever way you prefer.

STATEMENT OF THOMAS HANSEN, ASSISTANT EXECUTIVE DIRECTOR OF THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA), ACCOMPANIED BY PHILIP BROWN AND MR. RITCHIE THOMAS

Mr. HANSEN. Thank you very much, Mr. Chairman.

My name is Thomas Hansen, assistant executive director of the NCAA. As you have indicated I am accompanied by Washington counsel.

It is precisely appropriate in my opinion, Mr. Chairman that this hearing is being conducted by the subcommittee on higher education, for the matter to be discussed involves basic educational principles.

It is the position of the NCAA that the tour proposed by the AAU would seriously jeopardize the chance of success academically of any college player who might participate.

In announcing this hearing, Mr. Chairman, you expressed these very concerns of the NCAA. It is to avoid this type of problem that the NCAA has adopted the constitutional provision which limits the basketball season, that protects the player from pressure and exploitation to enable him to maintain his academic progress. Despite the age-old popular jest about the academic prowess of the athlete, we find today they graduate at a higher rate generally than a cross section of their classmates and the Department of Athletics is vigorously prodding them for graduation.

The NCAA's rules implement and aid that prowess.

This morning, Mr. Chairman, I am not as well prepared as I would like to be. Saturday was the only day I have been in the office, because of a series of meetings and trips, since we received this invitation to participate.

We have 12 national championships this month and frankly we don't have a lot of manpower. Therefore I am going to file for the record my statement if we may.

Mr. O'HARA. Without objection your statement will be entered into the record.

[The statement referred to follows:]

STATEMENT OF THOMAS C. HANSEN, ASSISTANT EXECUTIVE DIRECTOR OF THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION

In announcing this hearing last Wednesday, the Chairman noted that a proposed tour of the United States by a U.S.S.R. basketball team was in difficulty because it appears that many of this country's finest amateur basketball players will not take part in the competition. The Chairman expressed concern that in connection with the tour and the confusion surrounding its arrangement the nation's college athletes were "being used as pawns" by organizations administering amateur athletics in the United States. The National Collegiate Athletic Association shares this concern, and welcomes the opportunity to lay before this Subcommittee and the American public the facts regarding the nature and source of the problems encountered by the proposed tour and where the responsibility for the present fiasco lies.

The National Collegiate Athletic Association is a voluntary association composed of 771 members, of which 600 are colleges and universities and 75 are allied and affiliated organizations. Among the purposes of the Association are the initiation, stimulation and improvement of intercollegiate athletic programs for student-athletes and the promotion and development of educational leader-

ship, physical fitness, sports participation as a recreational pursuit and athletic excellence. A basic purpose is to maintain intercollegiate athletics as an integral part of the educational program and the athlete as an integral part of the student body. The membership of the NCAA provides intercollegiate competition in 27 different sports in which each year more than 185,000 compete. NCAA members conduct an active intercollegiate basketball program, involving all of the "major" four-year colleges and universities.

In our testimony today regarding the Russian basketball tour, I will make these principal points:

1. The proposed tour's problems stem from the fact that CBS Television and the Amateur Athletic Union combined to try to arrange a Russian basketball tour of the U.S. in total disregard of the rules and procedures governing international amateur sports events.

2. The problems were compounded because the CBS-AAU tour was arranged for the worst possible time from the point of view of student-athletes, and in a manner rendering student-athletes at NCAA member institutions ineligible for participation, under long-standing provisions of the NCAA Constitution.

3. The tour arrangements, designed principally to fulfill a television commitment and to buttress AAU claims to the conduct of international basketball programs, are unfair to U.S. athletes, a disservice to the sport, and ultimately, unfair and misleading to the American public.

Since the problems inherent in the proposed tour began to reach the attention of the public, the AAU has made frantic efforts to conceal its mismanagement and misrepresentation by attributing its troubles to an organizational dispute with the NCAA. Certainly it is true that to the extent that NCAA members have resisted attempts by the AAU to assert jurisdiction over their athletic programs and AAU claims to monopoly control over international events, there is such a dispute. However, the source of the basketball tour's problems lies not in that dispute, but instead in the nature and timing of the AAU-CBS arrangements, and the procedures by which they were made, all of which are designed exclusively to serve organizational goals of the AAU, and in disregard of the best interests of U.S. athletes and this country's international sports honor and reputation.

I. THE CBS-AAU TOUR WAS ILLEGALLY ARRANGED

A principal incentive for the arrangement of the proposed tour appears to have been provided by an arrangement between the AAU and CBS television calling for a series of weekly sports programs. A USA-Russia basketball series might, of course, provide a highly attractive offering for this series. But in order to fulfill its television commitment, the AAU arranged a tour of the Russian team without regard to proper scheduling and preparation and in violation of the rules and procedures governing such international competitions.

The President of the Basketball Federation of the USA is here and can discuss in detail the status of the regulation of international amateur basketball events. In brief, however, the AAU, which—in spite of the fact that it has no significant basketball program—struggled for many years to maintain itself as the sports governing body in the United States recognized by the International Amateur Basketball Federation, had all real authority stripped from it by the F.I.B.A. in February, 1969. Although the AAU was maintained as the nominal basketball sports governing body in the U.S., the effective exercise of authority was given by the F.I.B.A. to the International Basketball Board of the U.S.A., on which the AAU and the Basketball Federation of the U.S.A. were equally represented. Under a resolution of the F.I.B.A. adopted September 24, 1972, that authority continues in the President of the I.B.B., pending organization of a new U.S. national sports governing body—the Amateur Basketball Association of the U.S.A.—and its affiliation with the F.I.B.A. In spite of the fact that U.S. affiliation to the F.I.B.A. will be automatically suspended on April 1, 1973, if the Amateur Basketball Association is not formed before that date, the AAU has boycotted the first three organizational meetings of the association.

Accordingly, when the AAU went to the Russians it had no authority to conclude arrangements for a competition on behalf of the U.S. The AAU had, and has, absolutely no authority to arrange competition for NCAA member colleges or for other members of the Basketball Federation. The AAU could not have been ignorant of these facts. Yet, it proceeded to arrange a tour on which competition involving student-athletes at NCAA member institutions was to be the principal and featured element. No attempt was made to secure authorization from or to coordinate arrangements through the I.B.B. President, perhaps

because it was clear that the proposed tour was a monstrosity. Under all the rules applicable to such arrangements, therefore, the 'CBS-AAU' arranged tour is illegal, and the AAU has played the part of an outlaw.

II. THE PROPOSED CBS-AAU TOUR IS SCHEDULED TO THE DISADVANTAGE OF STUDENT-ATHLETES

Moreover, the tour has been arranged without regard for proper scheduling or for the rules governing participation in such events by student-athletes at NCAA member institutions. The proposed eight-city U.S. tour is scheduled for a time which is to the greatest disadvantage of the American student-athlete and which precludes assembly of the best U.S. team.

The tour dates, which begin on April 28, fall within a period when student-athletes would normally be preparing for or taking their annual final exams, and shortly after they have completed an exhausting basketball season which began on October 15, 1972. Participation in the tour presumably would require dedication of the intervening period to practice and preparation, instead of to studies. Those who played on the U.S. Olympic team at the Munich Olympics have been playing almost without a break since the June, 1972 Olympic tryouts were held.

To prevent just such exploitation of student-athletes by fly-by-night promoters the NCAA Constitution imposes strict limits on out-of-season events and practices. Article III, Section 9(c) of the NCAA Constitution provides that NCAA member institutions may be represented only by student-athletes who have not participated in any organized, outside basketball competition except during the permissible playing season specified by the NCAA By-Laws. Section 9(c) further states that:

"Such participation shall require the member institution to rule the student-athlete ineligible for intercollegiate competition in the sport of basketball. Participation by residents of Puerto Rico in the Superior Basketball League of Puerto Rico is exempted from this ruling. A student-athlete may compete in one game a year involving players from his former high school and its alumni team. The Council shall have authority to waive this provision to permit student-athletes to participate in official Pan American or Olympic tryouts and competition, or participate in other international competition approved by the Department of State of the U.S. Government and sanctioned by the Council of the Association. Request for Council sanction must be made by the institution at least thirty days prior to that competition."

In addition, Section 8(d) of Article III states that:

"Staff members of the athletic department of a member institution shall not knowingly participate, either directly or indirectly, in the management, coaching, officiating, supervision, promotion or player selection of any all-star contest involving student-athletes which is not certified by the Association's Extra Events Committee."

Neither the NCAA Council nor the NCAA Extra Events Committee has ever received or acted upon an application for out-of-season basketball competition in connection with the CBS-AAU tour. The first information regarding the tour received by NCAA offices came from press reports in mid-February. In response to subsequent inquiries from member institutions regarding participation in the tour, it was necessarily pointed out that such participation would violate the provisions of the NCAA Constitution.

III. THE TOUR ARRANGEMENTS ARE UNFAIR TO U.S. ATHLETES AND THE NATION AND MISLEADING TO THE AMERICAN PUBLIC

Providing the applicable procedures are observed, the AAU might, of course, have met its television commitment by arranging a series of matches between a touring Russian basketball team and basketball players from programs conducted by the AAU. Such a series would not, however, reflect the best amateur competition that the United States has to offer. It would not be saleable television fare. Moreover, it is not such a series which the AAU and CBS have been promoting and have led the American public to expect. Instead, the tour has been advertised as a rematch of the Munich Olympic competition, in a blatant attempt to cash in on the widely-felt dissatisfaction and resentment regarding the conduct and outcome of the Olympic finals game between the U.S. and U.S.S.R. teams. Yet it is impossible for the AAU to put the 1972 U.S. Olympic basketball team back together for the tour. There is no evidence of any organized effort by the AAU

to contact the athletes concerned and we have confirmed that most would be unavailable. When this failure is viewed in combination with arrangements precluding participation by NCAA student-athletes, the advertising for the proposed tour takes on the color of the rankest form of misrepresentation. This kind of promotion has not only misled the public, it also exerts tremendous pressures on the individual athletes who, through no action on their part, are expected by the public to participate—and labeled selfish and unpatriotic if they do not.

We submit that this attempt by the AAU to use the athletes concerned as pawns to achieve organizational ends is precisely the sort of conduct regarding which the Chairman expressed concern.

CONCLUSION

In conclusion, the NCAA believes that the AAU-CBS tour is the wrong tour, at the wrong time, put together illegally and for the wrong reasons. It is not in this nation's best interest. We will have no part in this shoddy effort to exploit student-athletes.

Mr. HANSEN. Then I am going to devote my remarks here to presenting additional facts we have developed over the weekend, primarily by telephone.

I would like to make these seven points.

The NCAA has not acted against the proposed tour. I emphasize the word not. The AAU is attempting to coerce uninterested athletes into unnecessary competition. The entire tour is a television gimmick designed to provide television programming and it is not a jurisdictional dispute despite some of the previous statements made this morning.

The timing of the tour is the worst possible. Not atypically, the AAU is guilty of atrocious administration. The AAU is attempting to violate both domestic and international rules in forcing the tour on this country.

Leading knowledgeable coaches and administrators are outspoken in opposition to the proposed tour and I have statements from them.

Mr. Lehman, I believe, indicated he wished there had been a sampling. I do have such a sampling from conferences and individuals around the country. To illustrate many of these points also, Mr. Chairman, I would like to enter into the record six clippings which I will identify.

First, a clipping of February 24 from the Washington Post of a story by Mark Asher.

Mr. O'HARA. Without objection the clipping will be entered into the record at this point.

Mr. HANSEN. Thank you sir.

From the Kansas City Times of February 21, a story by Steve Hershey.

Mr. O'HARA. Without objection that clipping will be entered into the record.

Mr. HANSEN. An Associated Press story carried in the Kansas City Times by Tom Seppy of the Associated Press.

Mr. O'HARA. Without objection.

Mr. HANSEN. A clipping by Bill Sharp of the Kansas City Star's sport staff of February 28.

Mr. O'HARA. Without objection that clipping will also be entered into the record.

Mr. HANSEN. A clipping from the Washington Post on February 28. It is an Associated Press story.

Mr. O'HARA. Are there some more?

Mr. HANSEN. The last one is from the Hartford Courant of February 24.

Mr. O'HARA. The clippings will be inserted in the record at this point.

[Clippings referred to follow:]

[From the Washington Post, Feb. 24, 1973]

NCAA BARS PLAYERS FROM RUSSIAN SERIES

(By Mark Asher)

The NCAA confirmed yesterday that it is barring all college coaches and undergraduates under its purview from participating in an AAU-sponsored series of games with the Soviet Olympic basketball team this spring because of the continuing power struggle between the two amateur federations.

Tom Hansen, assistant executive director of the NCAA, said in a telephone interview from his Kansas City office, that the NCAA acted because the AAU did not contact the NCAA before making a Feb. 13 announcement of a seven-city U.S. tour by the Russians starting April 28.

The AAU has billed the series as a chance at revenge for the Americans' controversial last-second 51-50 loss in the Olympic final at Munich last summer. The AAU also said that one or two players from UCLA might participate. UCLA's Bill Walton and Keith Wilkes declined to play in the Olympics.

The NCAA move officially strips the series of such other possible participants as Olympians Tom McMillen of Maryland, Bobby Jones of North Carolina, Tom Henderson of Hawaii and Tom Burleson of N.C. State, plus such other undergraduates as David Thompson of N.C. State and Campy Russell of Michigan. It also places in question the commercial success of the series. A stop is scheduled May 9 at the Baltimore Civic Center.

Al Duer, executive secretary of the NAIA, a national organization of smaller colleges, said the NAIA "would give every cooperation to this series."

The latest skirmish between the NCAA and AAU emerged yesterday when Al McGuire, basketball coach at Marquette University in Milwaukee, said the NCAA had notified him he could not coach the U.S. all-stars.

"I don't care whether I coach or not. That's not the point," said McGuire. "We should field the best team possible, especially after what happened at the Munich Olympics against the Russians. The NCAA and AAU should cut out this political stuff and just let the series be played."

Hansen, assistant to NCAA chief Walter Byers, said the NCAA refused to sanction the postseason competition against the Russians because:

At Munich, the International Basketball Federation told the United States to form a new sponsoring group representing all interests. Hansen said the AAU has boycotted organizational meetings.

Hansen said the NCAA recently applied for approval of a wrestling tour in Russian, but the AAU, which controls international amateur wrestling, vetoed the request and shortly thereafter announced its own wrestling tour.

"There's already blood on the floor," Hansen said. The NCAA, he added, was not trying to exclude the AAU from taking part in the Russians' basketball tour.

"There's never been an attempt to shut out the AAU," he said, "but an attempt to have the dominant parties in the sport make the dominant contributions."

"We could do what the AAU is trying to do because we have the players," said Norvell Neve, of Greensboro, N.C., a spokesman for the Basketball Federation of the United States of America, whose members include the NCAA.

"The AAU can't commit those kids," said Neve. "They have no control over them. It wouldn't be very attractive unless they have the outstanding college kids like Walton, Jones and McMillen. They're billing it as a rematch. It would leave it kind of flat, don't you think?"

Hansen said the NCAA probably would approve a tour organized by BFUSA. Neve said BFUSA had had "no contact with the Russians at all about taking it over."

Jim Fox, basketball administrator of the AAU, was out of town, his Indianapolis office said. A secretary there reported, "It's a rather touchy situation. They're hoping it will be resolved."

In New York, the Associated Press reported that Richard McArthur, public relations director of the AAU, said the AAU was keenly disappointed because

"we had hoped to field the best possible team against the Russians and redeem our defeat at Munich.

"We cannot be held responsible for the international image we present. We had hoped for some sort of waiver on the part of the NCAA but we have found, in dealing with Walter Byers' logic, fair play rarely enters into his thinking process."

McArthur was quoted as saying the AAU hoped to have as many members of the Munich team as possible. "We will have Kevin Joyce (South Carolina), Doug Collins (Illinois State) and Ed Ratleff (Long Beach State)," McArthur was quoted as saying.

In Normal, Ill., a spokesman for Collins said the star guard had not been contacted, but that he would be interested if he had not signed a pro contract by then. Attempts to reach Joyce and Ratleff were unsuccessful.

All are seniors who would be unaffected by the NCAA's action.

Another Olympian, Minnesota senior Jim Brewer, has decided not to play a university athletic official said. Dwight Jones, another member of the U.S. team, signed with the NBA Cleveland Cavaliers following his return.

Bobby Jones and McMillen indicated their participation would have be doubtful anyway because they missed class time during the Olympics and would miss more, and because they are finishing hard, competitive seasons.

McMillen also said he doubted from the day the AAU announced the tour that it could be an on-the-court American success anyhow—even with all the best players.

The major problem, McMillen said, was blending the talents of so many superstars into a functioning unit in so short a time to compete against the experienced Russians.

"We are continuing our efforts in bungling our competition against Russia," McMillen said. "We do ad hoc, spur-of-the-moment things. Basically, you need a season to prepare to play the Russians. It would really be pressing to get a team together in a month. I didn't think it could have helped us a great deal. I was skeptical from the start."

Both Jones and Collins played down the rematch aspect the AAU is promoting. "There's nothing to prove," Collins said, "but other people might think there would be."

[From the Kansas City Times, Feb. 21, 1973]

TALK OF THE TIMES

(By Steve Hershey)

WASHINGTON—The Amateur Athletic Union, this floundering, disorganized septuagenarian group, exhibiting unequal consistency, has struck again.

Showing the foresight of a first grader, the A.A.U. has boldly announced that the Russian Olympic basketball team will play a series of eight games in the United States against an American team in late April and early May. Just like that. It's all set up. There are dates, places, everything but one minor item: Players.

Assuming that all the arenas can be secured on the dates announced, all the A.A.U. has to do now is produce some performers. After blindly accepting the completely unrealistic dates, the A.A.U. is going to find it extremely difficult to come up with a representative team. That means ticket sales might go a little slowly.

"It's ridiculous," Tom McMillen, the University of Maryland star, said the other day. "It would be impossible for me to play."

McMillen was a member of the U.S. Olympic team that lost that controversial 51-50 decision to the Russians in the Olympic finals last summer in Munich. He said he would like another chance to play the Russians, but that it would be impossible for anyone studying seriously in college to participate in the poorly planned, money-making scheme.

FORGET GRADUATING

"If I were going to play in those games, I would drop out of school right now," McMillen said. "I'm already missing enough classes and it will get worse at tournament time. At the end of April is when we start preparing for exams."

Len Elmore, Maryland's rebounding star, turned down an invitation to the Olympic trials last summer and said he wouldn't even consider playing in this series against the Russians.

"Let them get the high school kids to play," he said. "We have to go to class sometime, you know. Besides what would it prove if we beat them? They still have the gold medal. You can't change that."

Academics is only one of the reasons why the entire impulsive idea has no chance of attracting top-quality players. Money also will enter strongly into the players' rejection.

By April 10, when the A.A.U. announced it would name its team, many of this year's top senior players will have signed professional contracts. Others will be negotiating and certainly won't want to jeopardize their future with eight meaningless exhibitions.

SILLY TO SCOUTS, TOO

"If I were an agent handling a player, I would strongly advise him not to play," said Len Snyder, a scout for the Buffalo Braves of the N.B.A. First there is a risk of injury. Second a poor performance could lower his market value.

"A good player would have everything to lose and nothing to gain by playing against the Russians," Snyder said. "Now, a border-line player might benefit with a super performance, but the chances are he won't be in the best of shape at that time of year."

The Russians obviously researched this wacky idea much deeper than the A.A.U. By selecting late April and early May for the series, they have picked the one time of year when most basketball players are physically and emotionally drained from a drawn-out season which begins in October.

How effective would a U.S. team, thrown together a few days before the Russians' arrival, be against the Soviets, who practice together all year?

"It's typical of the A.A.U.," Coach Dean Smith of North Carolina said recently. "I know they haven't contacted our Olympian, Bobby Jones, and they probably haven't bothered to talk to any players. I can't imagine anybody in school being able to play."

One of the items in the A.A.U.'s announcement was: "There is a possibility that one or more players from unbeaten U.C.L.A. may be included."

"Ha," said Snyder, who has been traveling across the country for years and knows many of the coaches. "If John Wooden discourages his players from playing on the Olympic team, what do you think his reaction to this harebrained scheme will be?"

Probably the same as most players and coaches. The problem now is how to save face, salvage respectability and, just maybe, win a couple of those games.

(By Tom Seppy)

WASHINGTON—Congress moved yesterday to involve itself in the running power struggle between the titans of the nation's amateur sports—the National Collegiate Athletic Association and the American Athletic Union.

The House Special Education Committee announced the beginning of hearings next Monday into the jurisdictional dispute between the N.C.A.A. and A.A.U. which many believe could threaten the success of a series of basketball games between the United States and Russia this spring.

The N.C.A.A. announced last week that college coaches and undergraduates under its jurisdiction would not be permitted to participate in the A.A.U.-sponsored games with the Soviet Olympic basketball team because of the continuing battle between the two amateur federations.

The N.C.A.A. said it acted because the A.A.U. did not contact the N.C.A.A. before making a Feb. 13 announcement of a 7-city U.S. tour by the Russians starting April 28.

The A.A.U. has billed the series as a chance at revenge for the Americans' controversial last-second 51-50 loss in the Olympic final at Munich last summer.

The N.C.A.A. move apparently officially stripped the series of such possible participants as Olympians Tom McMillen of Maryland, Bobby Jones of North Carolina, Tom Henderson of Hawaii and Tom Burleson of N.C. State, plus such other undergraduates as U.C.L.A.'s Bill Walton and Keith Wilkes, both of whom declined to play in the Olympics, and David Thompson of N.C. State and Campy Russell of Michigan.

Committee chairman James C. O'Hara (D-Mich.) said, in making the announcement of the hearings, he was disturbed that the dispute threatened the series of games.

"These games could do much to channel at least some of the competition between the world's super powers—the U.S.A. and the U.S.S.R.—into the relatively peaceful arena of sports," he said.

"At the same time, they could decide the question of who really has the better basketball capability—a question that was left up in the air because of the controversial manner in which the final basketball game in the 1972 Olympiad at Munich was decided last summer."

O'Hara said as chairman of the subcommittee responsible for this nation's institutions of higher education, he was concerned that the college athletes were being used as pawns in a power play between the A.A.U. and the N.C.A.A.

"It would appear on the surface that these two organizations wield unusual powers over the lives of the young men engaged in sports activities as part of their college education," he said. "I think it's time we took a good look at whether, in the process of controlling the sports activities of these young men, either of these organizations encroach unduly on the academic field."

O'Hara said the hearing on the N.C.A.A.-A.A.U. controversy could be the first in a series centering on college athletics.

He indicated that his committee, in the coming weeks, might explore such issues as the adequacy of sports rules and equipment to safeguard athletes, whether athletes are being allowed to engage in sports despite serious injuries; whether academic pursuits are not being subverted to victory on the playing field; and whether college athletes are being exposed to the drug culture as part of the victory syndrome.

[From the Kansas City Star, Feb. 28, 1973]

A.A.U. REFUSES TO PANIC

(By Bill Sharp)

The reaction was quick yesterday to the latest broadside by the National Collegiate Athletic Association (N.C.A.A.) against the 8-game spring tour of Russian and United States basketball teams.

A. O. Duer, executive director of the National Association of Intercollegiate Athletes (N.A.I.A.), termed the situation potentially tragic and said he did not see this as an opportunity for the N.A.I.A. to foster its stars.

There are indications that the Amateur Athletic Union (A.A.U.), the governing body in the United States for international sports competition, feels that the N.C.A.A. will have a tough time holding in line the stars who played for the first U.S. Olympic loser. This in spite of the fact that some of those athletes have been quoted to the effect that they will participate.

In Indianapolis yesterday Rich MacArthur, Amateur Athletic Union public relations man, put it on the line: "We are going to get our players the same way we were getting them before. We are going to ask the 10 or 12 best players to participate."

The A.A.U. goal, said MacArthur, is to put together a nucleus of the Olympic team that played in Munich.

This is not to say that the A.A.U. would exclude spotting N.A.I.A. stars. "Any player who is eligible under A.A.U. and F.I.B.A. (International American Basketball Federation) rules is eligible for the team," said MacArthur. But he did want to discourage the notion that there would be any chance of mass substitution of stars—say N.A.I.A. players for N.C.A.A. stars or the players who went to Munich.

One question that arose from this furor was what does it do to U.S. prestige in basketball if in the tour with the Russians the U.S. is forced to use industrial league players or scattered pickups from other sources? "We will field a team," said MacArthur and he would not concede any possibility that it would be below first-rate standards.

This contention serves as a rebuff to the latest N.C.A.A. blast that includes the passage: . . . "It is difficult to understand why they are a party to the venture (tour with the Russians) since they do not have any teams to match against the Russians."

Duer said that a Congressional investigation that opens Monday could shed some light on the situation. He says Congress wants to look into the circumstances of the tour and whether it is in the public interest. And if so, why all parties don't cooperate.

The basketball tour is scheduled to begin April 26 in Salt Lake City with eight games to be played over a period that extends through May 11.

[From the Washington Post, Feb. 28, 1973]

NCAA'S HASSLE ON HILL

Congress moved yesterday to involve itself in the power struggle between the titans of amateur sports—the National Collegiate Athletic Association and the Amateur Athletic Union.

The House Special Education Committee said hearings will begin Monday into the jurisdictional dispute, which currently threatens the success of a basketball series between the United States and Russia.

The NCAA announced last week that college coaches and undergraduates under its jurisdiction would not be permitted to participate in the AAU-sponsored games with the Soviet Olympic team because of the continuing battle between the federations.

The NCAA said it acted because the AAU did not contact the NCAA before making a Feb. 13 announcement of a seven-city U.S. tour by the Russians starting April 28.

The AAU has billed the series as a chance at revenge for the Americans' controversial last-second 51-50 loss in the Olympic final at Munich.

The NCAA move officially stripped the series of such possible participants as Olympians Tom McMillen of Maryland, Bobby Jones of North Carolina, Doug Collins of Illinois State, and Tom Burleson of N.C. State, plus such other undergraduates as UCLA's Bill Walton and Keith Wilkes, both of whom declined to play in the Olympics.

Committee chairman James G. O'Hara (D-Mich.) said, in announcing the hearings, he was disturbed that the dispute threatened the series.

"These games could do much to channel at least some of the competition between the world's super powers—the U.S.A. and the U.S.S.R.—into the relatively peaceful arena of sports," he said.

At the same time, they could decide the question of who really has the better basketball capability—a question that was left up in the air because of the controversial manner in which the final basketball game in the 1972 Olympiad at Munich was decided last summer."

O'Hara said he was concerned that college athletes were being used as a pawn in a power play between the AAU and the NCAA.

[From the Hartford Courant, Feb. 24, 1973]

COLLEGIANS DISALLOWED FOR RUSSIAN SERIES

NEW YORK (AP)—Al McGuire, coach of the fifth-ranked Marquette University basketball team, was told Friday that he could not coach the U.S. team in a series against the Russians, thus opening the ugly word war between the NCAA and AAF.

At the same time, the NCAA said the U. S. team would be unable to draw upon the rich college reservoir for playing talent.

"It's not that I care about coaching that much," said McGuire, who has brought Marquette to New York for a Saturday game with Fordham. "It's just the image we will be presenting to the rest of the world.

"Here we are replaying the team that beat us in that very controversial game at Munich and we are faced with the possibility of using players who dribble with both hands.

BYERS SAYS NO

"I think it is a sad situation."

In Kansas City, headquarters of the National Collegiate Athletic Association, it was acknowledged that Walter Byers, Executive Director of the NCAA, had sent a firm "no" response to McGuire's request to coach the team.

The letter went to Dr. James Scott, athletic director of Marquette, and it said: "No student of any NCAA institution may participate in the games. No coach of a member NCAA institution may be attached in any way to the game."

The reasoning behind the ruling, Byers' office said, was that the Amateur

Athletic Union flagrantly made plans for the Russian basketball series without consulting the International Basketball Board and also sought to countermand long-existing NCAA by-laws.

The AAU and NCAA have been at loggerheads for years, their feud frequently threatening to hurt American efforts in the Olympics and other international events. The NCAA last October withdrew its support of the U.S. Olympic Committee because of that committee's dominance by the AAU.

OPENING SET APRIL 26

The Russian team is scheduled to open an eight-game American tour in Salt Lake City April 26 and complete it at Lexington, Ky., May 11.

The series is of particular interest because it was the Russians who handed the United States its only basketball defeat in Olympic history at Munich, winning 51-50 in a wild, disputed finish.

The Americans apparently had the championship game won on two free throws 50-49 with three seconds left to play. But the Russians were permitted to throw the ball in twice after that, finally scoring on a floor-length pass with the clock apparently run out.

The disgruntled Americans refused to accept the silver medals. Moves by the U.S. Olympic Committee to have the result reversed finally died with the Executive Council of the International Olympic Committee.

Richard McArthur, public relations director of the AAU, said the AAU was keenly disappointed because "we had hoped to field the best possible team against the Russians and redeem our defeat at Munich.

"We cannot be held responsible now for the international image we present. We had hoped for some sort of wolver on the part of the NCAA but we have found that in dealing with Walter Byers' logic and fair play rarely enters into his thinking process."

"VIOLATION"

Jerry Miles, who holds a similar post with the NCAA, countered in Kansas City:

"For undergraduates to participate in outside competition has been a violation of NCAA rules for years. This is a case of the AAU attempting to strangle its way through again."

Miles pointed out that the U.S. Basketball Federation, backed by the AAU, had lost its international certification at Munich and that the International Basketball Federation had directed the United States to form a new sponsoring group representative of all amateur groups.

"Meetings have been held to form an American Basketball Association before the April 1 deadline," Miles said. "The AAU has boycotted all of these sessions. Meanwhile, the conduct of U.S. basketball in foreign events has been turned over to the International Basketball Board."

While the AAU had hoped to draw from the top college teams, such as UCLA, North Carolina and Marquette, the United States team will not be wholly destitute, McArthur said.

"We hope to have as many members of the Munich team as possible," the AAU publicist said. "We will have Kevin Joyce (South Carolina), Doug Collins (Illinois State) and Edward Ratleff (Long Beach). We should be able to pick up those good seniors whose eligibility has ended.

"Our hope is to field the ten best men. Obviously, we won't be able to do that without NCAA help. And I don't know what we will do about a coach."

ONLY SENIORS

In Indianapolis, Don Bates, administrator of the May 5 U.S.-Russia game in the Indiana city, said:

"We never planned to use anyone but graduating seniors. Underclassmen have not been eligible in the past unless they've already signed a pro contract, and we weren't planning to change that.

"The only difference this makes is that Al McGuire won't be able to coach the team. We'll have to get a professional, a retired coach or a small college coach."

Mr. HANSEN. There have been some statements made this morning, in fact there have been many statements made this morning that do

not square with the facts as we know them including the rules about amateur basketball.

I am specifically prepared to dissenz the tour, itself.

Now there have been comments about the USOC and about every other body in sports from track and field across the board. But I want to concentrate on the fact that the proposed tour's problems stem from the fact that the CBS television and Amateur Athletic Union combined to try to arrange a Russian tour in total disregard of the rules and procedure governing international amateur sports events.

We do not ~~concur~~ that the IBB man Carnevale's authority begins on March 31. We feel it is currently in progress and in effect until March 31.

The problems were compounded with this tour because the CBS-AAU tour was arranged in the worst possible time from the point of view of student athletes and the matter of rendering student athletes at NCAA institutions ineligible for participation under a long-standing provision of the NCAA constitution which should have been well known to the AAU.

The tour arrangements designed principally to fulfill a television commitment and to buttress AAU claims to the conduct of international basketball programs are unfair to U.S. athletes, a disservice to the sport and ultimately unfair and misleading to the American public.

Now, let me comment briefly on the rule.

The AAU first claimed jurisdiction over basketball and 23 other sports in 1888. Ever since, the schools, colleges, and Armed Forces and everyone else in athletics have been trying to gain freedom from AAU control and coercion.

When it loses basketball on the 31st, AAU will be down to nine sports which indicates a trend although it has been a long and difficult struggle.

Finally, the Olympics international body FIBA removed the U.S. domestic control of sports from AAU and invested it in IBB which has been made up of 10 representatives from both the Basketball Federation and the AAU.

This is a federation—AAU matter when you get to the rules, not an NCAA-AAU matter despite some statements to the contrary.

NCAA is a proud member of the federation but certainly it is not a controlling member because the federation is set up so that no one body can control the federation.

Mr. Carnevale was the chairman with the authority to vote to break a tie in case of a tie between two parties. Then they ordered—prior to the Munich games the problem in this country was to be resolved by the parties concerned; because of the AAU's continuing attitude, it was not done of course. At Munich FIBA declared the AAU franchise be removed in March 31, 1973, and directed a new body, encompassing all groups be formed, and failure to do so would lead to its removing the U.S. franchise.

Three organizational meetings and an ad hoc meeting have been held. The AAU has attended none of these.

Mr. Steitz will comment why Mr. Fagan of the high school association did call these meetings.

Therefore, in addition to not following the FIBA directive to work through the IBB the AAU is refusing to admit that subsequent to

April 1 it has no authority to schedule a tour by a national team. It is totally ignoring all other parties with domestic programs of national scope and all of their rules in so scheduling.

Now, on some of the specifics of the tour, let me begin by advising the subcommittee the AAU has precipitated a problem by attempting to arrange competition without consideration of this country or its amateur athletes and without legal authority as demonstrated by the IBB resolution.

The NCAA has not been involved in this effort in any way. We have never had a communication about it. We have had a few phone calls from the press and that is the extent of our knowledge.

The NCAA merely has responded to inquiries and we have stressed that the rules are longstanding rules to protect the student athlete, they are not something which has come up suddenly and the NCAA has taken no action, they have simply quoted the rules.

What exactly is the case in this matter is that the AAU is trying its hardest through just this type of pressure to create an impression of the NCAA trying to reopen the so-called feud. That usually causes even interested observers to ignore the facts of this issue.

The NCAA recently and strongly rejected such an action and impression. We will not be placed behind the eight ball on this matter.

The association will not be pressured or embarrassed in participating in an activity which will be detrimental to its student athletes.

The students, not the NCAA, have repeatedly identified the tour as ill timed and potentially damaging to the academic interests of the participants.

The AAU must bear the whole burden for the mess in which it finds itself. It has a television contract but no programming. It has a basketball series but no players. It has no facility, no administration, no organization, and no contacts with any of those who do have.

As usual, it is interested only in its own financial gain and power and not in the welfare of the athlete. It is thrashing about in futile efforts to rescue itself. Clearly it has given no thought to the prestige of this Nation in basketball or any other matter. This tour is all about and simply all about a television contract and a little money.

The NCAA has done nothing wrong and will not allow the AAU to cast it in a villain's role with specious statements, statements which are repeated and repeated despite having no foundation whatsoever.

Now, the AAU is attempting to use this rematch concept to coerce the student athletes in a unneeded series of contests in which they will be at a considerable competitive disadvantage.

Mr. Steitz will tell you it is impossible to put together a good all-star team in 10 days against a Russian team which has been out for years and played hundreds of games together. I only have to cite last summer's Olympics where the U.S. team spent approximately 2 months preparing, not 2 weeks or 10 days.

The AAU has not gone through the legitimate recognized interests in basketball. It is no longer the legitimate franchise holder and has no authority to sponsor such a team.

I used a strong word "coercion" in talking to the students because this is what is taking place here. Word of the tour suddenly leaks out a month before the team is selected right at the height of the college

basketball season when the players are already taxed by competition and academic demand.

Why, now when the AAU has known the arrangements for this tour since last August and it was listed by CBS last October in publicity for up-coming CBS television programs, why has there still been no contact with other basketball organizations, any of the prospective players and several of the announced sites, one of which incidently they found out was not available sometime after they had announced that a game would be played there.

The reason simply is to create pressure on the young men to participate so that the AAU can deliver for its television producer and series.

I have a specific example of how these pressures are built up.

On February 12, the Los Angeles Times reporter called me and asked me about the NCAA rules. I told him the rules which you are well aware of now. He wrote a story quoting the rules.

The story ran 2 days later and all the references to the NCAA rules were taken out and the tour was publicized and ballyhooed and going on with the great players because the L. A. Times was sponsoring the games in Los Angeles which happens to be the television game on the 20th of April.

That is how the pressures have built up.

The AAU needs the colleges and the players because there are no pro teams available at that time. Their camps haven't opened.

In 1971 to the contrary the same Russian team toured later in the year and played against the professional basketball teams' rookies.

Last summer the AAU sent a great amateur representative to Europe, the Denver Rocket rookie team, even though they had all signed professional contracts previously.

The AAU has announced members of the 1972 U.S. Olympic team will participate. They have announced it. Mr. McArthur has announced this repeatedly.

In a direct quote three college players were promised, El Ratleff of Long Beach, Kevin Joyce of South Carolina and Doug Collins of Illinois State.

In fact, and we have checked this with the individual young men, not one of these men has been contacted at this time. Neither Mike Bantom who is a senior, neither Jim Brewer, although the newspaper people contacting him have found he cannot play.

These players have said they cannot play for academic reasons and do not want to play for competitive reasons. They realize they have no chance competitively.

If I may, I would like to go down the roster of the 1972 Olympic basketball team to examine the status of the players.

Ken Davis, AAU player. I have no knowledge of his status.

Second is Doug Collins of Illinois State, a senior. He has not been contacted and his quote concerning the rematch was that "There is nothing for us to prove" and has played it down.

Tom Henderson, a junior at the University of Hawaii, who was the one junior college player on last year's tour. He cannot play. He is a junior.

Mike Bantom we contacted last night. Neither he nor his director of athletics had been contacted at that time.

Bob Jones of North Carolina is a junior and cannot participate.

Dwight Jones of University of Houston has signed a professional contract, cannot participate.

Jim Forbes of the University of Texas, El Paso, has a knee injury. He cannot participate.

Jim Brewer has said he will not play.

Tom Burleson is a junior, cannot play.

Tom McMillen, a junior, cannot play.

Kevin Joyce has not been contacted.

Ed Ratleff, a senior has not been contacted.

I would like to add a statement here by Tom McMillen who has repeatedly been quoted as saying this is a very poor idea. McMillen said he doubted from the day the AAU announced the tour that it could be on the court an American success anyhow even with all the best players.

The major problem he said was the blending of the talents of so many superstars in a functioning unit in so short a time to compete against the experienced Russians.

We are continuing our efforts in bungling our competition against Russia. We do ad hoc spur of the moment things. Basically you need a season to prepare to play against the Russians. We would really be pressed to get a team together in a moment. I don't think it could have helped us a great deal. I was skeptical from the start.

This is Tom McMillen who is an experienced international player and as a matter of fact a member of the President's Council on Physical Fitness.

Now, I would like to speak on the television aspect of the tour. This tour is directly a result of the fact that CBS lost a national hockey league telecast to NBC. CBS was left with no Sunday afternoon programming.

It had no real package available. So it went to the sports spectacular concept, which is what this telecast will be a part of, which it had had previously and abandoned 5 years ago.

But it found out that ABC through Wide World of Sports has virtually all national and international special sports events tied up, with the exception of the AAU events.

Therefore, it is pretty well stuck with AAU. The understanding in the TV industry is that without the Russian events sports spectacular could not have gotten off the ground and materialized.

So the AAU events are the core of the CBS package. The whole series of Russian tours to the United States was created to fill a vacancy in the television series. Mr. Cassell went to Moscow several times to line up Russian teams in different sports to capitalize on the residual glamor of the Olympic games.

This is how the series is being advertised. The U.S. basketball deal was signed in Munich before the Nepal-United States game.

So it hardly was a rematch. The AAU is willing to embarrass America throughout the world just to fulfill a programming obligation.

Let us examine this unbelievable timing. The team is to be announced on the 10th to play the first game on the 29th. When and where is it to gather? How is it to get ready to play these games? And here is what it would do to a college player if he were able to play.

First, he has the 1971-72 season. He went right from that to the June Olympic camp at the Air Force Academy for over 2 weeks. He

had 5 days off. He went to Hawaii for 3 weeks and then began a tour of the United States before embarking for Munich.

When he got out of Munich in September, September 10, he had until only October 15 before he began another highly competitive college season.

You can count on your one hand the number of months this young man has had in 2 years away from basketball. Yet the AAU is attempting to force him right back into a very difficult competition.

The World University games are coming up in August. Already the U.S. Collegiate Sport Council is making a strong effort to have a successful program there. There just is not any reason that anyone needs this tour.

Besides announcing players it has not contacted the AAU has announced games for sites it has not yet obtained; at least in one case it cannot obtain.

In fact, it must have been surprised to learn the University of Kentucky already had events scheduled in its fieldhouse on May 11 and of course the AAU had announced that the game would be played in Lexington on that date.

The University of New Mexico where they have announced a game, the university tells us no arrangements have been made. No contact has come from anyone.

Indiana University, the local newspaper which has signed a sponsor with the Indianapolis Star has been contacted but there has been no AAU contact.

All this confusion exists and all this administration remains to be done despite the fact the agreement was signed last August or September and has been advertised for television since last October.

In contrast, we have times, dates, sites, every other possible arrangement made for our own basketball tournament which is coming up in 1974 and we are pretty well set in 1975 and 1976.

That is the way you properly administer events.

Now, Mr. Chairman, as I indicated I have called a number of individuals who are very pertinent to these proceedings. I would like to enter statements from them into the record. I should like to read them if I may.

This is from William Wall, director of athletics at McMurray College of Illinois, immediate past president of the Association of Basketball Coaches and currently secretary of the NABC.

The NABC supports the NCAA statement and position 100 percent. The AAU has established a series of games between a Russian professional team and U.S. amateurs. Our players must go to school. Competition during the period of the tour would seriously jeopardize the 1972-73 academic work and the academic careers of our players.

The NCAA rules in question have been in effect for years and the AAU is well aware of their existence. The colleges that belong to the NCAA have even rejected experimental games being conducted by the NABC to discourage out-of-season basketball competition. The rules apply to the Annual NABC East-West All-Star Game as well.

No application or communication concerning the tour has been received by the NCAA, NABC or anyone connected with amateur basketball. The timing of the tour could not be worse. Not only are our players just concluding a most difficult season, but it is baseball season in the U.S. Further, American amateur basketball interests are gearing up for competition in the World University Games.

It should be understood that the AAU plans to have the U.S. team compete against a Russian team which, in addition to last summer's Olympic Games, was

in the World Cup Competition in 1972, the World University Games in 1971 and the FIBA World Championship in 1971. Most of its players are members of the Russian Army. They have played some 400 games together over the last four years. To match an unprepared team against them is sheer folly.

The AAU plans to begin competition 10 days after the announcement of the team. Contrasting this with the schedule of preparation of the U.S. Olympic team last summer:

Two weeks of try-out competition at the USAF Academy in mid-June.

One week rest.

Three weeks intensive training in Hawaii.

Five game exhibition tour.

Along with our president, Fred Taylor, I suggest that had the tour been established prior to the season, many of the problems might have been worked out. Certainly, the timing would have been different. However, we now must ask, "What does it prove, what good does it do. The Russians were not the ones that cost us the victory at Munich, this is not a matter of national prestige."

In closing, I would like to remind all concerned with amateur athletics that in Denver on February 9, President Krumm of the USOC stated the USOC did not need the colleges. Also, over the years, the AAU has stated repeatedly to FIBA that it controlled at least 90 percent of the amateur basketball activity in this country. We invite them to compete against the Russians with their 90 percent, but not to jeopardize the academic careers of college players in the process.

That is from the NABC, the National Association of Basketball Coaches.

This is by Charles M. Neimas, Commissioner of the Big 8 Conference and Chairman, NCAA Foreign Relations Committee:

The timing of the tour could not be worse. It coincides exactly with the final examination period at Big 8 institutions. A year ago, for example, the final commencement in the Big 8 was May 13.

The organizations which do conduct basketball programs in this country were never consulted by the AAU regarding this tour. The Big 8 Conference has received no information about it. The AAU is attempting an obvious power play to obtain players since it has none.

To stress that the Conference favors properly administered international competition, the Big 8 hereby offers that each of its members will play one game against the Russian team in either late November or early December of 1973—a logical time of the year—and will send a Big 8 all-star team on a tour of Russia the following year. This offer includes appropriate guarantees to the Russian team in this country.

The facts are simple. The AAU has no basketball program of its own. It is a parasite which feeds off the basketball programs of others. Yet it demands to dictate and control international basketball as a representative of the United States and attempts to do so without regard to those who are actively involved in the development and promotion of the sport.

It was this type of attitude which led to the formation of the Basketball Federation of the United States of America, which represents more than 90 percent of the active, organized basketball interests in this country. (The Federation was established as a result of a request by the National Association of Basketball Coaches and includes the high schools, junior colleges, clubs, and women's programs, as well as the NCAA.)

That is an interesting statement, 90 percent.

This is a statement by Robert C. James, commissioner of the Atlantic Coast Conference and chairman of the NCAA Extra Events Committee:

I wish to stress these essential points. Academically the tour is detrimental. Three of the AAU schools are in final exams. This would serve as a detriment. Any out of season competition must be approved by the academic chairman of a player's institution. I doubt that any ACC institution would approve participation even if the NCAA were to back the tour.

I feel the tour is ill timed because a representative team will not be fielded. As a member of the Extra Events Committee of the NCAA, I would object if the AAU applied for certification on academic principles alone.

I talked to Bucky Waters, head basketball coach at Duke, on this matter. The essence of his comment is that to attempt to assemble such a team is a great disservice to American basketball.

Of course, the Russian team has been playing together for a long time. The American team needs a minimum of 2 weeks of practice. Couple this with 2 weeks on the tour, and the player would lose too much class time at a critical time of the year. Besides, the best college-age players will be physically and mentally tired from the long season.

We welcome competition on an international level, especially with the Russians. The best time to assemble such a team is in the summer, when the World University games are being held. This is an essential effort, not the AAU proposed tour.

Big Ten Commissioner Wayne Duke. You gentlemen from Michigan and Indiana will like this.

All Big Ten institutions will be in final exams or in one case have students enrolled in classes during the period April 26 through May 11.

Stan Bates, Commissioner, Western Athletic Conference:

The Western Athletic Conference agrees and supports the NCAA rules which effect the U.S.-Russian Basketball Tour. The NCAA statements are accurate and pertinent in regard to the timing of and arrangements for the Tour. This office has received no communication concerning players or sites from the Western Athletic Conference.

In closing, Mr. Chairman, let me emphasize again that the NCAA rules in the NCAA constitution, which is based on a two-thirds majority of the delegates appointed by the member institutions of the voluntary organization, have been longstanding for academic reasons and for their noncompetitive barriers.

They are designed to protect the individual student athlete from exploitation and forced competition by promoters, even by the university coaches who might ask them to play on unorganized teams.

We appreciate a great deal the opportunity to be here, and thank you for your time, sir.

I am sorry that we weren't better prepared.

Mr. O'HARA. Thank you, Mr. Hansen. We understand your kind of problems.

Did I understand you to say you are preparing for 10 NCAA championships?

Mr. HANSEN. This month 12, several of which last over a period of 3 or 4 weeks, including our 2 national basketball championships.

Mr. O'HARA. Could you tell me what those 12 are?

Mr. HANSEN. Off the top of my head—it is in the back in my briefcase—two basketball, two wrestling, two gymnastics, two swimming, volleyball, indoor track, fencing, and ice hockey.

Mr. O'HARA. Do all of those take place in March?

Mr. HANSEN. Yes; the volleyball is in the first week of April, but within the next 35 days we will have 12 national championships.

Mr. O'HARA. When you say AAU has no authority to arrange the tour, I suppose you are speaking about the difference made by the FIBA resolution of last September.

Mr. HANSEN. Precisely.

Mr. O'HARA. Or August. In other words, even though they had made arrangements in prior years as a consequence of that resolution, they don't have authority.

Mr. HANSEN. Yes.

Mr. O'HARA. The AAU witnesses say they got specific approval of this in September, and they brought forward a telegram from Dr. Jones, who is the secretary general of FIBA, saying that this tour was all right.

Mr. HANSEN. Mr. Chairman, I think the semantics caught us up, here. I think that when pressed for that specific point, that they dodged the answer. They said that FIBA said it was all right for this tour to be held.

FIBA in no way endorsed or gave any sanctioning authority. All it said was yes, this seems to be a proper tour. Well, it is a proper tour as far as the international rules are concerned, if it is arranged through and certified by the IBB, or in this case, really, now, Mr. Carnevale acting for the IBB.

But FIBA did not say, "You may go unilaterally with this tour." They very carefully did not say that. They said, "Yes, if you can do this, this is fine."

I think that is a very important point. I believe they dodged the answer. I would submit that FIBA had every reason to believe, because of its own directive, that the AAU would in turn go to Mr. Carnevale and it would have been approved by Mr. Carnevale if it met the proper qualifications.

Mr. O'HARA. In other words, you take Jones' cablegram to mean that there would be no objection to the tour if it is properly arranged, and you believe the proper arrangement includes the approval of the chairman of the IBB, Mr. Carnevale of William and Mary. Is that right?

Mr. HANSEN. Yes.

Mr. O'HARA. We will have to check into this with AAU's witnesses.

You have indicated that the players who were part of the U.S. Olympics squad will not be able to play, but a number of those you listed as not being able to play you said would not be able to play because they are juniors.

Of course, the reason they are not able to play is because NCAA rules say they won't be eligible to play for their college next year if they play.

Mr. HANSEN. That is correct. The way the rule works is that the institution would then have to declare them ineligible.

Mr. O'HARA. Some of them might be willing to play if they did lose their eligibility. You don't know.

Mr. HANSEN. No; because none of those has been contacted. We do have a statement by Mr. McMillan and Mr. Elmore of the same team who declined to play even had he been able, because of the timing, because they are in final examination.

In fact, in Mr. Hershey's clipping, Mr. McMillan states that, "If I were going to play in those games, I would drop out of school right now."

Now, this is February 21. This is what he is saying. This is one of the best international players:

I am already missing enough classes, and it will get worse at tournament time. At the end of April is when we start preparing for final examinations.

Mr. O'HARA. You say the NCAA has not been asked to act, and has not acted, with respect to this proposed tour.

Some reference was made in the testimony to the proposed world championship or world games.

Mr. HANSEN. There is the World University Games. There is a lot of international competition.

Mr. O'HARA. Also there is some in Lima, Peru, I believe. What is that?

Mr. HANSEN. I have no knowledge of that.

Mr. Steitz says it is the FIBA championships.

Mr. O'HARA. The International Basketball Federation Championships will be in Peru in May. Do you know anything about that?

Mr. HANSEN. No, sir, although I would not be in a position to know in my area of responsibility. Mr. Steitz probably does know more.

Again, that is a good example of why this tour is ill-timed. If there is such a competition going on, what is being done about that?

Mr. O'HARA. Are NCAA athletes going to be permitted to participate in those games?

Mr. HANSEN. I don't know.

Mr. SRETTZ. I don't know, sir. If it is in May, which I believe it to be, I believe it must be, unless NCAA bylaws are changed, you would have the same situation unless people got together ahead of time to resolve the difficulty.

Mr. HANSEN. There is a provision for waiver. So when proper communications are established, these kinds of things could occur at the proper time. May could be all right with some people.

Again, this is the first time we have heard of this tour, because, as you have just been told, for 14 years we have not been communicated with. So I am not prepared to go further on that.

Mr. O'HARA. May might be all right for the world games—but not for the Russian tour. OK? In other words, you say there might be some athletes who may still have a problem in connection with the FIBA World Championships, but nevertheless you think that some of NCAA athletes might be able to participate, even though it is May.

Would you not be willing to make the same concession with respect to the tour in early May?

Mr. HANSEN. Not in early May, I don't think you would have that situation. I showed you that at those dates all these conference institutions are in final exams.

My point was if it were at the end of May, there might be some out.

Mr. O'HARA. Could you read the Big Ten commissioner's telegram again?

Mr. HANSEN. Yes, sir.

All Big Ten member institutions will be in the final exams or have students enrolled in classes during the period April 26 to May 11.

Mr. O'HARA. Will be in final exams or students enrolled in classes?

Mr. HANSEN. Right.

Mr. O'HARA. Could you not say the same thing about the NCAA tournament? It comes at a time when all member institutions have final exams or have students enrolled in classes? Do you know of any institution that does not have students enrolled in March?

Mr. HANSEN. No, sir, they will all be enrolled students.

Mr. O'HARA. What the Big Ten guy says is that the situation in May will not be dissimilar from what it is today, either they will be in final exams or will be enrolled in classes.

Mr. HANSEN. No, sir, if they have 9 or 10 institutions in final exams in March, obviously in May there will be no such set of finals. That is a very marked difference.

The NCAA has moved in the last several years in fact almost all of its events, because of the change in academic calendars. We have vigorously sought to avoid putting championships on or near final examinations because of the vast importance of those tests.

Mr. O'HARA. In other words, in the "Big 10," 9 out of the 10 will be in final exams?

Mr. HANSEN. Yes.

Mr. O'HARA. The 10th one will have people in classes?

Mr. HANSEN. Yes, sir.

Mr. DELLENBACK. Will the gentleman yield?

Mr. O'HARA. Yes.

Mr. DELLENBACK. Do I not understand correctly that the University of Minnesota's finals will be June 9 to June 15?

Mr. HANSEN. That is not what Mr. Duke indicated to me.

Mr. DELLENBACK. The indication that I have been given through staff, and this is just one of the big 10, of course, is that the new quarter will begin March 28, there will be 1 day off on April 3, and finals are to be held June 9 to 15.

Now, I have checked the universities of California, Missouri, Texas, and Maryland, just to get simple samples, and I find that they vary quite considerably, with the Pacific Coast Conference also being a June final time, Missouri being a May final time, Texas being a late May final time, Minnesota being a June final time, Maryland being a mid-May final time. So there is great variation.

Mr. O'HARA. With respect to the 9 out of 10, I will make a contribution to the gentleman's research. Michigan State University does not have final examinations until June. So that is 2 out of the 10, apparently, that do not have May final examinations.

Then Mr. Dellenback's research indicates that some of the other major basketball schools do not have final examinations, at least not in early May. UCLA is in June.

With respect to that, I thought the intent of the rule did not really have to do with the academic program, but rather that the intent of the rule was to prevent extra season competition, which would permit so many coaches in some institutions to give additional training to their players and permit them to get an unfair advantage, possibly at the expense of a player who would not be playing the year around.

Wasn't that the real reason for the out-of-season play rule of NCAA?

Mr. HANSEN. There are several reasons. I cited one, which is to protect him from his own coach trying to organize a team.

More than that, it is simply recognizing that basketball is a high-pressure sport, it takes tremendous intensity and preparation and dedication to play it, and that this period has been established. Mr. Chairman, for a long time, and every year there are proposals by one institution or groups of coaches or different elements of the NCAA at our convention which have sought to lengthen this, and they have been resoundingly turned down repeatedly.

Also, there are careful restrictions on summer camps to avoid having them become nothing more than basketball leagues or basketball teams.

Mr. O'HARA. I was wondering about that, because for some institutions, obviously, May is a final exam time for the spring semester.

If that is the case, of course, all of those institutions then must have their final exams for the fall semester in the first week of December or the middle of December. Yet there is apparently no ban on play during that period, is there?

Mr. HANSEN. No; there is no ban, Mr. Chairman, because it is the start of the season. If you will examine the schedules of those institutions, there are voids therein. The same thing is true also in roughly the time from, I would say, January 20 to February 15.

Mr. O'HARA. In each case, you let the individual institution decide.

Now, what Mr. Duer testified to was that when he puts together a team for international competition out of the NAIA, he asks each institution to consult with the player and determine whether or not the schedule of the institution is such, and the academic load being carried by the player is such, that his participation would be appropriate.

Now, in light of the tremendous variances between institutions and players and their academic schedules, wouldn't that be an appropriate way for you to approach the problem?

Mr. HANSEN. Well, our member institutions feel not, Mr. Chairman, we have some 750 members, of which 692 are institutions. They feel that the best procedure is to adopt these broad restrictions to protect the athlete and protect the individual institution, even from pressure from outsiders, and then have the NCAA council have the authority to waive this particular rule for specific competitions, limited competitions, if in its best judgment, after receiving information about competition, it deems this competition to be in the best interest of the student athletes of the member institutions, but not to have one institution contacted by a local promoter and do this on a—

Mr. O'HARA. Let me ask this. Let us suppose that the AAU were to, when it chooses its team or chooses people it wants to invite to be part of this team, request the council for a waiver with respect to these particular individuals.

Wouldn't it then be appropriate, following the procedure you just described, for the council to then go out to the institution in each case and say: "A waiver has been requested on behalf of a particular player. What is your opinion?" And then grant, or not grant, those waivers on an individual basis after you have made that inquiry?

Mr. HANSEN. I think it would make the individual inquiries, and then grant the waiver on an across-the-board basis. This is our procedure.

If the competition is well planned, well timed, and bona fide, and well administered, then the council is not saying, "You and you may be in it, and nobody else."

The council merely says eligible student athletes are advised that this competition is in their best interest, and then it is an individual choice whether or not they shall play.

Mr. O'HARA. I would think that maybe you would want to take different attitudes with respect to different individuals, depending on what institution they are attending.

I can see some reason, if they are in their final exam period, and if arrangements cannot be made to take the final at some other time,

then I would think in that particular individual's case you might want to say, "No, he won't be permitted to participate."

On the other hand, if it is a player from Minnesota or Michigan State or somewhere else, or UCLA, where they are not in their final exam period, they have several weeks to go after the completion of the tour, there, it seems to me, you might, after consulting with the institution, be willing to grant the waiver, where you wouldn't in the case of someone at an institution where it was their final exam period.

Don't you think that makes sense as an approach?

Mr. HANSEN. I really don't know what the council's opinion on that would be, Mr. Chairman. I can only cite what it has adopted, not the council, but the member institutions have adopted as a procedure, and which they have utilized for many years to approve these competitions.

I might add that, unlike Mr. Duer's organization, our institutions do not send teams out, as a rule, during final examinations. I can cite several examples where teams have missed competition because of final exams, although in many cases arrangements are attempted, but the scheduling is adjusted to the finals, rather than vice versa.

Mr. O'HARA. Mr. Dellenback, do you have any questions?

Mr. DELLENBACK. Thank you, Mr. Chairman.

Do I understand correctly, Mr. Hansen, that the NBA draft is on April 16?

Mr. HANSEN. I am sorry. I don't know that, sir.

Mr. DELLENBACK. Does anybody know when the pro draft is to be?

That was my understanding, that that was the date.

Let us assume it were to be on that particular date, that is the day proposed by the AAU to be the beginning of the training, to get ready for that game on April 29.

How will that affect amateur competition after the pro draft? Would the draft by itself, under your rules, or under the AAU rules, affect rights to participate in amateur competition thereafter, or would they have to undertake negotiations, or would they have had to sign a contract?

What is it that would disqualify an amateur from further competition?

Mr. HANSEN. If he is an undergraduate merely being drafted as a senior, he would not, sir. He would have to either obtain an agent or sign a contract.

If he is a junior or underclassman, and he asks that his name be placed in the professional hardship draft, he still is eligible until such time as they actually draft him through that hardship draft.

Mr. DELLENBACK. It is not the action by the basketball pros that would take him out of an amateur situation. It would be that he would have had to sign something, either a contract or agency agreement.

What if he engaged in negotiations? Would that disqualify him? What if he acted as his own agent and started to talk it over with the team that might have drafted him?

Mr. HANSEN. It is a little complicated as to how he may approach this. For instance, he may retain a lawyer and ask an attorney to examine a contract, as long as the attorney does not proceed to negotiate a price with the team, but he may have legal advice, he may discuss, he may talk, he may inform himself in preparing so.

Mr. DELLENBACK. If again my information is correct that April 16 is the key day, then you are saying that that would not of necessity disqualify any amateur, that the mere drafting would not interfere on the grounds of professionalism with his capacity to participate thereafter.

Mr. HANSEN. Not in NCAA competition, sir. I cannot speak beyond that.

Mr. DELLENBACK. Following down a little bit, Mr. Hansen, the line of questioning of the chairman about this matter of the individual's school, or the individual athlete in conjunction with the school representatives making individual decisions, the type of thing that the NAA was involved in testifying to earlier. How much discretionary authority and responsibility do you think it would be sound to give to individual schools and athletes?

You indicated, if I read you correctly, that the decisions, as the NCAA carries them out, are to make a broad scale decision which would apply to all schools that were qualified as NCAA institutions.

Mr. HANSEN. Which then does give the individual institution and the individual student full discretion.

I might add, Mr. Dellenback, that we are a voluntary organization. We adopt the rules in open convention. Each university's delegate thereto is appointed by the president of the university.

So it is not a question of the NCAA making any of these decisions. The individual institutions have decided how they wish to administer this particular area that we are talking about.

Mr. DELLENBACK. Are you indicating, then, Mr. Hansen, that before there could be any change in this situation as it now pertains, it would be necessary for the NCAA to change its rules?

Mr. HANSEN. Yes, sir; it would be necessary for the NCAA at its convention to adopt a change of its constitution by a two-thirds vote.

Mr. DELLENBACK. Then under the presently existing rules, you could not take an individual school or an individual athlete and give that individual, or in this instance those dozen individuals, if there be that many, the right to participate without disqualification in this Russian series. Is that correct?

Mr. HANSEN. Not entirely; not entirely. If the application was made for certification by the NCAA, the council could consider it, approve it on a broad scale, and then it would be up to the individual to make the decision.

Mr. DELLENBACK. Under your present rules, you could not make the decision for any one individual per se, or for a dozen individuals per se. You would have to make a generic decision that would apply to all NCAA schools, and then whether or not an individual athlete within one of those schools would participate would be an individual or school decision, but the decision by the NCAA could not be an individualized decision. It must be a broad decision that applies to all NCAA schools?

Mr. HANSEN. That is correct. We would not order players or coaches to go participatæ. We would simply say the competition appears to be satisfactory.

Mr. DELLENBACK. I think I read you correctly. The last phrase comes along and throws me again.

I assume you do not order them to do anything.

Mr. HANSEN. No, sir.

Mr. DELLENBACK. All you do is place certain prohibitions in certain instances, and you cannot remove that prohibition under your constitution and rules, school by school or individual by individual. You can remove that prohibition NCAA-wide, if, indeed, you elect to remove it at all.

Mr. HANSEN. Exactly.

Mr. DELLENBACK. You are of the opinion, then, if I read through this correctly, that the individual school and the individual athlete should have a great deal of discretionary authority and responsibility, but it is the decision of your association that that individual athlete and individual school decision must, of course, not come without first there having been the basic NCAA decision granting broad scale institutional-wide authority to do this kind of thing.

Mr. HANSEN. Stating to the institution that this is a legitimate, well organized, well administered competition; yes, sir.

Mr. DELLENBACK. Now, traditionally, when you make that kind of determination, how closely do you look at the individual competition? Do you take any one of the other sports with which NCAA is concerned? Do you look very carefully at—do you hold individual hearings on that individual proposed competition? Do you call witnesses before your executive board or before the council?

Mr. HANSEN. We have an Extra Events Committee, Mr. Dellenback, which does the administration of this on an annual basis. Each event which is certified must file a complete financial statement and a complete form which indicates that it has insurance coverage, proper medical facilities available, and other administrative details.

This is reviewed at the end of each year, and all these particular requirements must be met.

Then, before it is approved for next year, the committee must physically act, and, of course, the committee has these reports, examines them, and does this on a meet-by-meet or event-by-event basis.

Mr. DELLENBACK. How large is that committee, Mr. Hansen?

Mr. HANSEN. Six persons, sir.

Mr. DELLENBACK. Is it difficult to call it together? Is it necessary to set a long time before calling such a meeting? Or can it be done on short notice?

Mr. HANSEN. It traditionally meets three times a year, but when and if particular problems come up, it can be called, sir.

Mr. DELLENBACK. Would it be possible in this instance to call that committee together within your 30-day rule, so that it could move within the next week or so if this were the procedure the AAU elected to follow?

Mr. HANSEN. Yes; it could be called.

Mr. DELLENBACK. So that you could comply with your 30-day requisite before the April 16 date which was given to us earlier, since this is only the 5th, I believe, of March?

Mr. HANSEN. Yes, sir.

Mr. DELLENBACK. Would the NCAA be willing to do that if that indeed were the action called for?

Mr. HANSEN. Yes, sir; I think the NCAA would be willing to call this body, yes, sir.

Mr. DELLENBACK. Do you have any other procedure, shy of the meeting of that committee, which could give this institutionwide or full

membershipwide authority as is required under your constitution? Do you have any individual officer of the NCAA who has the authority to grant that?

Mr. HANSEN. No, sir. The only authority under the constitutional provision is with the NCAA council.

We have two things involved. For the coaches to participate, the Extra Events Committee must certify the competition. For the student athletes to participate, the NCAA council must approve the competition.

Mr. DELLENBACK. Are both the committee and the council capable of acting within a matter of a few days?

Mr. HANSEN. The council would be much more difficult. It is 18 persons, widely scattered. The question would be: Would it be necessary to have the meeting in person? Since we don't have a specific proposal upon which we are discussing the ground of meeting, I couldn't begin to guess.

Mr. DELLENBACK. There are times, however, when the council is polled by telephone rather than all 18 members getting together?

Mr. HANSEN. Very rarely so, sir.

Mr. DELLENBACK. But your constitution permits this?

Mr. HANSEN. It is done on rare occasions.

Mr. DELLENBACK. Which I assume means it is permitted, because good counsel would prohibit any such action which was not proper under your rules and regulations.

So you have answered my question. I assume, since it has transpired on certain occasions, it must be possible under your constitution.

Mr. HANSEN. I am not sure, Mr. Dellenback, because I have not participated personally in such telephone calls. They may have met on a conference call to discuss something. I am not sure. I don't think it is a major problem, major point.

Mr. DELLENBACK. You think the time situation is such that this matter could be taken care of within the time available, if, indeed, that were the decision that somebody were to make?

Mr. HANSEN. Yes, sir.

Mr. DELLENBACK. Under your constitution, if I understand you correctly, without that action being taken, you would not be able to give this authority; nobody else could do it, so, under the circumstances you have outlined no athlete could participate.

Mr. HANSEN. That is correct, sir.

Mr. DELLENBACK. Would that also be necessary if the decision were, rather than having an all-star team or a single national team, to be that if they play on the West Coast, they will bring in Long Beach State or UCLA, and if they were to play in the Mid-west, they would bring in Minnesota, if they were to play in the East, they would bring in North Carolina State or whomever else happened to be chosen, it would be necessary to get that same kind of permission for any individual team to participate?

Mr. HANSEN. Yes, sir.

Mr. DELLENBACK. What would be the feeling you would have, as somebody who is as deeply involved in this kind of thing, and very knowledgeable about it: Would it be better or worse in this type of situation—and I am not now suggesting this be done—if a series of individual schools were to participate instead of trying to bring to-

gether a national team that would have 10 days or 2 weeks to practice?

Mr. HANSEN. If the team were not exhausted, which it is going to be at the particular time we are discussing, I think it would be better from a competitive standpoint, just because they know each other and can do more things together, whereas a national team or an all-star team without experience is in a very difficult position against this tremendously experienced Russian team.

However, it doesn't make any particular difference from the academic point, to which we are addressing ourselves, and I cite you that in 1964 the Olympic Committee put together what it thought was a good idea of having the UCLA national championship team play against other American all stars in a series of games, just as this is, and every single undergraduate member of the UCLA team ended up in academic probation.

Mr. DELLENBACK. There are those that hope it will happen before the decision is fought out in the next few weekends, if it is going to happen this year at all.

I am not sure whether you feel it would be better or worse. You feel it is about on a par. It would take the same action on the part of NCAA whether it be the selection of 10 or 12 or 15 players on a national team, or whether it is a series of individual teams. It would take the same kind of action by the NCAA board.

Mr. HANSEN. Yes, sir.

Mr. DELLENBACK. Is there any proposal that the NCAA would make in this situation, to field a team or teams to meet the Russians that you would suggest to us?

Mr. HANSEN. Yes, sir. I have indicated that spokesmen for major NCAA groups and college basketball interests indicate that they would love to play the Russians in November and December, when the teams are ready, fresh, and competitive, that they would love to play the Russians in the summer at proper times under things like the World University Games. But to do it with a television format at a bad time just because someone has a TV show to produce is terribly unfair to the players.

Mr. DELLENBACK. Mr. Hansen, put yourself in our chairs for a moment.

There is obviously, and I am not taking sides on this, there is a great deal of emotionalism involved on all sides of this problem because of the history of the last few years, and people feel very strongly and people feel very emotionally about this.

If one were interested in coming out with a series, do you feel that you are locked in on the kind of proposal that you have now just made, or is there some other possible resolution of the situation which is before us, shy of legislation?

You have heard several of us make the statement earlier that we would much prefer that Congress, even if it has jurisdiction in this field stay out of it. This is not something that some of us would like to see happen.

Yet there it is, it becomes a national issue, and we may have to get into it on some ground or other, and we want to avoid that.

Is there anything else you would propose?

Mr. HANSEN. It occurs to me that a tour by the Russians against the World University team this summer might be a very fine alternative.

As I indicated, the Big 8 would be glad to play the Russians next fall. It seems to me that if we can postpone it to this summer, and get the ABA formed, as FIBA has directed, and get all parties in there functioning together under the FIBA rules, then perhaps we can work something out at that time. What that might be is a little hard to say.

I am not able to speak for the UCSC. I don't know exactly the timing or planning for the World University Games tour, which affects a great deal all of what we are talking about. Nor do I know, which Mr. Steitz may, all the other world competitions which are scheduled, because, as they say, they don't communicate.

Therefore, I am not able to say precisely the dates and format.

Yes, if the ABA can get going, which the NCAA through the Basketball Federation, of course, would be involved in, then I believe that there are alternatives. Certainly we are ready to play the Russians when our young men and our very fine athletes have a chance to acquit themselves. We are trying to avoid a real, real tough position for these young men.

Mr. DELLENBACK. I don't seek to advise you from a legal standpoint. I am sure you have eminently good legal counsel which will do that.

Nor do I seek to advise you from a public relations standpoint. I am sure you have good counsel in that field.

It does seem to me that you run the risk in this situation, unless the public relations picture be changed—and this may be purely irrelevant, certainly it could be secondary to the basic issues—you may come out the bad guys in this thing. You may come out the ones who are the obstructionists. I could be wrong on this, but that may be the case.

That may be, as I say, irrelevant. But for that reason, and, hopefully for the more fundamental reasons which underlie it, I would hope you would look hard at the present situation and see if there are not ways to resolve it.

Thank you very much. I appreciate your testimony, and I appreciate your being here, all of you.

Thank you, Mr. Chairman.

Mr. O'HARA. Did you want to say something further, Mr. Hansen, in response to that?

Mr. HANSEN. No, sir. That is fine.

Mr. O'HARA. Mr. Hansen, to summarize your responses to Mr. Dellenback, you say that you would be willing to cooperate with a tour that was scheduled at a better time, under the auspices of the new organization that the FIBA resolution calls for. Is that correct?

Mr. HANSEN. Yes, sir. I would ask, however, that if such a package were put together, that there be some conditions whereby, No. 1, all parties would have to join the ABA, and, No. 2, that the television contract involved be acceptable by the ABA.

It is a slightly preposterous television contract, as well. I happen to know from experience that more money is realized from conference games on television than is realized by this so-called national televised major event. But that is the AAC's business. If that is their best business, so be it.

Mr. O'HARA. You have likewise indicated in response to questioning that if you were to receive a request from AAU that you approve participation for NCAA athletes, and you were to receive that request within the next week, that it would be possible for you to call a meeting of your Extra Events Committee, and it may be possible for the NCAA council to take action, as well.

Mr. HANSEN. Yes, sir.

Mr. O'HARA. Although you are dubious about the outcome of that?

Mr. HANSEN. Yes, sir. I would have to add I am dubious, but we certainly wouldn't throw up a lack of being able to meet as an obstruction.

Mr. O'HARA. You mentioned the TV several times. In fact, your objections to the tour are not based on the television, are they? In other words, if television were cancelled, your position would not be any different?

Mr. HANSEN. No, sir. We are just showing in our opinion why this particular time was chosen, and the real background reason for the desire of the AAU to have the tour.

Mr. O'HARA. I would like to conclude, then, and make the same request to you that I made to the representatives of the AAU.

I would like to excuse you at this time, and ask if it would be possible for you to remain in the room for a while. Then we will hear from our last witness. There may be some questions that the committee might want to direct at one of you gentlemen.

Mr. HANSEN. Yes, sir.

Mr. O'HARA. Our last witness is Dr. Edward Steitz, president of the Basketball Federation of the United States of America.

STATEMENT OF EDWARD STEITZ, PRESIDENT, BASKETBALL FEDERATION OF THE UNITED STATES OF AMERICA

Mr. Steitz. Thank you, Mr. Chairman. Just for the record, I do wear a couple other basketball hats. The only reason I mention this, though, is because in questioning my response will be based upon my involvement in these other matters so far as basketball is concerned. They have been alluded to today.

I do happen to have served as vice chairman for basketball in the past Olympiad and have been on the U.S. Basketball Committee for the past 8 years. I have been a member of the board of directors of the U.S. Olympic Committee for 8 years and executive director for 4 years, and have served on the Administration Committee and Drug Abuse Committee.

I do have another labor of love. I am editor and national interpreter of the Basketball Rules of the U.S. and Canada.

I have no prepared statement, sir. I would like to speak from notes with your kind permission and basically the document that I presented earlier to the Chairman's aide is one of a chronological history of the dispute stemming from 1958. With that permission I would like to present that for the record.

Mr. O'HARA. Without objection it will be entered into the record at this point.

[The document referred to follows:]

HISTORY OF BASKETBALL FEDERATION INVOLVEMENT IN INTERNATIONAL DISPUTE WITH AAU

The Amateur Athletic Union (AAU) had been the United States member in the International Amateur Basketball Federation (FIBA) since FIBA was formed in the mid-1930's.

Subsequent to World War II, the AAU's involvement in organized amateur basketball decreased substantially. With the dissolution of the National Industrial Basketball League and demise of such teams as the Phillips Oilers, Akron Goodyears and Peoria Caterpillars, quality AAU teams disappeared. As a result, the AAU National tournament has been reduced primarily to "pick up" teams, and teams entered by other organizations (e.g., Armed Forces, NAIA and California Junior College Association).

While the AAU basketball program struggles for survival, the school-college program has prospered and basketball is more popular than ever. The NCAA championship finals annually are sold out months in advance, high school and the national junior college athletic association tournaments play to capacity crowds and regular season basketball attendance continues to increase.

Ironically, the AAU remained the official United States member in FIBA although the overwhelming majority of amateur basketball is represented by the Basketball Federation of the United States of America (BFUSA) up until the World Congress at Munich, 1972 ruled differently.

The National Association of Basketball Coaches (USA), at its convention in March, 1960, precipitated the formation of BFUSA. The coaches, disgusted with the AAU's mismanagement of and disregard for basketball, asked that a more responsible organization represent United States in FIBA. The coaches requested that the National Basketball Committee, the rules-making body for basketball, initiate appropriate action to replace the AAU in FIBA. At that time, the AAU was a member of the National Basketball Committee. Following is a chronological listing of events since that time: 1960—Dr. Edward S. Stoltz, representing the National Basketball Committee, appeared before the FIBA Congress at the Olympic Games in Rome. The Committee requested that it be accepted as the United States member in FIBA, replacing the AAU.

The NBC proposed to form the Basketball Federation of the USA. Major basketball groups would be represented and the organization would be structured so as to insure impartial, fair and effective administration of international basketball competition involving the United States.

After reviewing the NBC proposal, FIBA appointed Louis Wilke, an AAU representative and FIBA vice-president, as a convener in an attempt to establish a plan mutually agreeable to the NBC and AAU. Mr. Wilke was given until the end of 1961 to complete his negotiations.

The first meeting between the two groups was held in Chicago, October 2, 1961. The NBC proposed the establishment of the Basketball Federation, as outlined above. The AAU plan called for the establishment of the Basketball Council of the AAU. The Council would serve in an advisory capacity to the AAU, but the AAU would retain the international franchise.

A second meeting was held in Washington, D.C. on December 6, 1961. After the two groups indicated that they were unable to reach agreement on the proposals previously submitted, Mr. Wilke offered a third proposal. The two parties were to study the new plan and submit their observations at another meeting scheduled for February, 1962.

In the interim, however, Mr. Wilke unexpectedly passed away.

1962

May 12, all organizations interested in becoming charter members in BFUSA were invited to an organizational meeting. Both the AAU and National Association of Intercollegiate Athletics (NATA) were in attendance and participated in the voting of a proposed constitution. Both later declined membership in BFUSA.

July 1, BFUSA was formally organized.

July 23-24, authorized representatives of BFUSA's constituency ratified the Constitution and elected a slate of officers.

1963

May 20, the Central Board of FIBA, meeting in Rio de Janeiro, Brazil, developed an "Interim measure" to be in effect for a three-year period. Under

this arrangement, BFUSA had authority to conduct and sanction international basketball competition. As a result, BFUSA members served as host to foreign teams in the United States and had an opportunity to tour abroad. During the last year of the "interim measure" there were more than 400 contests between BFUSA members and foreign teams. Despite continual harassment by the AAU, BFUSA sponsored more foreign exchange and competition in one year than the AAU did in the previous 30 years.

1967

The FIBA Central Bureau, meeting in Montevideo, Uruguay, chose not to renew the "interim measure." As a result, BFUSA recommended to its constituency that there be a hiatus in international competition involving BFUSA members. (In recommending a non-competition policy, BFUSA noted that the AAU had grossly misrepresented the basketball situation in the United States when the AAU claimed to represent 70 per cent of the organized competition in this country.) FIBA instructed the AAU to unify all amateur basketball interests and improve its administration of the sport prior to the FIBA meeting in October, 1968.

1968

The FIBA Congress, meeting at the Olympic Games in Mexico City in October, recognized that the AAU had failed to discharge its responsibility to unify all basketball interests in the United States. The non-competition policy adopted by BFUSA proved to FIBA that the AAU did not represent the majority of basketball in the United States. FIBA appointed a five-man panel of investigation to visit the United States in an attempt to reconcile the differences between the parties involved in the basketball controversy.

1969

The FIBA panel conducted two days of hearings on January 31-February 1 at Olympic House in New York City. Numerous organizations were given an opportunity to make presentations outlining their competitive programs.

The FIBA panel finally recommended the establishment of an International Basketball Board (IBB) composed of ten representatives of BFUSA and a like number from the AAU. Ben Carnevale, then Athletic Director of New York University, was appointed by FIBA to act as chairman with the power to cast the deciding vote in case of a tie.

Subsequently, William Summers of the AAU was appointed secretary general but without vote.

FIBA stated that the IBB would become its "de facto" representative in the United States although AAU would continue to hold membership in FIBA.

Each organization, the AAU and BFUSA, would assume responsibility for arranging and sanctioning international competition for its members. IBB approval would then be secured. Olympic, Pan American and World Games competition would be exempt from IBB approval.

It was stipulated that the IBB would submit a report at the time of the IX World Congress of FIBA, Munich, 1972, regarding United States membership in the international body.

Initially, BFUSA declined to accept FIBA's proposal. A BFUSA caucus was conducted in Olympic House and was attended by Dr. R. William Jones, secretary general of FIBA.

Dr. Jones explained that it would be difficult at the time for an international organization to replace the AAU as the United States member of FIBA. He reasoned that if the IBB were formed, it could recommend that the AAU be replaced by BFUSA and that FIBA would accept such a recommendation.

Dr. Jones was advised that in all probability the vote in favor of BFUSA would be 11 to 10. He responded by specifically stating that if the vote was 11-10, he personally would make it 12-10 and FIBA would accept the recommendation to replace the AAU with BFUSA.

Clifford B. Fagan, then president of BFUSA, indicated that BFUSA would accept the IBB proposal only through the Olympic Games in Munich as a gesture of its faith in Dr. Jones and his (Dr. Jones') promise that FIBA would accept a recommendation from the IBB that BFUSA replace the AAU in FIBA.

The IBB was formally organized and has been in operation since the spring of 1969. During this period, BFUSA has made every attempt to abide by the Constitution and Bylaws of the IBB and has followed the procedures developed for the approval of international competition.

During the same period the AAU has been guilty of numerous violations which are on file with BFUSA's executive director.

Since 1960, BFUSA has submitted three formal applications to FIBA for membership. The FIBA Congress considered the matter in August 1972, and unanimously ruled that the AAU was no longer the international representative or franchise holder for the U.S.A. in FIBA.

The World Congress further ruled that if a new organization was not established by March 31, 1973, the U.S.A. would have no representation in FIBA.

FIBA also decreed in its central board decision in Munich that the following listed under paragraph 3, would prevail:

"The International Basketball Board of the U.S.A. (IBB) ceases to exist in its present form at the present date. However, the President of the IBB is asked to continue to fulfill the tasks of that body until further notice, and is authorized to secure the cooperation of individual, and organization, to that effect and to decide on measures of an administrative character that will make possible the continuation of basketball activities not involving the national representative team of the United States of America."

Dr. Edward S. Steltz, President of the Basketball Federation of the United States of America, initiated a meeting on November 8, 1972 in accordance with the mandate and resolution passed by FIBA at the World Congress of Basketball at Munich on August 24, 1972, which stated that "the AAU and the Basketball Federation of the USA and their constituent bodies terminate the controversy that has affected the proper conduct of international basketball activities involving the United States of America, and this before March 31, 1973, possibly by forming an Amateur Basketball Association of the United States of America with membership open to all national bodies conducting an effective basketball programme in the United States of America."

Organizations that conduct a national viable program in the sport of basketball were invited to attend the initial meeting. Organizations such as the Amateur Athletic Union, National Collegiate Athletic Association, National Junior College Athletic Association, Young Men's Christian Association, Collegiate Commissioners' Association, American Association of Health, Physical Education and Recreation, National Association of Basketball Coaches, National Basketball Rules Committee, Armed Services Sports Council, Women's Basketball Association and the National Association for Intercollegiate Athletics.

Dr. Clifford B. Fagan was elected pro tem for the purpose of forming a new organization. Subsequent meetings were held on December 6, 1972 and January 20, 1973 for the purpose of adopting and approving a constitution for the Amateur Basketball Association of the United States of America.

A constitution was approved based on a one-vote-per-organization philosophy on January 20, 1973 by the National Collegiate Athletic Association, National Junior College Athletic Association, National Federation of High School Associations, Basketball Federation of the United States of America, American Association for Health, Physical Education and Recreation.

All national organizations conducting a program related to basketball are invited to become members. The door is open for any organization that meets the criteria for active or allied membership.

Mr. Strerrz. The Basketball Federation of the United States of America is the largest amateur basketball body in the U.S.A. and has only one interest, basketball. It is not going to deal with the Kheel Report which concerned itself with track or any other sport.

Our concern is basketball. It does not attempt to administer competition in several sports, thus dividing its interest and thereby weakening its effectiveness. The Basketball Federation conforms to FIBA's constitution which indicates that the governing body or national federation must concern itself with one sport and only one sport and, of course in our case, Mr. Chairman, it is basketball.

The purpose of the Basketball Federation is to coordinate the efforts of all amateur basketball interests in the United States and to promote basketball throughout the world by encouraging international competition and other world-wide exchanges. It is the only U.S.A. organization which can provide the variety of quality and quantity of

competition and the leadership requested by basketball leaders of other countries.

The leadership of the Basketball Federation of the U.S.A. is composed of some of the most prominent and learned men in the field of basketball. The Basketball Federation represents over 85 percent of the highly organized amateur competitive basketball played in the U.S.A. with over 100 different organizations represented. It now represents every segment of basketball throughout its present membership. Just a few of them include:

(1) NCAA with over 710 universities and colleges including every major university. This organization has 2,000 highly competitive teams, 4,000 coaches, 4,000 referees, and 20,000 intramural teams. Eleven of 12 of the U.S.A. Olympic Basketball Teams come from the BFUSA universities or colleges.

(2) The National Federation of State High Schools (14-18 year olds) represents over 21,000 high schools with 60,000 well organized and highly competitive teams, 120,000 coaches, 96,000 referees and 700,000 competitive intramural teams.

(3) The National Junior Colleges (18-21 year olds) represent 513 institutions with 900 teams of international competitive caliber, 180 coaches, 140 referees.

(4) The National Basketball Coaches Association includes 1,300 coaches who do a tremendous job in enhancing the image of the United States through the sport of basketball.

Other organizations in the Basketball Federation include the YMCA, National Amateur Basketball Association which conducts a tournament for out of school competition people, Women's Basketball Association of America, International Association of Approved Basketball Officials, 12,000 some members, American Association for Health, Physical Recreation and Recreation, Association for Intercollegiate Athletics for Women which conduct a most highly calibered basketball program from a tournament point of view, the Collegiate Commissioners Association which represents 11 conferences and 210 institutions, the National Little College Athletic Association and the National Basketball Committee of the United States.

In total, we, in the Basketball Federation, have 64,900 highly organized teams, 20,900 coaches, 100,000 referees and 768,000 competitive intramural teams. I point that out, sir, to give you somewhat of an idea of the scope of our organization.

From 1970 until now the Basketball Federation teams have played in the short 2 years since the IBB, 1,470 international contests, two out of three abroad. All of the previously mentioned competition has been solely under the sanction of the Basketball Federation of the United States.

In fact, the Basketball Federation membership has committed itself to the proposition that none of its members will compete internationally under any other sanction than that of the Basketball Federation both now and in the future, sir.

The BFUSA is promoting basketball throughout the world by providing administrative leadership, basketball literature, films and by the contributions of its trained leadership in conducting clinics, demonstrations and consulting services in techniques of play and officiating.

The BFUSA membership has offered through its present communications to promote and sponsor international competition which will provide more than 150 BFUSA teams the opportunity to enjoy competition against teams from over 50 countries.

We right now are working with the Soviets, with the Yugoslavs, Czechoslovakians, Brazilians, to come into the United States to play during our season and we in turn to reciprocate and go to their countries, to conduct not just competition, sir, but to try to provide some of the leadership from the country which gave birth to the game of basketball.

No other U.S. organization has demonstrated it has the resources or personnel available to organize such a significant program of international competition and exchange.

Just a little bit of history if I may, sir. In 1968 the FIBA Congress, meeting at the Olympic Games in Mexico City in October, recognized that the AAU had failed to discharge its responsibility to unify all basketball interests in the United States.

FIBA appointed a five-man panel of investigation to visit the United States in an attempt to reconcile the differences between the parties involved in the basketball controversy—namely AAU and BFUSA.

The FIBA panel conducted 2 days of hearings on January 31–February 1, 1969, at Olympic House in New York City. Numerous organizations were given an opportunity to make presentations outlining their competitive program.

The FIBA panel finally recommended the establishment of an International Basketball Board—IBB—composed of 10 representatives of BFUSA and a like number from the AAU. Ben Carnevale, then athletic director of New York University, was appointed by FIBA to act as chairman with the power to cast the deciding vote in case of a tie.

FIBA stated that the IBB would become its de facto representative in the United States although AAU would continue to hold membership in FIBA. Each organization, the AAU and BFUSA, would assume responsibility for arranging and sanctioning international competition for its members. IBB approval would and then must be secured. Olympic, Pan-American and world games competition would be exempt from IBB approval.

This arrangement was agreed on unanimously by the AAU and the basketball federation. I will be very happy to submit the constitution for your perusal. It was stipulated that the IBB would submit a report at the time of the IX World Congress of FIBA in Munich regarding who was to be a member of the international body or who would represent the United States of America.

Initially, BFUSA declined to accept FIBA's proposal. A BFUSA caucus was conducted in Olympic House and was attended by Dr. R. William Jones, secretary general of FIBA.

Dr. Jones explained that it would be difficult at the time for an International organization to replace the AAU as the U.S. member of FIBA. He reasoned that if the IBB were formed, it could recommend that the AAU be replaced by BFUSA and that FIBA would accept such a recommendation.

Dr. Jones was advised that in all probability the vote in favor of BFUSA would be 11 to 10. He responded by specifically stating that if the vote was 11 to 10, he personally would make it 12 to 10 and FIBA would accept the recommendation to replace the AAU with BFUSA.

Clifford B. Fagan, then president of BFUSA, indicated that BFUSA would accept the IBB proposal only through the Olympic Games.

The IBB was formally organized and has been in operation since the spring of 1969. During this period, BFUSA has made every attempt to abide by the constitution and bylaws of the IBB and has followed the procedures developed for the approval of international competition.

I am sorry to say during the same period the AAU has been guilty of numerous violations which are on file with BFUSA's executive director.

I have a document with me if you would like me to submit it for the record which indicates that harm was done both financially and from a reputation point of view by a memorandum going out of the AAU office indicating the rest of the world was not to deal with the school college community in arranging international competition, that it was a violation, which was not the truth.

We presented that to Dr. Jones and Dr. Jones was astounded and indicated that he would handle the situation. We, in turn, sent a memorandum around the world saying this was not true and at the World Congress of Basketball in Munich, the rest of the world substantiated the point we made.

Since 1969 the basketball federation has submitted three formal applications to FIBA for membership. The FIBA Congress considered the matter in August 1972, and unanimously ruled that the AAU would no longer be the international representative or franchise holder for the United States in FIBA.

I have a copy of that to submit to you, sir, if you would like.

The World Congress further ruled that if a new organization was not established by March 31, 1973, the United States of America would have no representation in FIBA.

FIBA also decreed in its central board decision in Munich that the following, listed under paragraph 3, would prevail:

The International Basketball Board of the United States of America—IBB—ceases to exist in its present form at the present date. However, the president of the IBB is asked to continue to fulfill the tasks of that body until further notice, and is authorized to secure the cooperation of individuals and organizations to that effect and to decide on measures of an administrative character that will make possible the continuation of basketball activities not involving the national representative team of the United States of America.

[The document referred to follows:]

FEDERATION INTERNATIONALE DE BASKETBALL AMATEUR—INTERNATIONAL AMATEUR BASKETBALL FEDERATION

CENTRAL BOARD

Text of resolution approved by the 9th World Congress on item P/IV of Agenda on August 24, 1972. The present text has been approved by the Central Board on September 5, 1972.

1. The Amateur Athletic Union of the USA and the Basketball Federation of the USA and their constituent bodies are invited to terminate the controversy

that has affected the proper conduct of international basketball activities involving the United States of America, and this before March 31, 1973 possibly by forming an "Amateur Basketball Association of the USA" with membership open to all national bodies conducting an effective basketball program in the United States of America.

2. In case no agreement is reached, the affiliation of the United States to F.I.B.A. will be automatically suspended on April 1, 1973. The Basketball Committee of the National Olympic Committee of the USA will be authorized to continue to supervise all basketball matters related to the participation of the United States in the Basketball Olympic Tournament and in the basketball tournament of the Pan-American Games. The Basketball Committee of the National Olympic Committee of the USA will be requested to consider assuming similar responsibility for the participation of the United States in the World Championships.

3. The International Basketball Board of the USA (I.B.B.) ceases to exist in its present form at the present date. However, the President of the I.B.B. is asked to continue to fulfill the tasks of that body until further notice, and is authorized to secure the cooperation of individuals and organizations to that effect and to decide on measures of an administrative character that will make possible the continuation of basketball activities not involving the national representative team of the United States of America.

4. F.I.B.A. will remain at the disposal of all bodies concerned with international basketball in the United States of America, to facilitate the solution of the controversy by all possible means.

Mr. Szerez, I, as president of the Basketball Federation of the United States of America, initiated a meeting on November 8, 1972, in accordance with the mandate and resolution passed by FIBA at the World Congress of Basketball at Munich on August 24, 1972, which stated that:

The AAU and the Basketball Federation of the United States of America and their constituent bodies are invited to terminate the controversy that has affected the proper conduct of international basketball activities involving the United States of America, and this before March 31, 1973, possibly by forming an Amateur Basketball Association of the United States of America with membership open to all national bodies conducting an effective basketball program in the United States of America.

Organizations that conduct a national viable program in the sport of basketball were invited to attend the initial meeting. Organizations such as the Amateur Athletic Union, National Collegiate Athletic Association, National Junior College Athletic Association, Young Men's Christian Association, Collegiate Commissioners' Association, American Association of Health, Physical Education and Recreation, National Association of Basketball Coaches, National Basketball Rules Committee, Armed Services through Interservice Sports Committee, Women's Basketball Association of America and the National Association for Intercollegiate Athletics, U.S. Collegiate Sports Council—World University Games, National Amateur Basketball Association, National Federation of High School Athletic Associations, and the National Association of Collegiate Directors of Athletics.

Dr. Clifford B. Fagan was elected chairman pro tem for the purpose of forming a new organization. Subsequent meetings were held on December 6, 1972, and January 29, 1973, for the purpose of adopting and approving a constitution for the Amateur Basketball Association of the United States of America.

A constitution was approved based on a one-vote-per-organization philosophy on January 29, 1973, by the National Collegiate Athletic Association, National Junior College Athletic Association, National

Federation of High School Associations, Basketball Federation of the United States of America, American Association for Health, Physical Education and Recreation.

All national organizations conducting a program related to basketball are invited to become members. The door is open for any organization that meets the criteria for active or allied membership.

I would like with your permission to submit a copy of that constitution.

Mr. O'HARA. Without objection the constitution and the documents that you referred to will be entered into the record at an appropriate place in your testimony.

[The document referred to follows:]

THE CONSTITUTION OF THE AMATEUR BASKETBALL ASSOCIATION OF THE UNITED STATES OF AMERICA

ARTICLE I

Name

Section 1.

The name of this organization shall be the Amateur Basketball Association of the United States of America.

ARTICLE II

Purpose

Section 1.

Its purpose shall be to coordinate all amateur basketball interests in the United States of America, to have representation in the Federation Internationale De Basketball Amateur (FIBA); to promote basketball throughout the world by encouraging international competition, by exchange of personnel for study with other countries; to work toward a uniform set of rules and code of officiating; and to work for the welfare of basketball in all its aspects.

ARTICLE III

Membership

Section 1.

There shall be two classifications of membership: Active and Allied.

Active members shall consist of qualified national organizations which are responsible for a competitive basketball program and are active in advancing the sport of basketball.

Allied members shall consist of other national, non-competitive organizations with an interest in basketball, or competitive basketball groups which are less than national in scope and which cannot be accommodated elsewhere in the constituency of the association.

ARTICLE IV

Representation

Section 1.

Member organizations shall select their association representatives in accordance with the procedures established by each organization for this purpose.

Section 2.

No individual representative shall be eligible for more than eight (8) consecutive years.

ARTICLE V

Council

Section 1.

The Council is the legislative body of the association and shall be comprised of the representatives of the active members.

Section 2.

Active members shall be entitled to the number of votes agreed upon by the Council. A majority vote shall prevail in all actions except those affecting mem-

bership and amendments to this Constitution. (A majority shall prevail only if at least two of the active member organizations have delegates voting with the prevailing opinion.)

Section 3.

Voting by proxy shall not be allowed.

Section 4.

Allied members may attend council meetings, may participate in discussions and debate, but are not entitled to vote.

Section 5.

The Council shall act on all matters pertaining to membership. A two-thirds vote is required to approve new members or alter the existing membership.

Section 6.

The Council may, by unanimous action, establish other classes of membership.

ARTICLE VI

Officers

Section 1.

Officers of the Association shall be President, Vice-President, Secretary and Treasurer. Officers shall be an eligible representative of a member organization.

Section 2.

The term of each officer shall be four (4) years.

Section 3.

The officers of the Association shall be elected at the Association's annual meeting following the quadrennial meeting of FIBA. The officers shall assume their official duties immediate upon election. Vacancies may be filled by election at any meeting of the Council.

ARTICLE VII

Executive Committee

Section 1.

There shall be an Executive Committee consisting of the officers of the Association and three (3) at large members duly elected by the Council, who qualified under the same stipulation as the officers. Terms of office of the three (3) at large members of the Executive Committee shall run concurrently with their term of office on the Council.

Section 2.

The Executive Committee shall be authorized to handle the business affairs of the Association between the annual or special meetings of the Council, except as otherwise provided by the Constitution. The Executive Committee shall have authority to prepare the budget and submit it to the Council for approval at each annual meeting. The Executive Committee shall, with Council approval, have authority to employ an Executive Director and such other personnel as may be necessary to conduct the business and administer the program of the Association.

The Executive Director shall be the executive officer of the Association whose duties shall be to direct and administer the business and program of the Association in accordance with the authority delegated to him by action of the Council and as directed by the Executive Committee.

ARTICLE VIII

Duties of Officers

Section 1.

The President shall preside at all meetings of the Association and the Executive Committee and, in general, shall perform the duties incident to his office.

Section 2.

The Vice-President shall perform the duties of the President during the President's absence or inability to act.

Section 3.

The Secretary shall keep the records of all meetings of the Association and the Executive Committee. He shall serve all notices of meetings and, in general, perform the duties incident to his office.

Section 4.

The Treasurer shall keep full and accurate account of all monies received and shall deposit the same in a national bank in the name and to the credit of the Association as prescribed by the Executive Committee. He shall disburse the same under the direction of the Association and shall present at each annual meeting a written Treasurer's Report.

ARTICLE IX

*Meetings**Section 1.*

The annual meeting of the Association shall be at the close of the basketball season at a time and place determined by vote of the Executive Committee.

Section 2.

Special meetings of the Council may be called at the discretion of the President and shall be called upon the written request of the majority of the member organizations.

Section 3.

A majority of the total Council membership shall constitute a quorum.

ARTICLE X

*Duties and powers**Section 1.*

It shall be the duty of the Association to carry out the regulations of FIBA within the area of jurisdiction of the Association.

Section 2

The Association shall assume all the duties and powers delegated to it by FIBA.

Section 3.

The Association shall elect from among its members the official delegate or delegates to the scheduled meetings of FIBA which it is invited or eligible to attend. The delegates shall have full power to act on behalf of the Association.

Section 4.

The Association shall elect from among its members the official representative or representatives of the Olympic Basketball Committee of the United States and to such other Olympic Committees to which it may be entitled to membership.

Section 5.

The Association shall be responsible for the rules and regulations not specifically covered by FIBA, whereby approval for basketball competition between its members and other countries may be secured.

Section 6.

"Open" basketball competition between members of the Association and other countries will not be permitted without the approval of the Association. Teams participating in closed international competition shall advise this organization of, in advance, this competition.

Section 7.

Certification for competition in the open category shall be administered and supervised by the organizations holding membership in the Association as the representative of this category.

Section 8.

The Association shall distribute complete information concerning procedures and requirements for the approval of international competition to all member organizations represented in the Association and to all others who may be affected by such procedures and requirement.

ARTICLE XI

*Standing and Special Committees**Section 1.*

All committees shall be appointed by the President and shall carry out the duties as outlined by the President. Committee chairmen shall meet the same qualifications as the elected officers.

Section 2.

Committees shall be appointed as needed.

ARTICLE XII

*Finances**Section 1.*

Dues—Annual dues for each organization holding active membership shall be \$500 for the first voting representative and \$2,000 for each additional voting representative up to a maximum of (4) additional for a grand total of five (5).

Section 2.

Annual dues for allied membership shall be \$100.

Section 3.

Additional assessments may be levied on the constituent active members by the Council as the necessity arises. Such assessment shall be in proportion to each organization's permitted representation in excess of its first voting representative.

Section 4.

There shall be no assessments levied against allied members.

ARTICLE XIII

*Amendments**Section 1.*

This Constitution may be amended by a two-thirds vote of the total votes of Council, either at the Association's annual meeting or at a special meeting called for that purpose. In either case, written notice of the proposed amendment shall have been mailed to all members at least thirty (30) days prior to the meeting.

ARTICLE XIV

*By-Laws**Section 1.*

The Council may adopt or amend any By-Law not inconsistent with the provisions of this constitution.

**THE BY-LAWS OF THE AMATEUR BASKETBALL ASSOCIATION OF THE
UNITED STATES OF AMERICA**

ARTICLE I

*Section 1.***Open International Competition.**

(a) Before a team can engage in international competition, permission for such competition must be secured from the association.

(b) Whenever a team representing the United States plans a foreign tour, or a team representing another country plans a tour of the United States, the financial responsibility regarding expenses must be clearly defined. Evidence of the financial arrangements must be presented to the Association when permission for competition is requested.

(c) The schedule of games, itinerary and a financial report of the competition must be filed with the Association within thirty (30) days after the conclusion of the tour. Approval for international competition must be secured at least thirty (30) days before a team's departure for such competition.

Section 2.

No competition which is promoted for the purpose of personal profit will be approved.

Date:

APPLICATION FOR MEMBERSHIP IN THE AMATEUR BASKETBALL ASSOCIATION OF THE UNITED STATES

Please indicate the type of membership your organization is applying for with this application:

Active..... Allied.....

There shall be two classifications of membership: Active and Allied.

Active members shall consist of qualified national organizations which are responsible for a competitive basketball program and are active in advancing the sport of basketball.

Allied members shall consist of other national, non-competitive organizations with an interest in basketball, or competitive basketball groups which are less than national in scope and which cannot be accommodated elsewhere in the constituency of the association.

Name of organization:

Mailing address:
.....
.....
.....
.....

Telephone number:

National officers (Current):

1. Does your organization have a constitution? (Please include a copy of the constitution.)
2. How many members, institutions, agencies or organizations are within your organization?
3. When was your organization formed?
4. Does your organization conduct a national championship?
5. Does your organization conduct district and/or regional, state and local championships?
6. What has been your role in international competition during the last four (4) years?
7. Does your organization employ a full-time director?
8. Other contributions:
 - (a) Makes instructional material and techniques available to its membership? yes..... no.....
 - (b) Operates an official's development and training program?
yes..... no.....
 - (c) Contributes to the basketball rules and legislative process?
yes..... no.....
 - (d) Other basketball related contributions:
.....
.....
.....
.....
.....
.....

Signature:
(Executive Officer).

Date:

Mr. Szerrz. Thank you; 31 organizations in addition to those mentioned should have in their very hands at the present time invitations and applications to become members of the ABA of the United States

of America, to consummate the March 31 deadline, sir. Thus you can see we believe we have done everything to promote the sport of basketball in a well-organized and democratic manner and in so doing will enhance the image of the United States through the medium of basketball.

In conclusion, gentlemen, it is my personal thesis that we would not be here today if the Amateur Athletic Union had seen fit to attend any of the three meetings and to show in good faith they are willing to join the ABA.

Also summarizing, sir, I would like to say this, representing the Basketball Federation interest in the United States of America I couldn't agree more with the point taken by the NCAA that the tour was ill-conceived, ill-planned, ill-timed, and represented a disservice to our fine athletes, the American public, and the competitive image of the United States of America.

Mr. O'HARA. Thank you. Did you receive an invitation to a meeting called by the U.S. Olympic Committee for the purpose of forming such a group?

Mr. STERRZ. Thank you for asking that question.

As president of the Basketball Federation, I did not receive an invitation. I would like to comment, sir. The U.S. Olympic Committee under charter granted by Congress, is charged with the responsibility solely of the Olympic and Pan American competition, and that is all.

I could also point out that the people who denied or turned down the invitation felt the timing was bad in that particular case. More so, the Basketball Federation was not invited to attend and it felt that the U.S. Olympic Committee was not one of the two disputants as the resolution of FIBA had unanimously been passed.

Mr. O'HARA. Did you receive an invitation in any capacity?

Mr. STERRZ. No, sir.

Mr. O'HARA. There were a number of persons who were invited who chose not to attend, is that right?

Mr. STERRZ. Yes, sir.

Mr. O'HARA. There were a number, there were at least one or more groups that were invited to a meeting that you called that chose not to attend, is that right?

Mr. STERRZ. Yes, sir, the Amateur Athletic Union, John Kelly, president at the time, wrote me a letter. The letter was one of wondering where the authority was for me as president of the Basketball Federation to initiate a meeting and I indicated to Mr. Kelly that Dr. Fagan, the executive director of the High School Associations and myself had met with Dr. Jones, the executive director, because I was the person who articulated for the Basketball Federation at the Munich games, sir, and I wanted to be sure as to what was passed.

Incidentally, I went with Mr. Carnevale with a member of the International Press to be sure as to what was passed officially. In the discussion that Dr. Fagan and I had had with Dr. Jones we said, "Look, we want to get this show on the road, we want to resolve our problems."

We had some anxieties that the AAU would not initiate the call of the meeting because we felt they had nothing to gain. As a matter of fact, at the World Congress when the president had asked whether the two disputants could get together and resolve the problem and

come up with a new organization, when asked the question, I immediately rose to my feet and said, "immediately, sir." Whereas the AAU representative, Mr. Lyons commented, "No way." So we have some anxieties about the Amateur Athletic Union initiating a call of the meeting.

With that mind, as president of the Basketball Federation, we extended invitations for everyone to come. Then Dr. Fagan was unanimously elected pro-tem chairman. He carried on for three meetings.

Mr. O'HARA. Mr. Dellenback, do you have a question?

Mr. DELLENBACK. Mr. Chairman, do you plan to stop the hearing at this stage, or are we going to come back after we catch this vote? What is your plan?

Mr. O'HARA. What is your view on this?

Mr. DELLENBACK. I think we probably are going to have to stay on the floor long enough to take a couple of measures up. There is at least one vote, probably more. It will be difficult, unless you have a meeting proposed for later this afternoon.

Mr. O'HARA. No; I think we should close our hearing.

Mr. DELLENBACK. May I ask Mr. Steitz, did that 1973 constitution proposed for the ABA provide that the individual constitutions of any of the member organizations would be overridden?

Mr. STERRZ. No, sir.

Mr. DELLENBACK. Everybody who was in the ABA would have certain responsibilities. For example, the NCAA would still have to comply with its own individual requirements as would everybody else?

Mr. STERRZ. You are correct. It builds in the protection that each organization shall determine its own rules of eligibility.

Mr. DELLENBACK. Did all 31 members you indicated were invited to become members of the ABA have one vote?

Mr. STERRZ. They would have one vote if they qualified as active members under the criteria established, they are national viable organizations.

Mr. DELLENBACK. Were multiple votes and special responsibility given to the largest organizations like the NCAA?

Mr. STERRZ. If because of financial reasons, sir, someone wanted to buy up to five votes, they could do this. If the AAU chose to do it, that is their privilege. But there is no such thing that exists such as the Solger amendment that appears in the U.S. Olympic Committee which guarantees anyone a set majority because they have the controller players, facilities and everything. It is one vote for an organization.

Mr. DELLENBACK. Just this one provision for special treatment you are talking about?

Mr. STERRZ. Yes, sir.

Mr. DELLENBACK. Thank you very much.

Mr. O'HARA. Thank you. Mr. Steitz. Today's hearing is adjourned, subject to the call of the Chair.

[Whereupon, at 1 p.m., the hearing was adjourned, to reconvene at the call of the Chair.]

PROTECTION OF COLLEGE ATHLETES

MONDAY, MARCH 19, 1973

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

The subcommittee met at 9:30 a.m., pursuant to call, in room 2261, Rayburn House Office Building, Hon. James G. O'Hara (chairman of the subcommittee) presiding.

Present: Representatives O'Hara, Huber, Dellenback, Erlenborn, and Kemp.

Also present: Congressman Peyser.

Staff members present: A. C. Franklin, counsel; Elnora Teets, clerk; Rosanno Aceto, assistant clerk; and Dr. Robert Andringa, minority counsel.

Mr. O'HARA. The Special Subcommittee on Education of the House Committee on Education and Labor will come to order.

This morning, the subcommittee resumes hearings on legislation that has, as its goal, the safeguarding of the rights of student-athletes and the rights of college and university coaches.

The fact that we are here today—considering legislation that deals with this subject—is a matter of disappointment to me, and I know to the other members of the subcommittee.

Two weeks ago today, the subcommittee held an inquiry into the latest aspects of a dispute between the National Collegiate Athletic Association and the Amateur Athletic Union—a dispute which seriously imperils the college careers, and even perhaps the professional careers, of young Americans engaged in intercollegiate and international athletic contests.

The purpose of the inquiry—and of an extended private session which Mr. Dellenback and I had with the representatives of these respective bodies—was to seek some area of agreement, that would take the student-athlete out of the middle of this controversy between the NCAA and the AAU.

We were aware that others before us had tried to mediate this dispute and had failed.

And the fact that we are here today, considering legislation, is a measure of our own failure—for it had been our firm purpose to avoid the legislative route, if at all possible, in the resolution of the long, long war between these two athletic organizations.

Just to review the record briefly:

Our hearing on March 5 was triggered by the fact that a forthcoming U.S. tour of the Soviet Olympic basketball team was being jeopardized because some of our finest college athletes were being

denied the opportunity to compete as members of the American team—solely because these two athletic organizations, the AAU and the NCAA, were engaged in a power struggle over who was to control and profit from international basketball competition.

In both the public and the private sessions, we sought to narrow the area of disagreement between these two bodies—because the disagreement was, in our opinion, detrimental to the student-athletes, detrimental to institutions of higher learning, and detrimental to the best interests of the United States.

When the sessions were ended, Mr. Dellenback and I expressed the hope that—while it might not be possible to solve the short-run problem of the upcoming U.S.-U.S.S.R. basketball games—there was reason to hope that we could achieve a long-range solution to the problem, and thus protect the student-athletes who were the ones who stood to suffer most if this dispute continued.

Our optimism about achieving a long-range solution was based on what we thought to be the desire by all parties to avoid any more of the bloodletting that has, quite candidly, accompanied the dispute between the NCAA and the AAU down through the years.

In the past—when General MacArthur mediated the dispute, and when Mr. Theodore Kheel, a well-known arbitrator appointed by former Vice President Humphrey mediated the dispute—the future of America's Olympic efforts was at stake, and so the emphasis was on the need to find an immediate, if temporary, accommodation between these warring factions.

The result was that the basic power struggle—the basic economic struggle—was put on the back burner.

And there it continued to simmer—as it had simmered for years prior to these attempts by the Government to find a temporary solution that would permit us to field Olympic teams as representative of America's athletic best as possible.

So we opted for abandoning the short-range answer this time—if that proved the only way—in the hopes that we could come up with a permanent resolution of this dispute.

While we were awaiting memoranda from both sides, however, the situation deteriorated.

The AAU had scheduled a track and field meet in Richmond, Va., last Friday and Saturday—March 16 and 17—a track and field meet that was going to pit the best U.S. amateur athletes against the best from the Soviet Union.

Without warning, the NCAA struck against these games.

Student-athletes at schools affiliated with the NCAA were told, in effect that their schools would have to punish them if they participated in these track and field events.

The schools were told that if they did not take action against the student-athletes, then the NCAA would use its very considerable economic sanctions against the colleges and universities whose undergraduates took part in the meet.

College athletic directors were, in effect, ordered by the NCAA to recall coaches who were training the young American amateurs for the Richmond meet.

Some athletes and some coaches bowed to the NCAA's dictates. And we lost the meet to the Russians.

Some young student-athletes courageously defied the NCAA—and even had to go into court in Alexandria and obtain a temporary restraining order against the NCAA, to prevent that organization from taking adverse action against them simply because they chose to participate as representatives of their country in competition with athletes from abroad.

There will be a hearing in U.S. District Court in Alexandria tomorrow on the petitions of Mr. Samara, a student-athlete from the University of Pennsylvania and Mr. Walker, a student-athlete from Adelphi College.

Because that court case is pending, these hearings will not today get into the cases of Mr. Samara and Mr. Walker—although the subcommittee hopes to hear from one or both of them before these hearings have concluded.

We will, however, get into the general subject of NCAA sanctions against student-athletes, and their colleges and universities, and the subject of NCAA sanctions against college coaches.

I believe we have moved far beyond our original hope of bringing peace to this NCAA-AAU war.

I, for one, no longer care when, or whether, they settle their dispute over who has the power, or who gets the economic benefits, from international sporting competition.

I do care, very much, whether the student-athletes suffer while this controversy continues and whether our national interest suffers.

The bill which Mr. Dellenback and I have introduced, along with a majority of the members of this subcommittee, seeks one purpose, and one purpose only: Adequate safeguards for the student-athletes, their institutions of higher learning, and their coaches.

The NCAA and the AAU can settle their dispute, or not, as they please.

But we do not want the student-athletes to be hostages to one side—or the pawns of either side—while these two organizations make up their minds whether to continue to squabble among themselves, or settle their dispute in a rational manner, as befits organizations of their size and stature, and as befits organizations which profess concern for young athletes and excellence in competition.

I believe the sentiment of the Congress is such that we can no longer allow these organizations the luxury to carry on their battle in which the student-athletes are the innocent victims.

That is why we have the legislation which is before this subcommittee today.

Mr. Dellenback, would you like to make any observations before we hear from the first witness?

Mr. DELLENBACK. Thank you very much, Mr. Chairman. I would like to speak briefly if I may.

It was 2 weeks ago today that Chairman O'Hara called a hearing to consider the problem facing student-athletes as a direct result of the dispute between the NCAA and AAU. Following the hearing, as the chairman pointed out, both he and I met with the principal witness representing the NCAA and AAU in Mr. O'Hara office. The results were less than encouraging.

Now, we are gathered again and this time to consider legislation which is designed to protect the rights of amateur student-athletes and

coaches. If there are any flaws in the two pieces of proposed legislation we have before us, we want to know about them and we expect the witnesses to point out the specific flaws.

I personally would like to see this conflict resolved in such a way that both the AAU and NCAA will be able to continue making their greatest possible contribution to organized athletic competition in the United States and for the United States and the world.

But if it is necessary to pass a Federal law to protect the rights of individual coaches and athletes and all sports bodies involved, then I am ready, reluctantly I must admit, to support the passage of such Federal legislation.

Chairman O'Hara and I and other members of the subcommittee expect to have witnesses appearing representing all sides of this issue. We expect and hope that the testimony will be constructive, recognizing the situation before us, and what the chairman and I feel very strongly must be the goal: Protection of athletes and coaches. We hope to see witnesses involved who will speak constructively as to how to go about accomplishing that goal in a way that has not been accomplished to date.

I commend the chairman for pursuing these hearings further and we look forward very much to all of the witnesses giving us the benefit of their thinking. Thank you, Mr. Chairman.

Mr. O'HARA. Thank you.

I see Mr. Kemp and Mr. Peyser are here. Do you wish to make any statement, Mr. Kemp?

Mr. KEMP. I have no formal statement except to associate myself with the goals and intent of H.R. 5623 and commend you and Mr. Dellenback for these efforts toward legislation. Hopefully legislation will not be needed, but in the event it is, I stand ready to support it for the good of athletes and coaches.

Mr. O'HARA. Mr. Peyser?

Mr. PEYSER. First of all, Mr. Chairman, I want to thank you very much for allowing me to appear with the subcommittee today. While I am a member of the Education and Labor Committee this is not one of the subcommittees I serve on, but this matter has been of great interest to me and one in which I have introduced a bill, H.R. 5624, which in some ways differs with the bill of the chairman and other members of the committee.

It is my hope that as these hearings progress and we have an opportunity of looking at both of these bills perhaps we can incorporate some of the features that I am seeking here.

I would like briefly to say that I have had the opportunity in the past week of trying to mediate the difference between the AAU and the NCAA. My efforts brought me in direct contact with both of these bodies for an extensive period of time.

I found it to be an extremely frustrating experience. Both of these bodies speak of their great concern for the athletes and their great concern for our country being able to compete favorably in the international scene and yet I found them completely unbending and unwilling to yield in any way.

If I were to put a term on it, frankly, I would say they were acting as sports power brokers and I think this is totally out of keeping with what they have been designed to do.

I think the AAU and the NCAA both had better realize, based on your leadership, that you are demonstrating here that they are not bigger than the United States. That is really the challenge which is being made today, to our country.

The United States could have won the meet which took place in Richmond this last Friday. There were two gold medal Olympic competitors, Williams and Milbourne in the long jump and hurdles. Both were blocked out of this meet. The Russians took first and second place in these two events.

This meet was so close that in the opinion of the coaches if either one of these men had been competing, the United States would have won the meet. This is not to say that our whole future rises and falls on whether we win a meet, but it seems to me when we have the people to compete, they ought to be able to compete, and our country ought to come out as strongly as possible.

It is for this reason I have introduced my bill which goes a few steps further in the international competition than the bill that you have proposed. Once again, I appreciate this opportunity and as the hearing progresses, I hope we can get into more of the points of both of these bills.

Thank you, Mr. Chairman.

Mr. O'HARA. Thank you, Mr. Peyser. We know of your interest and, of course, the interest that Mr. Kemp has shown in this matter is also well known.

Our first witness is Mr. Jim Banner, track coach of the University of Pittsburgh. Mr. Banner was to have been the head coach of the U.S. team competing against the Russians in the track meet at Richmond, which has been referred to.

This, of course, would have been a labor of love for Mr. Banner, but it was very much an honor as well to be selected as coach of the U.S. teams from among the other track coaches across the country.

But Mr. Banner had to pack up and leave Richmond on Wednesday, 2 days before the meet. The University of Pittsburgh officials were advised by the NCAA it had not sanctioned the meet and the Pittsburgh athletic department told Mr. Banner to return to his home.

I contacted Mr. Banner immediately and found a gratifying willingness on his part to help and I am pleased to welcome him this morning and, Mr. Banner, if you will take your place at the witness table we are very anxious to hear from you.

Mr. BANNER. Thank you.

Mr. O'HARA. We understand you don't have a prepared statement. That is, of course, permissible under the rules and if you will just tell us the situation as you saw it and what your thoughts are on ameliorating this situation and making it possible so that athletes can compete on behalf of the country we would like to hear your ideas.

STATEMENT OF JIM BANNER, TRACK COACH AT UNIVERSITY OF PITTSBURGH

Mr. BANNER. I certainly was disappointed, as I stated, I was not able to represent my country. I don't see any reason for this. I don't see any reason for the argument.

One of the most disappointing points in the argument is when I was called and told I had better return to my school, I said, "Why" and my athletic director very reluctantly and disappointingly said, "We called the NCAA office and they said there is no sanction."

I said, "Why is there no sanction" and as in the past 8 or 9 years, the coaches and athletes are never given a reason. There is just no sanction. I would like to know why there is no sanction.

I have never been told nor have I seen in writing why there is no sanction. It seems to me that when we are involved in international competition with the political impacts being as great as the impact on the athletes, regardless of whether there is or is not a sanction, I think the best team should be on the field in basketball, polo, or track and field, which we are involved in today.

My own athlete Bill Ray, was not able to compete. I was certainly disappointed. We were not allowed to leave the campus since there was not a sanction. He is only a junior and one of the finest long jumpers in the country, and we didn't want to risk his eligibility for another year.

The only reason we have for Bill not being able to jump is there is not a sanction. Now, it seems to me that this goes to a power struggle between individuals. I don't think the NCAA as a whole is involved in this. I don't think the AAU as a whole is involved.

To me it seems like a conflict between individuals of the powers. Who the individuals are I don't know, but I certainly feel my athletes have been hurt and a number of athletes have been hurt and a number of coaches have been hurt in the past, as well as myself at this time.

I agree with you, Mr. O'Hara. I was not for the Federal Government becoming involved in intercollegiate athletics, but if it is necessary to protect the prestige of the country and athletes and coaches, I say this is the only route we can possibly go.

Mr. O'HARA. Thank you very much.

Mr. Banner, one possible reason for the NCAA denying sanction to this event, and I am not saying this is the reason, but one possible reason for their denying sanction of this event might be that they were concerned about the academic or physical welfare of the student athletes who would be involved and, I assume, Mr. Banner, you are also concerned about their academic and physical welfare.

Perhaps you can make some comment on that aspect.

Mr. BANNER. Well, as to their academic or physical welfare in general, is it any worse off in Richmond than in Detroit, Mich., for the NCAA championship? I don't think so.

Mr. O'HARA. In other words, no more school missed whether they go to Detroit for the NCAA championship or Richmond for the AAU Soviet Union track meet?

Mr. BANNER. This is true.

Mr. O'HARA. And as to the physical conditions, were the physical conditions such that they were as well protected in that regard at Richmond as they were at Detroit?

Mr. BANNER. I would say they were equally well protected. The only protection they didn't have in Richmond was a psychological one. I saw boys sitting in the lobby saying: "Coach, what shall I do? Shall I compete? Shall I go home? What do you think will happen to the school? What do you think will happen to me?"

This is frustrating and I didn't have an answer.

Mr. O'HARA. Thank you, Mr. Banner.

Mr. Dellenback, any questions?

Mr. DELLENBACK. Mr. Banner, in this instance you indicate there has been no NCAA sanction of this particular meet. Had there been any application for such sanction by anybody who was promoting this?

Mr. BANNER. To my knowledge, there had not been sanction.

Mr. DELLENBACK. There had not been sanction or application for sanction?

Mr. BANNER. I understand, and I don't know factually, but I understand there had not been official application for sanction. The word we got was if the AAU applied for sanction, then it would be given. Of course, the opposite word we got, the NCAA said AAU had not applied for sanction and "We are not going to give them sanction."

It seems to me when national prestige is involved why should you ask, why not give it?

Mr. DELLENBACK. Let me pin down the particular meet, because I want my understanding to be complete.

You say you don't think there had been any application by AAU, as the sponsor of this meet, for approval of the NCAA for the athletes to participate. Is that correct?

Mr. BANNER. As far as my knowledge is concerned and this is strictly hearsay, there had not been an application.

Mr. DELLENBACK. We will ask the other witnesses, but on the basis of your knowledge, there has been no such application?

Mr. BANNER. There had not.

Mr. DELLENBACK. Did you say you also had heard if there had been application for such approval, it would have been given?

Mr. BANNER. Well, this was the word passed around in Richmond and again, it is just hearsay.

Mr. DELLENBACK. It is a rumor?

Mr. BANNER. A rumor.

Mr. DELLENBACK. You are not sure about the accuracy?

Mr. BANNER. I am not sure.

Mr. DELLENBACK. Did you hear the counter rumor, also, that if there had been application by AAU, the NCAA would not have given its approval?

Mr. BANNER. No; I didn't.

Mr. DELLENBACK. There was just the one side of it?

Mr. BANNER. Right.

Mr. DELLENBACK. Which would tend to indicate if it was purely a formality in accepting. The AAU had not applied, but if it had, it would have been given the approval it needed to put the athletes in the meet?

Mr. BANNER. These are just rumors.

Mr. DELLENBACK. Just rumors, to the best of your knowledge?

Mr. BANNER. Just rumors.

Mr. PEYSER. Will the gentleman yield on your question, because perhaps I can speak to this. I addressed the question of the application directly to the NCAA and the AAU.

The NCAA agreed finally to mail me the application, which they did and I have. They mailed me the application. I told them I would

take it to the AAU for their signature and AAU indicated they would accept the application from me as long as there was no other restrictions involved, other than application directly to NCAA.

Mr. DELLENBACK. Did you misspeak? It was AAU that needed to apply to NCAA.

Mr. PEYSER. That is right, but NCAA, in effect, must send them an application to make the application available. They sent the application to me. And I spoke to the NCAA. They said they saw no reason why they would not approve the application. I said, "Now we are talking about just an application to you, is that correct?"

They said, "Yes, that is correct."

So I received the application. This is where both parties are totally at fault in this thing. Question No. 18 in the application of the NCAA, and I have the application here, says, "Has this year's meet been accepted and sanctioned by the U.S. Track and Field Federation?"

This is another body. It is a body that is presumed to have been established by the NCAA in competition with the AAU. So what you have happening here, incorporated in their own application, is now a request for the AAU not only to apply to NCAA but they also must first be approached by the USTFF and it is at this point that my whole mediation broke down.

AAU had said they were perfectly willing to apply to NCAA but they are not going to end up applying to the organization that has been designed to counter their own operation.

Mr. DELLENBACK. I assume we will have witnesses from each of the other organizations on the stand and get a chance to talk to them.

Mr. BANNER, may I ask you just another question in this kind of situation?

Do you think there should be any kind of approval of meets in which amateur college athletes should be allowed to compete? Should anybody or should any organization have to give its prior approval of a meet, to sanction a meet so an athlete can compete without penalty?

Mr. BANNER. I think sanctions are necessary. We should know what the athletes are doing and where they are going. But I should think this is just a formality to protect the athletes.

Mr. DELLENBACK. Would you permit one of your trained athletes to participate in a meet that you didn't know something about?

Mr. BANNER. Well, I would certainly want to know who is sponsoring and what the background was.

Mr. DELLENBACK. Whatever the questions are, before you as a coach would permit your long jumper or any of your other people to participate in the meet, you, in effect, would have to sanction the meet on whatever questions you would have to have satisfactorily answered?

Mr. BANNER. Yes.

Mr. DELLENBACK. And there would be certain things that you would answer, "I am sorry, if you participate in this, certain penalties would follow."

Mr. BANNER. I don't think penalties, but a matter of looking into it and advising him it is not a meet that I would advise him to enter.

Mr. DELLENBACK. If he wanted to do that, would you be inclined to take remedial action?

Mr. BANNER. I again think it would depend on the meet and relationship with the university in our case.

Mr. DELLENBACK. I am getting into the question that is basic in this: Whether or not there ought to be some procedure for determining which meets are proper for our athletes to compete in and which meets are improper for our athletes to compete in.

Mr. BANNER. I certainly think there should be a method of determining that.

Mr. DELLENBACK. You think there should be and you would determine to do that as a track coach. And I assume Bill Bowerman would do it and other track coaches would do the same thing; is this correct?

Mr. BANNER. Correct.

Mr. DELLENBACK. Then there would be an approval by the university or college involved. Not only the coach would be involved, but the university which the young man or women was attending; is that correct?

Mr. BANNER. Yes; the university would give approval on my advice probably.

Mr. DELLENBACK. It is only when we get beyond that that we get into the question of who else then—whether it is the new organization of track and field, whether it is AAU, whether it is NCAA—needs to approve a meet before an athlete can, without penalty, compete in it; is that correct?

Mr. BANNER. Yes.

Mr. DELLENBACK. You accept the concept there should be someone, but it is the question of who it is that ought to do it and how we ought to go about it and what the criteria of participation ought to be?

Mr. BANNER. Yes.

Mr. DELLENBACK. Thank you very much, Mr. Chairman.

Mr. O'HARA. Mr. Kemp?

Mr. KEMP. Coach, is this your first experience with jurisdictional disputes?

Mr. BANNER. It is my first direct experience. I naturally, with 12 years as a college coach, have heard about them before. We have been going to attend meets and have to hold up to await sanction to see if it is sanctioned, but somehow the sanction has always been approved. This is the first time, to my knowledge, the sanction has not come through at the time of the meet.

Mr. KEMP. You didn't know prior to accepting the opportunity that the sanction did not come through?

Mr. BANNER. Well, we knew there was going to be difficulty. It was a matter of waiting for word, but we felt as in the past, at the last minute the sanction would be approved and we could go ahead with the meet.

Mr. KEMP. This has not happened to you before in 12 years?

Mr. BANNER. No.

Mr. KEMP. Is the situation becoming increasingly worse? How would you describe the conditions today as opposed to conditions during your earlier coaching experience?

Mr. BANNER. Well, I think when our national prestige is involved, the situation has worsened itself and I think this is the case this time.

Mr. KEMP. Would you care to comment as to who you feel is at fault?

If that is putting you on the spot, don't answer.

Mr. BANNER. I would like to say this. Again, because of a lack of knowledge of the background of why these things happen, the coaches and athletes have never been informed, so I would have to say, probably, that I think in this case perhaps both organizations are at fault.

Mr. KEMP. Yes. Do you think it would be possible to have some type of private governing body with representation of all those seeking jurisdiction in order to help resolve this impasse?

Mr. BANNER. Well, I had hoped that this would never happen and I hope that this can be settled, but if it can't, we have this situation.

Mr. KEMP. What I meant is, would you rather see it settled privately?

I think most abhor the thought there would have to be legislation, but what I guess I am getting at is, do you think there is a possibility there could be some type of new private governing body allowing representation by all of these interested parties?

Mr. BANNER. I think it is possible.

Mr. KEMP. But not probable?

Mr. BANNER. Well, I wouldn't say not probable. But I would like to see it settled and as private as possible. I do not like legislation. But again, I would like to see the athletes protected in some manner. I don't care what it is.

Mr. KEMP. Thank you, Mr. Chairman.

Mr. O'HARA Mr. Peyser.

Mr. PEYSER. Thank you, Mr. Chairman.

Coach, just as an expert in this field, in your opinion, do you think that in this past meet in Richmond, that if all of our athletes had been able to compete that the United States would have improved its standing in this meet, as an expert witness' testimony now.

Mr. BANNER. I don't think we would have improved our standing, but I think we would have embarrassed the Russians.

Mr. PEYSER. I mean, do you think we would have won?

Mr. BANNER. Yes, we would have.

Mr. PEYSER. We would have won in your opinion with these men competing?

Mr. BANNER. Yes, we would have.

Mr. PEYSER. One other quick question here. My feeling, is that we are not going to see any private settlement of this issue and that legislation is going to be necessary, but that it can be done in such a way that will not take away from the effectiveness of the AAU and the NCAA.

If that were the case, do you feel you would have any great objection to Federal legislation?

Mr. BANNER. No, I don't. In the bill, as I understand, Mr. Franklin gave me information on it on the phone, I think it can be passed in this manner and it certainly would be restrictive, and we would be able to have control of the athletes over the disputes between the two bodies.

Mr. PEYSER. Thank you, Mr. Chairman.

Mr. O'HARA. Thank you, Mr. Peyser.

Mr. Banner, if we could talk for just a minute about the kind of criteria that ought to be used, in determining whether or not an athlete at a college or university ought to be permitted to participate in a track meet, let's just stick to track and field events, it seems to

me that the only legitimate concern that a university has with respect to its student athletes is that those student athletes be protected from any undue damage to their academic pursuits at the university, which after all is the main reason for the university being there.

And second, I suppose that the university would also be concerned about the physical well being of the athletes.

I really can't think of any other legitimate concern the university has with respect to the student, at least, and I certainly think that for instance, if a student athlete proposed to take off on a basketball tour or something of that nature that might keep him away from class over 3 weeks running, that that university might well be concerned about that.

But they ought to be concerned without regard to whose sponsorship the tour was under. In other words, if it is an academic question, the question is, how much of his class work will be missed and what effect will this have on his academic career and what alternative arrangement could be made to help him keep up with his class work while he is gone?

Aren't those kinds of pertinent questions the university ought to be asking?

Mr. BANNER. Yes, I think these are the questions and also that the athlete's abiding by the rules of amateurism.

Mr. O'HARA. Yes; that is a very good addition. I am sorry I neglected to mention that. That is right, his amateur standing will not be endangered by his participation.

Those, it seems to me, are the concerns, the concerns I mentioned and the one you added. I think we could agree that those concerns ought to have to be satisfied whether the athlete is competing in a NCAA event or a Track and Field Federation event or an AAU event, right?

Mr. BANNER. That is true, yes, sir.

Mr. O'HARA. And it seems to me that what the NCAA has done in this case is to say, well, we are not going to let the universities make that determination. We are going to take the position that if we have not given sanction to the meet, why then competition is ipso facto bad.

It will not be permitted and if the university permits its students to participate then the university is going to be penalized, action will be taken against the university and so forth.

It seems to me that departs from the kind of standards and criteria that ought to be followed in this type of case, do you agree with that?

Mr. BANNER. I do, yes, sir.

Mr. O'HARA. I appreciate your testimony here today, Mr. Banner and I want to say on behalf of the committee that we appreciate your position, that we are proud of the fact that you were willing to coach the U.S. team even when you knew there might be some difficulty, at least in this meet with the Soviet Union.

We recognize the kind of pressure that was imposed upon you and, that it was not just you that would be injured but it was also your university that would be injured if you had persisted in coaching these young men. I am sure the committee deplors the kind of pressure that was put on you and your university.

We would like to say to you that we think you are doing the right thing and we are glad we have men like you involved in amateur athletics in the United States.

Mr. BANNER. Thank you.

Mr. O'HARA. Thank you.

We are going to take a recess for a couple of minutes. The gentleman who was scheduled to be our next witness has not yet arrived and I think we ought to give him a few minutes to get here. If he is not here by then, we are going to have to go on with our third witness.

We have to apologize to the other witnesses who are waiting here. We made a commitment to this witness that we could get him out of here by 10:30. He has another engagement and was flying in this morning. I think we ought to give him a few minutes grace and if it is insufficient, we will have to go on with our other testimony. So I apologize to the other witnesses.

The subcommittee will stand in recess for a few minutes at the call of the Chair.

[A short recess was taken.]

Mr. O'HARA. The Special Subcommittee on Education of the House Committee on Education and Labor will resume its session.

We have under consideration today the bills H.R. 5623 and H.R. 5624 dealing with the dispute between the AAU and the NCAA with respect to sponsorship of international athletics.

We are especially glad to have as our next witness today Mr. Howard Cosell, radio and television sports commentator for the American Broadcasting Company.

The committee remembers well how Mr. Cosell played an important part in bringing the American home television viewers the coverage of the Olympic games. He possesses, as a news commentator, a very comprehensive knowledge of the role of this Nation's amateur athletic organizations in assembling the U.S. teams for Olympic and international competition.

He has displayed in his work something which in my opinion, is an even more important qualification for giving us his competence this morning and that is that he has shown he is solidly on the side of our amateur athletes when they find themselves in the midst of disputes.

Mr. Cosell, we will be happy to hear from you.

STATEMENT OF HOWARD COSELL, TELEVISION SPORTS COMMENTATOR, AMERICAN BROADCASTING CO.

Mr. COSELL. Thank you, Congressman O'Hara. I am delighted on my own part to have been invited to come down and give my thoughts with regard to the current strictures surrounding amateur athletes in this country, and I do have some reasonable familiarity with H.R. 5623 and H.R. 5624.

First of all, in your statement just rendered, I am deeply concerned about what has been happening to the young people in this country in the world of amateur athletics and that has to be the primary motivation in the thinking of anybody because of the flow of events over the recent years.

The NCAA-AAU conflict is not of late vintage, as I trust you all know. I have lived with it for almost more years than I can remember. Indeed the conflict has lasted longer than this nation's involvement in Vietnam, which shows how extraordinarily befuddled the amateur athletic leaders of this country can be.

As young Al McGuire, the basketball coach of Marquette, pointed out to me in a recent interview, we once asked Gen. Douglas MacArthur to settle this hassle and he failed.

Speaking as an attorney, I don't know of a better labor mediator in the United States than Theodore Kheel, Ted Kheel, and you may remember he tried to mediate this situation and that he failed.

So the time has come it seems to me once and for all to stop the nonsense. The fundamental purpose of the NCAA, the AAU, or any other administrative amateur athletic body in the country is to service the young people, the athletes themselves, not to deny the young people; yet the records of both are replete with the fact that they have frustrated rather than serviced those young people.

It began, as I said, a long time ago, but first came into real focus in this country in the matter of a youngster named Jack Langer at Yale University, because this was a situation where young Americans who happened to be of Jewish persuasion wanted to represent themselves, their universities, their country in what is one of the most traditional and respected international competitions in the world, the Maccabiah games, and you remember that situation.

The NCAA has certification over gymnastics, swimming, and so on, but the AAU certified for basketball. So a kid named Jack Langer at Yale, and Dayhill at Cincinnati, and a couple of others, and one at Penn couldn't go. That is when I became disturbed to the degree I am now.

Yale University had the guts to say: "Jack, you go," and, as a matter of almost total irony, as I look at Congressman Kemp, who is utterly familiar with the corruption and evils of big-time college recruitment, which is implicitly sanctioned by NCAA and aided by virtue of the fact it goes on apace.

As I look at you, Jack, I am reminded of what Al McGuire said quite bluntly to me: "With all that is going okay and with all that we do, can you imagine putting Yale University on probation because Jack Langer went to participate in the Maccabiah games?"

That being the situation, I solidly endorse Congressman Peyser's bill, but yours to a lesser degree, quite frankly, Congressman, because I don't think it gets to the total thrust that is necessary.

I appreciate the motivation, the intention, and you are to be commended, sir, but I favor an amateur athletic sports commission at this state in the athletic society of this Nation substantially as set forth by Congressman Peyser.

There are differences between that bill and the one introduced on Monday last I think it was, on the floor of the Senate by Senator Marlow Cook, Republican, Kentucky, but those are matters that need resolution. Senator Cook's bill for instance, dealing with national matters and Congressman Peyser's bills dealing only with international matters, and I want to touch on that briefly in a moment financially.

But the notion of a five-man Federal Sports Commission at the amateur level with the idea of protecting the young people in this country and their desire to participate in international competition, is, I think, utterly sound.

The powers entrusted to that Commission under the proposed bill by Congressman Peyser are altogether I think fitting and proper. Under that bill, and you will hardly need explanation of it from me,

the kind of situation we now have, where Chris Dunn of Colgate, the Nation's leading indoor high-jumper, could not compete against the Russians at Richmond, Va., would not be tolerated.

The kind of situation we have where Doug Collins of Southern Illinois and Kevin Joyce of South Carolina, and all of the other lads whom I was with after the Russian fiasco in the Olympiad in Munich, they wanted nothing more than to have another shot, they were entitled to it, that kind of situation would not be tolerated under the Congressman's proposed bill, H.R. 5624.

On the other side of the coin, there is the forthcoming problem of the little 14-year-old girl, Washington school girl, who won brilliantly on Friday night past in the international meet against the Russians in Richmond. She would be going to high school shortly and training for an international event certified by the AAU, not by NCAA, and then advised that she couldn't practice on the school grounds.

This, I think, sir, with due respect to you personally, is where Congressman Peyser's bill covers the situation that perhaps yours does not touch at all and that is why I enthusiastically endorse it.

That kind of situation would not be tolerated under the powers and jurisdiction given to the five-man Commission envisioned.

When I came down here last year to testify before Senator Cook on his then bill for a Federal Sports Commission to control professional sports in this country, I listened to the whole parade of self serving people, the commissioners of each and every sport and so on down the line and nobody wanted Government control and nobody wanted Government interference.

That is fine if somebody is going to take steps to rectify what is wrong; so people will probably say with regard to your proposed bill, sir, and Congressman Peyser's proposed bill, "We don't need an administrative bureaucracy general in Government especially in sports. Keep Government out."

The answer to that is that these people have had decades, literally decades in which to clean up their own house and care about the young people. I only wish that these two bills were addressing themselves, too, to the U.S. Olympic Committee, about which I can write a book and about which I am probably writing a book at this present moment, because something has to be done about that, too.

Federal controls are a noxious thought, right, but even more noxious is what has happened to the young athletes of this country and that is why the proposal in this bill, which carefully excludes garnering for itself more jurisdiction and control that some might like it to have, and this bill I think should be enthusiastically recommended.

Now, if you have any questions.

Mr. O'HARA. Thank you very much, Mr. Cosell. One of the reasons that the bill that I have introduced does not attempt to resolve the dispute in the way that Mr. Peyser's bill does is because we have been warned repeatedly along the lines of your comment that our right to participate in amateur athletic competition with the teams of other nations would be jeopardized by any effort to inject governmental decision and governmental sponsorship in any way, however indirect, into the question of international athletic competition.

Now, I would like, if I could, to have your comments on that question.

Mr. Cosell. I think that is a straw clung to more closely by the great leadership of the U.S. Olympic Committee, what has been used in the past during the era of Avery Brundage which I consider to be the age of "William of Orange", and subsequently by people like Clifford Buck, past president of the U.S. Olympic Committee and now being joined by Phillip Krumm, the new president, and they will cite a case involving France when it was apparently to lose its franchise because of Government interference with and control of the French Olympic policies.

They have no retort to the problem of Russia, no answer whatsoever to the problem of Russia and government control of Olympic policies. So I find that position hypocritical in the first instance, second, not legally sound, because embodied in the United States Code under, I have forgotten for the moment the title number and section number, section number 5, embodied within the United States Code is the very authorization for instance for the existence of the U.S. Olympic Committee and amending language could be included, in my opinion, to that initial language of the United States Code, appropriate title and sections, and there would be no complaints whatsoever on the point of the international Olympic Committee.

Nor would they have any right to complain, because they have no interference with the international conduct of our sports structure in this country, none whatsoever and there is no way that right can be endowed to them.

That is my opinion. It could be legally debatable, but I am convinced of the correctness of my position on the matter. So I won't worry about that and that applies mainly to the U.S. Olympic Committee; and as far as the NCAA and the AAU, the only way they could get in would be with respect to national bodies—if I may, the Federal International Basketball Association is led by a man named Jones, coincidentally who in September 1972, gave one of the worst performances I have ever seen in my life in terms of absence of character, ethics, and logic, as he deprived the United States of the victory it had duly won in basketball.

I don't think we can live by these strictures and structures any more in this country for the primary reason that the people penalized are the young people of the country who, as I said at the beginning are to be served.

I am sorry, I find that a weak excuse by the amateur athletic leaders of America, the fear of international discountenance of that which we do in order to protect themselves in their own, I now consider clearly established, petty aspiration and petty accomplishments.

Mr. O'HARA. Mr. Cosell, I certainly sympathize with those sentiments you expressed and clearly H.R. 5023 is a *de minimus* approach to the problem, in other words, it attempts to leave the parties, and I am not explaining for your benefit, you being a member of the bar, but for the record, it attempts to leave the parties where we found them as much as possible, but it does attempt to correct what seems to me to be the worst abuse of the present conflict.

That worst abuse is the action by these federations of denying eligibility, of imposing penalties on schools and athletes if they have the effrontery to participate in events sponsored by a rival organization. It seems to me that that practice, which has been engaged in, as you

know because of your long acquaintance with the subject, engaged in by both sides to this dispute, and in the early 1960's it was the AAU that was denying eligibility to athletes participating in NCAA events and now it is the other way around.

But won't you agree if we were to choose to go a *de minimus* route this is the very least that we could do with any possible hope of having it effective?

Mr. COSKILL. I would agree with that, Congressman, but I revert back to the phrase you just used, leaving the parties where they are, and that is exactly where I don't want to leave them.

I don't think that, well, I think there is a quick and valuable expediency to your bill, yes sir, in the sense that the basketball kids could play the Russians and the track kids could have competed against the Russians, yes, but this problem goes far deeper.

You people have to look, as one who lived with sports for as long as I have, which is the last 20 years of my life and with my background and knowledge there is an obligation, no matter how, let me word this very carefully, palatable politically it might be to some.

There is an obligation upon you gentlemen, once and for all, to see that the young people of this country engaged in sports are served. That is the least to which they are entitled.

I could sit here and tell you stories for hours, some of which Congressman Kemp probably knows. I could tell you how Bill Toomy and Tommy Smith came to me a number of years ago before the 19th Olympiad at Mexico City, how the two of them were to go on a trip to Australia duly sanctioned and certified and they were to be the two American representatives and then Toomy was told, "No, no, you can't go. An NCAA official is going in your stead."

This kind of thing has been happening for years. So I don't think the real answer, I agree to the quick and expedient answer that you are seeking here and I understand politically your *de minimus* approach, but I say, "Oh, no, sir, don't leave the parties where you found them, because where you found them is in the gutter."

Mr. O'HARA. Mr. Cosell, we thank you very much. You will be pleased to know our next witness will be Jack Langer from Yale University who is now a graduate student at Harvard and he is here along with Congressman Michel, who interested himself in that problem at the time. So we will also hear from them.

Mr. COSKILL. May I add one word, sir?

Mr. O'HARA. Yes.

Mr. COSKILL. I don't even know Jack Langer personally, but I fought his battle because it was right. I would like you people, as you view the whole structure of amateur sports in this country, to find the answers to questions as to how the NCAA can debar a young man from participation in a legitimate and respected competition on the one hand and yet wind up where at the University of Iowa, for instance, a young man, with a reading capacity at grade school level, had a basketball scholarship and a job on campus where he didn't have to work, and his parents had quarters at that university or close to it that were being paid for by the university, and for documentation read David Wolf's "Foul! The Connie Hawkins Story" and you have therein the absolute hypocrisy in the kind of leadership that is penalizing our young people.

Thank you very much, gentlemen.

Mr. O'HARA. If you could wait for a moment, I would like to see if Mr. Kemp and other members of the committee have any questions or comments.

Mr. ERLBORN, first, did you have any questions?

Mr. ERLBORN. No.

Mr. O'HARA. Mr. Kemp?

Mr. KEMP. Thank you, Mr. Chairman.

I would like to thank you, Howard, for being here today and also for your very thoughtful presentation. I agree wholeheartedly with your desire to see the young athletes protected. I am one of the cosponsors of Mr. O'Hara's bill because I had hoped that at this 11th hour we could perhaps use legislation as a catalyst to precipitate a resolution of this problem along the lines that the Kheel Commission outlined for us in the past.

Do you think that is possible?

Mr. COSELL. I don't know.

Mr. KEMP. Do you think the Kheel Commission approach would be positive in its application to this dispute?

Mr. COSELL. Yes.

Mr. KEMP. Well, I again would suggest that hopefully this type of legislation may precipitate that type of thing, rather than turning to a Federal Sports Commissioner or Amateur Commission.

Having testified, as did you, before the Senate Commerce Committee with regard to the Federal Sports Commissioner, I am hopeful indeed that we can find an answer outside of the Federal Government.

You made it quite clear you thought problems were so noxious to the student athlete today that whatever it did would be better than what is happening today; is that correct?

Mr. COSELL. That is correct.

Mr. KEMP. Well, I again thank you and appreciate this time you gave us. I am glad to welcome your lovely wife to Washington.

Mr. O'HARA. Mr. Huber?

Mr. HUBER. No questions.

Mr. O'HARA. Mr. Peyser.

Mr. PEYSER. Thank you, Mr. Chairman. I want to thank my distinguished friend from New York for testifying this morning and I am also most appreciative of his endorsement of my bill.

In my opinion, the American public is sick and tired of the AAU and the NCAA and the actions they are perpetrating on American athletics and athletes. I would like to ask your opinion, as an expert in the sports community, do you feel the sports community has had it in this overall picture?

Do you think you can express a general picture with the contacts you have around the United States in the sports field?

Mr. COSELL. As far as the athletes themselves are concerned, they have had it. When you talk about the general sports community, Congressman, if you are talking about commissioners and owners and professional sports, they don't occupy their mind with these things. They occupy their mind with their own problems.

I think one of the reasons why the NCAA-AAU dispute has been allowed to languish so long has been the absence of appropriate print journalism and sport broadcast journalism through all of the years.

I don't blame Congress for not getting into the matter sooner because the issues have not been vividly pictorized and the damages being done to young people had not been vividly pictorialized.

One of the great problems with being in sports, which, as you know, is a microcosmic word and hardly to be equated with Vietnam or the ecology or racism or any of the great problems of this Nation and the world, one of the problems with being in sports, an almost total absence of sports journalism, so writers would be writing through all of the years about who pinch hit for the Mets, very inconsequential matters like those would occupy their time.

I remember once being severely attacked by a major sports columnist because I had done a whole television show on the plight of the Jack Langers of the world, which is where our attention should have been focused at the time.

So back to the basic thrust of your question: "Does the sports community generally feel the same way?"

The athletes, yes, I think the American public now, yes, has finally been alerted to it. And as far as sports broadcasters are concerned, still to this day there are only a handful with a sufficiency of horizon, intellectual dimension, to deal with matters like these.

Mr. PEYSER. Well, I would like to comment on a statement you made before regarding the integrity of these organizations. Frankly, I don't want to put NCAA or AAU out of business. I think they can still serve a very important and vital function. However, the recent meet in Richmond was a case where Colgate University was told that if they let Chris Dunn, the Olympic jumper compete, that it would cost Colgate University \$125,000.

Mr. COSELL. Yes.

Mr. PEYSER. Now, to me, this becomes nothing more than a legalized form of blackmail.

Mr. COSELL. No question about it.

Mr. PEYSER. I don't think we can let that type of action take place and the only way I see today of answering this is a certain limited Federal involvement, specifically the establishment of a Commission. We have Commissions on many other things, and this is one that is really for the protection, in my opinion, of the athlete and the public.

Mr. COSELL. I think that was the basic point I made at the initiation of my testimony before Congressman O'Hara. However, I understand the Congressman's position and Congressman Kemp's position with regard to not wanting to invoke Federal interference into some great control over athletics, but my position was in support of your bill because I see no other way at this time after all of these years.

And I do a network Sunday afternoon magazine show which I am sure at the very least Congressman Kemp is familiar with, and 2 weeks ago Senator Cook was the primary guest with Mr. Krumm on the air expounding the old position you raised, Mr. Chairman, and if it had not been for the fact I did that show, I would have come back with another show about the plight of Chris Dunn, and I indeed considered it, but it would not have been really a good program.

But before that series ends. I am going to do another show on this whole subject, the Sunday afternoon series does not end until May, but that is why I support your bill.

Mr. PEYSER. I appreciate that. I have one other brief comment.

You made a statement of the team owners and there you were moving into the professional ranks really, I believe. While we don't address ourselves to that, I don't want the opportunity to pass to say that you are 100-percent correct there as well and that Congress is considering today this whole question. Currently, we are seeing the New York Giants considering blacking out New York City by going and playing in New Haven or Princeton and I think this is an absolute disregard of the American public.

Mr. COSELL. Really, I don't think it is appropriate in front of this body, because you are considering an amateur bill, to get into professional sports, but when you mention Wellington Mara, I have known him for many years and his departure from New York City, I find a heinous thing and another vivid demonstration of total defiance of the public interest, but Mr. Mara has duly cloaked himself in the piety of St. Patrick's and derived leadership from the Vatican in the conduct of his professional football franchise for two decades and what he has produced is 10 years out of 12 of gridiron futility.

Mr. PEYSER. Thank you, Mr. Chairman.

Mr. O'HARA. Thank you, Mr. Cosell.

Mr. COSELL. May I just say, Mr. Chairman, it is a thrill for me to find Congressman Kemp in a position where he can be effective, and on the football field he was the antithesis. [Joke.]

Mr. O'HARA. We will have to excuse that.

Mr. COSELL. Thank you very much.

Mr. O'HARA. Our next witness is Mr. Jack Langer, who is referred to in earlier testimony.

Mr. Langer, who will be accompanied and introduced by Mr. Bob Michel, a Member of the House from the State of Illinois, can give us firsthand the views of an athlete, who, along with his school, is the victim of one of the skirmishes between the AAU and the NCAA.

Mr. Langer is a graduate student of Harvard. After his appearance this morning he will return to Cambridge to resume class after a spring break.

Back in 1960 and 1970, Mr. Langer was an undergraduate student at Yale University. He was a member of the varsity basketball team.

In the summer of 1960, he played basketball on the U.S. team at the Maccabiah Games at Tel Aviv, an event not sanctioned by the NCAA. The consequences were ineligibility for him and probation for his school.

Mr. Langer, we would like to hear your story. First, I want to ask Mr. Michel if he would like to make a few comments, because, Mr. Michel, I think the record ought to show you were among those who took Mr. Langer's cause and pursued it and who certainly was on the side of the angels in this dispute and long before we were, I might say.

Mr. MICHEL. Thank you very much, Mr. Chairman and members of the committee. I appreciate the courtesies the committee has extended me in introducing formally Jack Langer to the committee.

May I first say I feel, as an individual Member of Congress probably much more interested in the subject matter you are dealing with here today than the average Member of Congress. But it is a subject on which we all ought to be much better informed.

I am not here today to testify for or against either of the propositions you have before you, because I am not altogether sure in my own mind what course of action we ought to pursue.

As Mr. Cosell testified, something should be done here, something has to give. We talk about opening up this society of ours; here is the opportunity, the forum and the proper place to air these things so we will all be better informed as to what appropriate action to take.

Jack Langer here played basketball with our older son, Scott, and that is how we got into the act. Subsequently I have had two other boys follow in the oldest boy's footsteps up at Yale so we have been a very athletically inclined and attuned family.

At the time this case came to public view, I was incensed to the extent that I did what I did at the time to try to publicize it, and brought it to the attention, I guess wrongly, of the Judiciary Committee and nothing happened.

So I am happy to see the Education and Labor Committee getting into this thing to the extent that you are, and I think the hearing record ought to be just as broadsweeping and comprehensive as possible. It is with a great deal of pleasure I present to you a young man who has been the victim of this game that has been played between these two organizations.

I think his testimony will be very worthwhile to your deliberation so I am happy to present to you Jack Langer, who can tell his own story.

Mr. O'HARA. Thank you.

Mr. Langer.

STATEMENT OF JACK LANGER, BASKETBALL PLAYER AS UNDERGRADUATE STUDENT AT YALE UNIVERSITY, GRADUATE STUDENT AT HARVARD UNIVERSITY

Mr. LANGER. I thought this morning I would give you my views after 4 years of deliberation in thinking some of these things through and I thought I would begin by telling you some of the events that occurred that led to some of the things and I prepared a statement that I would like to be made a part of the record.

Mr. O'HARA. Without objection your complete statement will be printed in the record of the hearing at this point and you may proceed in any manner you wish.

Mr. LANGER. Thank you. Before I begin I would just want to say that my particular viewpoints are biased in one way but I am trying to be as objective as possible.

I was contacted by Mr. Sol Leiber, the chairman of the U.S. Maccabiah basketball team, in late June 1969. The Yale athletic office had been approached first to obtain its permission.

Since athletics was part of my life, but not an end in itself, and since I tried to do well in all that I undertook, this situation represented an exciting personal opportunity to extend my athletic career. Having started my basketball experience on a schoolyard I felt that an invitation to the Maccabiah Games was a personal honor and the capstone of my basketball endeavors.

Prior to accepting the invitation, Yale was consulted to clear any difficulties and obtain an official sanction. I was especially fortunate;

not only did Yale OK the trip, it also expected future difficulties to arise and would deal with them later. In this instance, Yale did not back my trip as much as it defended an ideal unique to most Ivy League schools: athletics as individual expression, a further extension of personal interests where a person was a student first and an athlete second, not as huge budgets which engendered athletics as an end in itself.

Without Yale's support, my decision would have become much more difficult. Certainly, I would have accumulated many more personal liabilities and suffered their consequences.

The trip itself was much more than I had envisioned it. The word patriotism takes on new meaning and transcends the pledge of allegiance in grammar school when one, representing the United States, marches into a stadium filled with 50,000 people amid the strains of "The Star-Spangled Banner." One learns about much more than competition and athletic prowess in these international settings; one experiences the nuances of different cultures and human relationships in this miniworld of athletes. To force someone to forgo this experience for the sake of indifferent athletic bodies which embroil themselves constantly in political posturing is a crime that should not be allowed to continue.

The result of my trip concluded in a series of unprecedented rulings by the NCAA and the ECAC. Chronologically, they were as follows:

1. Played in the Maccabiah games, July 1969. The NCAA had threatened other athletes with ineligibility.

2. September 22, 1969—ECAC eligibility committee declared me persona non grata—unable to play in intercollegiate competition.

3. December 3, 1969—Yale allows me to play in first game against Fordham and continued to allow me to play throughout the 1969-70 season.

4. January 13, 1970—ECAC council places Yale on probation for 17 months but withdraws the action within 3 hours for further study.

5. January 15, 1970—NCAA council placed Yale on 2-year probation. None of Yale's athletes or teams could participate in any post-season competition for 2 years. No TV moneys from any televised games were to be gotten either.

6. January 26, 1970—ECAC directs Yale to appear before ECAC Council on February 23, 1970 to show cause why Yale should not be disciplined.

7. February 24, 1970—By member vote, ECAC placed Yale on probation for 16 months; resulted in loss of participation in ECAC-sponsored events.

The fracas between the NCAA and the AAU threw me into this maelstrom and left me bitter. I just happened to be the host for this politically malignant tumor which left Yale with an extremely severe penalty. I often have second thoughts about my experiences because of the consequences which other teams at Yale had to live with. This guilt should never have developed. At that time I had hoped that this affair would be looked into by Congress. Congressman Michel of Illinois and Congressman Giaimo did speak up, but nothing further happened. Although action has been long overdue, it is a welcome development.

COMMENTS ON THE PROPOSED LEGISLATION

H.R. 5623 and H.R. 5624, which have been introduced in the House of Representatives, have been a long time in coming and, for the record, I would like to state that I wholeheartedly endorse this proposed legislation. It is something very vital which can end the puerile dickering between two representative athletic bodies. It should turn sports on the international level into an athletic contest where the athlete knows the rules and has an opportunity to win instead of a political arena where the institutions that purport to represent athletics have shamefully neglected the interests of the people they were to originally serve.

To the best of my knowledge, the NCAA was established in 1906 to serve the athletes of colleges and universities. This body was given certain powers to see that the interests of the amateur athlete were best served. Yet, over time, this organization has become more centralized, more powerful and has become a major factor in the entertainment business. Conversely, the universities and colleges have become more decentralized and unable to deal with sports on a national scope. Trading on this centralized bureaucracy, the NCAA has become so powerful that it has become a self-serving institution that has forgotten the individual amateur athlete for the more economically expedient commodity: power. This power is being bought with the insignificant athletic careers of a number of college athletes.

Legislation is strongly rooted in precedent yet the judicial actions of the NCAA have been extremely capricious. There is no consistent action which has benefited anyone except the NCAA. In 1969, the reason for the international basketball moratorium was based upon the 1960-61 basketball scandals. Two points are worth noting. There was no such action brought against those involved in the 1965 Maccabiah games. Further, every other sport was allowed to compete in Israel in 1969. Would I have been more susceptible to payoffs than the athletes of the other sports or was the NCAA trying to embarrass the AAU by forcing them to sponsor a substandard team and enhance its position in international basketball?

There is the question of Federal Government intervention in amateur athletics. H.R. 5623 and H.R. 5624 explicitly deal with the tender issue of political athletics. I do not think there are any negative implications in this. These bills are the only way to effectively deal with a continually deteriorating showing of U.S. athletics abroad. The public has begun to realize this. The 1972 Olympics brought the idea of political athletics closer to home: A swimmer was to be stripped of a medal because of a drug used for his health; track people showed up late for their meet.

These bills focus on the immediate issue of the NCAA-AAU feud. The \$10,000 fine puts teeth into the words. It is my opinion that this legislation removes the most objectionable issue in the NCAA-AAU confrontation, the beleaguered amateur athlete who hopes to compete in an ever-expanding arena of athletic competition. If these two parties must argue, fine. But, at least the athlete can be saved the polemics and be allowed to participate in the once-in-a-lifetime international athletics.

The time is right to censure these institutions if they continue to harass the individual. The proposed Amateur Sports Commission

should be valuable if it can create order from this absurd chaos. The continued scrutiny by this body should maintain a much needed equilibrium in the sports world. The encroachment of the Federal Government is in the politics of international athletics but not in athletics per se. Further, there are no economic gains to be made by the Amateur Sports Commission.

EPilogue

In conclusion, I would only state that the introduction of H.R. 5623 and H.R. 5624 come at a time when U.S. participation in international athletics is being torn apart. Reason must be brought to this ridiculous situation. Passage of this legislation will go a long way in healing this festering wound that has unnecessarily plagued the American sports scene.

Mr. O'HARA. Thank you very much, Mr. Langer. Your testimony has been very valuable to us.

At the time you were invited to participate in the Maccabiah games, you were a student at Yale and discussed this invitation with persons of authority at Yale University, right?

Mr. LANGER. Yes; I spoke with Mr. DeLaney Kiphuth who is athletic director at Yale and before I spoke to him and he would continue to talk to me, he had spoken with Mr. Leiter, who had contacted Yale University initially to find out if I would be allowed to go.

I think in the spring of 1969 the NCAA declared anybody ineligible if they competed in the games, and I think that is the reason for him contacting Mr. Kiphuth.

Mr. O'HARA. Did your participation in these games require you to miss class at the university?

Mr. LANGER. No; I think they took place in the summer, July 1969, and at that time I was working as director of a dining hall in a camp in the mountains of Pennsylvania.

Mr. O'HARA. Did your participation in these games force you to miss practice or other events associated with your playing for the basketball team at Yale?

Mr. LANGER. No, sir; it didn't.

Mr. O'HARA. In other words, there was no interference with either your college academic or athletic career created by these games?

Mr. LANGER. At that particular time, there would not have been any sort of conflict with anything I was doing.

Mr. O'HARA. So it is rather doubtful that the NCAA was looking after your academic or even athletic interests by forbidding you the opportunity to participate.

Mr. LANGER. I found that fairly questionable myself.

Mr. O'HARA. To say the least, perhaps, Mr. Langer, the NCAA has higher standards than Yale University?

Mr. LANGER. I think I will take a pass on that.

Mr. O'HARA. You would consider that a rather dubious proposition, wouldn't you?

Mr. LANGER. Considering that Yale has been around for several hundred years and the NCAA only since 1906, I think it would be a dubious proposition.

Mr. O'HARA. In light of their track record it would be a dubious proposition, as witness Mr. Dellenback on my right, a Yale graduate,

and of course that kind of preparation you need if you want to go to the University of Michigan Law School, I might add, which is what Mr. Dellenback did.

You know, Mr. Langer, I think that your story, better than any other, exemplifies the reasons for the legislation I have introduced and the necessity of bringing an end to the practice of using student athletes and their schools as pawns in the jurisdictional power which does not have anything to do with education or really not much to do with athletics and we appreciate having your story.

Mr. Dellenback, would you like to say anything in behalf of the Eli, Yale?

Mr. DELLENBACK. Yale speaks for itself. I do appreciate your coming, Mr. Langer. We felt your testimony could be valuable and I found it so, and I suspect the other members of the subcommittee have.

I would like to ask a couple of questions following your testimony. The Maccabiah games--was it 1965 or 1967 prior to your 4-year competition?

Mr. LANGER. 1965, held every 4 years.

Mr. DELLENBACK. Were there American players competing?

Mr. LANGER. Yes.

Mr. DELLENBACK. How many played, to stay with your sport?

Mr. LANGER. I would say between 12 and 15 people were chosen for the basketball team.

Mr. DELLENBACK. No sanctions against any of them?

Mr. LANGER. None at all.

Mr. DELLENBACK. None against their schools?

Mr. LANGER. None at all.

Mr. DELLENBACK. Were you the only American university or college player in the 1969 games?

Mr. LANGER. Yes, I think the other people were in a position where they might jeopardize their college career, not only athletic career, but I think academic career because of the NCAA threatening to take away their scholarship.

Mr. DELLENBACK. So the NCAA had spoken between the 1965 and the 1969 games. Did they warn that this would happen if you were to compete?

Mr. LANGER. Yes, I think they made a general statement in the spring of 1969 which stated that no college athlete would be sanctioned or allowed to participate in these games and I think that was sort of an implicit challenge to any university body not to allow them to allow any of these particular students to play.

Mr. DELLENBACK. And they stayed with it in your own particular case?

Mr. LANGER. Yes.

Mr. DELLENBACK. Has there been a better determination of what is going to happen in 1973 games?

Mr. LANGER. No, there has not. I have been reading that they have had people qualify for tennis, but I have not heard anything about basketball and there will be another group of tryouts this summer.

Mr. DELLENBACK. If it works on a 4-year basis, the games will be this summer, so we don't know yet what the announcement will be made relative to that?

Mr. LANGER. That is right.

Mr. DELLENBACK. Had Yale done anything like this before your case, or after your case, where they declared what would be the case with Yale at least as far as the NCAA or ECAA was concerned?

Mr. LANGER. Yes, I think—the data escapes me but the NCAA had at one time attempted to impose a 1.6 ruling on the Ivy League, claiming that every athlete must meet this 1.6 ruling and they considered that ruling to fit across every particular university and I guess Yale felt that there was no reason to have the Ivy League and Yale especially comply with that ruling; because the people who were admitted to Yale had to meet an academic standard before they were admitted regardless of whether they were an athlete or not.

Mr. DELLENBACK. What happened in connection with that?

Mr. LANGER. I guess the NCAA had to back down on that issue because Yale, I don't know about the Ivy League, but I am sure Yale did not comply with that.

Mr. DELLENBACK. Do you know what NCAA had said transpired between the 1965 and 1969 Maccabiah Games to give rise to that change in ruling where they permitted it in 1965 and denied it in 1969?

Mr. LANGER. From 1964 through 1967, FIBA granted NCAA, through what is known as the Basketball Federation of the United States, which the NCAA controlled, had allowed them to control international basketball.

In 1967, the AAU claimed that they were the true representative of international basketball and should be given this franchise, which in turn they were given. As a result of that, the NCAA was sort of put into a shadow and was annoyed by the fact that they didn't have the ruling in international basketball.

Mr. DELLENBACK. To the best of your knowledge, that is the only matter of significance which changed the situation between the 1965 games and the 1969 games?

Mr. LANGER. Yes.

Mr. DELLENBACK. There was no substantive difference in your position in 1969 versus any of the players who were permitted to compete in 1965?

Mr. LANGER. I would think the players that were permitted to compete in 1965 would be in a more difficult position because of the time span between 1960 and 1961, when there were some basketball scandals during the summer which disallowed competing over the summer—1965 was much closer to that scandal than 1969 was.

Mr. DELLENBACK. One last line of questioning. Do you think there should be any kind of sanction or approval given to basketball tournaments in which amateur college athletes are allowed to participate on an international basis?

Do we need a method for approving which tournaments or competition at the international level our young men should be allowed to participate in, versus those they should not participate in?

Mr. LANGER. I think the general overall rule by the NCAA and AAU is further removed from the situation than the immediate college or university that someone belongs to, and I think the college or university has a much better idea of the personal needs and aspirations of the individual than two ruling bodies. As a result the university should be allowed to allow their players to compete on an international scale.

I think the AAU and the NCAA may put out a listing, but the ultimate decision should rest with the university.

Mr. DELLENBACK. If you would have some method of approval given, you would have it given within the college or university where the athlete is involved, you would make it a double choice, then, with the athlete choosing to participate or not participate and his or her college then determining whether or not that suits that individual athlete. But you would not have the approval given to anybody, whether it be the AAU, NCAA, whether it be anybody else beyond the university?

Mr. LANGER. The only rationale I could see for having that approval is if there is some sort of bodily harm or illegal situation occurring which the athlete and university would not be aware of, but to the best of my knowledge I have not seen that particular situation arising and I think the university or college can best assess whether or not the particular situation is best for the athlete, because I think international competition is sort of the capstone of somebody's athletic career. He has been looking forward to that for a great period of time.

Mr. DELLENBACK. Surely you must have found those games exciting.

Mr. LANGER. Yes.

Mr. DELLENBACK. But you don't find the difficulties that you explained live with you long, indeed if they still live with you at all. I appreciate your being here.

Mr. O'HARA. Mr. Erlenborn?

Mr. ERLNBORN. No questions.

Mr. O'HARA. Mr. Huber?

Mr. HUBER. I am a Yale man myself. What are you doing at Harvard, missionary work?

I enjoyed your testimony. You certainly upgraded that school by going to Harvard.

Mr. O'HARA. Thank you, Mr. Huber. I feel badly outnumbered here today.

Mr. PEYSER, any questions?

Mr. PEYSER. First of all, I want to thank Mr. Langer for his testimony and also thank him for the stand he took several years back with his school in participating in the games. I must say it does put me in a strange role of supporting Yale or Yale athletics.

I enjoyed the opportunity of playing against Yale in many sports when I was at Colgate, so, Jim, you are not completely alone here as being non-Yale.

I would like to question you on one thing that you said concerning the international competition. It has appeared to me that there should be a body that would have certain ability to approve of an international matter for the safety and protection of the athlete.

Now you mentioned the school and I am not sure whether you meant that if there were a meet someplace abroad that individual schools would ascertain the factors about that meet and then would pass that on to their own athletes. How did you mean that?

Mr. LANGER. Well, what you mentioned is partially true, on the other hand, I don't think a university has resources to continually scout out every particular possibility.

I think the Amateur Sports Commission might serve that function. My only concern for that area is that in the bill it states that three out of the five people on the committee were to be chosen from either

NCAA or AAU or the ruling groups in amateur athletics in the United States.

Since I think there are only two dominant ones you would have to pick three from the two. If you have three people who would make a majority on that committee, I don't see a solution because dickering would still continue in that body.

Mr. PEYSER. Let me say this, and I am certainly not wed to that as a principle, but we felt in that bill there should be representatives of organizations such as this, that have been involved for many, many years.

By breaking them apart that way, we felt that there would be little opportunity for them joining together in reaching a decision. However, if you are suggesting the composition of that committee, which incidentally would be appointed by the President and approved by the Senate, if you are suggesting the composition ought to be different, we would be open to any suggestion as to what that composition should be.

Certainly, I am not saying that is the only way it can be and if you have any suggestions on that, we would welcome them right now in testimony and, if not, we will be delighted to receive them later on.

Mr. LANGER. In terms of the composition, if you allowed a representative from either ruling group, it would make sense, but not to allow them to control a majority of that committee because then you would get the same logjam you had in the beginning.

Mr. PEYSER. All right, I would certainly accept that. In other words, you might say that you would recommend that two of the members be from let's say each, or one from each of these bodies and three selected as interested and competent individuals to work with them?

Mr. LANGER. Yes; and I think the important corollary to that is the particular committee would not have any particular gains to be made by sanction or nonsanction in international competition.

Mr. PEYSER. That is correct, and that is one of the reasons for establishment of that commission.

Thank you very much, Mr. Chairman.

Mr. O'HARA. Thank you and thank you, Mr. Langer.

Our next witness is Carl W. Cooper, executive director of the U.S. Track and Field Federation, an organization of organizations promoting all aspects of the sport of track and field in the United States. Active members of the USTFF are the National Junior College Athletic Association representing over 850 Junior colleges, the National Collegiate Athletic Association (750 member colleges and universities), the National Federation of State high school associations (30,000 high schools), and the National Track and Field Association (400 track and field clubs in the United States). The USTFF claims to be responsible for more than 95 percent of track competitions in the United States, more than 95 percent of track coaches, more than 95 percent of track facilities, and more than 95 percent of dollars invested in the United States for track and field activities.

STATEMENT OF CARL W. COOPER, EXECUTIVE DIRECTOR, U.S. TRACK AND FIELD FEDERATION

Mr. COOPER. Gentlemen, I am a volunteer here today. I read in the news media concerning the proposed legislation you gentlemen are

preparing and this legislation actually reached my hands just last evening.

I did not have a copy of the bill until that time, about 9 o'clock last evening, so I have no prepared statement, but I will speak from notes that I have made here. The reason I asked to come here today to speak to you is that this proposed legislation will involve a great many of our constituent members of our organization.

I certainly appreciate the opportunity to appear here today. Congressman O'Hara, you have indicated just what we are. I would like to make a few more points.

The United States Track and Field Federation is an organization of organizations. In other words, an individual as such does not belong to our organization, that is, unless they belong to a club and unless they belong to a high school, unless they belong to a junior college or a college or university who are members of our organization.

We are a single purpose organization. All we are interested in is sponsorship and promotion of the one sport of track and field. We have been in existence now for some 12 years and we were actually established by the U.S. Track Coaches Association of some 1,200 members who felt a need for an all encompassing organization. In other words, a single purpose organization which would represent all organizations sponsoring track and field in the United States, and then these organizations would all have equal voice in this organization.

We have a number of other allied members which happen to be the American Association for Health and Physical Education and Recreation, the national association representing more than 5,000 professional people working in health, physical education, and recreation.

We have a number of associate members in addition to these previously mentioned constituents and they are the Athletic Institute, Athletic Trainers Association, I mentioned the U.S. Track Coaches Association, and the National Association of Collegiate Commissioners and the President's Council on Physical Fitness.

So we are, as I indicated, an organization of organizations. We have a policymaking group which is called our Governing Council.

Every State in the union has a State high school organization. They, in turn, belong to the National Federation of State High School Associations which has its headquarters in Elgin, Ill. This group has votes on my Governing Council.

The National Junior College Athletic Association also has votes on my governing council, some 550 members. The Track and Field Association, which represents our club associations, has votes, as does the National Collegiate Athletic Association.

So they are a policymaking group, or I mean this is a policymaking group, this Governing Council, and they set policy and I, as executive director, carry out this policy.

We, in addition, have some 50 State USTFF associations within each State with their own directors, officers, and track and field programs, which consist of cross country meets, road races, decathlons, marathons, indoor and outdoor competition, clinics, and so on.

My office coordinates programs. My office also conducts area and national crosscountry championship meets, area and national decathlon championship meets, area and national marathon championships, area and national championship road races, area and national champion-

ship indoor meets and area and national outdoor championship meets and also conducts track and field clinics, coaching schools, and we publish books and magazines on track and field.

We certify track and field officials, that they are qualified to conduct an event within a track and field meet. We register track and field clubs for the National Track and Field Association.

Further, my office sanctions meets in which our constituent members compete and I shall touch upon this in a moment. We also conduct a hall of fame and coach of the year award program.

So our central office is where coaches and athletes may obtain information on all phases of track and field as it exists today in the United States.

The basic concept of this federation is a single purpose organization, formed by its constituent members who conduct their own track and field programs and I might add their own certification programs and contribute and cooperate with the federation for the common good of promoting the one sport of track and field in all of its aspects by granting each of the constituent members a vote and a voice in the policies and action of the federation.

Now, I want to emphasize that I am speaking for the sport of track and field only and that I am speaking for the U.S. Track and Field Federation only. I cannot speak for our constituent members, all of the colleges and universities, all of the high schools and all of the junior colleges and all of the clubs, but I can speak for this organization of organizations.

In announcing this hearing on H.R. 5623 and H.R. 5624, the chairman indicated that the legislation was introduced to bring to an end the struggle between the NCAA, one of our constituents, and the AAU for control of international athletic events.

Unfortunately, this is not an accurate characterization of the problem, which is not simply an organizational dispute involving only the AAU and NCAA. There are also involved ourselves and a great many other people, such as high schools and junior colleges and so on.

Legislation designed to deal with a problem formulated in these terms will solve nothing. The fundamental problem which is inherent in all specific disputes which occurred and which operated to the detriment of individual athletes, both domestically and in international competition is the separation of programs from power.

Our constituent members control their own programs and they set policy for our organization. The power I speak of is to control the international competition. The AAU asserts that it controls domestic track and field in the United States.

It states it does control track and field in the United States because it holds an international franchise given to them many years ago, in fact 61 years ago, by the "IAAF," International Amateur Athletic Federation, which designated them as a national governing body and the AAU helped to create that body. That was before the school college community developed their athletic programs to the extent that they have at the present time.

The AAU, by reason of this so-called franchise, asserts it has jurisdiction over athletes whom it did not discover, it did not develop, or train, or it did not prepare for competition. They claim they have control over facilities that it does not own or maintain and over coaches for whom it does not provide a livelihood.

Another contrast between the AAU and the United States Track and Field Federation and its members should be noted. The federation and its constituent members are open, democratic organizations, whose rules and policy represent the wishes and the requirements of their members.

The AAU, on the other hand, is an organization governed from the top down in the interest of a ruling clique. The blacklist threats to athletes are typical tools which the AAU has used in the past in order to assert its monopolistic sway. Its power must be based on such practice because it is divorced from the athletes, the facilities, and the development program.

I understand the provision of H.R. 5623 to be designed to prohibit such practice by the AAU. In this regard, however, it is seriously deficient.

It would appear to do nothing about the AAU's efforts to obstruct international competition arranged by other bodies such as ourselves. The bill does not appear to prevent the AAU from blacklisting athletes other than student athletes. We see no reason for this omission.

We suspect that the AAU may hide behind rules of an international body like IAFF, to enforce sanction against the athletes and teams of our constituents who wish to participate in international competition.

On the other hand, the bill does appear to prevent college athletic organizations from rejecting competition in which their own student athletes participate. Let me emphasize that the constituent members of the federation have no incentive to assert a monopoly power over U.S. track and field in any sense of the word.

They do, however, have a valid function to perform and indeed an obligation in rejecting and approving competition in which their own athletes participate in order to assure that such events are properly organized, that they are properly managed, that they do not exploit student athletes, or teams, that they do not interfere with the athletic and academic careers of the athletes, and do not professionalize the athlete's participation, which has been done by some unscrupulous promoters. There have been many instances in track and field where improperly financed meets have occurred and failed, which were improperly financed by selfish promoters have failed; and athletes and teams have been exploited as a result.

Also, there have been many meets in which there has been no medical attention given, no doctor in attendance at meets and certainly there have been thousands of meets at which there has been no athletic insurance and I am talking about outside promoters beyond the constituent members' organization and no insurance for accidents, liability, et cetera.

The regulations and rules developed by the federation's constituent organization are voluntarily developed and adopted by their members and represents their collective best judgment based on extensive experience as to reasonable requirements.

The federation has been designated by these constituents to also sanction these competitions where outside interests promote a meet or mixed categories are held in a meet. In other words, the National Junior College Athletic Association, the NCAA, and the high schools ask us to make sure that a track and field meet that is sponsored by an

outside organization, such as the Shriners Club, Jaycees, et cetera—and I could go on and on to infinity—that these meets are properly sanctioned by our office, and they each in turn have their own certification programs in addition to our sanctioning program.

The provision of this bill would apparently however, prevent the enforcement of such regulations in any case in which it could be claimed that the competition involves “international athletic competition.” Such legislation in my opinion would throw the baby out with the bath water.

Moreover, it, despite whatever superficial attraction such legislation might seem to hold out by giving an appearance of action dealing with specific disputes, which have recently been widely publicized, is fundamentally on the surface only and it deals with symptoms and leaves the basic cause, the divorce of the international franchise from the domestic sports program untouched.

If legislation is in fact required, and I am again not convinced that it is, it should be more evenhanded and should deal with the basic issues. It is possible that H.R. 5624, the Peyser bill, represents such an approach, but I have not had an opportunity to study that bill, and as I indicated, just had it placed in my hands last evening and therefore have not had a chance to comment on it at this time.

You asked other witnesses several times this morning, for a solution. As far as track and field is concerned, there is a solution. It is my opinion that the only solution would be that the Federal Government charter a domestic single purpose organization—ourselves or somebody like us, for national administration of track and field, and with the cooperation of all interested parties, including the AAU, and this organization would become this Nation’s representative to the international sport governing body—the IAAF.

This was a fundamental concept of the federation when it was formed 12 years ago. Every facet of track and field was brought together and asked to form the United States Track and Field Federation. The AAU says, no, we are the governing body, and we will not participate in the federation movement.

What the federation was after at that time was equal voice by all facets of track and field: a single purpose organization devoted to doing one thing, the promotion of track and field.

Now, this has already been accomplished in the case of the U.S. Gymnastics Federation and steps in that direction are well underway in the federations of basketball and wrestling. Also single-purpose organizations devoted each to one sport.

I suspect that the recent disputes arose from the AAU’s desire to block this movement of single-purpose organizations. It was indicated earlier, in fact some of you gentlemen asked if a sanction application, and when I say “sanction” I am referring to the federation as we use the term “sanction,” and the NCAA, National Collegiate Athletic Association, uses the term “certification” I was asked, “was any application made by the AAU for the federation’s sanction and the NCAA certification of the U.S.A.-U.S.S.R. indoor meet held on March 16, 1973?”

The answer is, “Absolutely not.” If the AAU had made application—and their form was sent to them 1 month prior to the competition—to our office, we would have sanctioned the meet the same as we

have sanctioned all of the AAU championship meets for the last 4 years, and also the same as we sanctioned the United States versus Russian junior championships last summer, sponsored and conducted by the Amateur Athletic Union. We did sanction those meets.

But we received no request for sanction, nor, as I understand it, did one of our constituents, the NCAA, receive a request for certification. The precedent was set last year for our office to sanction and the NCAA to certify international track and field competition.

Now, gentlemen, if there is no certification by the NCAA or no sanction by our office, any unscrupulous promoter could say:

"I think I will get a meet together. I will go up in Canada and bring down some Canadians and go to Mexico or Central America and bring some of those fellows in and get some college athletes or junior college athletes or high school athletes and we will put them together and we will compete against that group and so then we have a meet here."

It may not have athlete or liability insurance, it may not have medical help in attendance, the background of where the money goes from the income from that meet may be dubious. It is a fundamental principle that educational institutions, whether the students are in drama or in speech or anything, sanction and certify and thus protect the performance of their students.

Now, the rules that these various constituent members of ours make are made by themselves. Each member institution—I keep hearing names of institutions being mentioned—well, each institution has representation in our constituency, and certainly in the NCAA each member has representation. They met last month in Chicago in open forum.

The NCAA has open debate on legislation such as we are talking about today, sanctioning and certification. So these individual institutions, these individual conferences that these institutions belong to, have votes. So they all sit down in open debate and formulate policy and formulate legislation for their own members.

Now, there is not just a man or an office in Kansas City that makes rules for these schools and conferences. They make rules for themselves and I get very, very perturbed when I keep hearing the NCAA referred to as some definite or particular office that is making up rules to suit themselves.

They are structured very similar to ourselves—the USTFF. The executive director has a governing council that determines policy. The governing council is elected by the members of the NCAA, some 750 members.

So it is not just some nebulous group sitting down and making rules, but it is a democratic process by which the rules are determined by the constituent members.

Gentlemen, I think that is my presentation at the moment. I would welcome an opportunity to answer any questions you might have.

Mr. O'HARA. Mr. Cooper, have you decided that your organization would have sanctioned the Richmond meet if you had been asked to?

Mr. COOPER. Absolutely. We had no reason whatever to not sanction the meet and we have never refused sanction to an AAU sponsored meet.

Mr. O'HARA. Then you have no knowledge about whether the proper physical arrangements had been made and proper medical attention and insurance?

Mr. COOPER. No, sir, I have none because we have never received an application for that meet.

Mr. O'HARA. Then, why are the student athletes that have participated in the meet being threatened with ineligibility?

Mr. COOPER. That would be up to NCAA to answer for that. I couldn't answer for them.

Mr. O'HARA. Let's ask you, do you think that student athletes who participate in a meet which your organization would have sanctioned if it had only been asked to do so, ought to lose eligibility for having participated?

Mr. COOPER. You are asking me if, in my opinion, they should lose eligibility?

Mr. O'HARA. Yes.

Mr. COOPER. This is all up to the individual constituent members of ours who set their own rules. If they have those rules, and then those rules are broken, then the institution or athlete should be disciplined. Every private institution then makes application to join the NCAA. They are not required to. It is optional. They don't have to belong if they don't want to belong. If they belong, they should abide by the rules.

Mr. O'HARA. I asked you what your private opinion was.

Mr. COOPER. I speak only for the federation, but in the event that any of our rules or regulations were not complied with, that we ourselves might refuse to sanction.

We would definitely refuse to sanction the following year the application for the same meet in the event that our rules were violated.

Mr. O'HARA. But do you think a student athlete ought to be denied eligibility to participate in collegiate athletics because he participated in a meet that you would have sanctioned but did not only because you weren't asked to?

Mr. COOPER. If it violates the rules of that constituent organization, yes.

Mr. O'HARA. Well, then you don't place a very high value, Mr. Cooper, on the welfare of these athletes, if you think the violation of a rule of an organization, that that is appropriate punishment for violation of the rules of an organization, rules that do not relate in this particular instance to the student athlete's physical welfare or academic progress; but you say that is all right with you, go ahead and suspend him if there is a violation of the rules of the organization.

Now I think that is a pretty harsh penalty. I understand in addition the university could have been threatened and is that not the case, Mr. Peyser?

Mr. PEYSER. That is correct.

Mr. O'HARA. Do you feel a university ought to be suspended or lose its share of television revenues if one, or if it does not forbid one of its athletes from participating in an athletic event that you just testified met all of the standards required for sanction by your organization?

Mr. COOPER. I did not receive a request for sanction, therefore, I don't know if the meet met our standards. Again I repeat that in the event some of our constituent members violated some of the Federation rules, we would take issue with them in regard to our own rules. We would certainly look with very keen eyes to any violation of the Federation's rules.

Mr. O'HARA. Mr. Cooper, let me just correct one misapprehension. The bill, H.R. 5623, would not in any way prevent you from requiring under your regulations that events meet certain standards in order to obtain your sanction, nor would it in any way prevent you from sanctioning some events and not sanctioning others; nor would it prevent you in any way from notifying your constituent organizations that you would refuse to sanction such and such an event because of, whatever it was that was wrong with that event, nor would it prevent those constituent organizations from notifying their student athletes that sanction had been denied of a particular event for particular reasons, to put those at least on notice that in some way that event was not being operated in an adequate or standard manner.

All the bill would do would be to say that you would not be able, no organization such as yours or such as the NCAA or any other organization, would not be able to then withdraw eligibility from an athlete if he went ahead and participated, that he ought not to be punished for having done so, and we don't think it your function to punish athletes for disregarding your advice, if it is anyone's function, it is the university, but we don't think it is yours.

I just want to correct that misapprehension. You can go ahead and sanction events to your heart's content or refuse to sanction, but you would be unable to then deny eligibility to a student or to his school or to suspend them.

Mr. Dellenback.

Mr. DELLENBACK. Thank you, Mr. Chairman.

Mr. Cooper, what penalties can you impose, if any, if there is no compliance with your sanctioning procedures?

Mr. COOPER. We would withhold sanctioning, if we would withhold sanctioning, then our constituent members would not certify and then the athletes would not compete. The following year, we would probably refuse again, unless our requirements were met, to sanction.

Mr. DELLENBACK. Let's look at these games just held at Richmond as an example. They were held without your sanction?

Mr. COOPER. That is true.

Mr. DELLENBACK. There were some athletes who participated there?

Mr. COOPER. That is true.

Mr. DELLENBACK. What would you do insofar as those athletes are concerned, so far as your Federation is concerned?

Mr. COOPER. We would do nothing because we did not sanction the meet.

Mr. DELLENBACK. And the fact they competed would not mean insofar as you are concerned, that they could not compete in future in meets you sanction?

Mr. COOPER. That is true. The NCAA makes up their rules.

Mr. DELLENBACK. Now, thinking in terms only of what you do insofar as your Federation is concerned, so far as you are concerned any athlete who competed in the Richmond games is perfectly free to compete in future meets sanctioned by your organization?

Mr. COOPER. Unless my governing council indicates differently and the high schools and junior colleges and the clubs indicate they will go along with NCAA in this and they set a different policy for me.

Mr. DELLENBACK. Now, as a policy which has been enforced in the past, I assume you have something in your rules as to what happens in a case like this, don't you?

Mr. COOPER. Yes, sir.

Mr. DELLENBACK. Do those rules that you have in existence right now give rise to any difficulty as to the future participation of any athlete who has participated in any event that took place in Richmond?

Mr. COOPER. Only to the extent that the NCAA is one of our constituents and has votes in our governing council and the policy is set that they would tell me that I cannot sanction or should not sanction such and such a meet, thus we would follow the dictates of my own governing council made up of these constituent members.

Mr. DELLENBACK. So far as future sanctions?

Mr. COOPER. Yes.

Mr. DELLENBACK. That would not be on the basis of a standard rule you have on the books, but on the basis of a decision that would be made by your council?

Mr. COOPER. That is true.

Mr. DELLENBACK. How many members are there on your governing council?

Mr. COOPER. Nineteen.

Mr. DELLENBACK. And how are they broken down? Who chooses them?

Mr. COOPER. They are elected or appointed by their own groups. The National Junior College Athletic Association has this same type of situation.

Mr. DELLENBACK. Does each association have one member?

Mr. COOPER. No, sir, there are many members.

Mr. DELLENBACK. Can you give us that, offhand, from memory?

Mr. COOPER. The breakdown of voting strength?

Mr. DELLENBACK. Yes, how does the council break down?

Mr. COOPER. All right, the high schools have five votes. The junior colleges have two votes. The NCAA has six votes, the Track and Field Association has five votes, and the American Association for Health, Physical Education and Recreation, are represented now by a woman member on my governing council as one vote.

Mr. DELLENBACK. That is 19, if my mathematics is correct.

Mr. COOPER. I may have misstated—six, five, two, one, we will have at least that number. Actually we have another member from the Track and Field Association, we have five members there instead of six. I think I indicated six. Nineteen votes, in all sir.

Mr. DELLENBACK. I have put this question to prior witnesses and you have currently answered, but let me be sure for the record you have answered this particular question.

You feel there should be some kind of sanction of track and field events in which amateur athletes are allowed to compete?

Mr. COOPER. Absolutely.

Mr. DELLENBACK. How about the proposal made by Mr. Langer, that the athlete and his college and university should be able to make that decision? Would you oppose that proposal?

Mr. COOPER. Absolutely. You would have a can of worms. You would have athletes from a university going helter skelter to compete anywhere they wish and the track coach himself would have no control over his own athletes on his own team.

Mr. DELLENBACK. Mr. Langer's approach was that the athlete must get approval from his school or university, college or university, but if

he has that approval, and he wants to compete, then he will compete. But you would take that control away from the individual college or university?

Mr. COOPER. Absolutely, because they voluntarily joined one of our constituents. They were not asked to join. They were not forced to join.

Mr. DELLENBACK. We are talking about change in the procedure as it now exists, actually, Mr. Cooper, and you would oppose that kind of change?

Mr. COOPER. Absolutely.

Mr. DELLENBACK. And you feel, do you, that if this outside sanctioning or authorizing body, for whatever reasons are good and sufficient in its mind, should have the power to determine whether or not an athlete competes again or, indeed, whether that college or university is disqualified from every event in which its athletes compete?

Mr. COOPER. That is correct because the athlete voluntarily went to that institution on his own volition and that institution voluntarily joined the organization, or its conference, and when you join something you agree to abide by the rules of that organization.

Mr. DELLENBACK. Well, what we are talking about is what those rules ought to be, not what they are at the moment, and that is one of the responsibilities that comes when one is involved as a legislator. You are concerned partly, of course, with the question of what the rules are; but you are also deeply concerned about what the rules ought to be.

Your answer to me is not directly responsive with respect to what the rules ought to be. You are satisfied with the way the rules are, you are just opposed to the way the AAU has been involved in the procedure?

Mr. COOPER. I am opposed to the legislation, sir, that would take away the prerogatives of a constituent member of ours to certify and to sanction meets.

Mr. DELLENBACK. If all of the power of the AAU relative to track and field events were to be given to the USTFF, would that resolve the issue?

Mr. COOPER. The USTFF does not want the power, we want equal representation by all facets of track and field in the United States and that is why we were formed 12 years ago.

Mr. DELLENBACK. You want a situation where the athlete does not control, where the college or university does not control, where some outside organization controls, and controls in the sense of sanctioning and certifying meets and having the power to disqualify or otherwise punish if an athlete or a school violates the regulations; is that correct?

Mr. COOPER. Yes, sir.

Mr. DELLENBACK. But you are not willing that that power be given to the AAU; is that correct?

Mr. COOPER. I am absolutely opposed to that because they do not have the athletes and coaches and facilities that the colleges and universities do, and that our other constituents have, and we develop practically all of the athletes through this system in the United States.

You see, gentlemen, the federation concept is worldwide. We are the only country in the world that does not have or didn't have, prior to

12 years ago when we were formed, a federation for a single-purpose organization, the only country in the world!

We have an umbrella organization here [the AAU] who claims jurisdiction over 10 different sports. The federation concept is world-wide. All of the countries of the world have federations for single purposes, and single sports, but we do not. That is what we want.

Mr. DELLENBACK. The AAU has, within its umbrella organization, individual committees that deal with individual sports, if I understand correctly.

Mr. COOPER. That is true. But they do not have autonomy.

Mr. DELLENBACK. But if you look to that committee as having the responsibility, your quarrel is not with a committee or a federation having this responsibility and the power and the sanctioning authority, but your objection is to this particular organization having that particular authority; is that correct?

Mr. COOPER. When it is inefficiently handled, yes sir, and when it does not represent all of the track and field interests in the United States, as the USTFF represents 95 percent of the track and field interests in the United States.

Mr. DELLENBACK. Does the NAIA have membership in your council?

Mr. COOPER. They were offered membership.

Mr. DELLENBACK. So you don't represent those 565 schools?

Mr. COOPER. The smaller schools, no.

Mr. DELLENBACK. Does the Armed Forces have membership?

Mr. COOPER. They were offered membership.

Mr. DELLENBACK. But they don't belong?

Mr. COOPER. No, sir.

Mr. DELLENBACK. So therefore you don't have representation of all of those athletes?

Mr. COOPER. No. The Armed Forces have one team of Fort MacArthur each summer, only.

Mr. DELLENBACK. Does the AAU, per se, have any membership in your organization?

Mr. COOPER. No, sir. They were offered membership 12 years ago.

Mr. DELLENBACK. So therefore they are not represented. So the criterion you have just given to us, an organization must have the responsibility if it has the involvement of all of these, and I just named three organizations that are not involved in your organization.

Mr. COOPER. They don't have very many track and field programs.

Mr. DELLENBACK. Not the AAU?

Mr. COOPER. Very little.

Mr. DELLENBACK. Not in the Armed Forces?

Mr. COOPER. One track and field team that is at Fort MacArthur in California.

Mr. DELLENBACK. But there are hundreds in NAIA?

Mr. COOPER. That is correct.

Mr. DELLENBACK. Thank you very much.

Mr. O'HARA. Mr. Huber?

Mr. HUBER. Were you present when Mr. Langer testified?

Mr. COOPER. Part of the time.

Mr. HUBER. Are you familiar with his problem?

Mr. COOPER. I don't wish to speak on basketball. I am not knowledgeable at all.

Mr. HUNER. Just as an interested observer and I am not knowledgeable on basketball at all, but I have to vote on this problem. From what he said I think both he and my former school took an awful beating on that subject and I don't like to see that kind of power. Doesn't that concern you?

Mr. COOPER. Not if they violated the rules of the organization they voluntarily joined.

Mr. HUNER. I see. No more questions.

Mr. O'HARA. Mr. Peyser?

Mr. PEYSER. I appreciate your coming this morning to testify before us, Mr. Cooper. I have a couple of questions that trouble me in the workings of your organization and the apparent force you give to this holding of the power of penalties over individual athletes and schools.

As I understand the makeup of your committee, the voting executive body, am I correct in saying that you indicated six votes are from NCAA and that five votes are from the USTFF?

Mr. COOPER. National Track and Field Association, club organization.

Mr. PEYSER. All right, so, in other words, there are 13 votes of the 19 resting in those two organizations.

Now, of all of the organizations represented on your board, does anyone hold any real power except the NCAA?

Mr. COOPER. Absolutely, but no one group can control the voting.

Mr. PEYSER. No, what I am getting at is this. Suppose the executive committee on a given situation, the NCAA did not agree, and having nothing to do with conclusions reached by the committee, the NCAA said to its member colleagues, as I think it has the right to do under its own regulations, "If you participate, we will take steps against your school or your athletes," and they would have that right to do that.

Now, as I understand it, I don't think there is anybody else on your executive board except the USTFF that would have any power to take such an action as that. In other words, it seems to me that the power involved here is totally in the hands of the NCAA and what disturbs me, frankly, when this AAU dispute came up, was receiving the application from the NCAA which they sent to me, where this question number 18 makes direct reference to tying your organization into the NCAA.

The question says, "Has this year's meet been sanctioned by the United States Track and Field Federation? If so, please attach a copy."

Well, that looks to me like the tie-in there is so tight that unless somebody was sanctioned by your organization they couldn't possibly get any certification from the NCAA. I think in parts of our country in the various antitrust actions and so forth, this could not happen because you are really—though I am no lawyer—tying in what you say are separate organizations who have the controlling power. Doesn't that look that way to you?

Mr. COOPER. Yes; we are tied in with the NCAA because they designated us as their sanctioning body and they certify, as have the National Junior College Athletic Association done the same thing and the National Federation of State High Schools. If we refused to sanction a meet because it was improperly managed, the high schools

would immediately, particularly if there are more than one State involved, they would immediately withdraw their certification.

Mr. PEYSER. Well, let me ask you something. Do you for one moment believe today that the AAU is about to back out of this whole thing and say, "Well, I guess maybe USTFF or NCAA are really right and therefore we are going to get out of it." Do you think so?

Mr. COOPER. No, sir; they will hang on to the last gasp.

Mr. PEYSER. I don't think so either. Nor do I think the NCAA would. I think that they have taken what I believe to be some tremendously arbitrary actions that no court of law would allow if it were a legal jurisdiction involved. I don't think they are going to back out or change. And it is for this reason, that in my legislation, we are finally establishing a body that is going to have the say here in the international competition.

Now, if you agree that these organizations are not really going to give, does this look like a logical answer to the problem?

Mr. COOPER. Yes, sir; but only if you go on a little farther and you take all of the sports in the United States and form a single purpose federation out of all the membership in the United States, who are promoting that one sport.

Mr. PEYSER. Well, I am saying that may be another step.

Mr. COOPER. That is the best step.

Mr. PEYSER. That may be, but that is not what we have before us at this time.

Mr. COOPER. Yes, sir, I understand.

Mr. PEYSER. And I am not prepared to speak to that.

Mr. COOPER. Yes, sir.

Mr. PEYSER. But it seems to me if we are going to be absolutely tied in by organizations who will not give an inch, that the ones who are suffering are the American athletes and the American public and that is the reason I think we have to make this kind of a change.

I do have some frank reservations on the establishment of your organization as to how it fits into this total picture because it looks to me as though it is really designed purely to afford competition to the AAU by the NCAA.

Mr. COOPER. Absolutely not.

Mr. PEYSER. That is just my idea, it appears to be that idea because that is where the control sits.

Mr. COOPER. Not at all, the control does not sit in the NCAA.

Mr. PEYSER. I thought we agreed those are the only ones that have power really to impose this kind of restrictions.

Mr. COOPER. The high schools, could certainly impose it on their athletes and junior colleges can certainly impose it on their athletes.

Mr. PEYSER. I don't seem to see this kind of situation happening. I guess I have seen it so often in the other areas I don't know of the rights right here, but I have certainly seen it with NCAA and I believe it has hurt us a great deal.

Mr. COOPER, thank you very much and thank you, Mr. Chairman.

Mr. O'HARA. Mr. Cooper, we certainly thank you for testifying. I want to make it clear that I believe you to be sincerely interested in the welfare of amateur track and field competition and I know that your position is based upon what you feel is best for amateur track and field competition and I want the record to show that.

Although we may not agree on some specifics of how you get there, I want to make sure that I recognize that fact.

Mr. COOPER. Thank you.

Mr. O'HARA. Thank you, Mr. Cooper.

Mr. COOPER. Thank you gentlemen for allowing me to appear here.

Mr. O'HARA. Our last witnesses today will be representing the Amateur Athletic Union, the organization that sponsored the track meet in Richmond, Va., last Friday and is sponsoring the series of games next month between a United States team or teams and the Soviet Union's national basketball team.

Representing the AAU here today are Mr. Ollan Cassell, executive director of the AAU, Mr. David Rivenes, president of the AAU, and Richard W. McArthur, publicity director of the AAU.

Gentlemen, please come up and take your place at the witness table and we would like to hear from you.

STATEMENT OF OLLAN CASSELL, EXECUTIVE DIRECTOR, AMATEUR ATHLETIC UNION, ACCOMPANIED BY DAVID RIVENES, PRESIDENT, AAU, RICHARD W. McARTHUR, PUBLICITY DIRECTOR, AAU

Mr. RIVENES. I am David Rivenes and I am president of the AAU. I have with me here the gentleman who is going to do most of the talking because he is particularly well qualified to answer your questions, and I say that because he is not only the executive director of the Amateur Athletic Union and therefore the fellow that does most of the hard work and digging in connection with amateur sports, but also he is a comparatively young man and a recent olympic champion, national champion, one who took part internationally in lots of these events.

For example, in 1957 he was the national AAU champion at 220 yards in the 220 yard dash and in 1964 he won the olympic trials in the 400-meter dash. In 1964 he was also a member and a gold medal winner at Tokyo as a member of the 1,600 meter relay team for the United States.

He has taken countless trips around the United States representing the United States against foreign countries in other competitions. He has visited many foreign countries as a member of the U.S. team such as a representative to Richmond the other night and in 1965 he was the national AAU champion at 440 yards in our championship.

He will be answering many of your questions, not only as our executive director, but as an athlete himself. We in the Amateur Athletic Union have been very busy the past couple of weeks as you know, working on the Russian track meet at Richmond and attending the NAIA basketball championships at Kansas City and also taking care of our own business, too, so we have not had much opportunity to study in detail the various bills that have been introduced in Congress, as you can well understand.

We have had no chance to get together with our counsel, therefore, we request the privilege of submitting a written statement for the record at a later date.

Mr. O'HARA. Without objection, you will be permitted to do so.

[The written statement referred to follows:]

STATEMENT OF THE AAU OF THE UNITED STATES

Since 1958, when the first meet was held in Moscow, the AAU of the United States and the Light Athletic Federation of the Soviet Union have been conducting a home and home series in track and field. These Russian-American duals have received wide exposure in both countries and throughout the world and have always been encouraged and approved by the governments of both nations.

Perhaps most illustrative of the aura that surrounds these annual meets are the comments of a San Francisco Examiner correspondent, Bob Brachman, who covered the 1962 Russian-American Meet at Stanford University.

"It was dramatic. It was emotional. It was nerve shattering. It was superb . . . It—the never-to-be-forgotten 1962 USA-USSR track and field dual at Palo Alto—may well have been the Super of any athletic spectacle ever staged on American soil. It had everything—scheduled and spontaneous . . . What (happened during the meet) was to literally bring tears to the eyes of thousands of Americans and Russians alike, psyched so high emotionally by the events they no longer could control themselves and cared less. 'One hundred fifty thousand Americans and 77 Russians can't be wrong,' we wrote the following day. One Russian writer, weeping openly, got as far as, 'I don't think I see like it again,' before breaking down completely. Vladimir wasn't alone. Hard-bitten U.S. sportswriters leaned against an Amutolly and had a good cry right along with him. . . . On the closing day of the meet (a slight occurred) which caused Jordan (the Stanford track coach) to comment: 'One of the truly great moments of triumph for the world in the realm of sports.' What was supposed to be a token 'victory' lap around the stadium's track suddenly had become a mass demonstration where there was no telling American from Russian, Democracy from Communism, 'You're great' from 'Spuelho'. More than 150 athletes were on a kick—parading in total disarray, arm in arm, hand in hand, while the Marine Band in attendance for the occasion frantically sought to come up with an appropriate march music that would serve as rhythm for both marchers while keeping tempo with the clapping of hands the fans had switched to after their voices gave out. 'God Bless America' was played in march time; so were parts of the USSR national anthem. Even the American flag, which had been hanging limply the entire afternoon high atop the stadium wall, seemed to catch the spirit of the occasion and began to dance happily . . . For more than two hours the post-meet celebration continued . . . The Tass writer from Moscow at the USA-USSR meet in '62 will argue with those who put their noses up when it is claimed track and field put on athletics' Super Show at Stanford Stadium in '62, 'America does something very good here'".

It is this tradition—America doing something good—that the AAU is continuing with this series.

So we continued the conduct of the meets. In all, including last year's Inaugural indoor dual between our two countries, we had conducted eleven competitions. In that period of time, the U.S. men were 9 and 2, having lost to the Soviets in Kiev, 1965 and Leningrad, 1970. The U.S. women held a record of 2 wins and 9 defeats.

But the series did not just happen. It is the result of lengthy and patient negotiations between AAU and Light Athletic Federation officials. It has had its growing pains and periods of strain (and estrangement). However, it had matured to such a point in 1971 that, during one of our several-times-a-year meetings with Soviet sports leaders, we broached the possibility of an indoor dual series and it was accepted.

Thus the first of these competitions was held on March 17, 1972, in Richmond, Virginia. In what many considered the highlight of the indoor track and field season, both the men's and women's teams of the U.S.A. were victorious. Virtually every paper in the country carried news of the event the next morning and many, like the Kansas City Times, printed complete results of individual events.

The indoor dual was again scheduled for Richmond, Virginia, to be held March 16, 1973. The announcement was made officially on June 28, 1972, from Richmond. The story carried in a representative number of papers nationally. Additionally it has been listed in several issues of *Track and Field News* since that date.

Moreover, it has been a long-standing policy, well known to those involved in the sport of track, that national teams of this country are selected on the basis of performance at USA National Track and Field Championships. Therefore it was clear long before March 16th that the 1973 United States of American National Indoor Track and Field Championships would be used as a basis for selecting the

squad to compete in the Second Annual Russian-American Indoor Track and Field Meet.

What transpired is known to the gentlemen of this committee and sports fans throughout the country. The NCAA office in Kansas City, through various spokesmen issued an edict that any student athlete attending an institution holding membership in the NCAA who competed in this meet would be ruled ineligible and that his school would be subject to probationary measures.

Parenthetically, for a moment let us examine those euphemisms--ineligibility and probation. Both, of course, are merely economic sanctions which effectively deprive the student athlete of the wherewithal to continue his education and the institution of television and post-season championship revenues which can, and quite often do, amount to over \$100,000 annually. In short, "ineligibility and probation" are not idle threats.

Eight athletes chosen to compete on the U.S. squad in Richmond were student athletes at NCAA member institutions.

The Kansas City-based NCAA successfully intimidated the following student athletes and their schools and coerced them into withdrawing from participation as representatives of their nation:

Burry McClure, Middle Tennessee State University, Murfreesboro, Tennessee, triple jumper; Olympic champion Rodney Milburn, Southern University, Baton Rouge, Louisiana, high hurdler; Olympic champion Randy Williams, University of Southern California, Los Angeles, California, long jumper; Reginald McAfee, University of North Carolina, Chapel Hill, North Carolina, mile run; Jesse Stuart, Western Kentucky University, Bowling Green, Kentucky, shot put; Chris Dunn, Colgate University, Hamilton, New York, high jumper.

Additionally, both the head coach, Jim Banner of Pittsburgh University and the assistant coach, Larry Ellis of Princeton were forced to withdraw due to threats, intimidations and duress directed either to them personally or their athletic directors by the Kansas City office of the NCAA. It seems apparent to us that the direct threat to these two men was also economic. It is apparent that these men obviously felt that the Kansas City-based NCAA officials had both the power to, and intention of, carrying out these threats. As a consequence, less than 48 hours before the meet was to take place, coaches Banner and Ellis returned to their institutions and the head coaching position for the USA squad was vacant.

As a direct result of the actions of the NCAA, the USA lost the men's competition to the track and field athletes of the Soviet Union for the first time in history on American soil. Mr. Byers, the Executive Director of the NCAA, whose enmity for the legitimate international sporting organizations apparently knows no boundaries, triumphed again at the expense of his country.

Can there be a reasonable explanation for the acts of these men? We think not. First, throughout these competitions over a 15 year period the legitimate forces involved in the international conduct of track and field have always conducted these meetings. There is but one body which has jurisdiction over the sport of track and field. That body is the International Amateur Athletic Federation (IAAF). In each country one Member, and only one, is recognized by the IAAF as the international governing body for track and field, (IAAF Rule 4, paragraph 1). In the United States the Member is the AAU of the US. Further IAAF rules state that all international meetings must be sanctioned by the IAAF or by a Member (IAAF Rule 12, paragraph 3).

While we are dealing specifically with track and field, the general objectives of the international sports federations are similar. Thus, the IAAF seeks to "establish friendly and loyal co-operation between all Members for the benefit of amateur athletics throughout the world." (IAAF Rule 3, paragraph 1). Further, it will "strive to ensure that no racial, religious, political, or other kind of discrimination be allowed in athletics and to take all necessary measures to stop such discrimination." (IAAF Rule 3, paragraph 2).

As a result of the hostility of the Kansas City officials of the NCAA to the forces involved in the conduct of these international meetings, it seems apparent that they do not share the aims and aspirations of the international federations. For our part, we wholly support the objectives of international sport as expressed by the International Amateur Athletic Federation.

If there had been one recurring reaction to the continued attack by the NCAA on the legitimate sports governing bodies in this country, it is a pervasive sense of futility. But there is a solution.

At the instigation of the NCAA, the Senate Commerce Committee, in 1965, appointed the Sports Arbitration Board, chaired by Theodore Kheel. At the occasion of the naming of the members of the Kheel Commission, the President

of the NCAA, Mr. Everett Burnes, stated, "Our group had complete confidence that the vice-president (Mr. Humphrey) would select a distinguished, unbiased and competent arbitration board. These selections confirm that confidence and completely satisfy us."

Twenty-five months later, in 1968, the Kheel Commission released its report and Mr. Kheel announced a settlement that he felt was more than generous to the NCAA. He was quoted as having said at that time that he was fearful "the AAU would object to the extent to which we permitted the NCAA to force its way into the domain the AAU had governed for the better part of a century." And, while we did object and did feel that it contained a signal victory for the NCAA and arbitrarily stripped the AAU of many of its traditional and legal prerogatives, we accepted the findings of the Kheel Commission. This policy was put into effect by the AAU and has been in effect on our side without interruption since February of 1968.

And, despite the fact that Senator Warren Magnuson, Chairman of the Senate Commerce Committee, said at the time, "It is the feeling of my committee, in light of all the circumstances involved, that we must consider the decision of the Board (Kheel Commission) to be in full force and effect," the NCAA has refused to abide by these decisions. They have, in short, been openly contemptuous of the Congress and Senate of the United States of America by refusing to accept and implement the provisions of the Senate-appointed Kheel Commission.

We feel that the report of the Kheel Commission, if enforced, presents a reasonable opportunity for a resolution of this conflict. We further feel that this legislation, specifically HR 5623, in following the guidelines of the Kheel Report, would provide a method of implementation of that report, having as its main aim the protection of the rights of athletes. Our aims and goals with respect to the rights of athletes to compete in legitimate competitions (i.e. those held in accordance with the rules of the international sports federations in which we hold membership), free of duress, are congruent with HR 5623.

Mr. RIVENES. Thank you. I know how anxious you are to see peace come to amateur sports and the Amateur Athletic Union is more desirous of peace than any of you and will cooperate in every way possible to attain that.

Evidence of this desire is the fact that upon hearing the introduction of the O'Hara-Dellenback bill, I called Congressman John Melcher, of Montana, that is my State, and asked him to cosponsor the bill. He complied with this request, I understand. I am not sure of this but I understand he complied by introducing a companion bill, and we thank him for his interest.

Mr. O'HARA. That is correct.

Mr. RIVENES. We want you to know, gentleman, that we will, if you like, submit a written statement later on, if you need it, and we would also like to point out if you need any help in working out legislation, any details so that they fit in with the international rules and regulations under which we must operate and under which the competing teams in the United States must operate we certainly do want to help.

We cooperated, we think, 100 percent with the Kheel committee and we are ready to help in any way possible to meet with you and do anything we can in order to solve these problems.

With that introduction, and with the understanding that we may submit a written statement later on, we are open for questions to Mr. Cassell here and you introduced Mr. McArthur and please feel free to direct questions to both or all three of us.

Mr. O'HARA. Do you have any statement you would like to make, Mr. Cassell, prior to questioning?

Mr. CASSELL. My name is Ollan Cassell, residing in Indianapolis, Ind., at 2045 West 56th Street. I am executive director of the AAU

and as we indicated before when we appeared 2 weeks ago, I think before the hearings on basketball, if legislation is the thing that is necessary to solve this problem that has existed for so many years in the country, then that absolutely is what must be done and that step must be taken.

We have not or I personally have not had time to review all of the legislation. Your bill, Mr. Chairman and Mr. Peyser's bill—as a matter of fact I just received a copy of Mr. Peyser's bill although I have discussed it some with his assistant, but we have not had a chance to review that and see what the international ramifications might be, but simply to support what our president had indicated—we are more than happy to sit down with this subcommittee or anyone that you might designate to help work out the legislation so that this dispute can be settled once and for all and so that the United States can continue to be represented in international competition.

We see it as one of the major areas because, as you know, and as has been indicated here, this is a nebulous area, the area of what the international franchise holder in this country can do and what is necessary to continue to have our athletes participate in international competition as well as Olympic games.

Mr. O'HARA. Mr. Cassell, you and Mr. Rivenes are both aware, are you not, that section 1302 of H.R. 5263 would prohibit an organization such as yours from declaring ineligible for international competition any student athlete who has participated because of such participation in an event not sanctioned by your organization.

Are you willing to live with that restriction?

Mr. CASSELL. We are prepared to live with it, sir, as long as it does not violate any of the international regulations. This is one of the reasons that I said in the beginning that we must review what international regulations are and what the responsibilities are and what is necessary for us to continue to be represented internationally and as long as it does not violate any of the international regulations we are prepared to live with it. That is my opinion.

Mr. O'HARA. Mr. Cassell, Mr. Cooper stated, when he was testifying before us just a few minutes ago, that section 1302 would be inadequate to achieve the desired objective, which is to permit student athletes to participate in international competition and not be declared ineligible therefor, because according to Mr. Cooper, even though 1302 might prevent you from declaring ineligible an athlete who has competed in an event not sanctioned by your organization, that you would then get one of the international groups, of which you are a member, to declare him ineligible.

Now, I would like to have you respond to that suggestion.

Mr. CASSELL. In my opinion, what is written there would be adequate because the only method we can use to have any athlete not eligible for international competition is because they have violated one of the international rules, rules of amateurism, or whatever they might be, and we are obligated to carry out those rules by the fact we hold the international franchise.

Mr. O'HARA. Mr. Cassell, I would not want to see this bill become law unless I were sure that it would protect the right of a student to participate in events not sanctioned by your organization and still remain eligible for international competition and so forth, and I would

like to have you, prior to the committee's taking further action on this bill, I would like to have you or your counsel check the international rules and bring to our attention any rule that you feel might in any way make that purpose of the bill ineffective because we want to know, we want to be sure that that section would be effective before we take further action.

Mr. RIVENES. I think this is very important. We would go so far as to, it might be desirable to have us get together with maybe your aides or someone to work out these final details, because there are many of them, believe me. I would like to point out to you gentlemen we in AAU are in the business of making it possible for athletes to compete nationally, and internationally, not to prevent them. We are not trying nor do we ever try to prevent them from competing, but try to work out ways for them to compete, and it is our duty and job as holder of the international franchise in some sports to see to it that the athlete is protected so he can compete and we try our best to do this very thing.

In other words, we want to make it possible for him to compete and not to make it impossible for him to compete and we feel it is our duty to look out for his interest and this we have been doing for many years.

Now, it was mentioned here by one of the witnesses, something about the Maccabiah games and in this particular case this is not an AAU event. This is entirely separate from the AAU, but we do, in the various sports that are included in the Maccabiah games, we do certify the athletes and that is all. There has never been any problem at all, nor will there ever be such problem.

Mr. O'HARA. Mr. Rivenes, the committee counsel will be available to meet with your representatives, but we want to make certain that the bill, section 1302, is intended to protect the right of an athlete to participate in an international event, that that bill will be effective, and we will look forward to working with you on that because we have had trouble getting that assurance and I can tell you I have no intention of moving this bill until I can get that assurance.

Mr. Dellenback, any questions on the AAU?

Mr. DELLENBACK. Yes, Mr. Chairman.

Mr. Cassell, we welcome all three of you back again. We appreciated your efforts a couple of weeks ago when you came and testified and when we had a chance to talk to you afterwards. We appreciate your continued effort to try to work with us as to where we go from here.

Let me put to you the same question, Mr. Cassell, I put to the earlier witnesses so we have it clearly on the record. Should there be any type of sanctioning of meets or tournaments or athletic events in which amateur college athletes are allowed to compete?

Mr. CASSELL. I sure think that it is necessary for a competition to be approved which indicates the type of competition, that the events are taking place as they should, and as to exactly how that is done, I think it takes a different approach by different organizations.

Mr. DELLENBACK. What about the suggestion that it is sufficient if the decision be made first by the athlete and second by his or her college or university and that they, being the ones closest to the young men and women and knowing what it is that is their concern? Isn't it sufficient if they have said this is a meet in which our athletes shall compete?

Mr. CASSELL. I think that is sufficient; yes. As you know, that is the position that the National Association of Intercollegiate Athletics has taken and Mr. Duer was here some weeks ago and that is their position.

Mr. DELLENBACK. I gather that is their basic policy.

Mr. CASSELL. That is their basic policy and they don't seem to have problems with that.

Mr. DELLENBACK. If then we say that the athlete and his or her college or university can make this decision, do we need an outside sanctioning organization to sanction that particular event?

Mr. CASSELL. Well, if it is an amateur event, you would need someone to say, you would need some rules and regulations that say, this is what makes an amateur athlete.

Mr. DELLENBACK. What would happen if the university or college made that determination for itself?

Mr. CASSELL. Well, I am not exactly sure. It very well might be in the case of a track meet they would not know what the rules were or what particular type of rules the athletes were competing under, unless they actually received a copy of the rules or regulations.

For instance, as you know, there is a professional track and field organization that is starting in the United States right now, called International Track Association and since there will be a number of professional track athletes, it could happen that some of the professional track athletes can in fact be competing against amateurs in an event and the people that happened to be running an event would not necessarily know this particular person was a professional.

It could happen—well, there are 50 or 60 athletes right now that are professionals and have competed in a professional track meet and have accepted money for their participation. I am not necessarily saying that is wrong. The position that the AAU has taken on this is that we must, or we deal with amateur athletics and naturally if a person is professional, we don't have anything to do with him any more.

Supposing one of them should get injured and this tour is going on for 40 weeks and after his injury, if it had not healed after 3 or 4 weeks, he has to get into condition and the professional tour is of such high quality he would not be able to do anything there, so he must some way get himself back into condition and sharpness to rejoin the tour.

Then the only place that he could do this would be against other athletes such as amateur athletes and this is a problem that has not developed yet at this time, but it is one that I see could develop.

Mr. RIVENE. May I interject something here, please? This is a sport that I am going to tell you about that is entirely different from track and field or anything else, one that I am connected with in that I am, or up until recently, was, chairman of the Olympic Luge Committee and chairman of the AAU Committee at one time and manager of the 1968 luges and luges, for your information, is the little sled that you slide down an icy chute on.

Incidentally, up at Lake Placid just 2 weeks ago, I believe it was, they held national championships there and the North American championship in luges. In this particular sport, in world competition, or any international competition, each country is allowed eight men, three girls, and then most of the competition or practically all of it is in Europe,

and they are always because of the lack of tracks in the United States, and there are always several Americans over there living there training and so on, and if they were to enter upon this, just say I want to enter and represent the United States, then we might send a team of eight and three over there and find that there are already individuals from the United States who are entered on their own, maybe representing a university or school.

Pretty soon, it would really be rough because we would not know who was actually representing our country in international competition.

There has to be, in other words, not only in luges but in any sport, some kind of clearinghouse or somebody certifying not only the athletes, but the team or whoever is going to represent them.

Mr. DELLENBACK. So you feel there should be some kind of an organization that serves as a clearinghouse over and above and beyond the athlete and his or her college or university.

Mr. RIVENES. Yes; I think so. I have seen it happen in luges, particularly.

Mr. DELLENBACK. What about the power of that umbrella organization to punish for a violation of its rules and regulations. What powers are within your scope? What if you refuse to sanction a track meet, say, and an athlete participates in that meet you have not sanctioned? Would you do anything to that athlete when he or she at a later time wanted to participate in a meet you had sanctioned?

Mr. CASSELL. Mr. Dellenback, we, as the national organization, we do not sanction any event. We have the country divided into 58 different associations. Each of the associations operates as an autonomy of their own. They have their own president, own secretary, their own vice-president, and their own chairman of each of these places we hold membership in.

Mr. DELLENBACK. Each of those 58 deals with a sport, not an area of the country?

Mr. CASSELL. No; they deal with an area of the country.

Mr. DELLENBACK. They deal with an area of the country.

Mr. CASSELL. With an area, yes, for instance, in some cases they are strictly along State lines. For instance the Indiana association of the AAU, but in other areas such as Texas, it is divided into four or five different associations because of the wide area and because of the athletic interests of the different place and the different cities where there is sort of a pocket of athletic interest.

Mr. DELLENBACK. In addition to geographical breakdown, do you break down by subject matter and sports?

Mr. CASSELL. Yes; we do. For instance at the past convention, each of our sports, or each of our sport supervising committees such as track and field—it is a separate operating division by our rules.

Mr. DELLENBACK. How many of those do you have?

Mr. CASSELL. We have 18 different sports that we are involved in promotion of a sport and the administration of a sport.

Mr. DELLENBACK. So, these 18 sports committees must interact with the 58 different geographic breakdown organizations?

Mr. CASSELL. Yes; and in each of the different breakdown areas, there is a representative on that committee in that area. For instance, in track and field in Indiana, there is a representative from Indiana on the track and field committee for the AAU.

In New York, I think there are three. It is broken into three different geographical areas.

Mr. DELLENBACK. Do any of those area groups have power to sanction or to punish a young person who does not go along with an agreement?

Mr. CASSELL. They have the authority, yes, to sanction events and to take action against individuals who participate in any event that is not sanctioned.

Now, there is also a system of justice that is applied there. For instance, if one of our associations wished to suspend an athlete from competition, that athlete can appeal by our own rules. If it is turned down at that level, then we have a national registration committee, which deals strictly just with matters of eligibility.

Then they can appeal directly from that association to this national committee to have this decision overturned if they have been wrongly treated at this association level. Then, above this, we created at this past convention a review board that, if a person is still not satisfied by this national committee, this can be appealed to the review board of the AAU.

Mr. DELLENBACK. They can, in that process, disqualify, at least from future participation, for reasons that are good and sufficient under their own rules.

Mr. CASSELL. Yes, sir.

Mr. DELLENBACK. Are those rules and regulations which the failure to comply with can lead to disqualification essentially rules that relate to the amateur nature of the athlete, or are they rules that relate to whether or not that athlete has competed in an unsanctioned event?

Mr. CASSELL. They relate to amateurism and to what the international rules are.

Mr. DELLENBACK. So it can relate to whether or not the athlete has participated in an unsanctioned or unapproved event?

Mr. CASSELL. Yes; it could. There are only 10 organizations, international organizations that the AAU holds international membership in and the other 18 sports that we engage in and promote, these are sports that we cooperate with other bodies in.

For instance, we promote volley ball and the USVBA cooperates with our volley ball committee. As a matter of fact, the USVBA has granted to the AAU a 99-year lease on running of their junior Olympic program, a program for kids from the age of 17 down to 9, but mainly because of the type of organization that AAU has in 58 areas and the sport is promoted in 58 of the areas and it would get broader participation and broader exposure than if the USVBA did it themselves, since they don't have that type of organization.

Mr. DELLENBACK. Let me ask two final questions. What did the AAU do to help implement the proposals of the arbitration board, if anything?

Mr. CASSELL. We have been going by that board, which, since it was instituted, as you remember when we were here 2 weeks ago, we had indicated there had been visits with Senator Magnuson and visits with Ted Kheel in an effort to have that enforced by the Senate and we, as a matter of fact, had, as part of our statement at the last time we testified, the objections or the violations that had been made of the Kheel agreement, some of the more glaring ones.

Mr. DELLENBACK. Would you say that the Kheel board report has had any substantial effect over the past 5 years? Or putting it another way, what effect, if any, has it had over these years on the conduct of sports?

Mr. CASSELL. I don't think that it has had any. However, while we have tried to implement it and tried to more or less, if you want to use the word, "force" the other parties that were involved, we haven't received the same type of response.

We have, in the spirit of good faith, and in the spirit of cooperation, taken some of the matters that were reviewed in the Kheel report that have gone further than they actually were, mainly because some of the people in track and field felt that after secret meetings or whatever with the people involved that they were going to receive the same type of cooperation.

Mr. DELLENBACK. Mr. Chairman, I have two other questions I would ask, but perhaps there are other members that want to ask questions.

Mr. O'HARA. Mr. Peyser?

Mr. PEYSER. Thank you, Mr. Chairman, and in the interest of time, I will ask just one question. First of all, I want to welcome the gentlemen here. I have had the opportunity of having many conversations with Mr. Cassell and he has been very open and direct with me in our dealings, but I do nevertheless want to ask a question that disturbed me because all of the organizations indicated their interest in the athletics and in the country being well represented.

Now, my question really is, with the fact in mind, why wouldn't the AAU make application in this meet with assurances as you have had from my own office, plus the assurances that I would back you up 100 percent if something started falling apart on the other end once an application was made, then why wouldn't you make the application which would enable all of our athletes to compete in the meet in Richmond?

Mr. CASSELL. I thank you, Mr. Peyser. I would like to thank Mr. Peyser for getting involved in that and for doing what he did, because I think what he has done has more than anyone else's actions really exposed what the situation and what the problem is here.

However, in reference to your bill, sir, I am not too sure that a commission would be the answer. From my own standpoint, I personally favor something being done definitely to solve the problem once and for all, but not on a one-time basis, because I feel that I am too young, at the age of 35, to go through this for 20 or 25 years if I stay around with AAU that long or am involved in amateur sports; every time there is international competition or a national championship I go through the same process with the last minute situation that we have here and that we have gone through before.

We explained those, I have been through this with you, and I think that really what is on is that the NCAA and again, as I speak of NCAA I do not wish to refer to individual colleges because as I indicated before, individual colleges in their cooperation with our people in these 58 different areas has been outstanding but it is when you have to deal with people in Kansas City that you run into these difficulties.

These competitions with the Soviet Union are something we have been carrying on as I indicated before for 14 years and we had this

particular event in Richmond last year and there was no particular reprisal brought against athletes or coaches that took part there then and there were college athletes from NCAA institutions that participated.

As a matter of fact, Ron Basil was the head coach down there last year and he is now the athletic director at Adelphi and one of his athletes happened to be one of the athletes who chose to participate in that particular event.

We didn't feel that this was necessary, however, in the spirit of cooperation, after we discussed it with you, and if it had been dealings with just the NCAA and I informed you that we would more than cooperate, but there was an additional element that was involved and that was item 18 and we feel that that organization was created mainly to be a buffer to the AAU.

As a matter of fact, I received an application from Mr. Cooper and I have it here and the date it was received in my office was February 28, 1973, and item 7 on this application, the last sentence of item 7 and I would like to submit this for the record, if I might, Mr. O'Hara.

Mr. O'HARA. Without objection, it will be entered into the record.

Mr. CASSELL. I would like to read but the last sentence which reads:

Meets involving national teams of the United States do not require USTFF sanction.

That particular sentence is the only one marked out of this application by a pencil.

Mr. PEYSER. Thank you very much, Mr. Chairman.

Mr. O'HARA. Thank you very much, Mr. Cassell and Mr. Rivenes and Mr. McArthur and I want to have called to the committee's attention any international regulations that you feel might in any way inhibit the purposes of section 1302 at your earliest convenience so the committee can proceed with the proposed legislation.

Mr. RIVENES. Mr. O'Hara, would it be a good idea for us to discuss a little bit the possibility of getting together?

Mr. O'HARA. You can do it right after this meeting.

Mr. Dellenback, do you have another question?

Mr. DELLENBACK. May I ask Mr. Rivenes, or Mr. Cassell, one further question about your ideas with respect to the umbrella organization concept versus a single-purpose organization. Mr. Cooper commented and expressed his strong feelings. Can you give us the whys and wherefores of how you feel on it?

Mr. CASSELL. Yes, sir; we feel the only way to have proper representation and to have the sufficient number of people that it takes to run an amateur organization and to run it properly and have the competition spread throughout the country and have the proper type of representation from the areas, that involves more than just one particular sport, because there is just not that interest in one sport from an official standpoint from an athletic standpoint, from various standpoints that you would get from an umbrella organization.

A good example would be if you would go to have a look at some of the organizations that have individual membership in the international federation, they normally operate out of someone's home, out of someone's basement, while we have a national headquarters, we have 30 people on a paid staff and we have 13 different field representatives throughout the country. You will also find that under our

situation, each of the sports makes the decisions as to what they want to do.

For instance, our national chairman is elected by the people that are on that committee. We don't name that person. We don't have authority to name that person because that person is elected by those people.

The international representatives that you have in not just track and field, but all of these sports we have, those people are also elected. We don't name them. They are elected by members of that committee.

The representation of track and field, that it has in any particular area of other organization or of international organizations are elected by the people. We don't have any authority to name them. The only thing that we do as an umbrella is to offer assistance, offer guidance, offer help to try to have the organizations, since they are amateur organizations and involved in promoting amateur sports, is the amateur rules are the same for all of these organizations.

We do provide all of the supporting work for these committees. In most instances we have a national administrator in our office that handles a particular sport. For instance, we have membership in an organization which controls all aquatics in the world and we have an administrator of aquatics in our office and his job is to take care of all the swimming regulations and swimming rules and in international participation in such sports. We have a national administrator of track and field.

We have a national administrator of basketball. We have a national administrator of the combative sports like wrestling and judo and karate and boxing.

Mr. RIVENES. To add to this, I would like to point out if you were to look at the directory of our membership on the various committees and so on you would find a very substantial membership from the colleges in there, NAIA, for example, is represented on all committees and we have many NCAA top-notch coaches, directors of athletics, that are members of our committees.

We get along just very, very well.

Mr. CASSELL. I would like to point out that before you finish the hearings, sir, that while it has been pointed out that some of the iron curtain countries especially are government-controlled, they have adopted the umbrella principle because, while there is a committee that is established in the Soviet Union which I am very familiar with, they have a minister of sports and under this minister of sports they have each of these different sections, a section for track and field, a section for basketball, a section for wrestling and so forth, so they have really adopted the policies and principles of—I don't want to sound repetitious—of AAU because this is exactly the way that they are organized.

The NCAA is also organized that way. They are an umbrella organization that has control over many sports and it seems to me that is a feasible way to approach it, because this way you can help sports that are not as fortunate as some and most of them that we have been criticized for a long number of years because we don't have the type of operation that we should have in some of the international competitions and olympic games.

Mr. DELLENBACK. The NCAA, for instance, is involved in a series of individual sports operations, and high schools, I suppose operate the same way?

Mr. CASSELL. Yes, as you know, the high school federation is a national organization, but each of the States operates by law on their own even though they really apply to the national high school organization.

Mr. DELLENBACK. But, even in a sport which is represented by a single sport organization all the way down, that single representation really does not extend to the individual high school or individual college with that sport being represented by itself. There is an umbrella organization for high schools, for junior colleges, for the NCAA, and although that sport there may be a representative of the NCAA, the sport itself does not permeate through that umbrella organization; is that correct?

Mr. CASSELL. Yes. It again depends on how these organizations are organized. For instance, the NCAA Council, the executive group, there is a council, it is a council, and I don't know whether they have a representative of track and field on that council or not or football or whatever the sports might be.

We, for instance, 10 representatives on the U.S. Olympic Committee and by our regulations 2 of those people must be from our track and field people.

Mr. DELLENBACK. Thank you very much, Mr. Chairman. Thank you, gentlemen.

Mr. O'HARA. Thank you very much, Mr. Cassell and Mr. Rivenes and Mr. McArthur. We enjoyed having you and will look forward to receiving your further response to our questions.

Mr. CASSELL. Thank you.

Mr. O'HARA. The committee will now stand in adjournment on the call of the Chair.

[Whereupon, at 12:45 p.m., the subcommittee adjourned, subject to call of the Chair.]

PROTECTION OF COLLEGE ATHLETES

MONDAY, MARCH 26, 1973

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

The subcommittee met at 9:30 a.m., pursuant to call, in room 2261, Rayburn House Office Building, Hon. James G. O'Hara (chairman of the subcommittee) presiding.

Present: Representatives O'Hara, Dellenback, Lehman, and Peyser.
Staff members present: Donald M. Baker, chief clerk of the full committee; A. C. Franklin, counsel; Elhora Teets, clerk; Austin P. Sullivan, legislative specialist; and Robert C. Andringa, minority staff director.

Mr. O'HARA. The Special Subcommittee on Education of the House Committee on Education and Labor will come to order.

The purpose of our hearing today is to continue our consideration of testimony with respect to the several bills which have been introduced, H.R. 5023, cosponsored by Mr. Dellenback and myself, and H.R. 5024, sponsored by Mr. Peyser, and a number of identical bills sponsored by other Members of the U.S. Congress who have demonstrated an interest in this subject.

As you know, the committee is very much concerned about the impact on student athletes of the current dispute between several organizations who are involved in sponsoring athletic events in which student athletes would be engaged.

Our first witness this morning is here from Hutchinson, Kans., Mr. George E. Killian, executive director of the National Junior College Athletic Association and that organization was founded some 35 years ago and now has as members over 550 junior colleges all over the United States.

It promotes junior college athletics on intersectional and national levels and sponsors national tournaments for all major intercollegiate sports.

Mr. Killian, if you would please come forward and take your place at the witness table, we would very much like to hear from you.

Before you proceed, if we can go off the record.

[Discussion off the record.]

Mr. O'HARA. Mr. Killian, all right, we would like very much to hear from you. You can proceed in any manner you wish, read your statement or submit it for the record, and testify off the cuff, whichever you wish to do.

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STATEMENT OF GEORGE E. KILLIAN, EXECUTIVE DIRECTOR, NATIONAL JUNIOR COLLEGE ATHLETIC ASSOCIATION, HUTCHINSON, KANS.

Mr. KILLIAN. Thank you, Mr. Chairman.
I will read our statement.

Mr. Chairman and gentlemen, my name is George E. Killian and I am the executive director of the National Junior College Athletic Association (NJCAA).

It is my pleasure to introduce to you our attorney and commissioner of eligibility, Dr. Oscar Smukler, who is head of the City Campus of Erie Community College in Buffalo, N.Y.

It is an honor to appear before you today, and on behalf of the association I represent. I wish to thank you for giving us the opportunity to express our views on this important piece of legislation.

We, who make sports both our vocation and avocation, realize the importance and magnitude of your task. We trust that after everyone has had an opportunity to express himself, that reason and logic will prevail over personal differences, so that sports, which have become such an integral part of the American way of life, will continue to flourish at both the professional and amateur level.

With your kind indulgence, I would like to briefly familiarize you with the organization I represent. While relatively new, the NJCAA represents the fastest growing segment of education in this country—the junior colleges.

For the past 4 or 5 years, junior colleges—or, community colleges, as they are sometimes called—have been opening at the rate of approximately one a week.

Predictions are that this rate will continue for at least another 5 years. Without going into the philosophy of the junior college movement, suffice it to say that it is filling a void that has long been present in our educational system. It is from our ranks that come the technicians and the paraprofessionals that this country so vitally needs.

The NJCAA represents 533 of these institutions throughout the United States, which is divided into 21 regions for legislative purposes. I cannot stress too strongly the fact that it is the 533 member colleges that make the rules and set policies, and not the association per se.

This is accomplished by the section of our bylaws that requires all proposed legislation to be circulated to our members at least 30 days prior to the annual meeting. This proposed legislation is then voted upon by the regional directors, who are the duly elected representatives of the 21 regions. I might add that the officers and executive committee of the NJCAA have no voting powers.

The rules we have affecting sanctioning of outside competition—be it domestic or international, by individual athletes or teams is the direct mandate of all our members. Such rules can, of course, be changed by them at will.

Why then do we have such sanctioning powers? The reasons are twofold:

1. We feel it is grossly unfair to allow an athlete free rein to compete in any outside competition he desires while a season of the sport in which he is participating is in progress. Permitting him to do so

would disrupt not only his own participation, but that of his team as a whole.

Picture if you will, the star of the team deciding to play in foreign competition at the same time his team is engaged in a struggle for a regional or national title.

2. We have had actual instances where athletes and teams have participated in such outside competition—without our sanction—only to find themselves subjected to substandard living conditions.

By requiring such participation to be sanctioned we have the opportunity to investigate the entire background before permitting our schools and athletes to become a party to such conditions.

Gentlemen, I believe you will find that the record of the NJCAA speaks for itself. We have never prohibited our athletes and schools from engaging in any outside competition that we found to be bona fide and worthwhile. All that we are concerned with is that groups and organizations do not use our members and their students as the means to promote events that will "line their own pockets."

If there are any of you here that have the slightest suspicion that the NJCAA in any way discourages the rights of our schools and athletes to compete in international events, let me dispel those thoughts right here and now.

On the contrary, our record shows that through our international relations committee, we have made a concerted effort to encourage such competition. For example:

A. We are now canvassing our member colleges to obtain a junior college basketball team to tour and play various teams this summer in Australia.

B. The Chile national basketball team, which toured the United States this past winter, competed against a number of junior colleges, including opening its tour with a game against Brandywine Junior College, Wilmington, Del.

C. At the request of Mr. Haskell Cohen, basketball chairman of the U.S. Committee on Sports for Israel, we are sending a memorandum to all of our members requesting that they encourage all of their athletes of the Jewish faith to compete in the Maccabiah games in Israel this summer.

D. During our annual meeting and national basketball tournament in Hutchinson, Kan., 2 weeks ago, we had as our guest Mr. Jorge Ruben Ruano, coach of the Guatemala national basketball team. Arrangements were made with him to have a junior college basketball coach visit and conduct clinics in Guatemala during the next two summers.

E. At the request of the State Department, we offered the services of Mr. Charles Steveskey, athletic director and basketball coach at Auburn Community College, Auburn, N.Y., who conducted basketball clinics in Afghanistan for 3 months during the fall of 1972. We were informed by the State Department that the job done by Mr. Steveskey was one of the best it had ever experienced, as evidenced by the many letters of commendation that were sent to the State Department by various governmental agencies and officers of Afghanistan.

If time permitted, I could cite many other examples where the NJCAA has actively solicited and encouraged involvement in the international scene.

Why then, gentlemen, do we oppose this legislation? We oppose it because we believe that Federal intervention should occur only when there has been a showing of abuse or disagreement. We do not believe we have been guilty of this.

We sincerely feel that we know what is best for the schools and individuals we represent and serve. We are close to the entire scene and can advise our constituents accordingly. Until such time that we fail in our commitments and obligations, we feel this responsibility should continue to rest with us.

Mr. Chairman, I again wish to thank you and your committee for having afforded the NJCAA in general and me in particular the right to have appeared before your honorable body, and trust that you will take the thoughts and ideas we have expressed here into consideration before acting on the measure before you.

Mr. O'HARA. Mr. Killian, what are the rules of the NJCAA?

Mr. KILLIAN. In regard to sanctioning?

Mr. O'HARA. Yes; in regard to sanctioning what rules do you have, if any, with respect to an athlete from one of your schools who participates in an unsanctioned event? How do you handle that?

For instance, let's take the U.S.-Soviet track meet in Richmond just last week, was that event sanctioned by NJCAA?

Mr. KILLIAN. No, sir; it was not because we were never asked to sanction it because we had no athletes that were invited to attend.

Mr. O'HARA. What if one of your athletes participated in that event?

Mr. KILLIAN. Without our sanction?

Mr. O'HARA. Yes.

Mr. KILLIAN. Then he would have been ineligible because of other rules we have within our bylaws.

Mr. O'HARA. In essence, what those rules boil down to is that if a student athlete attending a school of one of your member institutions participates in a track meet or in another amateur competition which you have not sanctioned, he is declared ineligible, is that what your rule is?

Mr. KILLIAN. Yes; and I am going to turn it over to the commissioner of eligibility who handles all sanctioning problems for us.

Mr. SMUCKER. Yes; all that would have been necessary in that particular instance would be that the school or at least himself, although we would rather have it come through the school, will write me as commissioner a letter asking he be permitted to compete in that particular meet.

I would check it out, if necessary maybe calling Mr. Killian and chances are we would find no reason why he should not compete. If it was not going to in any way hurt the school, for example, that the school maybe had an important track meet at the same time and we felt it would be best for the student to participate for his school and team, in that case we might not sanction it, but assuming it would not conflict with school activities we would sanction it.

We do it almost as a matter of course, pretty much as a rubber-stamp operation except for the fact we check out the event and people promoting it to make sure it won't in any way hurt his amateur standing.

I have been commissioner for about 3 years. I could count on one hand the number of times I have not issued sanctions to a student or team to participate in international events.

Mr. O'HARA. Assuming you have not sanctioned the event, you had not been asked to, let's just make this assumption, let's assume that the day after the United States-Soviet track meet, you pick up the newspapers and for the first time discover that an athlete from a junior college had participated in the event, what action would you then take?

Mr. SMUKLER. We would no doubt refer it to the Standards and Ethics Committee. If it turns out that the school and athlete had made an honest mistake, because even though everybody has a handbook sometimes we find that they just don't read the rules and didn't realize they had to go through our sanctioning process and chances are all we would do is send the student and the school a letter pointing out to him that he did technically violate the rules and we find it was not done willfully and that it was an honest mistake and then no sanction would be put against the school.

On the other hand, if it turned out the student had willfully neglected to follow the procedures, knowing that these procedures were to be followed, we might very well put that student on some type of probation.

Mr. O'HARA. Well, suppose it was all right with the school, let's suppose you checked out further and you find, first, that they may have been aware of the rule, they just didn't choose to follow it, and second, that the school has no complaint with the athlete's participation?

Mr. SMUKLER. Then no doubt there would be sanctions against the school, possibly a reprimand or probation. Because after all, belonging to our organization is a voluntary matter. They can or do not have to belong if they don't want to. There are a number that are not members of the association. If they are a member and understand the rules and yet say: "Well, we are not going to follow that rule and not going to ask for it," if they are not going to do something as simple as writing a letter asking us to sanction it, I think we would take action against them because it would be certainly willful on their part.

Mr. O'HARA. I can't understand in what way the association is harmed. If anyone is harmed and I read your statement on pages 2 and 3 and you say you have two responses for sanctioning activities and one of them is, you think it is unfair to allow the athlete free rein to compete in any outside competition during the season.

Permitting him to do so would disrupt not only his own participation but that of the team as well. So, in other words, the team in effect, is hurt by it.

Second, where there are perhaps substandard living conditions prevailing.

It seems to me with respect to the first instance, that it is up to the individual school, the athlete's coach say and his academic adviser also, to decide whether it is all right for him to go and play or not.

Mr. KILLIAN. Mr. Chairman, I think that track and field in the Russian meet, well, I would like to go beyond track and field. Let's take, for example, basketball. Let's say a team is going to come here and the student decides he wants to play against the Russians and it is the same week we have a regional tournament and the boy does not need permission from anybody, he just wants to go and play.

Now you have a disruptive action nature against the whole institution.

Mr. O'HARA. That is the institution's problem, though, isn't it?

My point is this, if that basketball team operates like any other basketball team I ever heard of they have certain rules with respect to participation. In other words, if you miss a practice of the team, you are subject to certain disciplinary action by the coach and athletic director. If you miss one of the team's games without good cause, you are certainly subject to being dismissed from the team. In fact, you may be dismissed from the team for even missing a practice.

Now nothing in this legislation before us proposes to make any change whatsoever in that. We are not saying that if you are off playing in international competition you are not subject to the same penalties as anyone else on the team for missing a game or for missing a practice.

What we are saying is, that the same rules ought to apply to you as are applied to everybody else, you should not be penalized because you are in an international competition.

I don't see how that in any way interferes with the right of the school to exercise discipline with respect to the team's representing it or that team's members, I don't see how it would bother it, do you? Can you tell me how?

Mr. KILGAYN. We look at it entirely different than you do because, I could come into any institution and entice a youngster to go and leave my campus. Sure I can throw him off of the team and dismiss him from the institution, but what happens to the other nine boys that are on that particular team fighting for a regional or national title?

We don't owe them anything then? Do we just say it is tough luck because "Charles Brown" is an athlete of national and international stature, that he is going to leave our campus and go? Are you saying we don't owe these boys that remain on the campus anything?

Mr. O'HARA. I am saying, in other words, if what you worry about is if the athlete misses a game or a practice, it seems to me the team's rules would usually take care of that situation.

I don't see where the NJCAA has to tell a team that they have been hurt by the failure of their star player to play and inasmuch as you know they are not going to do anything about it you are going to take action to rule him ineligible.

I don't see your role in the thing, frankly. I don't see where you add anything to the situation.

Mr. SMYKLER. How about the overzealous coach that takes the boy, whether he is a track star or whatever he is, and exploits him by taking him on tours? Most college presidents, and I happen to be one, are not much aware of what goes on in athletic offices and this particular boy is taken, and chances are the coach might be receiving some compensation or just wanting to expose this boy, because we have instances where coaches are now acting as agents for some of these athletes and getting fat fees as their agents.

This can happen. It has happened. It is only by having an organization such as ours which has not been guilty of any abuse of discretion, that can pinpoint those couple of isolated cases. If there have been situations where we denied sanction, it is only because, after very thorough investigation, we have felt it would be adverse to the interests of the school and for the athlete himself to permit it.

There has not been one instance I know of, and I don't think anyone can point out a single instance, where if it is a bonafide event that we do give automatic sanction. There are going to be people, especially in coaching ranks, that will take advantage of the youngster, exploit the youngster, and there will be no one that will say: "No you can't do this or this is what will happen to you or we are going to contact his school president, and say here is what is happening on your campus, and put a stop to it."

That is what is going to happen if you give him a free rein.

Mr. O'HARA. That does not, of course, involve sanctioned or un-sanctioned events, does it? In other words, if you have rules with respect to whether or not a coach or coaches can act as agents and if you have rules with respect to whether or not exploitation of athletes occurs in a way that is harmful to that athlete's academic career, I don't see where that gets into this situation.

Mr. SMUKLER. Sure, because of the fact the way he is exploiting him is putting him into various types of events, some of which may very well be international in nature. By our saying to the school: "This is what is going to happen to you if you do this," that is where we get the control.

Chances are the coach is going to think twice if he knows that he is going to go ahead and enter this athlete in some type of competition that we have refused to sanction, knowing full well that his school could go on probation, which of course would then come to the attention of the President or board of trustees.

He is going to definitely think twice before he puts the lad into competition, whereas if he has carte blanche authority to do it without our sanction, he is just going to go ahead and it will not bother him one iota.

Mr. O'HARA. I really don't see exactly where that gets into our situation. I can recognize the problem you have in that situation, but that is not really the language of the bill, or the language of the bill is really not directed at that problem in any way.

It would not change your situation in that regard. The language of the bill simply says that you shall not declare a student athlete ineligible for participation or his school ineligible because he has participated in a competition representing his country against athletes of other countries. Now that, you know, is just as simple as that.

If you want to throw athlete Smith out on his ear for missing two classes or the school wants to throw him out, that is perfectly all right. If they were to throw him out on his ear for missing 2 weeks of classes while off playing one of your sanctioned events, you know, if they want to discipline him for having missed practice of his team or having missed games in which his team was involved, that is all right.

But all we say is, for having participated as a representative of his country, then, you know, that should not be a basis for declaring him ineligible.

Mr. Dellenback, any questions?

Mr. DELLENBACK. Thank you, Mr. Chairman.

Mr. Killian, when you talked on your first point, which is on page 2 of your testimony, about permitting an athlete to compete during the season, I can understand what you are saying and how this could cause some real difficulties.

What about in the nonseason? Your point alludes only to the season of the sport. What if the basketball season is over and, just like tonight, we wind up the last of the national tournaments. What if a player wants to participate in games in Israel say?

Mr. KILLIAN. That is fine.

Mr. DELLENBACK. But if he didn't apply from any school, because your point deals only with the season, what if an athlete from one of your schools, without there having been any question about the Maccabiah games, and assuming it is okayed by you, when the season is over and his school would not be injured since it is during the summer, he himself runs into no conflict with any academic problems what would you do if he takes off to participate in games like that?

Mr. KILLIAN. We have no problem.

Mr. DELLENBACK. Excuse me a minute. Let me ask you about that. You say no problem. Let's assume the season is over and there is no request for approval of the Maccabiah games and the athlete says "I want to go" and he is accepted and gets the chance to go and participate. Is there any difficulty for that athlete or his school when the next basketball season rolls in?

Mr. SMUKLER. Yes. Section 9(b) refers to something like that happening when the seasonal sport is not in progress which you directed your question to. We say that such a member college must receive sanction from us first. They have to contact us and receive sanction if it is an event outside of the season.

Now, again, as we pointed out and Mr. Killian points out in his statement, there just have been no cases of abuse of that discretion, sir.

Mr. DELLENBACK. All I am getting at, and I am not arguing whether or not you should have that rule but just that the first point you have in your testimony then is incomplete. That is not the only reason that you are alluding to. You said "Why do you have sanctions?", and you show two reasons for sanctions. You make the first point, as to your first reason, it would apply to only half of the situation to which you just alluded. Therefore it can't be your reason. Now you are going into the second reason as the basis for your sanction.

Mr. KILLIAN. Our rule 9(b) only applies to teams as a whole, not any individual. An individual can go on his own.

Mr. DELLENBACK. Then let me go back. If the individual athlete elected to participate and there was no request for approval.

Mr. SMUKLER. No requirement for it.

Mr. DELLENBACK. There is no need under those circumstances and no retribution then is handed out to that individual athlete under any rules?

Mr. SMUKLER. Unless he got somehow involved in hurting his amateur status.

Mr. DELLENBACK. What does that mean?

Mr. SMUKLER. For example, if he was paid for competing, then of course he would lose his amateur status.

Mr. DELLENBACK. That would be another charge that he is no longer amateur?

Mr. SMUKLER. Yes.

Mr. DELLENBACK. In this particular situation we alluded to, if an individual athlete elected to participate on his own in this case?

Mr. SMUKLER. No requirements. If you notice in the pamphlet we gave you, on page 26, section 9(a), it says:

"while a season of any sport is in progress, as determined by the published schedule of the junior college. In other words we preface it 'subject it to sanction while the season is in progress.'"

Mr. DELLENBACK. While a season is in progress, which is 9(a), we made clear, under your rules, an individual can participate in international events without approval.

Mr. SMUKLER. Yes; any student that wants to go to the Maccabiah games this summer, the season is not in progress, he does not have to ask us or receive sanction, he just goes.

Mr. DELLENBACK. What about the team situation?

Mr. SMUKLER. 9(b), sir, on the same page says:

No member college may participate or be a party to any athletic event such as all-star games, et cetera.

They would have to receive sanction whether it is in season or out of season because there we feel they are really representing the full member body of our organization and we feel that there we should have some control, because they are really representing the NJCAA if they are a member college of our organization.

Mr. DELLENBACK. What if they say nothing about being members of NJCAA? Just Podunk Community College decides it wants to participate in something in the next county, or State, or internationally, and decides they would like to do it.

Mr. KILLIAN. The reason you have this sanctioning, it is so very simple, it is because we get invitations from countries and groups to send a team to play and if you have ever been party to some of the international events, it is really quite a mess.

First of all, they will invite teams and they say "You come to Europe," and they get over there and the housing is substandard and so forth.

Mr. DELLENBACK. I am not getting into that point. Now, you are looking to the second reason and, if so, let's pursue it. What I would like to know is what are your criteria for making a determination as to whether the meet is OK or not. You use two tests: First, bona fide and, secondly, worthwhile. Are those the words of the rules?

Mr. KILLIAN. I guess maybe we could have used the word "discretion."

What we attempt to do is check with that particular governing body, whoever it may be, to find out if they are bona fide officers, not just figures of somebody's imagination, because, you know, basketball coaches go overseas and have a tendency to become friendly with other coaches in foreign lands and the next thing you know we have a tour going over. You have to check with the governing body first of all to see if it is a bona fide offer. "Can your institution make this trip?"

Mr. DELLENBACK. By bona fide you mean financially sound?

Mr. KILLIAN. Right.

Mr. DELLENBACK. Is there something else besides that?

Mr. KILLIAN. There could be more. For example, in basketball you have to have approval of the governing body, which happens to be the AAU. If the team goes over without travel permit, it would not be allowed to play.

Mr. DELLENBACK. So we are back now to the AAU, not because of what the trip is all about, not because of the financial arrangements or anything else, but because some other body has not given its approval?

Mr. KILLIAN. That is only one part of it.

Mr. DELLENBACK. What else is there besides substandard conditions or economic difficulties? What if the "Maharajah of Hoopensnatch" puts a million dollars in trust so there is no problem of any kind; he will have a hotel set aside and there are no questions like that. You knew that was the case but no one asked AAU for approval. Would you crack the whip in that situation?

Mr. KILLIAN. No. What we do, for example, if it was a junior college that was going to play overseas we would tell our people:

As far as we are concerned, NJCAA member, you have met your criteria and will get your money and are going to have decent housing and everything else, the next step you need to go through is AAU.

That is beyond our control.

Mr. DELLENBACK. If they don't go to them, you would not give approval?

Mr. KILLIAN. No; we would approve the trip up to that point because we do not have the right to approve of someone leaving the country because we are not the governing body.

Mr. DELLENBACK. Let's assume, Mr. Killian, that a given school which was a member of NJCAA, did ask you for approval, and they said:

This is what the invitation is: We know that we are going to be all right. We have the money in trust. We know that we have the confirmed hotel and airline reservations and so forth.

At that stage of the game you checked it out and found all of those things were OK. If then they went off and made the trip, would you exercise some punishment upon them the next time?

Mr. KILLIAN. No.

Mr. DELLENBACK. If they did not go to AAU or anybody else, they got approval from nobody else?

Mr. KILLIAN. No; as far as we are concerned, when they got our approval that is it.

Mr. DELLENBACK. Do you give your approval without checking to see if any other agency has given its approval?

Mr. KILLIAN. In the few instances where we have teams go overseas, and one I can think of is a community college from St. Louis that toured England and France, we gave them our approval.

Now, they know that they have to get additional approval, because if they went overseas without that additional approval, it is possible they might not be allowed to play. But that has nothing to do with NJCAA.

Mr. DELLENBACK. In determining whether or not you give your approval, you do not determine whether they asked anybody else for approval, or indeed have anybody else's approval?

Mr. KILLIAN. No.

Mr. DELLENBACK. In determining whether or not you are going to give your approval you look only to certain basics?

Mr. KILLIAN. That is right. But we would inform them, sir, that even though they have 100-percent approval from us, they are ready to go,

that if they leave the country, there is a possibility that they might not be able to play once they got there if they do not have approval from the international governing body.

Mr. DELLENBACK. Let's assume whatever happens on that, they go and don't play or go and do play, they come back here. There are no retributions that you exercise against them as individuals or as teams? Or anything else?

Mr. KILLIAN. No, sir.

Mr. DELLENBACK. But they must get that approval from you and if they don't get that approval from you on your 9(b), then you do take measures?

Mr. KILLIAN. Right. Let me point out, sir, we are not doing this in any way to stop anybody from doing anything. All we try to do is protect our membership. I point out again and again and again that we don't just sit in Hutchinson, Kans., and run our national office like an ivory tower. We don't make these rules, the rules are made by our members.

Mr. DELLENBACK. By representatives of the members?

Mr. KILLIAN. Right.

Mr. DELLENBACK. Not by all of the 533 colleges?

Mr. KILLIAN. Yes; we feel so, because in our constitution, every change in our rules and regulations is circulated 30 days beforehand to each and every member college. We feel that we have a true pulse reading of our membership.

Mr. DELLENBACK. I am not quarreling with whether your representative system is a good one or bad one, whether you are dealing with the Government of the United States or the NCAA or the Presbyterian Church, they are all good representative governments, and we don't have to go into discussions on whether you have the vote of the individual under the Athenian democracy system or what.

Mr. SMUKLER. I think we can't emphasize too strongly how important it is for some organization, whether it is NJCAA or whatever it is, to check out for the teams before going overseas that they are going to have the proper accommodations.

Three summers ago I had occasion to go over with the U.S. basketball team in the tour of the Iron Curtain countries and, honestly, the conditions we lived under were so substandard that if I knew ahead of time I would certainly have discouraged anyone from making that tour.

In Rumania, in particular, the conditions were just unreal. They had bunk beds closed at the ends 6 feet long for players 7 feet tall, and food that was utterly inedible. When we contacted the Embassy in Rumania, we were told that they never even knew the State Department was sending a team over. These were the conditions we ran into.

It was not really the countries themselves. I might add the Iron Curtain countries, Poland and Rumania, did everything possible to assist us but it was ill planned by the State Department and I am sure the NJCAA would not have let a member of the NJCAA go on a tour until things had been checked out and guarantees had been made for proper accommodations and that is why we think it is important we be involved.

Mr. DELLENBACK. NJCAA had not given approval?

Mr. KILLIAN. This was not necessary because it was individual players, players from all different colleges throughout the country.

Mr. DELLENBACK. It did not have approval of the NJCAA?

Mr. KILLIAN. It was not necessary because the NJCAA college that went over didn't need it.

Mr. DELLENBACK. It did not have approval, I just want to make sure, it did not have approval?

Mr. KILLIAN. No; because it was not necessary. As a matter of fact, we didn't have junior college players on the particular team.

Mr. DELLENBACK. Did it have approval of the AAU?

Mr. KILLIAN. Yes.

Mr. DELLENBACK. Also the approval of the NCAA?

Mr. KILLIAN. Yes; I was going to add one item to what Mr. Smukler said, that team was pulled together from the NCAA, NATA, NJCAA, and the American Association for Health, Physical Education and Recreation because they are constituent members of the U.S. Collegiate Sport Council, sponsors of the World University Games, and that tour came out of that organization. We had all of the major organizations together.

I believe the coach of the team was an NATA man and the assistant coach was an NJCAA man and the manager was a person who will testify later this week before you. Mr. Wall, from the NCAA, so that the four of us got together and through the State Department we went overseas and didn't have any problems, except the living conditions were so bad that, as Mr. Smukler pointed out, we couldn't stand them.

Mr. DELLENBACK. That is the very reason you give us as absolutely essential why there should be certification of meets, of trips, in order to be sure there will be good living accommodations. And in this particular instance while you got your procedural intergroup arrangements squared away, the reasons you have given us as to why you need approval of all of the agencies with the exception of the NJCAA, you didn't accomplish what you intended, supposedly to protect the kids.

Mr. KILLIAN. Right; I think this makes a good point, because here is a tour being run by the U.S. Government and the State Department. You would think if you are going to check anything out and could believe anybody going overseas, you could believe the State Department.

Mr. DELLENBACK. So the NCAA leaned on the State Department to give its approval, as did the AAU and didn't check it out themselves?

Mr. KILLIAN. That I don't know, but the point I make is you can see how easy it is to allow people to make trips and you can depend. I guess the ultimate would be the State Department, we took the State Department's word this was going to be a 100-percent grand tour and when the people got to Rumania, they found this was not so. So now when you are asking me whether or not we are going to take care of one of our own constituent members of our own organization, yes, we are. We are going to be very careful, when we approve these things, to see that our people are going to get exactly what they are supposed to be getting.

Mr. DELLENBACK. That is a dangerous example because it could be used either way. It could be used as criticism of the State Department.

Mr. KILLIAN. I don't mean to criticize the State Department.

Mr. DELLENBACK. It could also be used as an example of the worthlessness of the AAU, NCAA, and also for their approval, because they are supposed to give these approvals in order to protect the young athlete and apparently didn't accomplish this.

Mr. SMUKLER. I might add it was still a great experience, the food notwithstanding.

Mr. DELLENBACK. In spite of the bunk beds. I assume you are not over 6 feet tall.

Mr. SMUKLER. No, sir, I slept comfortably.

Mr. DELLENBACK. The NJCAA represents only about 50 percent of the colleges and junior colleges in the country.

Mr. KILLIAN. No, we have 533 members.

Mr. DELLENBACK. How many community colleges and junior colleges are there in the country?

Mr. KILLIAN. You have to be careful in that figure because if you look in the American Association of Junior Colleges manual you find 700 or 800 pretty close and when you start checking you find a lot are girls' schools. The only State we really do not represent is California. We are talking also, as Dr. Smukler pointed out, about those that have intercollegiate programs.

As Dr. Smukler pointed out, of the number in there you have to find out how many have intercollegiate athletic programs.

Mr. DELLENBACK. The total we have on this is closer to 1,000.

Mr. KILLIAN. Yes; you are taking the figure out of the AAJC books.

Mr. DELLENBACK. Do any institutions which are members of the NJCAA also belong to the NCAA?

Mr. WILLIAMS. No; I should correct that. There are one or two I think that hold associate memberships. I know of one that does.

Mr. DELLENBACK. How about NAIA?

Mr. KILLIAN. I don't believe so.

Mr. DELLENBACK. Thank you very much.

Mr. LEHMAN. Could I ask you a couple of questions?

Mr. KILLIAN. Yes.

Mr. LEHMAN. I think we all ought to arrange a paddle ball team tour. Mr. Dellenback is one of the best players in Congress.

You mentioned girls' schools. Is there such a thing as junior college girls' school that is a member of your organization?

Mr. KILLIAN. No; not that I know of that is predominantly women, no.

Mr. LEHMAN. Have any women athletes participated in the junior college sports program?

Mr. KILLIAN. Yes.

Mr. LEHMAN. They are eligible to go overseas?

Mr. KILLIAN. Yes; we are one of the few national organizations that allow women to participate in our national programs and they are allowed to play anything that we have.

Mr. LEHMAN. Let me ask two more questions and wrap it up. Has any particular young man or woman been denied eligibility for overseas sports programs?

Mr. KILLIAN. Not since I have been executive director and I have been there since we opened the office and I know of no one that has ever been refused.

Mr. LEHMAN. The last question. In this new proposed bill, which would set up what we call a Federal scholastic amateur sports commission that is to supervise, are you familiar with it or do you see the necessity of setting up this commission?

Mr. KILLIAN. No, I don't.

Mr. LEHMAN. You don't think it is needed?

Mr. KILLIAN. No, sir.

Mr. LEHMAN. Thank you very much.

Mr. LEHMAN [presiding]. Mr. Duer is our next witness.

Mr. A. O. Duer is the executive director and secretary of the National Association of Intercollegiate Athletics. Mr. Duer was here on March 5, when we were looking into specifically the refusal by the NCAA to permit member colleges' coaches and student-athletes to participate in the coming tour of the United States by the Soviet basketball team at last year's Olympic Games.

We learned when Mr. Duer was here then that his association, the NATA, leaves the decision as to whether an individual student-athlete or coach may participate in international competition up to the president of the college or university involved.

At the time of the March 5 hearing, H.R. 5623 and H.R. 5624 had not yet been introduced. Because of his long experience and great personal knowledge regarding amateur sports in this country and because of the importance of the organization he represents, the NATA, we felt that we needed to ask Mr. Duer to return to give us his views on the legislative proposals we are now considering. He has graciously consented to do so.

STATEMENT OF A. O. DUER, EXECUTIVE DIRECTOR AND SECRETARY OF THE NATIONAL ASSOCIATION OF INTERCOLLEGIATE ATHLETICS

Mr. Duer. Thank you, Mr. Lehman. This issue, as I understand it, at the present time has to do extensively and almost completely with international competition, the right of athletes and coaches and individuals to participate in amateur competition on the international level. However, if I may ask your indulgence, I should like to point out a few of what I think are significant factors, not just in international competition, which is the problem at the present time, but as to the importance of amateurism in the United States below that level.

We have hundreds of thousands of youths who participate and wish to participate in amateur athletics who never reach the level of international competition. We believe, I personally believe, that there is no area of American life which gives the training in character, courage, and team play, which we need in our leadership, as does the amateur athletic program.

I am not saying that is all of the answer, but it is certainly a major answer.

The trends in the United States today are that we challenge every law, every rule, even every tradition. Everybody wants to do his own thing. Individual rights are foremost. We are living in a very frustrated and segmented society. One of the greatest needs in the expression and development of amateur athletics below and even to the international level is that of facilities. I think the United States has a great responsibility to develop facilities that make it possible for these thousands of athletes on the lower level of amateur competition to have the experience of hard, keen competition on the field of play.

Now, the points of the two bills, H.R. 5623 and H.R. 5624. I am firmly convinced, after some 10 years of serving on committees from the Senate and serving on international committees with the Olympic Association, that we have reached a point where we must admit that the organizations themselves have not done the job, that the conflicts between organizations, their refusal to act in the common good, and possibly you cannot judge motives, but possibly in some instances it seems that power is more important than the individual athlete.

The programs of international competition are for the individual athlete, not for the organization. I have studied these bills and I think there may be some misinterpretation. I guess I am a little like the man who said, "please excuse this long statement, I got this bill last Friday and I had no time to write a shorter one."

H.R. 5623 is short and concise and deals with the point at issue and that is the cooperation of organizations in international competition. It does not exist at the present time and some force must be brought into play which will make these organizations conscious of their responsibilities, not just to their own organizations, not just to amateur athletics, but a loyalty and a self-sacrifice of their athletes and themselves to the best interest of our country.

I am quite impressed with H.R. 5623, because it deals with insisting and forcing and preventing organizations from issuing sanctions that will keep its athletes from making their own decision along with their institution as to whether an athlete can compete on an international team.

When there is cooperation, these events of international competition are normally arranged outside of the season of play. That is sensible. That is normal. It is because of the fact that that is when their athletes will be free to compete and participate.

We have a team at this time participating, or will be participating in the next few days, a NAIA all-star team in Israel that happens to be our responsibility. In order to get that team to participate, we had to do two things. Well, we didn't have to do two things, we did two things.

The first thing is, there is an International Board of Basketball that has been appointed by the International Federation in the United States because of this conflict of interest, who will approve of teams for international competition. That organization is the IBB, the International Board of Basketball. This involves the NCAA, AAU, NAIA, and other basketball governing organizations within the United States.

As mentioned it is necessary that certain supervision or certain preparation be assured. Not too many years ago, we have seen an instance where teams did not have sure financial arrangements and they

got to Europe or say to South America and were stranded and had to be brought home by various and sundry means. So, especially in the financial area there is need for care in advising teams, not telling them, but advising teams when the situation is right and that it is wise that they make an international tour.

Our organization does not, as was stated, tell an athlete or an institution when its athletes may participate in international competition. We leave that entirely to their discretion and they do it pretty well.

In the Israel tour, there were instances where an athlete had to check with each one of his professors to give him the judgment as to whether it was wise to participate in this international competition because of his academic progress. He might have to make a decision on whether he wanted to graduate that spring, but that is their responsibility, not the national organization's.

I have some concerns about H.R. 5624. I will try to express them briefly. I have a concern that there is not enough consideration for the process of developing amateur rules. I already said I believe amateurism is a must in our democracy because it gives things that no other area of competition can give. But I do believe that the entry of Federal control in the area of amateurism would not be wise because of the nature of amateurism as it effects the educational institution primarily.

I am concerned about in all areas of education, as I pointed out, in all areas we are getting to the point of due recourse and every rule goes to a Federal court, to a district court, and that concerns me very deeply in education. It concerns me about the future of our society. In a democracy especially, in educational institutions, where we are supposed to be able to solve our own problems with some wisdom, it concerns me when we get to the point that we must have Federal intervention, Federal interpretation, even when one athlete breaks the rules, as to whether certain things have been done in due recourse, because I believe that legally, when that becomes necessary, we have lost something in our society.

I believe that when we have to have a Federal court for every decision made in a college, and that is what it could come to, that we have lost the freedom of our society to make decisions on wisdom and judgment and you would say, I am sure, that this has come about, and it is true that these things have come about because of the abuse, because of the conflicts between organizations, which is demanding, which is beneath our reasonable expectation as to how we should govern ourselves and I would come back to the amateur rules.

I sincerely believe that there is some justification for putting pressure on even every amateur body to somehow give them a shock treatment to work again to the common good and not be so concerned about their own selfish interests and power. Amateurism is being destroyed and if we lose amateurism, we are losing a very, very significant part of our society.

Amateurism is being destroyed partially by legalism, but partially because of the struggle for power within the amateur organizations of the United States. This must be stamped out.

Whenever you get power struggles and power voting, to the extent that one organization votes for the organization instead of for the

principle that is involved, you have lost your ability to make wise decisions and this has happened and this has happened in this amateur struggle.

I am here this morning not because I think I have a great wisdom, even though I have been in this business for some 35 years, I am here because I am so convinced of the value of amateurism, I am so convinced we lost our way and cannot find it at this time, I am so convinced that it is not the only hurting the athlete, first of all, but it is hurting the United States of America if we are going to maintain international honor and integrity in competition.

Let me just say here, international competition will be lost, even up to and including the Olympic games, unless we can find some type of integrity, some type of fairness, team play, sportsmanship between countries. There were some incidents in the Olympic games which indicated there was political weakness between nations, which gave one nation power over another in winning. That is the loss of amateurism in this instance. So that I believe we have to go back to the base, we have to go far beyond international competition in solving this problem. We have to somehow bring organizations to their senses that they have responsibility far beyond their own selfish growth and development.

I don't want to impose upon your time, so I will close at this point and give you an opportunity to ask questions.

Mr. LEHMAN. Thank you very much.

Mr. Dellenback.

Mr. DELLENBACK. Thank you, Mr. Chairman. Mr. Duer, we appreciate your being back before us again. May I ask a couple of questions specifically on the record of this hearing, which I think will be repetitive of what you put in before. Does the NAIA actually certify meets or athletic contests?

Mr. DUER. No, NAIA sponsors its own programs. Beyond that we do not or we certify certain special events that have nothing to do with our program itself.

Mr. DELLENBACK. So you have your own programs in the way of competition and championships and the like?

Mr. DUER. Yes.

Mr. DELLENBACK. In addition to that, are you on occasion in a position to certify other events.

Mr. DUER. No, I don't know of any events that we sanction or certify.

Mr. DELLENBACK. Outside of your own?

Mr. DUER. Yes; outside of our own.

Mr. DELLENBACK. Do you have anything to do with events that are outside of your own regular program?

Mr. DUER. Not specifically NAIA, for instance in the instance of national Russian competition my office was called to see if we would encourage our athletes to participate and the answer was, yes, definitely, but we have no control, no sanction of that event.

Mr. DELLENBACK. So your comment on that particular series of games had no effect in the sense of either the approval being necessary with dire results following if it was not given or your approval making it possible for some athletes to participate who otherwise would not participate?

Mr. Dyer. That is up to the president of the institution themselves providing it is an amateur event.

Mr. DELLENBACK. As far as this noninvolvement is concerned, this applies to both national and international events outside of your own programs?

Mr. DYER. Yes; our institutions are entirely able to participate in two types of national competition.

Mr. DELLENBACK. What about—well, excuse me, go ahead. You say they are able to participate in two types. What are the two?

Mr. DYER. Those are NCAA events and NAIA events if they hold dual membership and we have a fourth of our members who are dual members of both organizations.

Mr. DELLENBACK. You said in your testimony, Mr. Dyer, your organization, NAIA, advises athletes or institutions relative to international competition. Is this correct?

Mr. DYER. Yes, this is correct.

Mr. DELLENBACK. Do you ever check the events out on your own or do you check them out only after somebody made application to you and asked you to check them out?

Mr. DYER. No; we normally check them when somebody writes us and if they ask, "do we want to take the tour," or, "is it wise," we tell them to apply to the international basketball board because it has direct contact with the international body in the sport in which they are participating and that is an international relationship.

Mr. DELLENBACK. But that is merely advice?

Mr. DYER. Right.

Mr. DELLENBACK. If a member of the NAIA wrote to you and asked you to check something out, and you wrote them back and said they should do these particular things, and they did not follow your advice, and you advised them it was a rotten idea and they still went ahead, insofar as NAIA is concerned there would be no repercussion insofar as either the school or the athlete is concerned?

Mr. DYER. This is right.

Mr. DELLENBACK. It is their decision?

Mr. DYER. Right, let me say there is one other thing we suggest they do, that is, that they contact the Department of State and inform them so that the Department of State in the countries where they are going can alert their embassies and give them great assistance in this case. This is not a requirement, but it is additional.

Mr. DELLENBACK. It seems to me there is a fundamental distinction in this regard with the NCAA and AAU, and to a degree, NJCAA in one camp and NAIA in the other camp. And you merely advise that if a member institution makes the decision, together with the athlete, that it will either participate or not participate and even if it is counter to your advice, you take no action against them relative to international participation. Is that correct?

Mr. DYER. That is correct.

Mr. DELLENBACK. You will not, I suppose even advise unless you are asked for the advice, although there may be times in which you would circulate your membership and give them what general information you have on the event I suppose?

Mr. DYER. Yes; we would feel the responsibility if we knew the situation was bad or the person who was organizing it, and we have

some problems with athletes as well as everywhere else, if an organization had a bad experience once, we would alert them, but there is no pressure on them to abide by that.

Mr. DELLENBACK. Our concern and some of us are very reluctant about being involved in this subject matter at all, but our concern is the athlete, that he or she not be taken advantage of, that he or she be protected, and we have apparently here two different philosophies as to how best you do it.

I read the NAIA as saying, your program, as far as you are concerned, protects the athlete, protects the institution, protects the coach, but it protects him not by your saying to them, "Thou shalt or shalt not." It protects by leaving the decisions up to them and you are saying "We will give you this advice as to what decision you should make, but you must live with that decision, either institutes or athletes."

Mr. DYER. This is basically true, our standards, our rules, our whole organization is based on the fact we do not want to overcontrol. We want to adopt rules below which they shall not go rather than to get bigger and higher and have more rules that would hurt that person.

Mr. DELLENBACK. We appreciate your deep concern with the problem and we appreciate your past help and again now and we thank you for being here.

Mr. LEHMAN. Mr. Peyser?

Mr. PEYSER. Thank you, Mr. Chairman.

I apologize for not being here at the opening of your testimony but my plane getting in from New York was an hour and a half late.

I did hear though a good deal of your testimony and comments though.

I want you to know that it is certainly the intent of myself, as the author of one of these bills, H.R. 5624, and I know Mr. O'Hara as well goes along, we do not want the Federal Government taking over amateur athletics. This is not our intent at all and we want to keep whatever controls we have to a minimum.

I have a question following along the lines that Mr. Dellenback just spoke about. If NCAA was to take an action against an athlete or against a school and then that athlete or that school was to be scheduled to participate in a NAIA meet or event, it would have no bearing on it, is that correct?

Mr. DYER. That is correct.

Mr. PEYSER. Then if the NCAA said that this man could not compete, it has no bearing as far as your organization is concerned?

Mr. DYER. That is correct.

Mr. PEYSER. I think that is very important because I think this is the way the operation should work. But there were a couple of comments you made that I am not quite clear on.

You were referring to H.R. 5624 and you said that it does not do enough to promote amateur rules.

Mr. DYER. No; I am sorry if I was misunderstood.

Mr. PEYSER. Then what did you mean?

Mr. DYER. No; I am concerned about the Federal Government involving themselves too deeply in the development of amateur rules. I believe the focal point of this hearing has not to do with amateur rules themselves but amateur rules for international competition.

Mr. PEYSER. That is all the bill seeks, international competition.

Mr. DUER. Yes.

Mr. PEYSER. It does not seek anything on a local or domestic level.

Mr. DUER. Then I somewhat misinterpreted the statement that the Commission had the right to develop such amateur rules.

Mr. PEYSER. Page 3, paragraph 2, or section 2, you say it specifically states:

In international athletic competition.

Nowhere in this legislation is it the intent or does it infer that it was in any way to enter on the ground of amateur competition domestically at all, in either qualifications, rules or anything else.

Mr. DUER. I misinterpreted it. The Commission is authorized to establish such policies and prescribe such procedure as rules and regulations as it deems necessary to administer the act and its purposes.

I misinterpreted it to mean it might have an influence on development of amateur rules and that would be impossible.

Mr. PEYSER. I would agree completely and I want to clarify because it specifically only speaks to the international athletic situation.

Mr. DUER. Yes.

Mr. PEYSER. Another point you made, is that you did not want the courts making the decisions in these situations.

My understanding of the bill 5624 is that really the court decisions would play no role here however, in 5623, page 3, it specifically gives the district court the jurisdiction over these disputes. One of the problems I have with 5623 is that it does make each case, in effect, stand before the courts, I am saying exactly what you say, I don't want the court to have another case such as the Richmond case.

The reason we have gone the route of suggesting the establishment of a Commission to handle this international competition is that the courts would not be involved, because we don't think each case should end up in front of a District Court.

Yet 5623 specifically says,

The District Court shall have jurisdiction for cause shown to restrain violations of section number so and so and so and so.

I am wondering if that is the way you understand it?

Mr. DUER. No; I understood that the responsibility of the organization and the use of the courts, I understood it was a little more basic than that, than 5624.

Mr. PEYSER. No; in 5624 the Commission itself, would have the authority. In other words, if we ran into a situation such as we just had with AAU and NCAA refusing to get together, the Commission, in effect, has the right of that decision, not the court.

Mr. DUER. Another point I was concerned about, I wondered why, and I do not like to involve politics in athletics, I wondered why there was a statement to the effect that two from each party would be selected for the Commission.

Mr. PEYSER. If there is such a statement here, a few from each party, by "party" you mean "political party"?

Mr. DUER. Political party.

Mr. PEYSER. I tell you I would strike that?

Mr. DUER. I would, too.

Mr. PEYSER. If that somehow slipped into this, I would strike it.

Mr. Duer. Yes; because I think there should not be the basis of decisions before this party.

Mr. Peyser. I beg your pardon. It is not quite worded the way you suggested because I couldn't quite believe we would have that situation. It says: "Not more than two of the commissioners shall be appointed from the same political party."

Mr. Duer. That is right.

Mr. Peyser. In other words, the only thing we try to do there is to keep politics out of it, so you won't have five Republicans or five Democrats appointed into the Commission.

Mr. Duer. I wouldn't care whether there were five Democrats or five Republicans so long as they were dedicated to the ideals.

Mr. Peyser. I agree with you completely, but we wanted to take away the opportunity of a political appointment. You understand?

Mr. Duer. Yes.

Mr. Peyser. I would like to come back and get your thinking, because I think it is important here on this question of the court, to which you made reference.

Mr. Duer. Yes.

Mr. Peyser. As you look at it now, do you still feel, that 5624 is involved in putting this into the court and 5623 is not?

Mr. Duer. It involves itself much more I think in legalism. The Commission is authorized to secure data and so forth from Federal departments or agencies and enforce injunctions upon application by the Attorney General against the Commission in acts of violation and so forth.

The Commission itself could have that responsibility but when you turn to the courts it becomes a legal matter.

I am not a lawyer and don't pretend to be.

Mr. Peyser. I think that the basic idea is that in 5624 the Commission will establish these regulations and under 5623, it is up to the courts to solve the dispute.

I would not want it to appear as though you were indicating that 5624, in effect, is dealing with the courts and 5623 is not?

Mr. Duer. I don't know where the line is drawn. I have said that it seems that we cannot solve our own problems and I don't know where the Federal Government—well, how far they should go—where the line is drawn and where you have still amateur athletics with a freedom in our society and not forced to do things by the court.

Mr. Peyser. Of course this is exactly what all of us want as well.

Mr. Duer. Then I misinterpreted your bill.

Mr. Peyser. Well, I appreciate that because I think understanding of that is important.

Thank you very much and thank you, Mr. Chairman.

Mr. Lehman. Thank you, Mr. Peyser.

The way I look at this, it is not so much the amateurism versus professionalism of AAU or NCAA that is involved, although I have my own personal feelings on this, but what bothers me is I would like something set up so that the individual rights of the individual athletes would not be infringed upon by any of these agencies. I think that is the only thing that is important in this whole hearing and I think perhaps, if we can set it up this way, whether with a Commission or with the court or whatever, I think no person's eligibility

should be removed because of some particular organization saying that he has done something contrary to that organization's wishes.

I think this is what we have to maintain throughout, that is the individual rights of the individual athlete as long as he does not do anything criminal, that he is eligible to play.

Mr. DUER. I fully agree and I fully would express the point of view that the philosophy and the intent of organizations, amateur organizations, must be changed in order to make it possible for these athletes to have their opportunity in a democratic way to participate.

Now, they have come up, and let us not forget that these athletes have come up through these programs and to that extent they have been given the opportunity to participate and they have some responsibility to the organization itself, but not to the extent that the organization can then turn around and say, "You shall not participate in this because of a technical citation."

Mr. LEHMAN. The athlete should not be caught in the crossfire of a power struggle between organizations.

Mr. DUER. And he is.

Mr. LEHMAN. In doing so, his own individual rights are diminished.

Mr. DUER. That is right and that country is dead.

Mr. LEHMAN. Just that much. There are a lot of things that damage the country more, but this is one of the contributing factors.

Mr. DUER. I am not quite sure I would agree with that and I don't want to prolong this, but the power of might and strength and fame, all of these things, are not going to make the difference in this country that integrity and so forth will make.

Mr. LEHMAN. We need our heroes.

Mr. DUER. Yes and we need men of great stature and integrity if we are going to save the United States from diminishing.

Mr. LEHMAN. Thank you very much.

Mr. Wilson is our next witness.

Throughout this country there are individuals and groups of persons who, solely because of their devotion to sports and especially to one particular sport, give great amounts of time and sizable sums of their own money to furthering that particular sport. They are never or only rarely seen on television. We do not read a great deal about them in our newspapers.

A group of people of the kind I have in mind are the members of the U.S. Modern Pentathlon and Biathlon Association. The president of that association is our next witness. He is Mr. George M. Wilson.

The U.S. Modern Pentathlon and Biathlon Association is concerned with developing, training, and selecting pentathlon and biathlon teams to represent the United States in Olympic games, Pan American games, world championships, and other international competitions. It conducts trial competitions, national championships, and international competitions.

Pentathlon consists of competition in five events, one a day, over a period of 5 consecutive days. The five events are horseback riding, epee fencing, pistol shooting, swimming, and cross-country running. Biathlon consists of two events combined into one competition. Contestants ski cross-country 12½ miles, stopping at four intervals to fire five shots at a target.

Many of the athletes who participate in these and other less-publicized sports are students in colleges and universities. Mr. Wilson is

here to discuss the pending legislation from the point of view of his and similar organizations.

Do you have a statement you would like to submit for the record? If so, without objection it may be included in the record or you may proceed in any manner you wish.

Mr. WILSON. I think maybe for our benefit it might be wise if I read my statement because it is not too long.

Mr. LEHMAN. Yes, sir.

STATEMENT OF GEORGE M. WILSON, PRESIDENT, U.S. MODERN PENTATHLON AND BIATHLON ASSOCIATION

Mr. WILSON. I appreciate the opportunity to appear before this committee.

I am pleased by this committee's interest in the welfare of amateur athletes and the proper administration of amateur sports in this country.

Many of us who volunteer our time and energies to this wonderful cause share the growing public concern over the present influences threatening the freedom of athletes and their opportunities to represent this country in international sports competitions.

It is important to recognize, however, that the basic problems creating this concern are not presently peculiar to all national sports governing bodies.

It has been my experience that the 19 national sports bodies in the United States governing Olympic sports as well as several organizations also sanctioned for international competitions, including world championships, generally work in a spirit of common interest toward the development of the amateur athletes of this country and the best representation for the United States in international competitions.

It is unfortunate that, at this point in history, 1 of those 19 organizations, the AAU, is being challenged by the headquarters of the NCAA over the availability of student athletes to represent the United States. Any attitude or action thwarting the freedoms of amateur athletes to be a part of a national effort is certainly cause for this public concern.

I view the present situation concerning amateur sports in this country as generally healthy, although many deterrents confront us from time to time. I like to practice the philosophy that out of difficulties or tragedies we find some good and gain the strength to prevail. The recent nonavailability of some of this country's best amateur athletes to perform in competition against athletes of the Soviet Union is, I believe, a tragic invasion of personal freedoms and harmful to our national image. Perhaps out of the concern by this committee, some added health for amateur sports will be forthcoming. This may be the good for which we are all looking.

It is difficult to legislate for the degree of wisdom necessary to control the integrity of an organization or an institution. It seems appropriate, therefore, that legislation should take the form of protection against the common human frailties involved in being able to withstand reprisals.

I believe that the bill, H.R. 5623, "protection of athletes and coaches," is an action directed to the heart of the major difficulty; however, I believe the bill can be improved and strengthened. The

bill in its present form deals with the prevention of restrictive measures against athletes or coaches for having participated in international competitions. The bill should, however, include trainers, managers, and other administrative personnel in addition to athletes and coaches.

I agree with these restrictions, but there is another area which relates to and precedes the actual participation in international competitions which must be protected. That is the freedom of athletes, coaches, trainers, managers, or any other personnel, to vie for the opportunity to be selected and to participate in international competitions. There is a normal pipeline or procedure to qualify. This may involve progression through one or a series of competitive activities in order to be selected as an individual athlete or as a member of a U.S. team. The bill should, therefore, protect that freedom to enter and participate in any and all such qualifying activities, providing they meet and comply with the requirements for entry and eligibility. By omission, the bill, as presently written, makes it possible to restrict the availability of such personnel through a denial of an opportunity to qualify through the selection process. This provision could be accomplished by including it in the first paragraph of the bill or by placing it in a separate section as a positive statement of this freedom.

There appears to be one other section that should be inserted, possibly as section 1304 with the present 1304 renumbered as 1305. Section 1304, then, could address the subject of preventing a parent organization from exercising any form of punishment such as restriction of programs, probationary action, or economic or other deterring sanctions against a member organization, institution, club, or individual for having provided amateur athletes, coaches, or other individuals an opportunity to qualify for and, if selected, represent the United States in international competition.

I cannot speak in favor of bill, H.R. 5624, and with all due respect to Mr. Peyser, I am sure you have a sincere desire, sir, to resolve these questions, the subject of "Federal Scholastic and Amateur Sports Act of 1973." I believe amateur sports of this country would be threatened with political patronage if this bill were passed.

There are no visible assurances in the bill for prevention of the present conflicts. Corrective action would be delayed or possibly never brought to conclusion. The open end freedom to "promulgate rules and other regulations which relate to the participation of amateur athletes" with those rules and regulations to preempt all others, is tantamount to the possible destruction of the national sports governing bodies in this country, or the creation of greater conflicts than presently exist.

The use of authority to preempt all other rules and regulations could easily stimulate a challenge to the eligibility of U.S. athletes for international competitions. The international sports federations, unions, or associations determine the playing rules, regulations for amateurism, and the eligibility to compete. The national governing bodies follow these rules and regulations. We must realize that a government commission in our democratic system does not have authority, and I speak with all due respect to the U.S. Government, does not have the authority to make entries or regulate entries into international sports competitions. Only the national governing bodies, as determined

through the international sports governing organizations, have this authority.

I realize that in many countries the sports organizations are a part of the national governmental structure. I doubt that this is the road the United States wishes to take. There may be benefits for this type of structure, but there are also many difficulties. I can visualize the millions who volunteer their time, efforts, and funds to the U.S. effort losing interest and the present feeling of closeness to sports. Public donations of funds to sustain our efforts would, in all probability, be severely diminished. Many would blame the Government for using taxes to run a sports program. It is probable that each political party would blame another for any defeat in an international athletic contest.

With amateur athletes, coaches, and others provided the freedom to qualify for and represent the United States in international competitions, we can expect to witness our better efforts in such representation. I would add that we cannot expect to always do our best; however, we can always expect to do better.

I do not recommend H.R. 5624, but respectfully urge favorable consideration of H.R. 5623 with the recommended changes.

[Addendum to Mr. Wilson's statement follows:]

ADDENDUM TO STATEMENT OF GEORGE M. WILSON, PRESIDENT, UNITED STATES MODERN PENTATHLON AND BIATHLON ASSOCIATION

I believe that any amateur sports organization has the obligation to protect the rights of amateur athletes to participate in legally organized international sports events if they qualify. Any restrictive action should not be exercised against an athlete simply for having participated in such an event. The freedom to so participate carries with it the responsibility for proper conduct, protection of amateur status and also the protection of the rights of fellow athletes.

If an athlete demonstrates abandonment of or disregard for his responsibilities there should be some provision for correction, or prevention of such actions in future events. The responsibility for monitoring athletes is and should remain that of the national governing body for the sport as specified by international rules and regulations.

But each National Amateur Sports governing body as well as other organizations administering amateur athletes in this country must exercise their responsibilities in the spirit of service for the athletes and in the athletes best interests. *Such organizations must not be permitted to flaunt those responsibilities with the view toward developing or maintaining power of the organization.*

Legislation should be structured to ensure the service concept and if any sports organization administering amateur athletes in this country over-reacts and/or disregards that responsibility it would be subject to the provisions of such legislation.

I interpret the intent of H.R. 5623 as directed toward such a healthy structure.

Mr. WILSON, I have not discussed these bills with our mutual friend, Mr. Duer, but I share many of his concerns about amateur athletics in this country. When I make the statement that I believe that the amateur programs in this country are generally healthy, I mean that in all sincerity, because it has been my experience that in working together with the various organizations we do have a common interest, and the best interest of representation and the development of the best programs possible for youngsters on the broad scale. But we are dealing here with the question of international competition and therefore my prepared statement dealt only with that subject.

I think that there is need, definite need for, let's say, intervention, if that is a proper word, to bring about better understanding and better cooperation among some organizations governing sports in this

country. I feel also that organizations which, in an effort to maybe seize influence, personal or organizationalwise, and use it at least in that effort are certainly not acting in the best interests of all of our athletes.

I would hope that this committee, and I am sure this committee is giving every consideration to the difficulties involved, could come out with a reasonable solution.

If you have any questions I would be glad to answer them.

Mr. O'HARA. Thank you for your statement, Mr. Wilson, and for your support for the bill that Mr. Dellenback and I have introduced.

As you know, our primary interest is in protecting the right of the student athlete to do his thing, or as Jack Langer, who was a witness, who got Yale University in great difficulty by deciding he wanted to go to Israel to represent the United States in Maccabiah games, as he put it, athletics is a form of self-expression. He is a basketball player and looked forward to the opportunity to participate and visit Israel and so forth, and we believe the Jack Langers of this world have a right to participate and express themselves in that way. Whether a young man has the ability to play a cello or do the broad jump, it is ability, and it is something he enjoys, and it is something he ought to have an opportunity to do without having some bunch of public bureaucrats coming in and telling him where, how, or when he can do it.

That has been our principal concern. We find that these student athletes are the pawns in this struggle and we don't consider ourselves Solomons, and don't think we can solve all of the problems between the various competing amateur athletic organizations, but we think we ought to try to protect the rights of the student to give some degree of self-expression without having to fear that he or his school will be punished because what he has done does not meet with the aspiration of some athletic federation or other.

That is our primary concern. I think that your suggestions about ways in which the bill could be improved are very appropriate. I thank you for making those suggestions. I want to inform you we will examine them closely when we come to marking this bill up.

Mr. Dellenback.

Mr. DELLENBACK. Thank you, Mr. Chairman. This is helpful, Mr. Wilson, and we appreciate your statement. Does your organization certify any competitions or meets at all?

Mr. WILSON. Yes; we do.

Mr. DELLENBACK. What are the repercussions for participation, or the results that follow if an athlete participates without there having been advance certification by your association?

Mr. WILSON. I have been connected with this organization for 11 or 12 years now. I know of no single case where we have taken any deterrent action against an athlete. We have athletes who do participate now and then in competition that we don't even know about, but our philosophy is that we try to stimulate competition, and perhaps our organization is not to the point where we have so many athletes that we would ever want to take punitive measures against them for going out and participating in competition that they feel is to their best interest.

The only time I can visualize some action being taken would be where an individual would become involved in a public scene and so

forth that would be derogatory to the community and the whole spectrum of sports. Then we might take some action. I think anyone involved in any type of organization would then step in to prevent such things happening.

Mr. DELLENBACK. Well, the action you would take, Mr. Wilson, would it be action which would be predicated on the things that were done by the athlete or in connection with the competition, or would the actions you would take be because that competition had not been properly sanctioned, or certified, or approved, or somehow checked out in advance by your association?

Mr. WILSON. No; it would be predicated on the actions of the individual.

Mr. DELLENBACK. Is there any action that your association has been engaged in, or likely to be engaged in, where, because you have not sanctioned, certified, approved, checked out, given advice in connection with, or whatever verb you would use at that stage of the game, that you would take against a contestant in either of the two events that you are most concerned with because that event had not been checked out in advance by your association?

Mr. WILSON. We would not, and we have not to this point, and do not intend to at the present time.

Mr. DELLENBACK. The pentathlon is a fascinating experience. I am not familiar with the biathlon, nor have I ever participated in it, but these are not as you stated in your testimony, as broadly competed in as are track and field, which are the two we have had the most testimony in connection with. But would you say within these broader fields of competition, some sort of certified approval would be desirable if we want really to protect the participant athlete or coach in order to be really sure the person involved really is protected? Should there be some method of advance certification of a group?

Mr. WILSON. I think advance certification is functional and profitable in an overall way let's say, protection of the athlete. When you get involved in a broad program of that type that you mentioned, then there are so many facets involved that close scrutiny needs to be taken, and perhaps this is where sanctioning does serve as a beneficial aid to the athletes, so that you have an organization that can function and provide adequate representation for athletes.

Mr. DELLENBACK. Then you do think, under certain circumstances in the mass participation events, there should be or might desirably be certification or approval given in advance?

Mr. WILSON. Yes; I think so.

Mr. DELLENBACK. With sanction and repercussions to follow if it were not given and the athlete participates?

Mr. WILSON. The repercussions that followed would constitute another question on sanctioning which I cannot sit here really and be a judge in all cases. I think in those responsibilities, and any organization assuming those responsibilities, must take each case individually and determine on its own merits what involvement there may be for the best interests of all athletes as well as the sole individual involved, and determine what action should be taken.

Mr. DELLENBACK. You heard the testimony earlier this morning. As I listened to these days of testimony in connection with this problem, I am evolving a conclusion that I put to Mr. Duer. I see basically two

different kinds of checking out in advance. The one is a checkout and some advice given on the basis of the checkout, with the athlete and the institution being free to follow it, without peril of repercussion.

Second is the checkout in advance, maybe taking the form of a certification with repercussions that could be imposed as a result of a failure to go along with whatever that checkout said, that the athlete or institution would have no individual control over.

Now I may be simplifying this too much, but in the event that my breakdown is correct, which would you feel we would or should move forward with legislatively? A situation whereby we do recognize that some associations, whichever ones they may be, have the right to sanction, and if those approvals or sanctions—I should strike the word “sanction” because it is a very ambiguous word that is used in lots of different ways—but to approve in advance an event with the power to bring about dire results for the athlete or institution if they participate without that approval having been given in advance. That is the first kind of situation.

Is that what we should have in amateur athletics? Or would you have the second type of situation, which is exemplified by NAIA, where they do check out and advise athletes and member institutions, but those athletes and institutions don't need to follow advice, and if they don't follow the advice there are no repercussions? Or would you have something even less than that?

Mr. WILSON. We are talking about two different areas here. I understand your question, sir, but we are dealing with two different areas of programs. One is a program within this country or educational institution, that gives the latitude and freedom to participate outside of that institution or in specified example, the NAIA's own program. They have the comfort or the possibility to rely on another organization to determine the adequacy, and all of the other elements that go into international competition.

Mr. DELLENBACK. You are not referring to the State Department?

Mr. WILSON. No; I am referring to each of the 10 or more national organizations that have that responsibility.

Therefore, they can depend on these organizations then to check further and give approval to legitimate competition in which their people might be involved. So that we have a slightly different situation evolving here.

• I would say that in this case, yes, we need prior approval, we need sanction, and I can go farther on in this for many reasons. Athletes, I am sure all of us realize are sometimes prone to accepting favors and so forth, some large and some small. If they get involved in international circles of competition, as well as others, sometimes they become involved in activities and actions that are not healthy competitively as far as their amateur standing is concerned; which could also be harmful to amateur sports.

Therefore, we need these checks. But then when you come to the question of “If an athlete competes in an event of this nature without prior sanction,” and I think that is the heart of your question, as to what then happens, which is where I maintain that each organization that assumes this responsibility, and I know it is true with ours and many others, must also assume the responsibility then to not exercise a hard and fast rule which applies to all cases. They need to find out

what happened, and if an athlete did participate, and if all of his activities were open and above board, and no difficulty involved whatsoever. I can say for sure that our association would not exercise any act to restrain that individual in the future, but would advise and assist in trying to keep him on the proper track so that it would make the future easier for all.

Mr. DELLENBACK. Let me be sure I understand the heart of what you just said. Aside from applying it to your association, are you saying that there should be in existence organizations which can certify and approve in advance?

Mr. WILSON. Yes.

Mr. DELLENBACK. If an athlete participates in a noncertified or non-approved event, there should be an individual decision as to whether or not repercussions should follow for that athlete?

Mr. WILSON. Yes.

Mr. DELLENBACK. Or are you saying that this association, having refused certification in advance, and thus having advised the athlete not to participate, has no power to disqualify or do injury to that athlete if the athlete participated in spite of this?

Mr. WILSON. Under the present structure, they do have the power.

Mr. DELLENBACK. Which way should it be?

Mr. WILSON. The wording of your question, if I understood it correctly, I would disagree with it. I believe that you used some phrase that would be harmful to the athlete, or something of that nature, then I would say no. But we must have some latitude in governing participation in international sports which we are talking about.

Mr. DELLENBACK. We are not talking about whether amateurs or pros, or about taking something under the table, or anything of that sort. We will leave all of that aside. But this is simply a question of whether or not the athlete, maybe the institution or institutions, should be free to make the determination of whether or not he or she should participate. And if he does participate nobody is going to be able to say afterward he can't participate in international competition or intercollegiate competition. So where does the buck finally come to rest? Is it with the athlete and the institution, or is it somewhere outside, where some other organization has the right to say, "We put some conditions on this situation, and if one of these athletes over here participates in one of these events when we have not certified that event, by jingo, then certain things that are deleterious are going to happen to that athlete."

In the final analysis, whether or not you do it or don't, they can say in the 7,000 cases that come before them, "We are never going to penalize you. We never have penalized you." Do they have the power?

Mr. WILSON. Under the present circumstances we do, yes.

Mr. DELLENBACK. Should they have?

Mr. WILSON. This is a very difficult question, but I would say this.

Mr. DELLENBACK. We have to wrestle with it.

Mr. WILSON. Yes. But the buck has to stop someplace.

Mr. DELLENBACK. Which place?

Mr. WILSON. The international organization in sports, which we do not govern. They pass the buck to the national sports' governing body.

Mr. DELLENBACK. Well, I am not sure, you see, and I won't beat it any harder, whether you approve of 5623 or not?

Mr. WILSON. I do.

Mr. DELLENBACK. Then you do not believe that any power out here should have power to say to the athlete, "Because you participated in an event we didn't approve, you can't now do certain other things."

Mr. WILSON. I will repeat my response to that question. They presently do have now. I do not agree, however, with actions that have been taken in the past that do penalize at least for having participated in competition not sanctioned, so long as the athletes conduct themselves in a proper manner. Someone must have responsibility whether it is a national governing body, other organization, or institution to protect the interests of athletes. If that responsibility is violated in favor of a power structure, we can say that the provisions of the bill are all right, and we turn this over then to a court.

Mr. DELLENBACK. Thank you very much. We appreciate your testimony. I have taken longer than I should have, Mr. Chairman.

Mr. O'HARA. Mr. Peyser.

Mr. PEYSER. Thank you, Mr. Chairman.

Mr. WILSON, we are delighted to have you here. Even though you don't see eye-to-eye with what I propose in 5624, I think your testimony is important to us. I do want to review a couple of points.

I think one of the things that I guess disturbs me, and I in no way mean to pick on your organization, or any of the other athletic organizations, including the NCAA and AAU, but if the best interests of the athletes were truly at heart over all of these years, by all of these organizations, why, when year after year these organizations have violated the athlete's rights, why have I not heard any of the other organizations crying out against them in support of the athletes?

When we have seen a situation such as we have just seen, and there has been through the last 20 years one incident after another, but when we have seen one just 2 weeks' ago with 30 Olympic competitors being kept out of an international track meet, I must say I do not hear the voices of any of these organizations, yours included, raised in protest for the athletes.

Now you made one other statement that disturbed me a little, because you said that, particularly in international athletics, that athletes may stray from the straight and narrow and be subject to temptation and, therefore, we need this body with the control of sanction. I would like to suggest that some of the associations can also stray from the straight and narrow and also need the benefit of somebody else.

Mr. WILSON. Certainly.

Mr. PEYSER. I know you have had experience in these areas and I am sure that you know this is nothing. Occasionally the athlete gets into a problem, but there are people in some of the associations that have on occasion been involved in problems. H.R. 5624 is concerned only with the area of international competition.

The Commission would remove any of the problems of who competed internationally for the United States, because, in effect, it takes away the right of the two major organizations, the AAU and the NCAA of saying "He is eligible" or "He is not," and "I don't want his to compete, and if he competes we will take the school's television money away."

The Commission would resolve the dispute before the meet took place, not afterward, not while we are waiting to see if someone can go into court for an injunction or not, such as just happened in the Richmond meet. It is only for this reason I have taken this approach.

In our own House here, for instance, several Olympic competitors, Congressmen Mathias and Metcalfe, solidly back the Commission. Glenn Cunningham, here in Washington last week very solidly backed establishment of this. All of them have faced the problem of this feud.

I do not think that any organization has a sanctioning right to really impose meaningful penalties on athletes and schools. I don't think there should be any bouncing back and forth on that. I think it is dead wrong. I think they have to assert their influence and controls that they have, but to have an authority which is dictatorial, where there is no appeal except to them, I think that is wrong.

Do you share that view?

Mr. WILSON. I share that view.

I made a statement which I have read, which pertains to my concern about this same thing. I think that any legislation that may be developed must take into consideration the broad scope of all organizations, and not especially be directed at the point at hand of the few athletes that did not make the Russian meet, which was deplorable, but needs to affect all organizations. I recommend a new section in 5623 to prevent actions against organizations, institutions, or individuals when they deter athletes from competing.

Mr. PEYSER. Are you talking about amateur, domestic as well as international?

Mr. WILSON. I am talking about the international scope, because this is what the bill pertains to.

Mr. PEYSER. That is what we are talking about as well, that the only input we would have at any time, as far as 5624 is concerned, the idea is purely one of international matters.

Mr. WILSON. Yes.

Mr. Dellenback, if I may respond further to your questioning, because it bothers me a bit.

The part that I have just referred to states my belief that all organizations must follow the same rules of being prevented from taking action against organizations and individuals in these cases. If any organization does take some action against an athlete or an institution, then they are subject to court action, and this is where, as we were talking a while ago, may be where the "buck" stops. That when action is taken against the best interest of athletes, or institutions, as the case may be, then we must answer for it.

But I wanted to make clear that my statement I made here is what I believe, and we should give these freedoms.

Mr. PEYSER. Well then, as I understand it, you are opposed to the right of sanction. You oppose the authority to confer any penalties in connection with sanctioning being put on by any governing athletic body; is that correct?

This is very basic. You either are opposed to the individual athletic organization having the right of inflicting penalties or you are in support of it?

Mr. WILSON. I think the bill as recommended here would take care of that situation.

Mr. PEYSER. Well, would you say that 5624 would not take care of that situation?

Mr. WILSON. Under its present composition I do not believe it would.

Mr. PEYSER. Maybe it is a question of understanding here; 5624 establishes a commission.

Mr. WILSON. Yes.

Mr. PEYSER. Which will have the right of governing exactly that question of international competition. So why won't that take care of it without going to court? That is the power that the commission has, is just what you are saying. So I don't understand why it would not do the thing.

Mr. WILSON. I think when we get Government control into this sort of action, then we are going in the wrong direction in this country.

Mr. PEYSER. But don't you have Government control in either one of these bills?

Mr. WILSON. You already have in the other bill a definite established procedure.

Mr. PEYSER. Do you mean you would prefer, or you would think that you would prefer, so I understand this, you would prefer going to a district court for a decision on an athletic question?

Mr. WILSON. Yes; on violation of rights.

Mr. PEYSER. You would rather go to a district court?

Mr. WILSON. On violation of rights, yes.

Mr. PEYSER. But it would be after the fact. In other words, you could only go after it had been violated?

Mr. WILSON. Yes.

Mr. PEYSER. But the idea of the commission is that it would be before, it would not be after. In other words, the commission would have authority to say, that everyone can do exactly as they have been doing, but in international competition there will be nobody outside of the competition who can say he can or cannot compete.

Now, my thought was, as a sportsman and one who is really interested in seeing the athlete get the break, that to have to have a man go to court to fight the case, and incidentally a lot of schools will not go to court, they won't take a chance on going to court—this is grossly unfair—won't go to the expense of going to court. So what you do is end up by protecting the athletic body who has the right of sanctioning and money and wherewithal to do it.

Then where does the athlete come in? That is what I don't understand. I am trying to protect the athlete. I think we are both interested in the same thing.

Mr. WILSON. I think we are, yes.

Mr. PEYSER. And I am not questioning your picture here, but I am just saying I think perhaps it is maybe a lack of understanding within the scope of the bill as to what we are trying to do.

I don't want the Government in athletics either.

Mr. WILSON. I thank you very much for your participation this morning and your statement, and thank you, Mr. Chairman.

Mr. O'HARA. Thank you, Mr. Wilson.

Mr. O'HARA. Our final witness is Dr. James L. Chapman, president of a State college in West Virginia. His is West Liberty State College, a school with an enrollment of over 3,500 students. It is very

much like other State colleges across the Nation in many respects but it is different in one that interests us this morning. West Liberty State College and the National Collegiate Athletic Association, had some difference some time ago, and West Liberty withdrew its NCAA membership. Dr. Chapman is here today to tell us about the dispute, why his school withdrew from the national organization, and what the effects of that withdrawal have been.

I might say, Mr. Chapman, we welcome you particularly because of your background in Michigan, and the fact that you are a graduate of both of our major and great State universities. We would like very much to hear from you.

Dr. CHAPMAN. Two of the few very great universities in the Nation, Mr. Chairman.

I can say at this point I can sympathize with our varsity athletes, because I have been on the bench for over three-quarters of the game now, so I understand perfectly well what they go through.

STATEMENT OF JAMES L. CHAPMAN, PRESIDENT, WEST LIBERTY STATE COLLEGE

Dr. CHAPMAN. I express my deep gratitude to you and members of the committee for the personal invitation which was extended to me to appear before you as you consider the various issues surrounding the continuing feud between the National Collegiate Athletic Association (NCAA) and the Amateur Athletic Union (AAU). My testimony will concern itself with the following issues on the subject before the committee:

I will relate two incidents which occurred in the summer and fall of 1970, in the area of intercollegiate athletics which resulted in my making a decision to withdraw the institutional membership held by West Liberty State College in the NCAA.

As a result of these incidents, I feel it will be seen that the NCAA can be interpreted to be a very arbitrary body which has become a law unto itself with respect to the control of most of intercollegiate athletics in our Nation.

It is important to establish at the outset that I do not represent that part of the academic community which depreciates or castigates the role of intercollegiate athletics on the college campus. I feel that from my student days as a varsity athlete in track, cross-country, and basketball, when I had the honor of winning State championships in both the mile and cross-country runs in high school and college while pursuing my formal education in the State of Michigan, to the present, that I have an appreciation for the significant role of varsity athletics in education. As a demonstrator of my continued and present interest in varsity athletics, I serve as the treasurer of the West Virginia Intercollegiate Athletic Conference and, on a more personal basis, take a great deal of pride in the varsity competition which occurs in 10 sports on our campus.

I shall now turn to the two incidents of encounter with the NCAA which resulted in the withdrawal of our institutional membership.

I was informed by correspondence from Mr. Warren S. Brown, secretary, NCAA Committee on Infractions, on January 22, 1971, that I should present to his committee evidence surrounding two alleged

violations which had occurred in the area of athletics at West Liberty State College.

The first alleged violation pertained to the matter of our varsity football team participating in a NCAA uncertified postseason football game with Wofford College on November 26, 1970. It can be stated that we did in fact participate in such a game on the date indicated. It was a game certified, however, by the National Association of Intercollegiate Athletics (NAIA), in which organization we held and continue to hold institutional membership, the end result being that we held institutional membership in both the NCAA and the NAIA at that time. The contest we played in against Wofford College was the semifinal eastern championship game which would have resulted in our participating for the NAIA national championship had we been fortunate enough to be victorious in the game with Wofford College.

The reason the NCAA indicated there was a violation on our part is that the NCAA does not permit its member institutions to participate in any bowl game other than those sanctioned by their organization. I can readily understand why the NCAA wants to prevent bowl games from mushrooming across the Nation when these are sponsored by entreprenuring individuals or profitmaking organizations. The fact is the NAIA is an organization with similar goals and objectives as those held by the NCAA, but it was indicated to me that the NCAA had such a rule prior to the NAIA starting the national championship playoff and it was inferred the rule would and must be upheld. An important thing to remember in this is that the NCAA for many years was concerned with those institutions which had extremely large athletic budgets and programs, and it could not concede the point that it should cooperate with the NAIA, which has concerned itself in most respects with the plight of the smaller athletic programs of higher education in our Nation.

The final comment I want to make on this particular incident is the irony behind all of this when, in fact, West Liberty State College was contacted by Mr. Ernest Casale, of Temple University, who indicated to our director of athletics on or about November 16, 1970, that we were being considered for a berth in the NCAA-sponsored Knute Rockne Football Bowl Game in Atlantic City, N.J. Mr. Casale wanted to know if we were interested in participating, and an affirmative answer was given. An indication was conveyed by Mr. Casale that we would hear from him later, but we have never heard from him or from any person representing the NCAA. Had we been extended an offer to play in a NCAA-sponsored event and turned it down to play in a NAIA-sponsored contest, some action by the NCAA would seem appropriate. Such was not our situation.

Mr. Chairman, I submit to you that, except for the good judgment of our football coaching staff in the late fall of 1970, our football team could still be practicing for a possible bowl invitation had we waited for a final response from the NCAA. The point can be interpreted as being a bit ludicrous, but I do not feel such is the case when a member institution has an inquiry placed before it in a matter this important and nothing is received from the parent body which gives a final response.

I turn now to the second incident and the one to which I feel the efforts of this committee should be primarily directed.

I was informed in the same letter referred to earlier, dated January 22, 1971, from Mr. Brown, that an alleged infraction of NCAA policy had occurred on our part in awarding a work-study grant funded from Federal resources which occurred when a student attending a college located in close proximity to West Liberty State College transferred from the other college to our campus. It should be kept in mind that each college concerned held membership in the NCAA at that time. The student who transferred to our campus received a varsity letter in tennis during his freshman year at the other college. At the completion of his freshman year at the former institution he decided that for personal financial reasons he desired to attend West Liberty due to the fact of his being an in-State student and the extremely low tuition which we charge as a State college when compared to the private college he was attending.

The student was not recruited by our tennis coach but came to our campus during the summer of 1970 between his freshman and sophomore years, prior to entering West Liberty in the fall, and asked questions from our tennis coach as to whether he would be eligible for some type of financial aid. The tennis coach indicated to him that an athletic grant could not be given to him but that he would be eligible, just as any other student, for assistance under programs supported by the Federal Government—that is, EOG, work-study, NDSL—provided he had a demonstrated financial need. He subsequently made application to the director of financial aid for a federally funded assistance grant and was awarded \$700 in the form of work-study job due to the fact that he had a demonstrated financial need in the amount of \$925, as confirmed by his ACT family financial statement. I was informed by the NCAA that this particular case had been reported and that the national office of the NCAA desired the facts pertaining to the case since it appeared we were in violation of NCAA policy, which reads as follows from an official NCAA interpretation bylaw I, section 7:

If a known student athlete proposes to transfer from a 4-year collegiate institution to another 4-year institution holding NCAA membership, and the first institution declines to give the permission required by section 7, the second institution may not encourage the transfer and may not offer or provide financial assistance to the student athlete. If the student athlete proceeds to transfer to the second institution, and the specified permission is not forthcoming, the second institution may not provide the transferee financial aid until he has attended the institution 1 academic year.

The important point for the members of this committee, Mr. Chairman, to keep in mind, is that although this student came to our campus with a demonstrated financial need, we placed our institutional membership in jeopardy before the NCAA by providing federally funded financial assistance to him due to the fact that he had won a varsity letter at another NCAA school. I feel that a policy of this type is not only illegal as it relates to the control which the NCAA holds over its member institutions, but is equally unethical when an institution of higher education is committed to serve the educational needs of the youth of our Nation. Neither in correspondence nor in a telephone call which I had with executives of the NCAA was it ever brought to my attention that we could ask for an exemption to the policy stated above, as contained in the NCAA's bylaw I, section 7. Not until such time as I started pursuing this matter with our West Virginia con-

gressional representatives in Washington did Mr. Walter Byers, executive director of the NCAA, indicate that we could ask for an exemption from the policy stated.

I feel that whether a student is recruited or not from another institution. I have a legal responsibility to insure that each student entering our institution has federally funded student-assistance programs made available to him, provided he qualifies.

Mr. Chairman, in conclusion I would like to quote from a letter which I sent to Congressman Robert H. Mollohan, who represents the First District of West Virginia in the U.S. House of Representatives, dated November 9, 1971, which I feel could in some measure be interpreted to be prophetic in the light of this committee's work:

The more I become involved in the matter I have raised with you with respect to the policy of the NCAA on the transfer of student-athletes, the greater my feeling that the NCAA has become a law unto itself, and now an accounting should be forthcoming from this national organization. The fact that they have no intention of changing their policy with respect to the transfer of student-athletes as it relates to the awarding of any financial aid, including Federal funds, is indeed disconcerting. Those of us in higher-education administration during the past 5 years have been made acutely aware of inconsistent policies which we had in the academic community and which have been changed in rather dramatic ways. I am simply attempting to apply some pressure on the NCAA so that it will change out of a sense of fairness and for humanistic reasons, rather than waiting for pressures to build up against it which could result in a weakening of many of this fine organization's programs.

I feel the executives of the NCAA have acted in an arbitrary manner and wield entirely too much power over the heads of their member institutions. One person has said that an idea will create an institution, but the institution will in turn kill the idea. I firmly believe that the idea and ideals of intercollegiate athletics as exemplified by Alonzo Stagg of Chicago, Fielding H. Yost of Michigan, Knute Rockne of Notre Dame, are very ennobling.

I trust that the work of this committee will result in the idea of amateur and intercollegiate athletics being revitalized and the capricious nature of the NCAA being revamped.

I express to you my sincere appreciation for the moments you have given to hear my testimony.

Mr. O'HARA. Thank you very much, Dr. Chapman. Let me congratulate you on your perception. In the case of the tennis player who transferred, I agree with you definitely, you would have been in violation of Federal law and regulations if you had denied financial assistance to a transferring student on the ground that he was a tennis player. It seems to me that if he otherwise qualified, you are absolutely correct. He is entitled to equal consideration for that assistance along with every other student involved. I think there would have been definite violation of our laws and regulations if you refused to give him consideration.

I can't understand a regulation that would punish you for having followed the law.

Dr. CHAPMAN. This was the bind in which I found myself. I tried to pursue this through every avenue possible, one being to raise a question with our congressional representatives as to why the NCAA through a very noble effort in its national youth summer program, should be federally funded when in fact they had, whether by design or not, had a policy that did in fact prohibit us from awarding Federal funds to deserving students as well.

While the NCAA can be given great credit for the national summer youth program, I am not going to give them the same credit when it comes to the fact they have policies that they have promulgated that prohibit me in the capacity in which I find myself of not upholding laws which I feel Congress has made for us to assist worthy students.

Mr. O'HARA. I agree completely with your analysis of the situation.

Mr. PEYSER, any questions?

Mr. PEYSER. Briefly, Mr. Chairman.

Mr. Chapman, I too appreciate your testimony. I think it is very worthwhile. I am glad you mentioned the NCAA national summer youth program because I think it is an excellent program and one I perfectly am for. So it is not as though the NCAA, while we paint it a little black here, because in these areas I think it is in the wrong without any question, but they also do a great deal of good. As do all of these organizations. It is just a question of the power, so to speak.

Just as a comment, I notice you indicate in your opening you are representing the academic community, which appreciates the role of intercollegiate athletes.

I am a trustee of Colgate, and I know we are very interested in athletes, and the proper treatment of all the programing. I am delighted you also feel that way.

I appreciate the testimony you have given us this morning.

Dr. CHAPMAN. I think my answer is basically what I attempted to say in the prepared paper that has been delivered. I think there is now accountability that should come to the NCAA. While I have had no experience with the AAU, my feeling is, and that of others I have talked to, there is also a great deal of capriciousness occurring in that organization's administrative structure.

What I think has occurred is that executives of these organizations have built positions of power rather than positions of trust. I think that now is the time for them to come to a point of accountability for the position of trust.

I certainly will be one of the first to say that I will be viewing the NCAA finals tonight, and I appreciate what the organization has done in many ways, but I think accountability should be upon this organization.

Mr. PEYSER. I agree with you, but are you suggesting in any way there should be a broader Federal legislation getting into the domestic athletic area? Are you suggesting we should be looking at that?

Dr. CHAPMAN. I think that if the NCAA and the AAU cannot settle their problems, and they are the two most powerful organizations at this point, then I think it would be incumbent upon Members of Congress to look at this problem also and not let this one continue to be a festering sore and impose conflicts upon us.

I think it would be incumbent upon you to look in that direction.

Mr. PEYSER. Thank you, Mr. Chairman.

Mr. O'HARA. Thank you.

This concludes the meeting of the subcommittee for today. We will meet tomorrow in this room at 10 a.m.

[Whereupon, at 12:35 p.m., the hearing was recessed, to reconvene at 10 a.m. the following day, Tuesday, March 27, 1978.]

PROTECTION OF COLLEGE ATHLETES

TUESDAY, MARCH 27, 1973

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

The subcommittee met at 9:30 a.m., pursuant to call, in room 2261, Rayburn House Office Building, Hon. James G. O'Hara (chairman of the subcommittee) presiding.

Present: Representatives O'Hara, Dellenback, Lehman, and Peyser.
Staff members: A. C. Franklin, counsel, and Elnora Teets, clerk.

Mr. O'HARA. The Special Subcommittee on Education of the House Committee on Education and Labor will come to order.

This morning we are resuming hearings on H.R. 5623, a bill to amend the Higher Education Act of 1965 to protect the freedom of student athletes and their coaches to participate as representatives of the United States in amateur international athletic events, and identical bills cosponsored by 35 of our colleagues, and on H.R. 5624, a bill to protect collegiate and other amateur athletes.

Our first witnesses today are Mr. T. R. Milner, and Mr. Christopher Dunn. I think I ought to give Mr. Peyser, who is a member of the Committee on Education and Labor, the opportunity to introduce our witnesses.

Mr. PEYSER. Thank you very much, Mr. Chairman.

I would like to suggest that both Mr. Milner and Mr. Dunn take their seats up here at this time. I am delighted to welcome them to the committee.

Mr. Milner is the track coach at Colgate University, and had been in previous years, in his undergraduate days, an active participant in the track field. Chris Dunn, who is presently a senior at Colgate University, and an Olympic competitor, is a holder of the indoor national collegiate high-jump record, and IC4A indoor and outdoor high-jump records, and has had experience this year and over the past several years, and I think will be of great interest to the committee. So we are both anxious to hear from both of you gentlemen.

Mr. O'HARA. You can proceed, gentlemen, in whatever way you wish. Each of you has a statement, that is fine. If you want to read it that is all right. If you want to submit it for the record and speak extemporaneously, that is all right.

Mr. DUNN. We each have a statement and we can answer questions if necessary.

Mr. O'HARA. That will be fine. Will you be first, Mr. Dunn?

Mr. DUNN. Yes.

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**STATEMENT OF CHRISTOPHER DUNN, STUDENT-ATHLETE,
COLGATE UNIVERSITY, HAMILTON, N.Y.**

Mr. DUNN. I have been competing as an amateur high jumper since 1967, when I was a sophomore in high school. My jumping improved at a steady rate until I entered my first national championship in 1971. The following year I tied for third place in the 1972 national AAU indoor track championships, and as a result I was selected to compete in the 1972 United States versus Soviet Union indoor track meet. This international competition took place in Richmond, Va., a year ago. I was, of course, a college student when I competed in this meet last year, as were several other of the participating athletes. No action was taken against the collegians who competed in this meet last year. Later on last year, I earned a spot on the 1972 U.S. Olympic track team and competed in Munich last September.

This year, I again competed in the 1973 national AAU indoor track championships on February 23 in New York City. Again, as a result of my performance in this meet, I was selected by the AAU to compete once again in Richmond, against the Soviet Union. However, anticipating the arising of difficulties, Colgate University's athletic and sports information directors contacted officials of the NCAA by telephone approximately 4 weeks ago. They were told the following: (1) That the NCAA had not granted a sanction for this particular international competition; (2) that the AAU had not requested a sanction for this meet; (3) that all the AAU had to do was to request this sanction and it would almost certainly be granted; (4) that if I were to compete at Richmond against the Russians, Colgate would, according to the NCAA bylaws, be forced to penalize me by removing my college eligibility for all remaining NCAA competitions; and (5) that if Colgate did not take such action to penalize me, then Colgate would be in violation of the NCAA bylaws and subject to disciplinary action. It is possible that this action could entail a probationary period in which case all of its athletes would be ineligible for NCAA championship competition.

In spite of Congressman Peyser's constant efforts during the week prior to the meet, this conflict was not resolved, and I chose not to compete at Richmond. Although I have complied with NCAA regulations and did not compete in this AAU-sponsored international competition, I do not wish my action to be interpreted as my taking sides with the NCAA. What determined my course of action was the potential loss of several opportunities to compete in college competitions during the course of the remainder of my career. I am not an expert on the history of the feud between these two organizations, nor am I knowledgeable about the present administrative policies of either organization. I am an athlete, primarily concerned with pursuing the perfection of my high jumping skills. I wanted the opportunity to compete because I am dedicated to improving myself in this field. This opportunity was taken away from me for reasons of a complex nature, which I do not thoroughly understand. It is my hope that improvements will be made in the administration of amateur athletics so that incidents of this type will not adversely affect myself or others in the future.

**STATEMENT OF T. R. MILNER, TRACK COACH, COLGATE
UNIVERSITY, HAMILTON, N.Y.**

Mr. MILNER. The NCAA is an organization of institutions. Representatives of these institutions comprise the executive branch and the various committees charged with establishing policy, rules, regulations, et cetera, which are applicable to the various areas of concern. The NCAA was developed by educational institutions for the benefit of collegiate athletic programs. Representatives of these institutions have the right to vote, to submit amendments to existing constitution and bylaws, to institute change, and to debate the issues as they are presented.

For a variety of reasons, the sanctioning or certification process is a necessary one. On various occasions, situations arise which are not in the best interests of the collegiate athletes involved or of the institution they represent. It is impossible for an institution to maintain the necessary machinery for investigating the desirability or the viability of athletic events. The consequence of this lack of capability is the NCAA certification process designed to advise the institution regarding conditions of various non-NCAA-sponsored activities.

The NCAA has no authority to penalize an individual athlete. Any action which affects an athlete's eligibility is the responsibility of the institution. Should the institution disagree with the findings of the appropriate NCAA committee, it may act accordingly. However, in such cases, the consequences are quite clear.

The NCAA is very desirable and necessary in its relation to collegiate athletic programs. Likewise, the AAU serves a significant and necessary function in the promotion of amateur athletics in the United States and abroad. The issue, as I understand it, is not what body controls international competition. The issue is merely a procedural one which requires that the NCAA approve a meet as being one in which competition by an athlete representing a member institution is acceptable.

Perhaps there are more complex and critical concerns. I doubt that this is the case. My understanding is the only requirement for sanction in the recent meet with the Soviet Union was that it be requested.

Colgate University as well as other educational institutions must retain institutional control of the students and the programs in which they take part. Any legislation which infringes upon such institutional control would be totally unacceptable to the collegiate community.

Colgate University is committed to the NCAA. We are an active member that subscribes to the principles and policies of that organization. Colgate University has, however, an overriding commitment to Chris Dunn and other students within the athletic program. This is our primary concern.

The fact that Chris Dunn chose not to compete against the Soviet Union was his individual choice. Colgate's position was a delicate one, torn between two commitments. Chris was advised of the applicable regulations of the NCAA. The NCAA was contacted regarding requirements for sanction and stated that such sanction would certainly be forthcoming if requested. The AAU was then contacted and an effort made to persuade that office to request such sanction. The

response was simply, "We don't think we have to ask for sanction." Apparently it mattered little that the collegiate athletes would be affected, or that the institutions would be under a severe strain in advising its athletes.

Chris Dunn was advised of all proceedings and then presented these alternatives:

A. If he chose not to compete, that was final.

B. If he chose to compete, the NCAA regulation which applied indicated that Colgate University must declare him ineligible for further intercollegiate competition.

C. If Colgate University decided not to declare him ineligible, the university would be subject to disciplinary action.

Had he chosen to compete, Colgate University would have supported that choice. The institution would, however, be forced to make a decision concerning the question of eligibility subsequent to that choice. This situation did not arise.

Chris Dunn is a responsible citizen. He evaluated the options and the consequences and made his choice. The fact that he was forced to make a choice of this type is the tragedy of the entire situation. This athlete is as fine a representative of the United States as we have in this country. In denying him the opportunity to compete against a team of another nation, the United States suffers a great loss along with the athlete. This is not a power struggle, it is a case of hard-headed unyielding attitudes. If we must deal in such a noncooperative atmosphere, then certainly an arbitrating body is an absolute necessity. [Signed] Harold W. Lahar, professor of physical education, director of the division of physical education and intercollegiate athletics, Colgate University, Hamilton, N. Y., 13346; member NCAA Football Rules Committee; member, NCAA Extra Events Committee.

Mr. O'Hara. Thank you very much.

Mr. Milner, you refer in your testimony, and also, Mr. Dunn, you refer in your testimony, to disciplinary action that Colgate would have been subjected to if it had not declared Christopher Dunn ineligible in the event he had competed in. What is the nature of that disciplinary action that you could anticipate would have been taken against Colgate University?

Mr. Milner. It is my understanding there are various levels of action that could take place. I suppose it depended upon what the NCAA determined was the severity of the infraction.

I think that one of the things they could have done would be to eliminate Colgate from any consideration for television games, be they football or basketball, or things of that nature.

Also, they could have declared any Colgate athletes ineligible for further NCAA competition for whatever time span they so determined. This was the thing that we were mainly concerned with.

A school like Colgate, it is not too likely we would get involved in, "Games of the Week," or anything of that nature on television, but we do have individuals who might qualify to compete on a national level for other teams, swimming, wrestling, and what have you. This sort of thing could have happened.

Mr. O'Hara. The press reports indicated there was some sort of a threat that Colgate would lose certain revenues that it derived from televised events. Was that correct? Do you derive any revenues from televised events?

Mr. MILNER. Not to the best of my knowledge. Well, if you are involved in one of those games, yes.

Mr. O'HARA. But not if you are not involved?

Mr. MILNER. Not that I know of.

Mr. O'HARA. The press report seemed to indicate that the proceeds of the television of the game of the week, the football game of the week, was somehow distributed or apportioned, or at least was distributed among member institutions, and that Colgate would lose its share of those proceeds. Is there anything to that?

Mr. MILNER. I am not really familiar with that arrangement. I don't know. I can't answer that question.

Mr. O'HARA. Here we had a situation where the meet had not been sanctioned by the NCAA, and I am sure that that is something you would have wanted to know. You, Chris Dunn, and your coach both would have wanted to know, but that would not have, that is, apart from these threatened penalties, the fact that the meet was not sanctioned by the NCAA would not have kept you from participating, would it?

Mr. DUNN. Not apart from the penalties.

Mr. O'HARA. In other words, you had been down there before and knew roughly what the setup had been in the past, and you could anticipate what it would be?

Mr. DUNN. Last year I didn't know, and it never occurred to me there would be any problem at all because, well, there simply was no problem. I just never considered whether the meet was sanctioned or not. I figured if there was anything wrong I would be notified. To the best of my knowledge, the situation is not any different this year than it was last year. I don't think the meet was sanctioned last year, as far as I know. But I guess in this case the NCAA, last year, chose to ignore it, the fact that it was not sanctioned.

Mr. O'HARA. I was interested in your statement with respect to your attitude toward competition when you referred to your desire to perfect your skill as a high jumper. I think that is a worthwhile endeavor. You certainly are a very good high jumper, and if you believe in the perfectibility of human nature, I suppose you could even be a better high jumper.

I want to get your attitude toward competition. In other words, as you look at your relationship to your school and to your school's track team, I would imagine that you feel you have some obligation toward them if an important meet is coming up, say next Saturday. I think against a traditional rival, let's say, you would want to compete for your university, you would want to do you best for your university.

If an important meet were not coming up next Saturday, and if the university did not have anything scheduled for next weekend in the way of a track meet, and you had an opportunity to go and participate somewhere else in an event that was of interest to you, I suppose you would want to do that. Is that correct?

Mr. DUNN. Yes; the situation at Colgate is unique, in that Colgate is not a track power. There are no other athletes on the team able to compete on a national level, or who would be invited to the competition in which I participated.

My coaches have been very reasonable in allowing me to compete in competition which satisfied my interest, which is on my level, at the same time as important track meets are occurring because that is Col-

gate's philosophy, to develop the best interest, or to serve the best interests of the individuals on the track team. They have not put pressure on me to compete in dual meets which are not on my level of competition, and which do me no good at all in terms of my high jump skill. So that situation is perhaps different than it is at a big track power such as UCLA, or a large school where people are on scholarship. I am not on scholarship at Colgate, and where a high jumper would be requested to compete and where an NCAA competition might conflict with an invitational meet, perhaps sponsored by AAU.

Mr. O'HARA. The reason I asked this, Mr. Milner, is yesterday it was suggested that the NCAA ought to have the power to discipline schools and to require schools to declare athletes ineligible for having competed in a nonsanctioned event and that it was necessary that they had the power to direct the schools to do that. The NCAA didn't say this, but another witness did. He said that it was necessary that these associations have that power in order to protect the interest of the school.

We asked, "In what way?" And they said, "Well, if we didn't have this power an athlete might miss, say, an event in which his school was participating and go off on his own somewhere else."

Mr. MILNER. Well, I think as this statement indicates, and I support this position, I think that the sanctioning role is an important one, and a necessary one. But I think, unfortunately, it has been used in the wrong spirit as far as Chris is concerned.

I think it is necessary—well, you take the example of a school like Colgate. We are in an isolated community. It is certainly not attuned to everything that is going on in the track world in particular. The situation could arise where Chris would be advised, or asked to compete in a meet that might not be a good situation for him to compete in. So, consequently, if the NCAA has this sanctioning power it can be used to the advantage of the athlete, but such is not the case in this situation.

Mr. O'HARA. Let's pursue your example. Let's suppose that Chris was invited to participate in a meet in Arlington, Tex., and he did not know anything about the meet, so he talked to you about it. You didn't know anything about it. You called the NCAA and they said, "Well, we have not sanctioned this event." I suppose that at that point and I am trying to put myself in your shoes, Mr. Milner, at that point you would want to know more about it. You would want to say to them, "Well, what seems to be the difficulty? What is the problem? Why haven't you sanctioned them?"

If you are going to advise Chris, apart from the question of eligibility, if you were going to advise Chris as to whether or not he ought to participate, what you are interested in doing is finding out more about it like: Why isn't it going to be sanctioned? Is there something wrong with it? Does it endanger his amateur standing? Would he be competing against professionals. Are the promoters fly-by-night types? Might he end up not getting his travel expenses?

Mr. MILNER. These are things we would be concerned with, yes.

Mr. O'HARA. Then you would ask those questions, and if you were satisfied that the reason that they were not sanctioning it had to do with things that really did not concern Chris Dunn, and that indeed his amateur standing would not be endangered, nor his physical wel-

fare, and it was certain he would get his travel expenses, and be well taken care of and there would be medical attention available, more precisely, when you satisfied yourself that the reason for nonsanction didn't have anything to do with the bona fides of the track meet, it would seem to me that then you would be able to say to Chris, "Well, Chris, it is not sanctioned, but it appears to be a perfectly legitimate athletic contest, and if you want to go on down, I see nothing wrong with it."

It is fine to have the sanctioning part, so that it warns you and Chris that there may be something wrong with this meet, so you check into it to make sure there is not something wrong, but after that point the determination is one that seems to me for the athlete and for the school to make. It is not for the NCAA to say, "Yes, we don't sanction this, and second, if you arrive at the decision that it would be all right to go anyway, we are going to discipline your school."

I think the sanction ought to be a service to the school, not a threat to the school.

Mr. MUXER. That is the position we supported as far as the statement is concerned. I think that that is what has happened. It has become a weapon used arbitrarily against the school.

Mr. O'HARA. That is the very thing to which I object. I appreciate your coming down here. I really am sorry that Chris got caught in that crossfire and was not able to compete in that meet. I am sure you would have enjoyed it, and you would have found topflight competition there.

Mr. PEYSER. Any questions?

Mr. PEYSER. Yes, Mr. Chairman, thank you.

There are a couple of things, Mr. Milner, on your statement in support of the NCAA, just to clarify it in my mind, you voice support for the job they do in, let us say, protection of the athlete in the type meet that he competes in and in the selection of meets, correct?

Mr. MILNER. Yes.

Mr. PEYSER. I also understood you to say that you oppose, as the chairman just mentioned, the penalty control that the NCAA has. In other words, saying that, "We are going to eliminate a given athlete from any further competition," or "If the school does not take that action we are going to eliminate the school from any competition," and you are opposed to that form of penalty by the NCAA?

Mr. MILNER. Absolutely, because in the case of Chris, your position in any given athletic activity is such a tenuous one, you know, they have taken away an opportunity for him to compete against another country, which he might never have again.

Mr. PEYSER. All right. Now, what is your direct voice into NCAA?

Mr. MUXER. My direct voice would be through our athletic director, Mr. Lahar.

Mr. PEYSER. Do the colleges have a voice in NCAA operations, to your knowledge?

Mr. MILNER. I believe so, yes.

Mr. PEYSER. To your knowledge, have any colleges ever raised this question of the penalty rights with the NCAA?

Mr. MILNER. I am not sure. I don't know. I think it is one that is going to come up now.

Mr. PEYSER. We heard earlier in the week that NCAA was really a democratic operation, and all of the member schools had inputs to

speaking on various issues. I just wondered that if this is the case, why don't the schools speak out and say, "We think what you are serving is a real purpose, in sanctioning of meets and so forth, but we don't think you should have the right of this type of penalty."

I have not found anybody who supports, except the NCAA and some other of the associations who have been here, who supports the right of the penalties, of being able to say, "He can't compete, or the school can't compete."

I am wondering if there is any feeling among schools that they should speak out on this, or do you think they are afraid to speak out on it?

Mr. MILNER. I think after the last two incidents with the basketball and track situations, there will be more and more people speaking out. I don't understand how this thing perpetuates itself. I don't see why these arbitrary decisions can be made and not have something done about them.

Mr. PEYSER. All right. Chris, one of the things we have heard from sources of the AAU and NCAA, while they both serve a purpose, they speak of the fact that when athletes compete in their events internationally or nationally, one of the things is that their athletes are always cared for. They say that they make previous inspections of every place that they are supposed to go, and that they receive the best of facilities and treatment. This is theoretically one of the real reasons for their being.

Through your personal experience, have you found this to be the case? Is this what happens?

Mr. DUNN. My personal experience is that is not always the case. I have been to track meets, and I have been on tours with the AAU, where accommodations were poor, where the facilities were poor, and where I had the feeling I had just been dumped off in the middle of nowhere by the AAU.

My experience with the NCAA has been different because it has always been Colgate as an institution which controls my traveling arrangements. It is Mr. Milner that does it. Since it is on an individual basis there is no problem, whereas when I deal with AAU, maybe the travel director of AAU will call up and say, "How would you like to go to Trinidad, because you have been selected, on the basis of performance, to compete down there in international competition." I might say, "Yes", and ask him what the facilities are, but the facilities and accommodations really do not always coincide with what he says they are.

Mr. PEYSER. In other words, there are problems that exist in that area, even though through our legislation here we are not really speaking to that question. There are problems that athletes around the country could attest to?

Mr. DUNN. I feel responsible to speak for athletes now on the basis of the interaction I had with them this summer on the Olympic team. Athletes are disgusted with accommodations, with the way they are treated by AAU in particular. With college athletes, it is slightly different, because the college athletes deal with their colleges, people that they work with and train with every day, whereas you never see the people in the AAU. There is a general feeling, a strong feeling that I sense, of resentment and frustration in the way athletes are treated.

Mr. PEYSER. Having competed last year in the Olympics in Munich, what would you say the feelings of the athletes, as you interpret them, would be toward the Olympic operation?

Mr. DEXS. Very similar. I would say that, again it is not my place to speak for every athlete, but I can only relate to you my general impressions from talking to other athletes. The U.S. Olympic team is poorly organized and trained. The team's travel arrangements are also poor. There are too many "officials" hanging around doing nothing, but they never benefit the athlete. It is a cumbersome organization, and the needs of the athletes were not met in every instance as well as they could have been.

Mr. PEYSER. That is interesting. Finally, I would like to ask, and we are not asking you in any way to say whether you prefer one bill here, 5623 or 5624, but I would be interested, first, to know, Mr. Milner, from your point of view and, Chris, from yours, as to whether you feel that it is time that the Federal Government does have legislation that speaks to this problem on the international level? What is your feeling? Do you feel we really ought to be pursuing this area, or do you feel we still ought to let them hold on in their own situation?

Mr. MILNER. No; I think it is time we did have some sort of legislation. Frankly, I would rather see it a little broader than what you two gentlemen have introduced. I think that the AAU needs some general housecleaning as far as their organization because of the things that Chris has indicated. I think that we need to go a little deeper even than what you suggested.

Mr. PEYSER. Chris, would you like to comment?

Mr. DEXS. My reaction is the same. I think that it is high time for the Federal Government to legislate something that speaks to the problem, as you have asked. But this particular legislation is concerned in pinpointing the problem on an international level, and it is therefore not all-encompassing. I think that is the way legislation should be—specific. But I think the bigger problem occurs on the domestic level—the entire amateur sports structure in the United States. This problem involves not only people on the international level, but deals with the people that are not that talented. There are millions of athletes in the country who need broader support, who need to be exposed to wider areas of sports.

I am not sure in my own mind, that the Federal Government should intervene on the domestic level. I don't know enough about the workings of the Government to say. I would rather see the NCAA and AAU clear up their own problems.

Mr. PEYSER. Thank you, and thank you, Mr. Chairman.

Mr. O'HARA. Thank you very much, Mr. Milner and Mr. Dunn, we appreciated having your testimony.

Mr. O'HARA. Our next witness is Mr. George Bisacca, attorney, from Fairfield, Conn., counsel to the Eastern College Athletic Conference, ECAC, an organization of over 200 colleges and universities in 12 New England and Middle Atlantic States and the District of Columbia.

As you remember, Mr. Jack Langer, when he testified in our hearing on March 19, said the ECAC had joined the NCAA in placing Yale University on probation for continuing to permit Mr. Langer to play on the varsity basketball team after the ECAC had declared

him ineligible for participating in the Maccabiah games in Tel Aviv in July 1969.

Mr. Bisacca, we understand you don't have a prepared statement, other than your notes, and we would be pleased to have you make your statement extemporaneously or in any manner you wish.

STATEMENT OF GEORGE BISACCA, ATTORNEY, FAIRFIELD, CONN.

Mr. Bisacca. Thank you, Mr. O'Hara.

Gentlemen, I appreciate the opportunity to testify before you today. I do not have a prepared statement simply because I just found out about the desirability of my testimony last week, more particularly, because I think we are just scratching the surface here and it would be difficult to give a comprehensive opinion in any written statement.

In order that you may better evaluate my testimony, I will attempt to outline my background and qualification as they apply to the matters before the committee today.

At the present time, I am a practicing attorney in Fairfield, Conn. For about 30 years of my life preceding the present, I have been deeply involved in amateur athletics as a player, coach, athletic director, and most significantly as legal counsel for the Eastern College Athletic Conference, a position which I still hold.

Without going into any great amount of detail, let me simply say that my background has therefore involved just about every phase of athletics from playing to teaching, to promoting and managing, and finally to regulating.

During the last few years in which I served as legal counsel for ECAC, I have been directly responsible for several areas of concern which have given me what I feel is an objective perspective, which I hope can be of assistance here. Specifically the area that involves eligibility of college athletes for international competition. I was deeply involved in the *Langer* case, consideration of that case, the authority of collegiate organizations and/or institutions to grant or deny eligibility to a student athlete. I have been involved in the actual court trials of several eligibility cases on a successful basis.

I have been responsible for drafting the ECAC constitution, bylaws, and rules of eligibility for student athletes. More recently, we have been involved in the reorganization of both the ECAC and NCAA, which is still going on, as well as the recent disputes involved in the internal affairs of the U.S. Olympic Committee.

Before I go any further, however, I would like to make my position as a witness before the committee perfectly clear. Although I do have an official capacity as counsel for ECAC, I am not appearing in that capacity today. I am here on behalf of no group or organization, and I have no desire to further the interest of any athletic body. I am here only because of the deep conviction which I have that the integrity of amateur sport is vital to the ideological and physical health and well-being of our Nation, and because of the great debt I feel I owe to the world of sports for the impact it has had on my own life. It is in this spirit, and for this purpose, that I place myself at your disposal.

I, frankly, had no idea where the committee was at in its deliberations until I sat in on some of the testimony. It appears to me that

there are many basic questions which apparently have not been answered, which would give you a good outlook and good perspective on the legislation which you propose.

Realizing that I don't have much time, I thought the best way for me to do it would be to attack what apparently is the thrust of these bills, first, and then if you would care to throw questions at me we can go from there.

I think the bills, obviously, are designed to protect the national interests and the interests of our citizens, our students, in the area of international competition, obviously. I am sorry to advise the committee, but in my opinion I do not think that the Congress has the jurisdiction nor can it reach directly into the control of international athletic competition in any direct way.

I think it is possible in an indirect way. Let me clarify that. At the present time, student athletes who are in college may find themselves in a college which may be a member of the NCAA, NAIA, junior college, what not, and as such most of those schools are subject to regulation of the body which they belong to.

Now I tried a case in Rochester, N.Y. We were successful in that case. It is now law. I believe it is a good precedent for this problem. In that case the question of the individual eligibility of a student athlete was involved. The student had been declared ineligible for the ECAC, indeed they sued ECAC to regain his eligibility.

We showed the court that the ECAC and NCAA, likewise, are voluntary organizations. Any institution is free to join or not to join, or to withdraw at any time. As such, they come under the protection of the first amendment of the Constitution; namely, the right of freedom to associate. Therefore, the court found in accordance with our position, that it would be unconstitutional in the absence of a showing that due process had not been provided, to issue an injunction against a voluntary organization, to force that voluntary organization to make the boy eligible if it had awarded him a fair hearing and all of the elements of due process in declaring him ineligible.

I think that is very sound. I frankly do not see how any law, any statute which would provide for injunctive relief against such an organization would avoid a conflict with the first amendment freedom to associate.

So, on the one hand, our hands are somewhat tied in dealing with NCAA, or any other groups which would declare a boy ineligible. For example, in this recent dispute, if one of these boys had decided he was going to play anyway, as Langer did, he was free to do so, Yale was free to withdraw from the NCAA, go into another conference, or go into no conference. They were completely free to participate, but having submitted themselves voluntarily to the organization in which they wanted membership, they were then subjected to its rules and regulations. I think you have a very difficult job, therefore, in going directly against ECAC or NCAA, or any such organization.

Secondly, the regulation of international competition is equally difficult. All international competition is controlled by the international federation, so-called, and there are 27 of them. They have one for each sport in which international competition is undertaken. In addition to that, you have the International Olympic Committee.

Now, all of these bodies have in each country what they call a national governing body in that particular sport. Let's take the sport of basketball. In this country, the AAU is the national governing body of the International Federation on Basketball. Consequently, when Russia wants to bring a team to the United States, they will not come into the United States to compete against any team without the sanction of the AAU, and the certification by AAU that this team is a proper team to compete against.

Now, these international federations are very, very careful to avoid government intervention. If they felt, for example, that the U.S. Government was going to intervene in the inner workings of the AAU in basketball, they would summarily withdraw the franchise from the AAU and give it to somebody not controlled by the Government. It is one of the basic precepts of the international federation that there can be no government intervention in the national governing body. It must be an independent, private body.

Now, I don't want to get into international political arenas or affairs, but obviously this is unrealistic, because at the present time, in such countries, any totalitarian countries, the committees which are appointed, the private committees, are naturally subservient to the State, and hew pretty much to the party line, whereas in this country and other democracies, a private body will have situations like we have now.

So that the problem is really, in my opinion, outside of the direct purview of our Congress. If you intervene in the national governing body, they will lose the franchise. If you go after an organization for declaring a boy ineligible, it is a violation of the first amendment. So what are we going to do about it? I guess that is the crux of the problem. I frankly don't feel you can attack it directly, as I said.

I do feel, however, that there is an avenue open to us to approach it in an indirect fashion. As I prefaced my remarks, I am not here once again as a representative of collegiate interests, although I have been there for many years. I feel that my desire to help the committee transcends AAU, collegiate interests, or anybody else. I think the thing that is at stake here is the national interest. We have an interest in protecting our young boys to make sure they develop their skills and that they have the privilege and right to compete internationally.

We also have the image of our country at stake. Certainly it has been shown that the political repercussions on an international scale from athletic events are tremendous. So we have that area to be concerned about.

I think the way that I would go about it, one avenue, and it certainly needs more thought, but just to stimulate your thoughts perhaps, one avenue we could pursue would be, at the present time we could establish a commission of some sort which would be the sole authority to grant permission for the use of the title "U.S. National Team." That title is played fast and loose with today, I think. The newspapers will bill a competition between Russia and the competitors in this country as the "Russians versus the United States National Team." Who said it was the U.S. national team?

The AAU, being the franchise holder, assumes the authority to say that it is a national team, but I am not taking sides in this issue here, AAU versus NCAA, but let's take a hypothetical case. Let's assume

AAU acted very arbitrarily, for example, and foreclosed all college competitors from entering the tryouts for the team to compete against the Russian team, and still called their AAU team the national team. Obviously, it would not be a national team, even though they may have called it a national team.

Now, I think we can find legal justification for establishing a commission which would have the sole right to dispense that title and then, as a corollary to that, make it a Federal offense to use the title without permission of that body.

Now, what would be the result? Well, let's take the example we have right before us. Russia would want to come over here and compete against the U.S. basketball team. The AAU would be the national governing body, therefore Russia would have to go to the AAU. If the AAU did not ask for the permission to call it a national team, the competition would have to be billed "Russia vs. AAU," or some such name, which I am sure would not be very desirable from the other country's standpoint because it would lose then its official character and any political significance it might see. So the AAU would then be forced in order to sustain its position to come to the body, ask for permission to use the title. When they did this, the Government body could say, for example, "Well, how are you conducting your tryouts?"

They, by inquiry, could determine that this is truly a national team. They could by regulation require that it be open to all competitors, and so forth. In that way, they would protect the national interests.

I am sure that is not the only solution, but it seems to me, from a legal standpoint, to be sound and to stand up under the test of the various legal implications which I know exist both domestically and internationally.

I wish that I had more time to testify about the things that I have heard come up, but perhaps I think this presentation I have just given you is really to the point, to the heart of the point which the committee sooner or later must come to. I have skipped over a lot of the basic things I heard you inquiring about: for example, what type of organization is the NCAA, and are college representatives members of the council and so forth. I can fill you in on that very easily. I drafted the legislation for it. In any of those questions I would be happy to help and answer your questions.

However, I think that those in the field, the NCAA people, AAU people, and so forth, are probably pretty much agreed that this is where the thrust of where the problem lies.

Mr. O'HARA. Thank you very much, Mr. Bisacca.

I have a little problem with your suggestion. You have said that, if we were to attempt to establish a set of rules and regulations, that a national affiliate of an international governing body would have to observe that this would be ill-taken by the international governing body, and that they would then withdraw their affiliation with this particular national group, right?

Mr. BISACCA. Do you mean the fact that you would dispense the title with certain regulations having to be observed, would not set well with the international body?

Mr. O'HARA. That is right. In other words, if indeed, they are going to object to the Government prescribing methods of operation for national affiliates of international governing bodies, won't they object to the same regulations being imposed as a condition to using the title?

Mr. Bisacca. I don't think so, because the international body is like the NCAA, a voluntary organization. For example, supposing the NCAA wanted to establish an international organization, there are other international organizations, the World Games, pan-Am, and so forth, and let's say NCAA wanted to establish an international organization. They could go out and do it. Just as AAU is a member of this particular federation, they could establish another federation and go to all countries and get all of the universities in all other countries to do this.

We have a unique situation here in that most of our athletes come from the colleges in the AAU, whereas in other countries there are very few college situations. I think the reason I feel it is valid. Mr. O'Hara, is that you will not be precluding the AAU from its competition. Once again, AAU is free to compete against Russia, free to compete against any other country, but not using the title "United States National Team."

Now, I believe this would wake up the federation, and whether it did or didn't it would still give you control over AAU, because AAU would have two questions to answer:

One, does it want to compete under its national governing franchise against the international team just as AAU?

Two, does it want to compete as a national team?

If it wants to compete as a national team, then it must bring the other people in. I don't think legally and technically that would be considered Government intervention in the AAU because you are not forcing them not to compete. It is a pressure move, I believe, which would bring focus on the problem so that sooner or later the international federation now would see that really, in order for a team to be a national team, it should have the national interest at heart and how are you going to ever have that situation to be accurately prescribed? If you have one group within a nation where you have, for example, in this country you might have 100 athletic organizations approximately, substantial ones, and if only one organization has control, the national governing control, and it does not exercise it fairly, it is really not proper that it be the national governing body. In most other countries, the one national governing body is really all there is. You don't have this great diversity of organizations that you have in this country.

Mr. O'HARA. Well, it is a very interesting suggestion, Mr. Bisacca, and I want to compliment you for it.

Let me for a moment touch upon the case you described which arose in Rochester, N.Y. As I understand the question, the ECAC had declared a certain athlete ineligible for further participation. That athlete had then sought injunctive relief in the courts. Had he asserted some common law or statutory constitutional right?

Mr. Bisacca. The student claimed the action of the ECAC was arbitrary and capricious basically.

Mr. O'HARA. A common law right?

Mr. Bisacca. Yes. He went to the merits of the question under our regulations. He, in other words, claimed we had not fairly administered and judged the regulation in question, but the decision, which, by the way, I brought down for Mr. Franklin. I brought a copy of it and agreed that it be filed, but the decision bypassed the issue because it said that if the individual was afforded a fair hearing within the

ECAC, under its rules and regulations, and had an opportunity to be heard, unless some failure to provide due process had taken place, that the exercise of judgment in the administration of these rules should be left to the voluntary association.

Mr. O'HARA. But I don't think it goes so far as to say it would be unconstitutional to restrict the method used by the organization in dealing with athletes who took actions that were not in accordance with policies of the organization. Certainly, the ECAC and NCAA and AAU are engaged in commerce. There is no question about that.

Mr. Bisacca. Engaged in what?

Mr. O'HARA. In commerce between the States, and international commerce.

Mr. Bisacca. Well, I don't know.

Mr. O'HARA. You don't have to concede that point. There is no question in my mind but what they are engaged in is commerce. I think really the legislation we are working on, if you hadn't justified it as constitutional, would be justified under the power of Congress to regulate commerce between the States. It seems to me if they are engaged in commerce and Congress has power to regulate commerce between the States, that Congress has the constitutional power to prescribe certain ways and methods that shall be acceptable and others that shall not be acceptable.

I wish to assert for the record that I don't think there is any constitutional question about our ability to do this, but I think there is a question, as you suggest, about what the effect would be of certain action that we might take, what effect it would have on affiliation of the national group with the international group. I think that is a problem.

Mr. Bisacca. To back up a minute on your proposition that you just stated about the international and the commerce question. I think that you would have to understand the evolution of the NCAA and ECAC, and such groups, which was really made necessary by the quasi-professional attitude that some institutions had. There was a time when there were few eligibility regulations, recruiting regulations and so forth, and many schools might have a 100,000-seat football stadium and want to fill it up and they had an investment in this thing and were going at it frankly just like a business, and regulation certainly became necessary.

Now, there are various levels of that necessity. For example, you might have an Ivy League set of rules which would be much more stringent than another conference because their academic situation is different than the other conference, so schools generally sought out the level of regulation which fit their total picture. For the Government to get involved in that area, that is, of regulation of eligibility of student athletes, I frankly think it would become unmanageable.

Mr. O'HARA. It might very well.

Mr. Bisacca. I think it would be unmanageable. For example, in ECAC we have 212, and NCAA has approximately 700 and some odd.

Within our conference we have several minor conferences. NCAA has 44 conferences within its own conference. Each one has some different rules. I frankly think that it probably would be ill conceived to get into the regulation of the eligibility, because each year we have

a convention. The printed material which is considered, at the convention, amendments and legislation, is about 4 inches thick, and if you had to go through some governmental body I just think the whole thing would fall apart.

Mr. O'Hara. Certainly, if you had a governmental body making regulations it would be at least 12 inches thick, dependent upon what those regulations were and how extensive they were. It could be a very, very difficult problem. I think that is right.

Mr. Bisacca. We have one more witness and Mr. Peyser has to leave. I want him to get a chance to ask questions.

Mr. Peyser. Any questions?

Mr. Peyser. Thank you, Mr. Chairman.

Yes, I will try to be brief because of time. Mr. Bisacca, we appreciate your testimony and thoughts here. I guess I find one thing running through your testimony that philosophically I find very difficult to accept, and I think it is the real problem we deal with here. Your testimony really speaks of the organization, ECAC or AAU or NCAA, and it is very protective of these organizations. It is my opinion that these organizations are not fulfilling what was their original obligation of being protective to the athletes, and considering the athletes in all cases. I think we have seen so many instances where the athlete or the institution is not considered at all, and yet a regulation of the NCAA is considered.

I have a question to ask of you. Do you support the right of NCAA, ECAC, to have the power to inflict a penalty such as declaring a member ineligible and out of all competitions? Do you think that is a right they should have?

Mr. Bisacca. Let me answer as succinctly as I can. I sit in on every eligibility committee meeting of ECAC. The desire, contrary to most public opinion, of all of these organizations is that the boys' play. The problem that we face is without some power to declare a boy ineligible, any rules of eligibility become meaningless. I would not want for one moment to let anyone think I do not agree that over the years there have been abuses of the power to declare a boy ineligible, or an institution suspended or what not. Those things I think are areas which the schools have the ability to redress within the membership.

The NCAA, ECAC, and all of those are controlled completely by the institutions. Every officer, every committee, every governing committee of every one of those organizations is composed only of member institutions' athletic directors. I don't see how you could take away the power to declare the student ineligible and have eligibility rules.

Mr. Peyser. You would say then you do support that position that they have the power?

Mr. Bisacca. Well, in order to have eligibility rules, yes.

Mr. Peyser. All right, okay. So you do support that?

Mr. Bisacca. Yes.

Mr. Peyser. Now NATA, which testified before us yesterday, which has a large number of colleges, has no such power, nor do they want such power. Yet they feel they are very effective in the work that they do.

Mr. Bisacca. Well, I think they are also, but I think it is another area.

For example, let us say NAIA had a rule which I believe some years ago they had, which would allow a boy who signed a professional contract to still play. Let's say the boy was a baseball player and signed a professional contract and received money to play and didn't make the major league team or something, and then he comes back to college and is allowed to play.

Well, under the academic and educational precepts of another organization, such as ECAC or NCAA, they would not tolerate that because they would feel then that we were bringing professionals in to play with the college students; as a consequence they would declare that same boy ineligible. Now, I think the boy should play. That is if he is no longer a professional athlete and is just another student in a college, NAIA college. I don't see really why it makes the whole school a professional operation. But if you didn't have a rule controlling that, what would prevent the school from bringing in nine of those players and having a team that would just destroy all other competition?

Mr. PRYSER. I would think, frankly, you would find that schools would not be willing to play with those and schedule games with that type of situation, and we have seen it in amateur athletics where a team suddenly moved and I have a perfect example of it. We were talking about Colgate this morning. Syracuse which was a traditional rival of Colgate, one of the oldest rivalries in the State of New York, a number of years back upgraded its whole football team to such a point Colgate could no longer compete, so they stopped competing.

Mr. BISACCA. Or another choice, and this is the one you missed, if a school brings in nine professional players, you have two choices: Don't compete, or go get nine better professional players and then what happens? You need regulations.

Mr. PRYSER. Well, we are not concerned here with regulations. I don't think anybody is saying we don't need regulations, but, in my opinion, the one statement you made that I couldn't disagree more with is that you said NCAA and AAU desire to have everybody play. I have been working for hours in the last couple of weeks in direct conversation with the heads of both of these organizations and they didn't have the slightest desire to have the athletes want to play.

I think that we have seen, and you know probably better than I because you have been in it much longer, the years and years of history of the attempts to try to bring these two major organizations to just talk to each other. It is not like they were foreign powers. I mean they are both right here. They won't give an inch.

Now, when it reaches this point and the American people are involved, and the American athletes and, as you mentioned, the power of international competition, and we are subject to this type of arbitrary unwillingness to yield, then I think it is time we legislate.

We have tried time and time again, and all of the things of "Let's take it now," and "We are now interested," that as of a week ago neither one of these organizations, AAU or NCAA, were willing to give an inch. When one did begin to give an inch, which was AAU, who said they would apply, then NCAA said, "Now, we also want you to apply to USTFF," which was the very last thing they threw

in. At that point the AAU said: "The hell with it. We are not going to go any further."

So I am not convinced at all they have a sincere desire for the athletes.

Mr. BISACCA. I could not agree with you more, and all I can say in conclusion probably, and I had a diagram here, but I think time is so limited, but perhaps I can do it another time, but I think the very obvious need is for some third body to take the final word out of the hands of the contending forces. There is no question about it.

When you have a wrestling match you don't call on the two wrestlers to make the rules up as they go along. One says, "I want to bite," and the other says, "I want to use a club," and so forth. You have to get some rules established by some overriding authority. I think the method of doing that is wherein the difficulty lies. I would be glad to be of assistance on that any time.

Mr. PEYSER. Thank you, Mr. Chairman.

Mr. O'HARA. Mr. Bisacca, you made an interesting suggestion, and I want you to know we appreciate that, the idea of restricting the use of the term "National Team" in whatever sport, and then imposing conditions on the granting of such use of that term. That is a very interesting idea.

Thank you very much.

Mr. BISACCA. Thank you, Mr. Chairman.

Mr. O'HARA. Our last witness today is Mr. Harold Zimman, of Lynn, Mass., vice president of the U.S. Committee—Sports for Israel, an organization of 4,000 individuals, groups, and foundations interested in encouraging a program of participation by Jewish youth in sports, physical fitness, and physical education programs. This is the group that sponsors the U.S. team for the Maccabiah games.

Mr. Zimman was the editor of the periodical "Amateur Athlete" for some 13 years. He has attended all of the summer and winter Olympic Games since 1948. He speaks to us this morning from a wealth of knowledge and experience regarding international amateur athletic competition.

Mr. Zimman, we would be pleased to hear you.

Mr. PEYSER. Mr. Chairman, may I interrupt for a moment, please?

Mr. O'HARA. Yes.

Mr. PEYSER. Mr. Zimman, I am unfortunately in a situation, as I indicated before when I had a chance to chat briefly with you. I have to leave, and yet I think, Mr. Zimman, I would want to have your testimony, so, Mr. Chairman, will it present a problem?

Mr. O'HARA. No, Mr. Lehman is here.

Mr. PEYSER. Yes, Mr. Lehman is here. I do want you to know I regret having to leave. As a matter of fact, I am on the way down to the Soviet Embassy on the question of the Soviet Jews. I have a meeting scheduled at 11:30, so it happens to be related in some way, but I have to leave and want to apologize to you and the chairman and Mr. Lehman for having to leave at this time.

Mr. O'HARA. Thank you, Mr. Peyser; we appreciated your participation, and the transcript of Mr. Zimman's testimony will be available.

Mr. PEYSER. Thank you.

**STATEMENT OF HAROLD ZIMMAN, VICE PRESIDENT, U.S.
COMMITTEE—SPORTS FOR ISRAEL**

Mr. ZIMMAN. Mr. Chairman, just to start, I would like to say, in addition to being vice president of the U.S. committee—Sports for Israel, I serve as chairman of the National Committee of Health and Physical Education for the Jewish Centers and YMHA's in America. I speak as an individual and was invited by your counsel to come here and testify. I am happy to be of what help I can be to the committee.

I have a short statement here which I could read. It was hurriedly put together, but I would be happy to supplement it and answer any questions I can to the best of my ability.

Rules and regulations governing international amateur sports competition over the years have become more and more refined, specific, as well as technical, as competition internationally increases in quantity and in the number of entries involved. With the world becoming smaller and smaller as a result of jet travel and mass media communications, the opportunities for international competition in more than 30 different amateur sports is ever increasing.

It is vital and necessary that the best-informed specialists in each of the sports that enjoy international competition have representation from the United States to give leadership direction and positive influence to the further development and conduct of international competition, so that these competitive experiences would provide for the participants a valuable exchange of cultural and personal ideas and thereby contribute substantially to the ideals of international cooperation in all fields.

I favor H.R. 5623 in general principle. However, it is important that the bill language be modified so that the intent, "Title XIII—Protection of Athletes and Coaches," will, in fact, be the result of such legislation. On page 2, line 9, after the word "competition," there should be inserted, "approved sanctioned events by the authorized or franchised international federation governing that sport."

Another consideration that should be included in this bill is the right of the athletes, in particular, to participate in championships and other properly sanctioned events in the United States that may very well be qualifying necessities for selection to become a participant in international competition representing the United States.

As to H.R. 5624, I favor the establishment of a Federal Scholastic and Amateur Sports Act and establishing a commission whose purpose is:

1. To protect and promote the interest of collegiate and other amateur athletes in the United States engaged in international competition. This is a worthwhile and lofty purpose.

2. However, to presuppose a commission of 5 or even 15 would have the talent and expertise to promulgate rules and regulations that would improve the coordination of the various amateur athletic organizations as they affect the competitive ability of American athletes in international athletes' competition is an impossible task. Complex political, social, and ideological differences that exist in the makeup of the more than 30 international amateur sports federations

make necessary the diffusion of specialists with specific background in each committee. A consolidation would be self-defeating.

3. The purpose of the commission to promote friendly international amateur athletic competition among nations and between amateur athletes is beyond the control and jurisdiction of the Congress or agencies of the U.S. Government since international amateur athletic competition is governed by amateur sportsmen representing as many as 100 different nations, all with specific background in their sport.

However, it would be appropriate for a commission, if established by the Congress of the United States, to help the United States teams and individuals receive the necessary financial help, coaching, and use of facilities to insure greater equality of opportunity with the competing teams and amateur athletes from other nations.

4. The purpose of the commission to study all factors of collegiate and other organized amateur athletic competition which relates to the safety and health of the athletes could certainly act as a positive value in the overall aims.

Section 6, page 8 and including page 9, "Federal Sports Rules"—I question the commission's authority or its ability to make the rules and other regulations relative to participation of amateur athletes of the United States in international competition. If these rules and regulations go counter to or are not consistent with the international regulations governing the individual sport involved, the U.S. amateur athlete or team violating any rules or regulations of the international bodies could be subject to suspension or denial of the opportunity of competing.

The sports advisory council, section 8, a council appointed by the commission composed of eight members, could hardly be large enough to provide all of the expertise, background, and experience necessary to effectively substitute for the continuous, ongoing representation that is now in operation.

However, it would be a valued purpose for the Federal Scholastic and Amateur Sports Act to have the commission charged with the responsibility of developing the priority of program needs, facilities, and financial subsidy to those sports programs and sports that need greater attention in the United States as reflected in our rather poor showing in international competition in those sports such as volleyball, weight lifting, cycling, wrestling, Nordic skiing, to name but a few.

The Federal Government's concern and interest in amateur athletics can and should be a plus in our society. Hopefully this act, when in final form for passage in the Congress, will reflect all the positive pluses and will not be defeated because it attempts to do some things beyond its possible implementation.

I hope this has been a helpful statement for the committee's deliberation.

Mr. O'HARA. Thank you very much, Mr. Zimman. Mr. Zimman, with respect to the amendment you have suggested to H.R. 5623, let us get back to that, on line 9.

Mr. ZIMMAN. After "competition," I would suggest, for the implementation of this bill, if it had a safeguard, "approved sanctioned events by the authorized or franchised international federation governing that sport."

We are talking about the possibility of 30 different sports.

In the discussion this morning, I heard that it primarily was tied around the controversy between the AAU and NCAA relative to

basketball and possibly track and field, but there are a great number of other sports where there is harmony and there is not this kind of problem. Swimming has no problem. There is no problem in weight lifting. There is no problem in skiing. There is no problem in many of the individually federated, controlled sports.

Mr. O'HARA. In other words, to understand the thrust of the amendment, it would be, then, that eligibility of a student athlete could be withdrawn if he had engaged in a competition against an international team that was not approved or sanctioned by the appropriate international group?

Mr. ZIMMAN. Yes; the reason I felt this was important to put in is this: History. The reason is: This big fight in basketball between the NCAA and AAU dating back to 1948, believe it or not, when an unauthorized trip was made by an American team to play in Sweden with a professional coach that took the group along and, because the sanction was not given in time, they got to Sweden and could not play because there was not such an authority, and this started this whole ball rolling.

Well, to circumvent this kind of situation developing, I think it is awfully important that we recognize there are sanctioning and franchise rights in all of the sports internationally if there is going to be competition internationally; and I think if we stay within that kind of a context, it makes this bill have the necessary safeguard, at least in this area, to be consistent with what is, in fact, the situation in international competition and how it is regulated.

Mr. O'HARA. Well, right at this very moment, there is some question about who the properly sanctioned affiliate organization of the International Basketball Federation might be. That is in issue right now.

Mr. ZIMMAN. I think in this country.

Mr. O'HARA. Yes.

Mr. ZIMMAN. But in this amendment, I was concerned with the international authority that has jurisdiction of giving the sanction. They have to give approval for any international event between two countries, whether it is between the United States and Russia or whether it is between Canada and Yugoslavia, and I think we ought to recognize that to be sure there is no clouded issue about who represents the United States in basketball, because, at the last conference, in Munich, there were some directives given to the United States to bring their house in order by June 1—or April 1, whatever the date was—or how they were going to place the sanctioning and franchise right for basketball in the United States in the hands of the U.S. Olympic Committee until such time as that could be resolved.

Now, that is not necessarily a good solution, because I am not so sure the U.S. Olympic Committee—and I am a member of it—is qualified to take that responsibility and right fully execute it.

I think that the people who were involved in all aspects of amateur basketball—and that should include not only AAU and NCAA but NAIA and its colleges and the YMCA and the National Jewish Welfare Board and the CYO, all organizations that run a national program in basketball, from the youngsters that start at the very earliest age.

Mr. O'HARA. Mr. Zimman, I appreciate your suggestion, both with respect to that and the other matters, such as H.R. 5024, and I want

to assure you the committee is going to give your suggestions serious consideration.

Mr. Lehman, any questions?

Mr. LEHMAN. Do you know Col. Phil Cohen?

Mr. ZIMMAN. I certainly do. He is working very hard on our Maccabiah for this year and was with us in 1969 and 1965.

Mr. LEHMAN. Would you want me to tell him anything?

Mr. ZIMMAN. Just "Keep up the good work."

Mr. LEHMAN. What do you want him to tell me? I am not trying to be funny but I have been depending on him to a great extent for inputs to me on how the people in this district feel about these kinds of situations. I will be checking with him and his people.

Mr. ZIMMAN. I want to say this to you, Mr. Congressman: We were quite naturally disturbed at what had happened in 1969 on the action that the NCAA Council took on the disqualification of basketball players who wanted to go to Israel, a once-in-4-years opportunity, a cultural, social, educational, religious experience, really, in addition to being an athletic contest in the middle of the summer, nothing to do with the schedule, and there were several athletes who wanted to come, basketball players, but withdrew their applications because the school would be suspended if they played.

Yale Athletic Director DeLany Kiphuth, of course, took the other tack and said Jack Langer was not in the first-12 choice, he was down the list, but we have to dig deeper in the ballot to find people to go once that happened: and, frankly, this time I know the NCAA Council has given approval for participation in Maccabiah, because they sensed, I think, after the fact that there they were kind of making a decision which was not acceptable.

Mr. LEHMAN. What you would like to see is the kind of Federal legislation that would prevent the kind of action that did take place by NCAA from ever taking place in the future?

Mr. ZIMMAN. Absolutely. In addition, I feel that the Federal Government, through this appointed Commission or somehow, should become sincerely involved in helping amateur athletics reach the highest possible level because of the inherent values in it.

We have a lot of poor sports, we have a lot of sports that need developing considerations, and I think it is appropriate for this type of legislation to be enacted and that funds be made available to help and insist on getting the importance over of trying to solve the problem because of the friction that exists, but I am talking about the positive value that can come out of an interest in this area which certainly is evident.

I think when somebody writes the history of the second half of the 20th century, social history of the United States, he will have to say it was the flowering of athletic participation, because there is growing activity in all sports. The explosion that is taking place is certainly tremendous, but I do feel in a lot of areas you need to be concerned with having more facilities available and having the facilities that are available made available for more of the days and evenings, and there are a lot of positive areas that a commission could get into that would be beneficial to the American public and to the individual that would be served.

Mr. LEHMAN. Thank you very much.

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Mr. O'HARA. Thank you very much, Mr. Zimman; we enjoyed hearing from you. Thank you.

This concludes today's hearing, and we will recess until tomorrow. [Whereupon, at 11:35 a.m. the subcommittee recessed, to reconvene Wednesday, March 28, 1973.]

PROTECTION OF COLLEGE ATHLETES

WEDNESDAY, MARCH 28, 1973

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

The subcommittee met at 10 a.m., pursuant to recess, in room 2257, Rayburn House Office Building, Hon. James G. O'Hara (chairman of the subcommittee) presiding.

Present: Representatives O'Hara, Gaydos, Benitez, Huber, and Peyser.

Staff members present: A. C. Franklin, counsel; Elnora Teets, clerk.

Mr. O'Hara. The Special Subcommittee on Education of the House Committee on Education and Labor will come to order.

We are meeting again this morning to hear testimony on H.R. 5623 and H.R. 5624. H.R. 5623 is the bill to amend the Higher Education Act of 1965, to protect the freedom of student athletes and their coaches to participate as representatives of the United States in international amateur events. H.R. 5726, 5727, 5778, and 5779 are identical bills, cosponsored by various Members of the House. H.R. 5624 is a bill to protect collegiate and other amateur athletes.

It is a privilege for the committee to have as its first witness this morning a distinguished Member of the U.S. Senate from Kentucky, Senator Marlow W. Cook. Senator Cook has been very interested in the subject now before the committee. He has introduced legislation on the matter, and he is very knowledgeable about it.

We will be very pleased to hear his suggestions.

STATEMENT OF HON. MARLOW W. COOK, U.S. SENATOR FROM THE STATE OF KENTUCKY

Senator Cook. Thank you, Congressman O'Hara and Congressman Peyser. I am delighted to be here and am grateful for this opportunity to comment on an issue over which I am greatly concerned. I commend you and your subcommittee for conducting these hearings on the welfare of the college amateur athlete and the dispute between the governing bodies of amateur athletics in this country.

I would also like to express my gratitude to Congressman Peyser for embracing the concepts of legislation which I introduced in the Senate and including it as a subject of these hearings. I believe Mr. Peyser feels, as did I when I introduced S. 1192, that there is no longer any reason to believe that the existing hierarchy in amateur sports is able to operate in the best interests of the athlete. Thus I commend Mr

Peyser, not only for agreeing with my proposal but also for initiating the dialogue on the creation of a National Commission on Amateur Athletics.

Before illustrating and documenting why I believe that S. 1192 or H.R. 5624 is necessary, let me say that I am somewhat disappointed that there have been so few athletes at these hearings. If it is the opinion of the members of this subcommittee that the amateur athlete in this country is being abused, I think it would be essential to gather testimony to that fact. I hope that this will occur either before these hearings are concluded or during the Senate's consideration of S. 1192.

Although the focus of the chairman's legislation, my own, and Mr. Peyser's is international athletic competition, the issue is much broader. It deals, in fact, with the entire question of amateur athletics in this country and with the welfare of hundreds of thousands of our young citizens who are blessed with physical talents that most of us are not.

Thus it is necessary to discuss how the existing situation is failing our young people and consequently their ability to successfully represent the United States in international athletic competition.

To contend, as the NCAA does, that it operates in the best interests of the collegiate athlete is no different from Pete Rozelle's proclaiming that he represents the professional football player. There is no truth in either statement. The NCAA is a body primarily designed to protect and defend its member institutions from the professional sports world and to make sure that collegiate sports gets its share of the sports business pie. The NCAA is big business. It deals in economics; its power comes from money; and its power is wielded in economic terms.

According to the NCAA television committee report for the year 1971, the NCAA obtained for its member institutions a \$12 million package for NCAA football telecasts plus \$200,000 for the rights to the four major bowl games. Similarly lucrative arrangements are now in existence for other NCAA events, one of which we witnessed only Monday night.

By the way, if the NCAA is so interested in the rights and the education of the athletes, why did it switch the traditional Saturday basketball final to Monday night, thereby forcing the students to miss at least another day or two classes? Obviously for that lucrative Monday night prime time. So, obviously, who are they really trying to kid?

Three weeks ago the officials of the NCAA testified that the rule prohibiting out-of-season competition for collegiate basketball players—the rule the NCAA invoked to prohibit our collegiate stars from playing against the Russians—was originally adopted because the basketball season was long and pressure-packed and that the young men should be protected against further exploitation.

Well, it appears that the NCAA gives different answers to different people. By letter to me dated June 28, 1972, Mr. Walter Byers, executive director of the NCAA, wrote the following:

The main purpose of Constitution 3-D-(c) when it was originally adopted by the membership was to help control and eliminate abuses which occurred in out-of-season, organized basketball competition. Specifically, evidence indicated that gamblers made a majority of their initial contacts with players involved in the bribery scandals at the time of the athletes' participation in out-of-season basketball competition.

The subject there was a summer basketball program established by the Louisville and Jefferson County Parks and Recreation Depart-

ment. It involved 500 young athletes and thousands of young spectators from the inner city who spent many enjoyable summer days witnessing their free form competition. It is commonly referred to as "The Dirt Bowl."

The community loved it, the players loved it, the local officials loved it. But the NCAA practicing selective enforcement in my town, said that it violated the rule against organized competition—only because the Parks and Recreation Department set aside a certain court every day. Were they afraid that a gambler would make a contact there when he could much more easily pick up a phone? Where was the professional dedication to the development of young athletes in that action?

When Coach Guy Strong of Eastern Kentucky University wrote the NCAA, questioning the action, he asked why the University of North Carolina could travel to Spain and play the equivalent of a half-season while his players couldn't play in sandlot games during the summer. The response was that the NCAA always tried to promote and encourage international competition.

And we are all aware of the way in which the NCAA has recently worked to promote international cooperation and competition—by threatening the University of Southern California with economic sanctions if two truck stars participated against the Russians in Richmond; by banning participation of NCAA basketball players in the series against the Russians.

Why? Are they afraid gamblers will attempt to fix those games? Is this too much pressure for the players? Why not ask them? Bill Walton says he will go to the president in order to play. He has just finished a 30-game season—all the pressure one could imagine. He doesn't appear to desire the NCAA's protection.

There are other NCAA practices to be questioned. For instance, I refer to an article appearing in *Basketball Weekly* concerning the case of Robert Parish, a talented black freshman basketball player at Centenary in Louisiana:

Parish had scarcely set foot on the campus of Centenary College in Shreveport, Louisiana, when word came down from on high—actually NCAA headquarters in Kansas City—that the school's method of testing the aptitude of prospective student athletes was unacceptable. Since it is seemingly written somewhere or other in the bylaws of that governing body that tall, talented, black athletes shall be dumb, it was assumed that Centenary had cheated to gain entrance for Parish.

It was all rather curious and confusing, since prior to enrolling the young phenom, Centenary had sought the NCAA's preference in admission tests and had proceeded to use the one that organization endorsed. At least that's what they thought they were doing . . .

As it turned out, a rather vague interpretation was applied to an obscure and unclear rule, and Centenary was declared guilty. If the proceedings had been huddersons to this point, they were to become more so, as the NCAA abolished the rule in question two days after placing Centenary on probation and four days before the probation was to take effect.

While all this was going on, Parish was applying himself sufficiently to his government and literature courses so as to earn a 2.33 grade point for his first college semester: the equivalent of a "C" or "C plus".

I would like the NCAA to comment on that case. I would like to know why every investigation that I have heard about over the past few years has involved only black athletes—Duke and North Carolina State over David Thompson, Southwest Louisiana over Dwight La-

mar, Florida State over Ron King, Centenary over Robert Parish, Villanova over Howard Porter, Western Kentucky over Jim McDaniels and his teammates, and the University of North Carolina over Bob McAdoo.

I do not accuse the NCAA of racism, because I do not believe it is. But how is it decided when a school is to be investigated? Was UCLA investigated when Bill Walton was recruited? Similarly, was LSU when Pete Maravich and his father, Pres, were recruited; Illinois State and Doug Collins; Maryland and Tom McMillan? I think answers to these questions should be submitted, and I think they should be demanded.

Although it is not my desire to legislate the NCAA out of business, I am not willing, as you are not, Mr. Chairman, to let this organization affect the ability of U.S. athletes to represent this country in international athletic competition. They have shown themselves time after time to be incapable of it.

Let them continue to negotiate their lucrative TV packages, let them continue to run their own show, but don't let them run this country's show. There is too much to be gained by international exchanges to allow the petty skirmishes of the NCAA to become an obstacle.

Although my primary quarrel is with the NCAA, the AAU and the U.S. Olympic Committee share in culpability for the tragedy which our athletes have suffered. The AAU has proven itself incapable of controlling amateur sports in this country—but for precisely the opposite reason as the NCAA.

Specifically, the AAU has no power. How can we entrust the development of our amateur programs to an organization which has no money to finance training, which has no facilities at its disposal?

What we should be seeking is a governing body which will make it easier to develop athletes, not more difficult. That requires power but not sanctioning power. Rather we need a body which has the authority to make federally supported facilities available for training—

And, by the way, I am going to digress here a little bit, because some of the members of the women's Olympic track team, had to train at a public school in Brooklyn, and at the end of the track they put mats up against a brick wall so they could bounce off of it after they tried to meet time or beat time; and such facilities as this that are assigned by the Olympic committees and the respective agencies are ludicrous, and it is ridiculous they should have to live under these kinds of conditions.

Funds to ease the financial burden on athletes who are competing only out of pride for America; and the ability to preempt other restrictions which bear no relation or relevance to international athletics.

The AAU has none of these powers. All it has is official recognition by the International Olympic Committee as the governing U.S. body for 11 sports.

Mr. Chairman, I contend that your committee could accomplish the same things the AAU does by meeting here once every week. Is that what our young athletes need? The AAU's role in the ongoing dispute does not appear to be a fight for power which it desires. It is rather a fight to preserve some nebulous authority it possesses by evolution.

Finally, we come to the U.S. Olympic Committee, which is chiseled

in stone in title 36 of the United States Code. That group of men and women, some 104, whose names are listed in the appropriate section of the act of Congress of 1950, "shall have perpetual succession and power" to organize and control U.S. participation in the Olympic games.

Therein lies the major problem. Perpetual succession and power is a concept to be found nowhere else in the fabric of American doctrine—because we realize that perpetual succession and power is monarchy, autocracy, and a paucity of accountability.

This became crystal clear during the last Olympic games, when the incompetence of our officials was illustrated so vividly. It is quite obvious that the USOC is not up to the job that needs to be done.

What, then, is the solution? It is not, I fear, the O'Hara-Dellenbach approach, no matter how desirable that may be. The injunctive procedure there may even be unsupportable against a voluntary association such as the NCAA.

I believe that we must find a way to coordinate, promote, and support amateur athletics in this country—for the benefit of the athlete and the welfare of our citizens. It cannot be piecemeal. We need experts with no axes to grind to sort out the technical obstacles and to approach each aspect of this very large subject.

My message today is simply this: Something must be done; no existing mechanism exists for doing it; the Congress must consult those who are most knowledgeable to develop the necessary package, whether it be S. 1192, H.R. 5624, or some newer, more novel way to resolve these pressing problems.

Mr. Chairman, I thank you for the opportunity to be here today.

Mr. O'HARA. Thank you very much, Senator. We certainly appreciated your testimony and your comments.

The problem is as severe as you say it should be, but the answers to it are somewhat elusive.

Senator Cook. They sure are.

Mr. O'HARA. I certainly wish to commend your observation that neither of the two principal contending groups has comported itself in a manner as to inspire the confidence of the Congress, or the American people. We have to find a better way of assisting and supporting our college athletes and our amateur athletes, which is the concern of this committee.

The purpose of my bill was to prevent the principal abuse which is now occurring; that is, the denial of athletic eligibility to those who participate in behalf of the country in events not sponsored by the NCAA, or to get back to an earlier abuse, when the AAU, back in the early sixties, was refusing to permit track athletes to participate in the qualifying meet for the Olympics if they had participated in the NCAA meets.

Senator Cook. You know, the bad part about this, Mr. Chairman, is there are remarkable people throughout the United States that have spent years with students in high schools, students in junior colleges, who are out there every evening, weekends, who spend their time in encouraging these kids. They put in voluntary time by the hours and hours when they come up with a remarkable prospect, and they find that these higher authorities somehow just get into a quarrel with each other, and this young athlete winds up out of the competitive battle where he really ought to be.

Mr. O'HARA. I agree with you. The problem is much broader than the international competition scene. We have heard a great deal about how the only interest of the NCAA and some of its affiliated associations is to protect the athlete. Yet those of us who watched the NCAA basketball tournament might have observed one Marvin Barnes playing on a dislocated knee. It seems to me someone should have been protecting Marvin at that point and not letting him make the decision as to whether or not he ought to play.

Senator Cook. I don't want to get too protective, Mr. Chairman. You know, Marvin Barnes is a grown young man, and you know he knows he has a whale of a career ahead of him. But I understand what you are saying and this occurs sometimes. Obviously, it occurs far more in the professional ranks, but probably less in the amateur ranks.

Mr. O'HARA. That is right, Senator, you are aware of some of the more recent sports literature which is written by actual participants which suggests that there is widespread drug abuse in amateur and collegiate athletics, and to the best of my knowledge very little, if anything, has been done to check such abuse, or to determine the extent to which it is a problem, and to be able to prevent it thereby.

I am pointing out there are lots of problems, not all of them involving international competition, that need looking into.

Senator Cook. Well, you know the situation with the "Dirt Bowl" in Louisville was just a remarkable comedy of errors, Mr. Chairman, when they would not allow the participation of young athletes from the University of Louisville, from Western Kentucky, from Eastern Kentucky, Murray and Moorehead, the University of Kentucky. We feel that we have quite an abundance of good basketball players, and there are these young people looking up to these players, and all of a sudden we could get nowhere with Kansas City and we could have beat our heads against the walls, and they could have cared less.

Mr. O'HARA. I certainly sympathize with your feeling. I share it completely. I just want to say, however, it was my thought and the thought of Mr. Dellenback that this matter would involve both international and domestic competition, and that it probably would require a quite extensive consideration by the Congress before we were prepared to come up with what we thought were answers.

Senator Cook. No question about it.

Mr. O'HARA. And we thought perhaps to prevent irreparable harm from coming to student athletes by loss of eligibility, that a temporary expedient might be in order, and that was the purpose of our bill, and we would hope we would come out on this abuse and determine the best way of resolving it.

Senator Cook. Of course, I hope through all of this process we could find ourselves on a common ground between the two even as late as a conference committee, because I think that is where we will knock it out and pound out, I hope, logical legislation.

Mr. O'HARA. Thank you very much, Senator.

Mr. Benitez. any questions you would like to direct to Senator Cook?

Mr. Benitez. No, thank you, Mr. Chairman.

Mr. O'HARA. Mr. Huber, any questions?

Mr. Huber. No questions.

Mr. O'HARA. Mr. Peysor?

Mr. PEYSER. Thank you, Mr. Chairman.

Senator, I, too, am delighted that you are here this morning. I also want to thank you because your print is so nice and big on the statement it makes it the easiest statement we have had to read in a long time.

Senator Cook. You notice I still had to have glasses, Congressman.

Mr. PEYSER. I would like to comment on something you said, because it troubled me. Specifically, that is the question of having athletes more actively involved in our hearings and in our participation here. I have spoken to some athletes on this question.

Senator Cook. Yes.

Mr. PEYSER. Very frankly, there is a genuine concern. Now, whether it is well-founded or not I can't say, but they feel that it is. The concern, particularly among athletes competing no longer in the college arena, or even some who have been competing in AAU events, where the option and the selection of who is competing rests with the AAU, is a real concern that they may be sticking their necks out and just not be invited to the events if they are going to make a strong statement.

Senator Cook. I would say if it would occur it would be the worst indictment against the AAU and the worst indictment against the system as it presently functions, and it would speed up legislation. I don't think it would curtail it.

Mr. PEYSER. Well, I have stated to some of these young men that I would like them to be involved in testimony and then, if any such actions were to take place, that I certainly would use my own good offices, and I am sure I could count on much support to immediately strike at that particular situation, but it is a concern. And the very fact it is a concern, I think, illustrates the power that these two organizations have particularly.

I am also pleased you brought the U.S. Olympic Committee into this, because I have found that in talking with some members of the U.S. Olympic Committee, some of the younger members, that they concur completely. They think the U.S. Olympic Committee is in such desperate need of an overhaul and a shaking up in this whole process, but they can't do it even as part of the organization.

So I think you are speaking to the real problem that is a much broader look than just the so-called injunction process, or going into the district court, which is perhaps a quick solution to a problem, but I think we have to go further than that. I would welcome any further comments you have on that particular point.

Senator Cook. You might like to have an article appearing in a Coos Bay, Oreg., newspaper. The headline reads, "U.S. Athletes Are Getting a Raw Deal," so apparently here we have one young man, Steve Prefontaine, who has no objection to speaking up. I might suggest it might be interesting to have Al McGuire here to find out how he feels about having been summarily told he can't coach a basketball team representing the United States against the Soviet Union.

Mr. PEYSER. We have also, of course, had some coaches here who have been perfectly willing to speak out. Yesterday we had Chris Dunn, who is an Olympic high jumper from Colgate, testify. During questioning, he finally felt he had to speak out for athletes that he knew all over who he felt were highly dissatisfied. He felt one of the very

basic things the NCAA and AAU theoretically do, which is protecting the athletes and taking care of their facilities, but that in his experience it has not happened on a number of occasions.

Senator Cook. Well, Congressman, let's talk about facilities where they are going. While the members of the U.S. Olympic team had to sleep in the downtown community, the athletes were out at the village, and under rather strenuous circumstances. When they were set up in the United States the athletes were put out in former barracks of Army posts. The rest of the crowd stayed in the Holiday Inn or better facilities. It kind of makes you wonder how deep this really goes.

Mr. PEYSER. Well, this is true. In the recent meet in New York at Madison Square Garden, we had the athletes housed in a hotel on, I think it was, 33d Street and 8th Avenue. A hotel in the process of closing down. The reason given was they could obtain the rooms very cheaply at that point.

So I think there are a lot of real questions involved here. I think these hearings, and I am very pleased the chairman has moved ahead with them, are going to serve a valuable purpose regardless of which way our legislation here goes just by posing some of these questions to the public. Hopefully they will force the NCAA and AAU to do something positive, which I don't think they have done for the good of the athletes, so I do welcome your testimony.

Senator Cook. I would like to read one thing from Steven Prefontaine's remarks in this newspaper. He said,

American athletes have to pay their own way to olympic trials and I have seen them standing around eating hot dogs for a week just so they could compete to go and represent the most powerful country in the world.

The IOC, says we can't do this and can't have this control. I think it is rather ridiculous to try to convince the young individual in the United States, the young people in this room, that somehow or other contributions are sought from the people in Russia to support the Olympic team or in any other totalitarian country throughout the world which brings its teams to the Olympics and competes against our teams, and the facilities that they have, and the facilities that we have, are rather stark by comparison.

I can't quite figure out in my own mind who they are really trying to kid, because I think we all understand it, I think we all understood that a professional basketball team played against five gentlemen from the United States who were still in college, and still competing. I don't think there is any question about it.

Mr. PEYSER. I think that is very true. We had a gentleman from the ECAC yesterday testifying here and saying that, the international organization would not deal with us unless we were kept in a purely private and out of governmental control situation. I couldn't understand what he was talking about when the international organization certainly deals with the Russian teams, and many other teams.

Senator Cook. There were a lot of totalitarian countries that should not have had their teams at the Olympics if that were the case.

Mr. PEYSER. Thank you, and thank you, Mr. Chairman.

Senator Cook. Thank you, Mr. Chairman.

Mr. O'HARA. Our next witness is a gentleman who has experience both as an Olympic athlete and as a Member of the House of Representatives. He is a Member of the House from California, the Honor-

able Bob Mathias, a former Olympic decathlon champion, gold medal winner.

Mr. Mathias, we will be very happy to hear from you.

**STATEMENT OF HON. BOB MATHIAS, REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. MATHIAS. Thank you very much, Mr. Chairman.

I am happy to be here today, of course, to support the Peyser bill, H.R. 5624. I might also add I am a cosponsor of the O'Hara-Dellenback bill, and in my short statement today I would imagine I would be speaking for both bills.

The subject matter in the bill, namely amateur athletes, is very dear to my heart. I've had the opportunity to be involved actively in amateur athletics for some 10 years and five of those years, in world competition.

The amateur athletes of this country and in the world are the most dedicated, hard-working group involved in all sports. They are not motivated by financial returns but by the simple fact that they love competition.

For many years, amateur athletes have been under the jurisdiction of groups that recently have been less than thoughtful about the well-being of these young men and women.

This is not to say, however, that these various athletic groups have not helped the athletes in the past. They have helped. They have had the well-being of the athletes at heart.

However, the recent episode of the forbidding of our athletes from competing against the Russians in an international meeting is an act that is not justifiable in any way.

It is not in the best interest of the athletes. It is not in the best interest of the schools these athletes are going to. It is not in the best interest of the United States, the country these athletes are representing.

It is, as far as I can see, only for the selfish interest of one of our athletic organizations.

If I were told, when I was actively competing in track, that I could not fulfill my dream of competing with the Russians, that my long hours of working and training would be wasted, that I would be denied the right to compete by one group of people for their interests, I would be furious. I would think, why train for years for the moment to compete with the superstars from Russia or any other country only to have this chance dashed away by the whim of one group of people.

If I were just starting out in track with the idea to work hard, give up many things, dedicate myself to sports, and hope to compete someday in international competition, I would certainly think twice about starting out on this venture knowing that somewhere there are powers that would not let me compete after all that hard work.

The best solution to all of this is simply for the NCAA to get on the ball and start thinking about the athletes. The AAU-NCAA feud has been around for a long time and there has been no solution.

The other solution is the Peyser bill. I frankly would not like to see the Government get involved in sports in any way. But, if the well-being of the athletes is not being served by the amateur athletic or-

ganizations, whoever they might be, then I believe legislation should be presented to do just this.

I might add, Mr. Chairman, I do have a great interest in it. I am certainly glad to see the subcommittee is discussing this matter. It is a tough subject. It has been going on for years, but I think this last episode clearly shows that it is time that somebody has to think about it and get some legislation to clear up this matter. So I am delighted to be here. I will be glad to answer any questions you might have.

Mr. O'HARA. Thank you very much, Mr. Mathias.

I couldn't agree with you more. The subject certainly is a complex one, and many efforts have been made to try to solve it, as you know. The fight has been going on now, I guess, for about 50 years. I recall Gen. Douglas MacArthur was called in to try to mediate the dispute on one occasion many years ago, and on a somewhat later occasion, the then Vice President of the United States, Senator Hubert Humphrey, was involved in it. A panel of mediators was appointed, including Ralph Metcalfe, who is now a colleague of ours, and including Ted Kheel, a labor arbitrator from New York, and other people, and that effort failed.

I do think we have a lot of problems, and they are very complex and difficult because of the situation where the international federation in each sport is the one who really operates the various international competitions, even I guess, at the Olympic games. For instance, the International Basketball Federation, to its discredit, ran the basketball portion of the Olympic games. We have to conduct ourselves in a way that won't get us crosswise in this effort.

So I think you for your contribution, and I agree with you that the matter is a complex one, and one that sorely needs examination by people who are not interested in the outcome, other than on behalf of the athletes and on behalf of the country. The trouble is there are too many others involved that have a personal stake in the outcome.

Mr. Huber, any questions?

Mr. Huber. No questions.

Mr. O'HARA. Mr. Benitez?

Mr. BENITEZ. Yes, I would like to, first, indicate my complete adherence to the principles expressed in the 5623 bill, Mr. O'Hara's bill, and my reservation about the second bill, because of my hesitancy about seeing the Federal Government being involved in this particular type of education, and my hope is that it will not be necessary to go that far in order to rectify the evils which you have so clearly indicated in your testimony.

Mr. MATHIAS. Well, as I said in my testimony, I hate to see the Government get involved, but if there is no other solution then I believe we have to.

Mr. BENITEZ. Yes.

Mr. MATHIAS. I know Senator Cook, in his testimony before my testimony, mentioned the fact that other countries support their Olympic team. Maybe some day our Government will have to support our Olympic team, but right now I think we have the best system in the world. We support our team by public subscription. If the day comes when nobody will give money for athletes, then perhaps the

Government should get involved in supporting our team. I think it is a valuable thing to have a team, the best Olympic team we can have.

Mr. BENRREZ. I have no quarrel with that. The only question which you and I share doubt about is, "Has the time been reached where the Government will have to enter and by its own initiative assume a responsibility?" which hopefully could be discharged by private initiative as long as it is maintained and supervised within basic grounds. So this is the only question in which I am at present uncertain, and this is why I am very much interested.

Mr. O'HARA. If the gentleman will yield. The very idea of a Federal sports bureaucracy is enough to make your blood run cold. We have seen what they accomplished in other fields. We are a little worried about what they might do to the athletics.

Mr. PEYSER.

Mr. PEYSER. Thank you, Mr. Chairman.

I want to welcome my good friend, Congressman Mathias, here this morning. I think there is no one in the House that has a better background and a more comprehensive understanding of the sports problem, having been a gold medal winner in the Olympics, and having come up through all of the things that we are talking about. He still maintains a very active interest in young people and in sports. I am very delighted to have him here and have his testimony.

It goes without saying that the thought of a sports bureaucracy is something we are all opposed to. Hopefully, in the legislation that I have been proposing, we are not talking about a sport bureaucracy at all. I would certainly fight any attempt to make it that way. But I would like to read to you, Congressman Mathias, a brief letter, and then have your comments as to what you feel about it.

This letter to me is of the utmost importance. I have just received it, and I think it would be of the utmost importance to the hearing subject matter. It is a letter from Brooks C. Johnson, the coach who was put in charge of the U.S. team at the meet in Richmond. I would like to read this letter, it is not long and then if you would comment on it in any way you see fit, please.

It says:

I was a last minute replacement as coach for the United States against the U.S.S.R. track and field team. This was necessitated after the original coaches were forced to leave due to pressure and possible sanctions from the NCAA. I was very happy to assist in this endeavor because of my feelings of responsibility to my country; however, to have to step in under circumstances such as this was less than desirable. It is my opinion, without qualification and reservation, that the United States would have won the meet had the NCAA personnel, athletes, and coaches remained with the team. I think that this is a rather significant and important situation for two reasons:

First, the Russians came here expecting to compete against the best American team in terms of ability and the NCAA's action prevented this and caused some embarrassment both to the Russians and to the United States.

Second, the overall morale of the remaining athletes was irreparably damaged by that meet, making the Russian and American performance cheap in some respects. I was very much impressed with the gallant manner in which the remaining athletes performed and they did the very best job possible under the circumstances. They are to be congratulated and praised for the job they did. The very shameful aspect of the whole thing is that their efforts on a collective and team basis, or rather individual and team basis went in vain, not because they lost but because they, as a team, did not have to lose. The crime is that they will always be known to some extent as the first American team to lose an indoor

meet to the Russians when in reality it was not their fault but the fault of a power-hungry, insensitive group of small-minded men who were determined to have their own way at whatever cost to the athletes, their university, and their Nation.

Sincerely,

BROOKS C. JOHNSON.

Now, I would like your comments on this, Congressman, and also comments on the authenticity, let's say, of something that Coach Johnson has said as to "Can morale be affected in this way," in your opinion, as he indicated?

Mr. MATHIAS, Congressman Peyser, I think Mr. Johnson hit it right on the head. I am sure that was the situation in Richmond, Va. In my thinking about the whole subject, I always put myself in the role of the athlete. I spent many years as an athlete. I try to put myself in their spot and I would certainly think it would be demoralizing to have this situation before you. As an athlete, you know, your real goal in life is to compete against the best athletes in the world, and as you know, the Russians are the best athletes in track and field, and in many other sports.

So to have a competition like that, knowing, rather being very excited, for some of these athletes it is the greatest thing that has ever happened to them, and knowing they might have a chance to beat these Russians, and then at the last minute not have a complete team, would be very demoralizing.

Furthermore, it is something that you have no control over. If you foul up in the high jump, or hit a hurdle and fall down, that is understandable. It is your fault. But to have the coaches come in late at the last minute, officials changed, some of the top athletes not in the meet, the only thing you can think is "What is going on here," you know, "Why don't we get a good team out," and it is frustrating and demoralizing to athletes when they have no control over that type of situation.

I agree with Mr. Johnson's letter, and I sympathize with him.

Mr. PEYSER, May I ask one other question: In your years of experience now in working and following what has happened with the NCAA and AAU, is it your judgment that these organizations can now sort of get together and work everything out?

Mr. MATHIAS, I don't think they can. I think as time goes on they get farther apart. It is my wish that they would get together and agree upon certain things, but, as you know, it is jurisdiction and this means financial return to the AAU and the NCAA and it is almost too big for both of them right now for them to solve. There is a lot of bitterness. Everybody has tried for a solution.

As the chairman said, many important people here in Congress have tried and in Washington also have tried to suggest a solution to this situation and, of course, we know nothing has been solved. I wish they would, but I don't see anything that will happen in this regard in the near future.

Now, the only thing we can tackle, and you are doing it right now, is the matter of international competition. I think we can solve that in a fair and just way by legislation.

Mr. PEYSER, Thank you, Mr. Chairman.

Mr. O'HARA, Thank you very much, Mr. Mathias. We appreciate your taking the time to come over.

Mr. MATHEAS. Thank you, Mr. Chairman.

Mr. O'HARA. Our next witness is Bill Wall, executive director of the National Association of Basketball Coaches of the United States. That association was founded in 1927 and 1,600 university and college coaches are active members of the association. Athletic directors, conference commissioners, members of the faculty, officials, high school coaches and junior college coaches are associated.

The National Association of Basketball Coaches sponsors the annual East-West all-star basketball game on the last Saturday in March.

Mr. Wall, we will be very happy to hear your observations about the proposed legislation.

STATEMENT OF BILL WALL, EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF BASKETBALL COACHES OF THE UNITED STATES

Mr. WALL. Thank you very much, Mr. Chairman. It is very kind of you to give us an opportunity to talk.

First, a little background on my own expertise, you may say. For 16 years I have been a professor of physical education, director of athletics for men and women, head basketball coach at my college in Jacksonville, Ill. and assumed the duties of executive secretary of the National Association of Basketball Coaches after serving as president in 1971 and 1972. For the past 8 years I have been a member of the U.S. Olympic Basketball Committee as a representative of the NCAA, and for the past 4 years a member of the 21-man International Basketball Committee trying to find a solution of problems in basketball, and a member of the Committee for Better Olympics, which, as you gentlemen talked about this morning, was working for changes in 2805.

I served as tour manager of the U.S. Sports Council team which lost in the finals to the Soviet Union in the World University games in Turin, Italy, in 1970, while on the U.S. State Department tour playing basketball and giving clinics in Poland, Rumania, and Yugoslavia. The final game was on European television, the only channel which is obviously basketball, and we could not get anybody in the United States to give us the slightest bit of coverage either in printed words or in television.

I also conducted overseas clinics, helping basketball in Greece and Turkey. I was an observer to the Federation of International Basketball Associations tournament in Yugoslavia and other places.

The NABC membership, which was already mentioned, just completed its annual convention. We just had a collegiate event viewed by 42 million people over the NBC network on Monday. I gather most of you watched it.

If you have any questions I would be happy to answer if you would pose them to me.

An interesting story appeared in yesterday's St. Louis Globe-Dispatch, or Globe-Democrat. This tournament in the 5 days generated \$2.3 million of additional revenue to the St. Louis area which needs all of the help it can get. The NABC Board of Directors passed the following resolution, which I would like to read at this time:

The tour of the United States by the Russian national basketball team has been scheduled for April 26 and May 11 by the Amateur Athletic Union and whereas the AAU as of March 31, 1973, 3 days from now, no longer has any international authority in the sport of basketball, and whereas the dates of the proposed tour places American players at a significant competitive disadvantage coming at that time, and whereas those dates also present severe academic problems for any player who might wish to participate, it is not just he would be required to miss some 4 weeks of class time while practicing and playing, and whereas the competition apparently was arranged for television purposes and at the convenience of the Russians, therefore, be it resolved that the National Association of Basketball Coaches urges that the House Committee on Education and Labor not to attempt any effort to force this tour upon American players, but to urge the AAU that if be rescheduled at a reasonable time of the year when America can field a competitive, well-prepared team, and, further, that it take steps to see that a body is formed to administer amateur basketball in this country reflective of the contribution of various bodies and organizations active in the sport.

That completes the resolution. To clarify just a little bit, there is a group, the Amateur Basketball Association of the United States, which, as of March 31, is prepared, on an equitable basis, to assist and control basketball in the United States involving people who have a national or international basketball program.

We are deeply concerned, as others have indicated here today, over the possibility of the Federal Government legislating against the rules of eligibility of a voluntary agency. The NCAA is made up of institutions whose members make and follow the mutually agreed upon rules. A student at least has the opportunity to be a member of his institution's team if he so chooses, but we feel that once he has made this choice that he has an obligation to complete the season as a member of that squad. It would be a startling development for a young man to play on more than one team at a time. This would be somewhat like perhaps if members of your team in a political campaign joined the other side a week and then coming back to you.

Each team of individuals strive for excellence in an organized manner for the continuity of the season. We think this is essential. I think it has been clearly pointed out that for the past 7 or 8 years there has been little, if any, AAU basketball. Last week while on a tour with the national coach of Guatemala visiting all aspects of basketball in the United States, including the professional games, we were in the California area, and a San Francisco Chronicle article, "Interview With Hal Fisher", Armed Forces coach and U.S. Army coach at the Presidio in San Francisco, and he was the coach of the AAU team in the FIBA world contest in Louisiana which was the last international FIBA contest run by the AAU. The article states:

Mr. Fisher was not asked to coach the team which we thought was most unusual, and not asked to help in selection of the players, and I think it should be clearly brought out that Mr. Fisher is the two-time defending champion of the AAU tournament, which is an 18 field, held in the high school gymnasium in London, Ky., home State of Senator Cook.

We think it is unusual that the last time the Russian tour was here it was promoted by the AAU. It played nine games against seniors whose eligibility was completed, and against professional team rookie players. They won. The Russians won 8 out of 9. I had the privilege of watching the game in Indianapolis and Utah, the only game won by the Utah all-stars, Bill Sharnman, the coach of the Utah

pro ball club was the coach of that game. Professional coaches were used 3 years ago.

It seems strange, this is the same Russian team that has been together for over 400 ball games over a period of 4 years. I think Senator Cook made the comment, "Yes, we would be picking up players and asking them to practice maybe 3 or 4 days together and go out and play like what most people consider a professional team."

Our question is: Why don't they play the Boston Celtics, or New York Knickerbockers? I think that would be an excellent contest for them.

We are concerned in the areas that the Congress and the President has a very limited or nonexistent budget for the State Department's cultural presentation. We have found through overseas work that fantastic work is done in the areas of music, arts, and sports, but there is no money for it. The NCAA and the Basketball Federation of the United States are making a significant contribution to international sports. I think that should be brought to your attention that the school and college community is 100 percent behind the U.S. Collegiate Sports Council, which is involved with the World University Games, which, incidentally, will be held in Moscow this summer. All groups who represent the student athlete compete in this championship. It is strange that we find some of the same Russian professional athletes are still students, while they hold ranks of captains and majors and so forth in the Red army. These same students had been students for a long period of time, but which may be the European venture.

I think you very much for the opportunity to make this statement. I would welcome an opportunity to try to answer any questions you have, sir.

Mr. O'HARA. Thank you, Mr. Wall, for coming to Washington to present your views on the legislation before us.

Mr. Wall, may I conclude from your remarks that in the field of basketball, you don't think the AAU ought to be the representative of the United States internationally?

Mr. WALL. Yes, sir, I do. As of March 31, by the international organization, they will no longer be in this case.

Mr. O'HARA. We are familiar with the international organization. That is not entirely just what is happening, but in any event it is your personal opinion that the AAU should not continue as a U.S. member of the International Basketball Association, is that right?

Mr. WALL. Yes, sir, it is.

Mr. O'HARA. Are you actively engaged in an effort to replace the AAU with another organization? Have you been involved with the meeting that Ed Steitz has called and so forth?

Mr. WALL. Yes, right.

Mr. O'HARA. So you couldn't be classified as a neutral in this dispute?

Mr. WALL. I don't believe I could be, sir.

Mr. O'HARA. Mr. Benitez, any questions?

Mr. BENITEZ. Yes.

What, if anything, do you find objectionable in Mr. O'Hara's bill? Can you point out any part of it which in your judgment is unsaleable?

Mr. WALL. I am deeply concerned, sir, that I, as a professor of education, and an educator and a coach, belonging to an institutional volun-

tary group of which my faculty and my president feel is in the best interests of our program. We have a choice to join this organization. We have an opportunity under due process to make the rules, and when the rules are made it is our obligation to follow them.

Mr. BEXRREZ. Yes, excuse me, do you have the bill with you?

Mr. WALL. Well, I have a copy of it.

Mr. BEXRREZ. The reason I asked is that I have been reading the bill, section by section, and endeavoring to find out what there is objectionable in the first section, 1301, which limits itself to forbid a student be disqualified from competing just because such student at least has present intention to participate, or has participated individually or as a member of a team representing the United States in amateur international athletic competition against individuals or a team or teams representing any other country.

Mr. WALL. Yes.

Mr. BEXRREZ. What is the brunt of the argument against a provision which limits itself to forbid disqualification for the mere fact of trying to compete on their own in an international affair?

Mr. WALL. Sir, we found kind of by trial and error method that there are a lot of promoters promoting a variety of events. I am not sure if it would be the same thing that a young man competing in Minneapolis, Minn., in a 12-inch snowstorm, if the next day he could have an opportunity to play in an all-star basketball game in a Caribbean or Hawaiian area. I have a tendency to believe he would want to get out of the snow. This would be a little harmful if you played back in the cold country 2 days later. By the trial and error method the certification process has been in for a long time. It involves areas that do not involve AAI and it is for football as well as basketball.

We find promoters who are trying to make a living, and maybe it is not quite fair to say a "quick buck," but many of the promotions are very reputable charity things, but I think from trial and error this is our best judgment, that certification and request for certification are fairly reviewed by members of the NCAA executive committee, which are not paid employees. These are voluntary people, deans of law schools and professors of engineering across the country, and these are not the employees of the group.

Mr. BEXRREZ. If I may say, my difficulty with your position is that I perceive, to a degree, a desire to own others in a way which precludes their exercise of their freedom of participation, and which punishes them if they should say they might participate.

Mr. WALL. Well I think the greatest example of that, sir, would be Bill Walton was asked by me personally as a member of the U.S. Olympic Basketball Committee to play in both the Pan Am and the Olympic Games and he chose not to and didn't. Lou Alcindor, before he changed his name, was asked to represent the U.S. in the Olympic Games and he chose not to play. Elvin Hayes of the University of Houston was asked also to represent the United States and he chose not to play. So there is freedom of choice, sir.

Mr. BEXRREZ. But what is objectionable in this particular section?

Mr. WALL. Well, I would just have to come back to that in the trial and error method this is our best judgment that the way that certification is needed, sir.

Mr. BENRREZ. And I suppose the same argument, or the same position, is the one that determines your opposition to section 02, and section 03?

Mr. WALL. Yes, sir.

Mr. BENRREZ. And it can all be summed up in your understanding that it is best for athletics in general if each one of the unions or associations or federations that exist can deny participation to its members if they do not approve special international games. That is your position?

Mr. WALL. Well, I think there are a variety of special international games which everybody cooperates in; the Maccabiah Games are certified.

Mr. BENRREZ. I know, but if they decide not to cooperate then they can cancel the membership of the particular individual who contrary to the beliefs of the associations wants to participate?

Mr. WALL. I am not sure I understand completely what you are saying, sir, but the Basketball Federation of the United States, and I am only qualified to talk about sports in basketball, this past year had over 400 international contests played in the United States. The Chilean team played 30 or 40 ball games here, and we have teams that go overseas.

The question that Senator Cook I believe asked, the question of the University of North Carolina playing in Spain, this was at the request of the U.S. State Department to be represented over there; two other universities were not able to work it in. I think if you find that flying to Spain for 3 days in which you play two ball games in between two tournaments, one in the east and another in New Mexico, is a treat or a thrill, I think that is a mistake. What they had to do at the request of the U.S. State Department is what they had to do there.

But we are working with exchanges with Brazil, coming up to play in the Big-8 Conference, and Missouri Valley is playing a foreign conference, and there is a great deal of this student exchange in the college community.

Mr. BENRREZ. I am just trying to identify the purpose and the possible consequence of this bill. It seems to me that all it aims at is avoiding a possible situation of monopoly and of decisive and ultimate control which might preclude the freedom of movement of athletes.

Mr. WALL. Yes, I think the concern with the bill, sir, is the fact of "Where does it stop?" Many of the things talked about this morning by Senator Cook, for example, he covered a wide range of rules and a variety of circumstances. Where does the Federal intervention stop with the voluntary organization? I could comment on a variety of the other things, but I choose not to at this time.

Mr. BENRREZ. No, the only thing I was wondering about is if there was any language in this particular bill which you find specifically objectionable?

Mr. WALL. Well, I suppose it is safe to say I am against the bill, sir.

Mr. BENRREZ. Thank you.

Mr. O'HARA. Mr. Huber?

Mr. HUBER. Yes.

I notice you said you would be accompanied by the head basketball coach of Yale University.

Mr. WALL. Yes. When I asked Mr. Franklin for the opportunity to appear before this group, Mr. Van Cisin was to be installed Monday as the president of our association, and I had not cleared it with him, and with his schedule it was not possible to be here.

Mr. HUBER. Was he the head coach at the time NCAA saw fit to put the ban on Yale?

Mr. WALL. Yes, sir, he had been head coach there I believe 15 years.

Mr. HUBER. Do you think it was a proper exercise of the power of the NCAA in that incident involving a player from Yale in the Maccabiah Games?

Mr. WALL. Are you asking me this question?

Mr. HUBER. Yes, I am asking you.

Mr. WALL. Yes, sir, I did think so.

Mr. HUBER. You thought that the player was being treated fairly and Yale University was being treated fairly in view of those circumstances?

Mr. WALL. Yes, sir, I did. They had an opportunity to make the rules. The Maccabiah Committee had an opportunity to request for certification and did not choose to do so.

Mr. HUBER. Wasn't it true previously that there had been people playing in the Maccabiah games and they never had any sanctions before?

Mr. WALL. I believe sanctions had been used in previous years.

Mr. HUBER. That is not what we had in the testimony that I recall before this committee. There were no circumstances that were different except they decided to flex their muscles in the particular case and they certainly did, at least that is my remembrance. Mr. Chairman, I don't recall any previous one.

Mr. O'HARA. If you yield. That is right. There were the 1969 Maccabiah games in question: in the 1965 Maccabiah games no one had been disciplined or declared ineligible from participation, and at the 1969 games themselves it was only the basketball players that were subjected to discipline rather than any other participants.

Mr. WALL. Well, I would yield to you on that, sir, but I believe the national educators delved into it long and hard and it was their decision as a member of the group. I support it. I think it is interesting to know that the young man in question, after playing the game, came back and in the middle of his season chose to quit the Yale team.

Mr. HUBER. That could be, but the incident I was concerned about was this resolution that was adopted. Don't you think that it is a little hypocritical to talk about the competition that was arranged for television purposes? That is bad enough, but it didn't seem to bother anyone to charge things for the benefit of television purposes and for the convenience of the Russians, well, at least it must have been for the convenience of the people who wanted to make the maximum amount of money for the NCAA. Now don't you think it is a little hypocritical to take a position opposing something when it is not on your side, but when your side does it it is a rather noble gesture to bring athletics to 42 million people who can watch it in prime time on Monday night? Don't you think that is hypocritical?

Mr. WALL. No sir, I don't agree with that. I would state when the tour was announced to the Nation's press, they announced facilities on college campuses, that the director of athletics and the college campus

did not know about, and I know they have used names of amateur basketball players who are in the college game for publicity purpose and the young men in question who were not contacted, we have statements from some of the young people who were members of the Olympic team, that they have still not been contacted but their names have been used on this tour for publicity purposes. We don't know, I have not seen any place in the national press.

Mr. HYER. That is not what the question is. I have just been commenting that I have been hearing all about this concern for some poor players who might miss attending classes—I presume they go to class on Monday, as I don't recall too many classes being held on Saturdays. If you are really so terribly concerned about the education of students, then isn't it a little hard to explain why you won't have the tournament on a Saturday rather than on a Monday, especially if education actually was the No. 1 concern?

I am just saying that sitting here and listening to people talk before the committee, I find that there is too much hypocrisy in the presentation of the two associations for me to sit by and not be willing to support some corrective kind of legislation to solve this problem.

No further questions.

Mr. O'HARA. Mr. Peyser.

Mr. PEYSER. Thank you, Mr. Chairman.

Mr. WALL. We welcome your testimony and appreciate you are willing to appear here today.

Let me ask you, does the National Association of Basketball Coaches which you are executive director of, do they have any affiliation with the NCAA at all?

Mr. WALL. Other than the fact that by the NCAA constitution, any coach who belongs to the NCAA gets a free ticket to the national championship. That would be our only affiliation, sir. We have members in the NAIA, junior colleges, and high schools, and we have the allied members in the sporting goods community who follow basketball and sell sporting goods, and so forth.

Mr. PEYSER. You don't have any members of your association that sit on the board of the NCAA? Is that right?

Mr. WALL. No. We have one member, Lucius Mitchell, Kentucky State College, our new vice president, that is a member of both national accrediting groups, NCAA and NAIA, and he would be the only one, and the remainder of us all belong to NCAA schools.

Mr. PEYSER. What is the name of the gentleman you mentioned from Kentucky?

Mr. WALL. He is a board of directors member, one of the twelve in succession to the presidency from Kentucky State College, Frankfort, Ky., and he is vice president.

Mr. PEYSER. Is on the board of the NCAA?

Mr. WALL. No, he belongs to both groups, NAIA and NCAA, which are in some cases on the international level on opposite sides of the table.

Mr. PEYSER. Well, now, in looking at the resolution, and I think it is important we correct something here because in the resolution it says, "The National Association of Basketball Coaches urges the House Committee on Education and Labor not to attempt any effort to force this tour on American players," and I want to assure you that the

House Committee on Education and Labor is not trying to force a tour on anybody. We are not legislating that somebody has to play someplace. What we are really trying to say regardless of which bill is being considered here at this time, is that the players should have the right of selecting whether they want to play or not, but there is nothing in this legislation that is trying to force any players to do anything, and I think it is a poor choice of words because it gives a totally different implication in this resolution as to what the facts are.

You might convey this back to your board on this because they might like to give some further consideration to it. I think it is a poor choice of words.

Now I gathered from your statement concerning Yale University and Jack Langer that you do support the part of the NCAA's right to inflict penalties on schools or through schools onto players if they do not abide by their rules; you do support that?

Mr. WALL. Yes, sir.

Mr. PEYSER. All right. And you don't feel that this is in any way sort of an autocratic dictatorial procedure that is established by the NCAA? You don't think that is a problem?

Mr. WALL. No, sir. I think it is the same way if I ran a stop sign down here and was ticketed by a police officer.

Mr. PEYSER. Do you think it is absolutely necessary for any organization such as this to have that right of penalty in order to operate?

Mr. WALL. Sir, I think any time you have a rule, that you must have some kind of enforcement procedure or you have no rule.

Mr. PEYSER. What about the NAIA, whom you mentioned before. Do they have any right of penalty?

Mr. WALL. I can't speak for them, sir. I am not a member. I think Mr. D'Allesandro, who will speak later, can speak to that.

Mr. PEYSER. We have testimony from their leadership and they have no such penalties or rights in their charter to inflict any such penalty on schools or players, and yet they seem to function, I think, in a very admirable manner, being able to let schools and players know what the situations are pertaining to a given meet and advising them of their thinking one way or the other, and then they leave it up to the school and the player to make that decision.

This seems eminently fair to me and I, for the life of me, can't understand how we can tolerate organizations that can, in effect, ruin a player's career. A young man can work his whole life to get a certain degree of perfection and in one fell swoop they can ruin his career. He has not done anything dishonest. He has not cheated anybody, or done anything illegal, but by a decision of a small group of men they can ruin his career, and can possibly affect a future in athletics in a school if the school chooses to stand up for the player.

I think we have gone along many too many years having that power sit there and, I think, because of the use of the power these organizations have invited this congressional hearing which frankly is long overdue.

If you want to comment on that I would welcome it. But I just feel we are really not looking at the best interests of the country or the players.

Mr. WALL. I would like to speak just a second on it, sir. I represent a school which I doubt any one of you every heard of, but I do have

a vote and a voice in NCAA policy. I think many people around the United States just think it is the Kansas City office, with three or four people, or even Walter Byers that makes the decisions. This is not the case. This is people like me all over the United States in every State who have a concern, a professionalism, an expertise in this particular field, and this is our best judgment.

Mr. PEYSER. Sir, did you specifically vote that the American athletes, the Olympic champions could not compete again against Russia in the Richmond meet; did you vote?

Mr. WALL. In the total process, in the rulebook and the constitution, yes, I did vote to uphold these rules.

Mr. PEYSER. Well, you didn't vote on that specific issue?

Mr. WALL. No, sir.

Mr. PEYSER. And judging from the coaches we heard from, including one this morning, and others who have testified, and others who have written, none of them would have voted to eliminate those athletes from competing.

Mr. WALL. Well, I voted for the representatives who voted to support the rules of the membership. Now, I would like to ask you, sir, Mr. Johnson I believe in the letter you read this morning, where does he coach?

Mr. PEYSER. St. Alban's School. I believe it is.

Mr. WALL. Is that a high school?

Mr. PEYSER. Yes.

Mr. WALL. A prep school?

Mr. PEYSER. Yes.

Mr. WALL. He is not a member of the NCAA, sir, so he is not in the due-process procedure. He is certainly welcome to his opinion, but he is not a member-coach of a member institution.

Mr. PEYSER. Which is exactly why he was chosen. The NCAA eliminated all of the college coaches who were members of the NCAA in one fell swoop.

Mr. WALL. Could I ask you a question? What is AAU? Don't they have any coaches?

Mr. PEYSER. Well, the question of getting the best coaches is what we were dealing with, the AAU itself does not have any coaches.

Mr. WALL. Why do they have a program?

Mr. PEYSER. Well, now, you are turning another whole question around now. The AAU has certain rights. I am not defending the AAU. I have not been very sympathetic with their operation, but they do have rights and are authorized, and they are acting within their legal rights in this situation, as they see it. I am not defending them, but they certainly have the same rights as NCAA. The trouble is that you have two presumably grown-up organizations with adults in their control who are acting like a bunch of 5-year-olds fighting over a little prize, instead of trying to look at the total picture of what is involved. I just think we have had enough of it.

Thank you, Mr. Chairman.

Mr. O'HARA. Thank you, Mr. Peyser. And thank you again, Mr. Wall, for appearing.

Mr. WALL. Thank you, sir.

Mr. O'HARA. Our next witness is Prof. Harry Cross, professor of law, professor of property law in the law school of the University of Washington in Seattle.

Professor Cross's school is a member of the Pacific Eight Conference, and Professor Cross is the senior faculty athletic representative from the school to the conference. He is a past president of the National Collegiate Athletic Association.

Mr. Cross, we would be pleased to hear from you.

STATEMENT OF PROF. HARRY CROSS, PROFESSOR OF LAW, SENIOR FACULTY ATHLETIC REPRESENTATIVE TO PACIFIC EIGHT CONFERENCE, UNIVERSITY OF WASHINGTON, SEATTLE, WASH.

Professor Cross. Thank you, Mr. Chairman.

Members of the committee, I want to express my appreciation for the opportunity to appear. I think it might be helpful to you for a perspective on what I will say to give you a bit of my background.

In addition to being professor of law, I was appointed as faculty athletic representative by the president of the university in 1963. I serve at his pleasure. I suppose when we get a new president I have to offer my resignation and find out what his pleasure is going to be.

I have previously been on several committees of the university, student related or faculty administration related, having to do with athletics in one fashion or another and, in fact, some of my predecessor faculty representatives were colleagues of mine in law school. While I had not been directly involved in the problems of intercollegiate athletics until I became a faculty athletic representative, I was in fact somewhat knowledgeable about it, and having at least modest sympathy or tolerance for it as a faculty member not very knowledgeable.

I am now on a committee which is called an advisory committee on intercollegiate athletics made up of faculty, staff, and students. The task of the committee is to advise in terms of the intercollegiate problems of the university and of our conference in particular, and at times our position with reference to NCAA proposals, to the president, and to the vice president, who is principally in charge of the area in which athletics falls, and, of course, to the director of intercollegiate athletics.

Here I must identify that I speak as a faculty member who has some knowledge about intercollegiate athletics, but one who has not had any administrative responsibility for the operation of its programs, or for its finance in a direct sense, and of course I cannot speak for the Pacific Eight Conference itself because there has been no opportunity for it to meet, nor in a direct sense for the University of Washington. In other words, I am saying I think I may have something to offer in the context of this, of a faculty person concerned with intercollegiate athletics and with some knowledge of it from the standpoint of the faculty position.

Before I became a faculty representative I was mildly interested in intercollegiate athletics perhaps a bit more than others, and I think you have to put a tolerance on it, and my position was that if our regents were going to have collegiate athletics I wanted an honorable program by which we are not going to be embarrassed by conduct lack of success, but I didn't mind if it didn't interfere with the academic tasks of the student athletes, and I thought we then had a program of that sort and I was not one of those, as some of my academic colleagues are, completely persuaded that it has no proper place on college campus, or school campus, at all.

When I became a faculty representative I became more knowledgeable about not only what is going on in the direct sense of the programs with reference to student athletes, but also the aspirations and efforts made by most of our coaches now and certainly our administrative people to make it a very strong contributing factor to the total educational experience of the student participating in it. I have consequently become an advocate.

I hope our programs will become broader and stronger as time goes on, and certainly as strong as finance will permit in our respective institutions, and not merely as I thought about it once upon a time, just a tolerable thing to have.

My concern is obviously that the academic responsibilities of the student athlete not be overlooked, and that they are the primary ones. It is interesting to note in this respect that it is rather common for the student athlete to make higher grades during their seasons of competition than they make in the off-seasons. It is also not at all surprising to find that the average grade point of the student athlete is higher than the average grade point of the male student in the student body, and it is in fact true at the University of Washington, or has been a number of times.

On the other hand, intercollegiate athletics, or any particular non-academic activity can take up so much time that it does interfere with what I believe to be the principal task they have at an educational institution, and the net result of this, of course, is that the institution must have, either by adoption or by means of cooperative adoption of rules, some restraints which prohibit or help control the amount of time devoted to these endeavors, valuable as they are from an educational standpoint, which might interfere with the academic responsibilities of a particular youngster.

I am sure that all of us know that most coaches agree with that basically, but still with their primary task, as they see it, to develop a winning team, to develop the greatest skill they can of the student athletes, they have some difficulty in trying to keep their enthusiasm and time demands within a reasonable limit.

I am also a believer, whatever our rules may be, they ought to be adopted, or a standard ought to be established at the lowest practical level, that autonomy that each of us have as individuals or as institutions ought to be as complete as is practical. But I think in many aspects in intercollegiate athletics this cannot mean either individual or institutional autonomy. We inevitably compete with against others, both individually in a team sense, and institutionally in the competitive sense of our teams and our athletes one with the other.

It must mean, therefore, that these rules that are designed to promote the welfare of intercollegiate athletics and, therefore, of the students who participate, have to be arrived at in some common give and take, so that there are many institutions that can reasonably live with these rules, or at least can live with them. I think there is an odd thing about the NCAA rules in the total picture. They are not complete in the sense of a totally harmonious pattern. Some of them have facets that seem to partially attack a problem, but don't get all the way through it.

It is a consequence undoubtedly of the problem of persuading a very diverse membership from small institutions to large ones,

with all degrees of athletic programs, to agree upon what is a reasonable rule with a problem which has been identified that must be met by some kind of a rule. Sometimes even though those who have the problem primarily feel they have a reasonable rule, others who don't think they have the problem are unwilling to legislate because of the idea that the fewer rules we have the better off we are, that is, local autonomy.

It seems to me that the intercollegiate athletics has not only the responsibility to develop, as it does, the physical skill and ability in the athletic sense, and to promote the desire of the student athlete to do his best and to win, as distinct from "Win at any cost," but I think it also has a significant responsibility, which in large measure it does perform, to develop a sense of responsibility in the participant. I think the institution, the coach, and the player all have responsibility, as well as opportunity, they have responsibility to the players and the team and to the program itself. I think the success of their programs, and thus their contribution to the student athletes, largely depends upon the carrying out of this responsibility by all of them, not merely by some of the participants. I don't think it is a one-way street, I think it goes both ways, responsibility as well as opportunity being involved in this situation for the student athlete.

Now these examples or identifications of the responsibilities that are involved here are in large measure identified and marked out by some of the rules and restraints that you find, not only in the NCAA booklet, Pacific Conference Rules as they may have them, but the NAIA book, which I have read, but I have no great familiarity with it, so they may, too, they have evolved, though not complete, through the experience of many institutions trying to meet, as I say, a problem that they see that needs some common attack.

Now, I think our institutions have the duty to keep intercollegiate athletics a part of the total educational picture, and indeed at times our institutions need protection of rules and restraints on what they might do designed to promote this long-range valuable educational goal of intercollegiate athletics. They need protection at times from pressure from the immediate and outside interests who think they have a perfectly wonderful idea if they are able to persuade the community or someone else to do it, and sometimes they even then persuade the directors, or administrators of the athletic program itself. Though, on more sober thought, looking at it from the longer range pattern it would be pretty clear this would not be the desirable thing, and it might very well not serve all of the student athletes, which ought to be the basic test of our rules. To develop a sense of responsibility, it seems to me, is part of that service. If the student athlete is to be free of restriction and rules and still be fully eligible to participate in this institutional program, one of the major contributions of intercollegiate athletics which you can make is lost; that is, development and recognition of responsibility.

If the student athlete desires to conduct himself or participate outside of the rules that his institution has, both those which are developed by the institution itself and those which the institution has worked with others to arrive at a rule or restriction, then I suggest the student put himself to a choice. He can participate outside of the program, or he may stay within the program and make his contribution to it and get the benefits that the program has.

I think to permit him to do both inhibits the development of the sense of responsibility that athletics can develop for youngsters and for others who will become aware of what is going on.

Now, I have not addressed myself in my thinking to an analysis of the proposals, particularly to Congressman Peyser's bill, nor anything more of H.R. 5623 than section 1301. I do see this as creating a serious risk of promoting unbridled freedom for a student athlete to do his own thing without regard to its wisdom or safety, or without regard to the responsibility he has to teammates and to his institution. I believe the section would be a serious barrier to the orderly conduct of institutional programs.

Let me give you a hypothetical, the sort of thing that perhaps Mr. Wall had in mind. I am sure you are all aware of the extent to which our student athletes, particularly some of those with particular promise, are in demand to appear almost anyplace you can think of, luncheon clubs, charity drives, and all kinds of things, enormous demands on their time, and there are problems that the counselors have to help them with, and the student has to help himself with, and taking these kinds of demands that you can expect along with those that are not management's, suppose we put into this not just his appearance, because he is an active young man or woman, but we must understand under the circumstances he is going to compete, the demands on him would be far greater than they are now and the ability to control excessive demands and to put him in a position to protect himself would be hurt by a rule or legislation which would say that, "If he does not in a sense carry his share of his responsibility to his institution's program, he cannot be declared ineligible for it," and it seems to me this is directly what can happen and would happen.

For an illustration, suppose you had some enterprising promoter in Portland or Seattle, who decided to get particularly good swimmers perhaps, or particularly good gymnasts from the State of Washington and Oregon and persuades some colleague of his from British Columbia to bring persons down from Vancouver or Victoria to compete, can't you see the pressure being put on the youngster and the possibility that the demand would be made on him in a situation where it would be greatly difficult for him to say no and disrupt his progress in his own institution's program as well as the institution's program itself?

I do feel that there is now in this proposal the destruction or at least some serious harm to the development of a sense of responsibility, and also has the added difficulty of putting an institution trying to do entirely the best thing that has been agreed on in a position where its hands may be very well tied up in a very serious manner.

I apologize for not having this in writing, and perhaps somewhat disorganized, but I can't type on a plane, and I am surprised I am as awake as I am.

Thank you very much.

Mr. O'HARA. Thank you very much, Professor. We enjoyed hearing from you.

I certainly agreed with all of the objectives you have set forth. You think the student athlete ought to not devote such time to athletics that his academic welfare is endangered or interfered with. You believe that he has certain responsibilities to his institution, to his academic progress, that you want to see him discharge, and I think

that the institution has every right to insist that the student athlete, like any other student, discharge his responsibility to his academic career.

It seems to me that question does not really arise with respect to the NCAA unless the interference with academic welfare comes from participation in an unsanctioned event. We have heard a great deal, for instance, from the NCAA that they would declare a basketball player who participated in the forthcoming tour with the Soviet Union ineligible, and one of the main reasons therefor is that this comes right during or about examination time for many of the student athletes.

But we see the NCAA holding its own basketball tournament at examination week for the UCLA team. Examination week at UCLA was last week. They were participating in the tournament on the weekend before and the weekend after, and on the Monday after, and they didn't seem to think there was any problem with that.

But if it is the AAU's tour with the Soviet team that happens to come during the examination period for somebody, then that is a problem. Don't you think a double standard is being set here?

Professor Cross. No; I think it is unfortunate that our championships come at times like that. I can assure you that the faculty people, for that matter, their athletic directors are also concerned about that. The effort certainly is made to minimize this part of the collegiate program and its impact upon the academic accomplishment, the academic responsibility. Unfortunately, this is a program that impinges upon that situation.

I think, to go to the responsibility point, I think there is a responsibility with reference to the student, not only in his academic area, but there is a responsibility both to the institution and the student in the so-called extracurricular activities, too, that if he is a participant in them there is a responsibility there and the institution that permits those kinds of activities has a responsibility also with reference to those activities.

Certainly the efforts of the NCAA, as I am aware of them, and the details of some of this I do not have, but that particular kind of task never came across my desk in any major fashion, but the efforts of the NCAA in this sort of thing is to keep these problems in mind in a very serious and important fashion, and try to minimize the conflict that is inherent in it. I think no one denies there is conflict, but it also may be that the conflict becomes so exaggerated and exacerbating that it is intolerable.

It seems to me, from what I heard of the Russian basketball tour, it is an intolerable thing for whoever participates in it as a student.

Mr. O'HARA. You see, professor, this double standard thing bothers me. If the university, for instance, has a requirement, and some universities still do, and many of them have departed from the old requirement that you must attend a certain percentage of your classes, you may cut only so many of your classes.

Professor Cross. I am afraid many of them have. I might add I don't like the situation a small bit, if I may interrupt.

Mr. O'HARA. You are right, but, you see, if that sort of rule were uniformly applied, where a university that had such a rule applied it to athletes and nonathletes alike and applied it to athletes whether they

are competing in a sanctioned or nonsanctioned event, you see, I can understand that, go along with that, and say, "Well those are the rules and they are evenly applied." But when you see that a very large percentage of the Nation's outstanding collegiate athletes never graduate from college, you know that is a problem, that many of them never graduate from college, and they spend 4 or 5 years at a college and participate in athletics and many of them never graduate, never earn a degree.

When I say—well, you know the hardest year, at least it was for me, and I know it is for my children, and I think for most college students, is the first year of college when you are making the adjustment to university life, and when you see that the NCAA, instead of taking additional steps to keep that student from being diverted from studies during his freshman year, have now declared freshmen eligible for varsity athletic participation, and I don't see any restrictions on that. In fact, it is going the other way.

When you see the multisports problem, you know, the athlete involved in football, basketball, baseball, or track, you know, and he is going all year around, and when you saw, as a member of the Indiana basketball team, a freshman named Buckner, an excellent basketball player, who is participating as a varsity athlete in his freshman year, not only in basketball but in football, and when I see John Lucas out at the University of Maryland who played in his first intercollegiate tennis match 2 days after he finished the basketball season, you know, and he is a freshman, I say to myself, "Well if the NCAA is really so concerned about the academic welfare of these kids, how come the only thing that gets them excited is when one of these kids wants to play in an event sponsored by a rival organization?" You know, that arouses your suspicions a little bit.

Professor Cross. Well, I think, Mr. Chairman, to try to have some special conventions created by the NCAA to meet some other problems, I can assure you they get excited about a lot of things, but I think the freshman thing was an unfortunate thing, but it indicates the circumstances that it is a voluntary organization and the vote of the majority of members is adopted. I voted against it. I may say, to permit freshmen, for the very reasons you identified. In fact, my conference did.

So, on the graduation point, I think while it is true there are a large number of student athletes that do not get degrees, I think in many institutions, including mine, the percentage of student athletes who get degrees is higher than the percentage of male students who are not athletes who get degrees and this is true in a good many institutions, so that, and I may say beyond that point, clearly, I can recall as a youngster when it was not at all uncommon for the institution to use the youngster as an athlete so long as he had eligibility and drop him cold. I think there is far less of that than was ever done before. Rules that you cannot cut financially for athletic reasons and so on are rules to protect the student athlete.

I don't know that anyone will say there are not weaknesses or even some abuses, but I think it is incorrect to say that there is no concern, and no effort to try to solve the problems and meet the concerns.

Mr. O'HARA. Well, I think professor, that is true. I didn't mean to overstate the case. I am sure the NCAA does have an interest in the

welfare of the athlete, but I am also sure that their interest in the welfare of the athlete, and I am sorry I have reached this conclusion, is not nearly as great as the interest in the welfare of the NCAA, and that is the conclusion I have arrived at. I am sorry to have to say.

I don't say they are any better—well, that the AAU is any better. The AAU just does not have as many opportunities. It reminds me of the story of Sam Ervin's, which he told me the other day, about the Congressman that was charged with having accepted a bribe for his vote on a particular measure. Well, he presented an alibi defense. He was not even in the country at the time all of this was supposed to have occurred. He put in his alibi defense and then he started introducing character testimony and that of course, as you know, gave the prosecution a chance to attack his character. His character was at issue, so when the jury brought back its verdict, and the judge asked the foreman if the jury was ready to announce a verdict they said, "Yes, Your Honor, we have reached, we actually have arrived at agreement on two points. First, the defendant who we find not guilty, we find that he was not even in the country, he was off on one of those junkets at the time this was supposed to have happened, and secondly, we find if he had been in the country and he had been there, and he had been offered that money he surely would have taken it."

So I am sure that the AAU's situation is they don't have as many chances to remove eligibility from people, and to blackjack athletes as the NCAA has. I am sure if they had as many chances they would use them.

But I am concerned about that athlete, and I know that you are, and I think if we had rules equitably applied, then we could all understand that, but we don't think this rule is applied that way, but this rule is really directed more at rival organizations than it is at the welfare of the Nation.

Professor Cross, I think there is one thing that I lost in that sort of a comment, and I am puzzled about this sometimes myself, that some of the rules which at a particular point seem to be applied in a fashion primarily aimed against a particular person or a particular institution, or an organization, I think looked at in the longer-run for the welfare of intercollegiate athletics, which must be the perspective of the NCAA, as I see it, can be found to be rules that are worthwhile and useful. If there is some way to have a good rule, if there were some leeway so if you get the bad situation you can adapt to it and this would be fine, but it is very difficult to do that, as you know, and it is also one of those situations that if you start doing that then you pretty soon are criticized that you are not following the rules at all.

To the extent that some of the rules may be undesirable, I think the correct rule, and the membership if they feel they are undesirable, the correct rule is to change the legislation, as we do with some regularity. I don't know if we ought to make any real advances with it, I don't think we did with the freshman rule, for instance.

Mr. O'HARA. I thank you very much, and your observations have been very helpful to us.

Mr. Huber? Any questions?

Mr. Huber. Well, yes; Mr. Chairman.

You mentioned that it is sort of like a two-way street, that the athlete participates and then he should abide by the rules and regulations. Where would you suggest that he go, outside of the professional ranks, if he did not want to do that?

In other words, you suggest there is an alternative and I don't see the alternative. The alternative is if he is not of a caliber to make a professional team, he has to abide by the rules or he is disciplined. So there is not really an alternative for this man at all.

Professor Cross. I was speaking of a particular situation that I see that poses a problem under the bill, that the rules are designed to accomplish certain things, and for the most part I think good things, and if he decided he is not going to abide by the rules and go to that other sort of competition, then it seems to me he is at a point where he has to make a choice. I recognize if he has a Hobson's choice only, there is just one horse to get, he can decide to ride it and stay on or not, and that is the same problem we all have many times. That goes to the question of whether the basic rule is a reasonable rule and I think for the most part the rules the NCAA has, and which our conference have, are reasonable rules in the context in which they must operate.

Mr. HUBER. I don't follow your reasoning because it seems to me your argument is that the player has an alternative. And yet if he wants to stay in this school, in college, he must abide by whatever rules and regulations they have committed themselves to in some organizational structure, and then your suggestion is that if he does not do that, then, it is all right to go off by himself. Where would he go? The only thing open to him is the professional ranks, and possibly one tournament like the Maccabiah games. He might just have a chance to go to the one Maccabiah game and then he is ruined for the rest of his career, but to me that is not much of an alternative. That is not to say that this guy has some selection. He has no selection at all in that case, because you could not put on a scale the one tournament at the Maccabiah games versus his whole career and say he really has a choice. That is no choice at all. So I don't see that.

I am also concerned about some of the other things which are really not part of the problem, but are of concern back in Michigan, where our chairman and I reside. We occasionally play the State of Ohio, which is in our Big Ten Conference. Once in a while Ohio has a football team and sometimes we like to see it, you know, on television, but all of these regulations and rules sometimes prevent it; who are they protecting? Certainly that one has been kicked around many times, and the Ohio people would obviously like to see the Michigan team, there is no question they would benefit greatly by seeing it on television, but they don't have that chance. It might be Wisconsin, or Indiana, on some other occasion, and I am interested in the way all of these rules and regulations are set down that deny a lot of rights to a lot of people, more than maybe just the athlete, and you must have it out in the Big Eight Conference.

All of these things which have such noble aims really are self-perpetuating the people that want to call the shots, and the public be damned, the players be damned, on and on goes this thing and nobody better rock the boat because somehow it might upset the situation.

I think that is a mistake. I think the testimony we have here, Mr. Chairman, would indicate that something ought to be done to further open up these kinds of situations for the people and players, and maybe there might be some group somewhere that is telling us all what we ought to be doing, and if we don't like it is too bad.

Mr. O'HARA. I certainly thank my colleague for that observation. I would like to add, if any Michigan-Ohio football game was to be blacked out, the one last year should have been.

Professor CROSS. If I may respond to Congressman Huber's comment on the Maccabiah games itself, there were some youngsters invited to go to that and voted on the problem of what effect it might have on their eligibility and decided that choice was not attractive enough.

On the alternative, "If you only have one horse, of course you do not have one", and I do think the problem is, "Is the rule of riding that horse a reasonable rule." In fact, however, the NAA have different rules and there are a lot of youngsters from NCAA schools that transfer, to NAA institutions, and do compete, so there is the opportunity here, and I am glad there is the opportunity because there are some that believe initially that they are going to be able to perform with this institution that they feel has a very, very high and strong program and then discover they cannot. I am talking, not about a rule, although it sometimes is a rule complication, but they have an opportunity to go elsewhere, so I don't think in that respect it is quite so bad.

I don't think I should get into the TV thing because I know quite a bit about it, but not enough, and even I could keep us here for quite a while on that one.

Mr. O'HARA. Thank you, Professor.

Mr. Gaydos.

Mr. GAYDOS. I would like to congratulate you, Professor, for a very concise and articulate presentation. I am concerned about your observation regarding the percentage of athletes that don't get degrees. In your institution, do I understand you correctly when you say that most of your athletes do graduate with a high standing?

Professor CROSS. I said that the percentage of athletes that get degrees is higher than the percentage of the male student body generally at the University of Washington; and they range all across the academic scale, in fact, some with very strong records and some with minimal records.

Mr. GAYDOS. I personally never thought there was any concern as to that distinction, because generally an athlete is a good or superior student.

Professor CROSS. I said that is true also. The grade point average of the student athletes at the University of Washington has almost always been higher in recent years, higher than the male average.

Mr. GAYDOS. I wonder if I can ask the chairman if he has percentages in that area?

Mr. O'HARA. If you will yield, I don't have percentages but can go back to my sources and look it up.

With respect to the percentage question, if you look at all entering freshmen and say, "What percentage of all of them graduate 4 years hence?" and then compare it to the percentage of freshman athletes, I am sure the professor's statement is correct, because there is a great effort to keep the athletes in school, and not have them drop out after

the first or second year; but in terms of the people who attend the university for 4 years and have not earned sufficient credits to obtain a degree at the end of the 4 years, I am not so sure your observation would be correct.

Professor Cross. I think you are probably correct. I point out the thing that startled me and made me not so concerned was about the so-called 5-year plan, the possibility of eligibility for 5 years if you have not used up your years already. I discovered something, over 50 percent of the students at the University of Washington take more than the 12 quarters, which would be more than 4 academic years, to graduate without regard to whether they are athletes. So the athletes who are not getting done in the 4 years are not that far out of step with the rest, although I am sure you are right, in percentage terms they are somewhat slower in graduating, but I may say their financial aid continues so they are still able to graduate.

Mr. Gaydos. I am very surprised because at the University of Notre Dame, I found circumstances different. Many of the participants eventually ended up being professional athletes, and many of those were excellent students; and if they were passed, it was not because of athletics. I might note that many of them were friends of mine, and I didn't like to see an indictment made of the programs in our higher educational institutions.

Professor Cross. Well, I was trying to go in a contrary direction.

Mr. Gaydos. No further questions.

Mr. O'Hara. Mr. Peyser.

Mr. Peyser. Thank you, Mr. Chairman.

I certainly appreciate your being here. I know it is difficult to get here for the hearing. I would like to ask you about the recent meet in Richmond against the Russians. I believe you are probably familiar after this morning about what went on. There were 30 Olympic athletes, topflight athletes, American athletes, who were trying to enter that meet and join the U.S. team. The NCAA said to them, "If you enter that meet with the United States competing against Russia, you will be declared ineligible for further competition." Would you support that action?

Professor Cross. My knowledge is essentially not greater than what I heard this morning, so I am not sure I speak from sufficient knowledge, but I don't understand how, without an application with the information that is sought to determine whether there could be certification, that anyone could be sure that they would be certified, but I am willing to accept your statement.

Mr. Peyser. This was a direct statement made in testimony, and also to me personally by the NCAA, and it has also appeared in the press. The person told me there was no reason, that the NCAA had sanctioned all of the AAU meets before when applied, even a year ago when the Russians were competing against Americans, and saw no reason it would not automatically be done. They made that as a statement.

Professor Cross. I would have to assume that what they are assuming is that the basic standards and the information that they would normally seek to measure it, they would have found that, but I think the answer to the question is still "yes"; however, for the reason that the need to protect against the possibility of someone running an opera-

tion that is bad is one that you have got to jealously protect in the first place. Even though you get the one situation, this may be the one, I don't know, you get the situation where the sanction would have come along with the opportunity to give the protection that is inherent in that kind of measurement. Insisting upon standards is one, if you start letting it get pecked away at, you get lost entirely.

That is a "toe in the door" problem. I am one that is fearful about having the toe get in the door if I am not willing to have the door opened wide, and this one I am not.

Mr. PEYSER. The toe you refer to has already been in the door a number of times in games, in international games rather, that the NCAA had not even been asked for sanction, yet they let AAU athletes compete. In some cases I raised the question, "Why didn't you ask for sanction?" and they said, "Well, in those cases some of them we didn't even know about," and these were cases that were well publicized with national stories of the events, but they said, "Well, we didn't know about them."

As a reporting institution, it would not speak very well for the so-called organization of all of these colleges and athletic directors that are involved. They have already established a pattern where in some international events they don't even ask.

Professor CROSS. May I speak to that point in part. As I understand it, the AAU in this area, the national organization is not the sponsor, it is the local chapter of AAU which is the sponsor. The California chapter I know something about from talking to UCLA and USC people. They are not only very vigorous and have a very good program in a general sense but are able and knowledgeable. I don't know whether the next AAU chapter which comes along and says, "We want to put on a meet under AAU standards," whether or not you have one which will conduct a meet in a fashion which I would think all of us agree it ought to be conducted, so I don't think the toe is in the door, at least quite so far as you suggest.

Mr. PEYSER. Well, I appreciate your coming here, Professor. We were just going on the main issue involved. I feel the school has a real responsibility to the student athlete, and his coach has a real responsibility, and most athletes that I know of top flight caliber, when they are faced with decisions and choices, generally go to their coach and say, "What do you think on this situation of whether I should compete or not?" If it is a question that is going to involve school time the coach refers to the school as well and gets a feeling on it. Yet we have the NCAA sitting there and saying, "We are the only ones that can judge about this student athlete," I find it very difficult to accept.

When I heard the statement made by Mr. Wall that the Nation's educators have put together these rules and regulations—I talked to a number of college presidents recently and they have not put together any rules and regulations dealing with NCAA. In fact, I don't know of many educators who have stepped forward to say they are certainly supporting what the NCAA does and are involved in it. We only had one college president testify yesterday, or the day before, and he was loud in his condemnation of what was going on.

As I say, I do appreciate your being here and what you have to say. Thank you, and thank you, Mr. Chairman.

Mr. O'HARA. Thank you very much.

Mr. Benitez?

Mr. Benitez. No questions.

Mr. O'Hara. Thank you again for coming. Our last witness today will be Mr. Louis D'Allesandro, who is from New Hampshire, and he is director of athletics at New Hampshire College, and he is the school's head basketball coach as well.

Mr. D'Allesandro is a man of many talents and in addition to his duties at New Hampshire College he is a member of the New Hampshire State Legislature. Mr. D'Allesandro has had several experiences coaching amateur basketball players over the season in international competition, and I am informed in last year's Olympic games in Munich Mr. D'Allesandro coached Great Britain's basketball team, is that correct?

Mr. D'Allesandro. Yes, that is correct.

Mr. O'Hara. We would be pleased to hear your observation about the legislation before the committee and the problems that we have.

**STATEMENT OF LOUIS D'ALLESANDRO, DIRECTOR OF ATHLETICS,
NEW HAMPSHIRE COLLEGE, MANCHESTER, N.H.**

Mr. D'Allesandro. Mr. Chairman and distinguished members of the committee, I will give you some testimony summarizing an article I wrote on March 8, 1973, concerning the NCAA versus AAU and after this I will comment from experience on the international level.

Tuesday, March 6, was town meeting day in Derry. In the course of the town meeting, everyone in the town is brought together to try to provide direction for the next year.

March 5 was the date of another meeting held in Washington, D.C. At this meeting of the Special Education Committee, Congressman James O'Hara of Michigan asked questions about the conflict between the Amateur Athletic Union and the National Collegiate Athletic Association.

Why does Congress have to spend its valuable time trying to iron out problems between two giant athletic organizations in the United States? This problem has been simmering for years—the basis of the problem is who has jurisdiction over athletics in the United States?

It all came to a head last week when the NCAA refused to allow any of its athletes or coaches to participate in a series of basketball games versus the Russian national basketball team.

The Russian national team is to tour the United States with a series of games to be set up between the Russian and United States teams.

It isn't too clear at the present time just what the situation is, but as I read it, the Russians were invited by the AAU. According to the NCAA, they were not consulted beforehand, and as a result of this, they will not allow any of their athletes or coaches to become involved.

RIDICULOUS DISPUTE

Naturally, this all sounds quite ridiculous. The Russians are sending their most outstanding group of basketball players, yet two large athletic associations in the United States can't get together on who is to play.

This is another indication of the bureaucracy of the United States. It appears to be very simple—one team visits from another country, we participate against them and vice versa.

It has turned into a complex situation where the Congress of the United States now has to call special sessions to iron out these differences. Let's hope that a few people come to their senses and this will be straightened out. It is appalling to think that athletes from over 800 member institutions would not be allowed to participate against this Russian team on their tour of the United States.

The person who suffers in this situation is the athlete.

He is being denied the right to compete. The "big boys" battle it out on the telephone and in their offices, while the athletes are forced out of the gyms without being given any real reason.

When you hear this, you say to yourself, "With all of our modern technology, with everything the 20th century has produced, the one thing it has failed to do is to open up lines of communication between people."

Now, I got involved in international basketball 3 years ago, in 1970, when I was contacted by the Basketball Federation of Great Britain and asked to help them prepare their basketball team for the 1972 Olympic games in Munich, Germany. It was the first time I heard of the world F.I.B.A., the International Basketball Association, the first time I ever realized there was a basketball association of the United States.

When I went to Europe, I got so many contradictory reports from people there. "Why don't Americans send good athletes?" "Why won't good athletes compete?" "Why are your teams so poor when they come over here?" That is the general reaction of people around the world. This is disturbing to me, because as a citizen of the United States of America, I want the image of this country abroad to be the finest that we can produce.

I have seen bands of athletes traveling around Europe calling themselves the "All Stars of the United States." "The United States All Star Team," playing in tournaments in Italy, playing in tournaments in Spain, being coached by some displaced American people, one person who is no longer a citizen of this country taking up citizenship with a foreign country, and the people actually think that these are the "All Stars of America." This should not happen.

I have had this year three visiting foreign coaches at the college: one from France, and one from Belgium, and right now we have one from Hungary, the first one ever to get out. They felt that in many instances they are cheated. They pay great sums of money to go to basketball games in Europe to see the American teams, the great American teams, and they don't see the players.

This bothers me. I am very concerned about the student athlete. I am a member of the House of Representative in the State of New Hampshire, and I sit on the State committee on education. I am on the athletic council for the State. I am one of the athletic commissioners.

The student athlete is extremely important to me. Yet I think it is part of the educational experience for the student athlete to be exposed in as many ways as possible to real-life situations. Competing against the Russians is a fantastic real-life situation. Students athletes are being denied this, and I am not condemning NCAA or AAU, I think it

is ludicrous that this problem has gone on, and on, and on, for such a long period of time.

I have looked over H.R. 5623 and 5624, and I find some reservations in H.R. 5624. I find some reservations in H.R. 5623. But I think we need something, and I feel that if it can't be handled by the parties involved then it has to be dealt with by the Congress of the United States.

Mr. O'HARA. Thank you very much, Mr. D'Allesandro.

We appreciate your coming from New Hampshire to give us your testimony. Your experience and your testimony is particularly valuable.

The bells have rung for a quorum in the House. Mr. Gaydos, any questions?

Mr. Gaydos. Not other than one observation.

I appreciate the gentleman's testimony; it is direct and to the point so that even I understand it. I am a little concerned though as I have been fighting a battle for 5 years, and I think John has also, and Congressman Dent of Pennsylvania is very interested in fighting the exportation of American copyrights and technology. I am glad you came back after the basketball coaches situation, but the one observation I would like to make at this time is that I agree with you. I feel perplexed and frustrated at this situation here in our hands. With all of the problems that come down to Washington, this is the last one I expected down here. So I have to defer to my chairman and give my colleagues a chance to question you.

Mr. O'HARA. Mr. Huber, any questions?

Mr. Huber. Yes; you are in a very tough spot, I suppose, but do you feel this arbitrary power that is being exercised should be allowed to continue, forgetting the specific lack of communication, do you think this arbitrary power situation should be attacked as well as this communications problem?

Mr. D'ALLESANDRO. Well, it is difficult to see power vested, or this much power vested in the hands of one organization. I think the history of America is that power should not be vested in one organization but should be returned to the people. I use that cliché because it is one that is very familiar to you from American history. Hence I would say anything that detracts from the individual's rights is infringement on his rights as a citizen, hence a denial of his civil rights. No matter how arbitrary this is, things like this should not continue.

We have a right-to-know law. The right-to-know law became a very popular cliché. Now it is a matter of law in our State. I think it has application. You can't deny a person his rights. He does have rights. The individual has rights. That is what it is all about.

Mr. Huber. Thank you.

Mr. O'HARA. Mr. Benitez, any questions?

Mr. Benitez. Yes, Mr. Chairman.

Do you have any specific recommendations for amendment to bill 5623?

Mr. D'ALLESANDRO. I didn't come down prepared to work on an amendment, but 5623 is much more acceptable to me than some of the items in 5624. I would have to look at this quite closely to come up with, you know, an amendment.

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Mr. BERTREZ. This is the only one I am limiting myself to. If you have any recommendations concerning 5623, will you kindly submit them to the committee?

Mr. D'ALLESANDRO. Certainly. It would be a pleasure.

Mr. O'HARA. Thank you, Mr. D'Allesandro.

We are going to make that quorum, and will have to leave now, and the committee will now stand in adjournment.

[Whereupon, at 12:20 p.m. the hearing was adjourned, to reconvene at the call of the Chair.]

[The subcommittee later received the following:]

STATE OF NEW HAMPSHIRE,
HOUSE OF REPRESENTATIVES,
EDUCATION COMMITTEE,
Concord, N.H., April 9, 1973.

CONGRESS OF THE UNITED STATES,
Mr. JAMES G. O'HARA,
Chairman, Committee on Education and Labor,
Washington, D.C.

DEAR CONGRESSMAN O'HARA: At the time I testified before your committee, I mentioned I had an amendment to H.R. 5623.

I am enclosing the amendment for your consideration.

I have read that the NCAA and the AAU have come a little closer together. It's my opinion that this would never have happened if it were not for the effort put forth by your committee.

Sincerely yours,

LOUIS D'ALLESANDRO,
Representative, District 34.

AMENDMENT TO H.R. 5623

H.R. 5623 is amended by adding the following new sections.

Sec. 1305. The President's Council on Physical Fitness and Sports is authorized and directed to designate teams and individuals to represent the United States in Amateur International Athletic competition.

Sec. 1306. The term "representing the United States" as used in section 1301, section 1302, and section 1303 means any team or individual designated as provided in section 1305.

PROTECTION OF COLLEGE ATHLETES

THURSDAY, MARCH 29, 1973

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

The subcommittee met at 10 a.m., pursuant to recess, in room 2257, Rayburn House Office Building. Hon. James G. O'Hara (chairman of the subcommittee) presiding.

Present: Representatives O'Hara, Dellenback, and Peyser.

Staff members present: A. C. Franklin, counsel; and Elhora Teets, clerk.

Mr. O'HARA. The Special Subcommittee on Education of the House Committee on Education and Labor will come to order.

Today is the sixth hearing concerning the AAU-NCAA jurisdictional controversies affecting the freedom of athletes and coaches to participate as representatives of the United States in international competition.

In the course of our hearings, we have already had the testimony of athletes, coaches, a college president, Members of Congress, representatives of the AAU and of the NCAA, representatives of associations of the Nation's small colleges and universities and of junior colleges, officials of countrywide amateur sports organizations, and of other persons concerned about the well-being of our amateur athletes.

Our first witness this morning is Mr. Warren Emery, athletic director of the California Institute of Technology, Pasadena, Calif., a member institution of the National Collegiate Athletic Association. At the same time, Mr. Emery serves as the president of the Southern Pacific Association of the Amateur Athletic Union.

This combination of AAU and NCAA responsibilities in one man was called to my attention as a unique situation and a reflection of his unbiased approach and his total dedication to amateur sports.

Before he became the athletic director at Cal Tech, Mr. Emery was the swimming and water polo coach at that school; he has been involved in amateur sports for more than 30 years.

Mr. Emery, if you will please take a seat at the table, the committee will be very pleased to hear from you.

STATEMENT OF WARREN G. EMERY, DIRECTOR OF ATHLETICS, CALIFORNIA INSTITUTE OF TECHNOLOGY, AND PRESIDENT, SOUTHERN PACIFIC ASSOCIATION, AMATEUR ATHLETIC UNION

Mr. Emery. Thank you. I have given my statement, and I will read my statement for you and then answer any questions that you might have.

My comment on House of Representatives bill 5623 is this: It is unfortunate, but true, that the student-athletes of this country need the protection afforded by this legislation. The decision of an athlete to participate in an athletic event outside his college program of competition should rest with the athlete and his coach. They are in the best position to evaluate the effect of that competition on his academic progress, athletic career, and the effect his participation might have on his college team's success.

Removal of the threat of penalty against athletes, coaches, and institutions could have the net effect of pushing the governing bodies toward cooperation in the formulation of policies affecting international competition.

Comment on H.R. 5624: If H.R. 5623 is put into law, the need for a Federal Scholastic and Amateur Sports Commission should be considerably reduced. The reasons I feel this to be the case are as follows:

1. The main disagreement in amateur sports today is between a collegiate body—the NCAA—and a noncollegiate body—the AAU. The athletes most affected by this disagreement are the college athletes at NCAA schools. If the athlete's eligibility for international competition is no longer an issue between the two governing bodies, there seems to be much less of a reason for continued animosity.

2. The NCAA and AAU have perhaps assumed too much of a proprietary attitude toward the athletes they are dedicated to serving. Both organizations have much to accomplish if they are to fulfill their basic mission to these athletes. When they no longer can withhold eligibility for international competition from these athletes or punish their member clubs or institutions for permitting athletes to compete in such competition, they will, hopefully, turn their energies toward the problems of providing broader programs of competition, more complete utilization of existing facilities and staff.

The other reasons I would recommend against H.R. 5624 are as follows:

1. The establishment of a Federal commission whose rules will supersede those of organizations holding membership in the existing international governing bodies of amateur sports would place those organizations in the position of having to oppose the commission on the one hand or the international sports governing body on the other.

2. A more productive involvement of the Government in the administration of amateur sports might to be establish an arbitration service to hear disputes as they arise in specific sports, with binding decisions being developed. The Kheel arbitration board, which heard the dispute between the AAU and NCAA in track and field in 1968, was a step in the right direction; but its decisions were not binding, so the dispute continued. Thank you.

Mr. O'HARA. Thank you very much. Mr. Emery, for a very perceptive statement, it seems to me. I am particularly interested in your suggestion that the committee might consider the establishment of an arbitration service to arbitrate disputes which arise. I think that is a rather useful suggestion. I am not sure we are prepared to do it at this time, but it is an avenue of approach that has not been suggested to us.

I have read the report of the Kheel arbitration panel. I felt they made a definite contribution but, as you point out, their decision was never put into effect, was it?

Mr. EMERY. Well, as Mr. Kheel stated to the organizations in their final meeting, if they did not wilfully try to accomplish the purposes of that panel and follow the recommendation, that the decisions would be frustrated, and they were. The recommendations were frustrated because, while the AAU did accept the Kheel arbitration recommendations, the NCAA did not, so the coordinating committee which was recommended to settle disputes between the two organizations was never established and never had an opportunity to function.

My feeling is that something has to be done to bring the top level people together. Now, at the local level, I think there is far less of a problem. In the Southern Pacific Association of the AAU, college people and noncollege people, work cooperatively on the sports governing committees in practically every sport.

In track and field, both the UCLA and USC track coaches are on the AAU track and field committee and participate in the decisionmaking affecting that sport. Several other college coaches are on that committee. In swimming, the same thing is true, and so forth.

Mr. O'HARA. Do you have any knowledge of whether the same sort of cooperation in terms of local AAU and NCAA governing groups exist in other parts of the country as well as in southern California?

Mr. EMERY. I think it does. We see, for instance, in Montana, a fellow high in the association is director of athletics at Eastern Montana. There has been less involvement by college people in the AAU at the local level since 1962-65, when the federations were set up by the NCAA in gymnastics, basketball, wrestling, and track.

Since that time, I think, college people have been encouraged to stay out of the AAU's affairs. It does not affect a lot of the college people, because they realize that the college program alone, or school program alone, will not bring athletes to the international level of performance. It takes additional training, additional competition, in the summers and in the off-seasons, and that is what the AAU or U.S. Volleyball Association, or any other sports organization brings to the college or school athletes. I think the coaches are more likely to be involved if they don't get pressure from their directors of athletics. That is what the status is at this point.

Mr. O'HARA. That is a very interesting observation.

Mr. Dellenback, any questions?

Mr. DELLENBACK. Thank you, Mr. Chairman. We are grateful for your coming. This is probably an icebreaking effort with such brief and direct and succinct testimony. Normally people never make two-page statements here; they make multipage statements. And we appreciate what you have done in this particular instance; it has been very helpful.

You know the bill we have, 5623, deals, in essence, with international competition. Because of your own background and your ties to the AAU and NCAA both, really it is of particular importance, as far as your position is concerned, you are in a position to see much more than others in international competition.

Do we have the same kind of difficulty with national intercollegiate competition that we are facing right now which got us going here in the international competition?

Mr. EMERY. Well, not in track and field; since the Kheel arbitration panel report, I think there has been kind of a truce. Meet promoters

in track and field are actually in control of the track and field program as it relates to the national or top-level competitor.

So a meet promoter now must obtain the sanction of the AAU, the sanction of the U.S. Track and Field Federation, and the approval of the NCAA in order to have the athletes registered with those organizations in his meet. That is the way all of the big indoor meets have been conducted.

Mr. DELLENBACK. They go and ask specifically for approval of each of the associations?

Mr. EMERY. Yes.

What the NCAA says to member institutions: The athletes may not participate in these outside of the college competitions unless approved by the U.S. Track & Field Federation. You see, they make NCAA approval contingent upon approval of the U.S. Track and Field Federation, and the same is true of the other federations—wrestling and so forth. So there is sort of an armed truce at that level.

Mr. DELLENBACK. At least in track and field there is little or very little of intercollegiate or international problems?

Mr. EMERY. Yes; presently it has been going along reasonably well in that direction, but that does not mean that the problems could not arise tomorrow.

Mr. DELLENBACK. Of course, our legislation would not go to that in 5623 because of the international situation.

Mr. EMERY. Right.

Mr. DELLENBACK. You make a point that the decision of an athlete to participate outside of the college program should rest with the athlete and his coach. The arguments have been made by some who feel differently—their argument is: There needs to be some social group that looks at any proposed meet or competition or tournament to determine whether or not it is a fly-by-night operation or whether or not it is a real, solid proposal.

What would you do in your particular channel of interest if there were no such restrictions of NCAA or any of the other organizations, AAU's requirements, no requirements, and a request came to one of your athletes to participate and it was a meet in Europe you really knew nothing about? How would you make a determination of whether or not you would let the athlete compete?

Mr. EMERY. First of all, in competition between athletes of different nations—there has to be an agency in this country that looks at the competition to determine that it is not competition in which the athletes are going to be exploited in some way or left stranded, as we have had boxers say, left in Mexico without the return fare in the old days, as the boxing people in southern California tell me.

Somebody has to guarantee the competition will be conducted in a reasonable manner and that the conditions under which the athlete travels and eats and trains will be adequate. But the final decision as to whether or not the athlete should leave school at that time to participate would have to be made by the student, and it would depend a lot on the time of the year.

With the schools operating on semester systems, quarter systems and, interterm systems, there are gaps in there in which an athlete could travel on an international trip without endangering academic progress but, at other times, the athlete would simply have to refuse.

Many times, college athletes do refuse because it is too close to final examinations.

Mr. DELLENBACK. Doesn't your testimony look at it from only one side rather than the other side? If you will go along with me, the agencies that now sanction do not say: "We have the right to tell an athlete that he must compete in his international competition." They are saying: "We say if you compete in a meet or competition that we have not sanctioned, then certain things will happen to you." In other words, it is a negative, an additional check on top of it and not taking place as you say at all.

What I thought you just said, in effect, was: "Look, the student has to make his own decision." But he does not. You say the school has to make a decision whether or not it really fits and whether the student ought to compete. That is not really what the issue is. The issue is not whether or not the student and the institution should have a voice; the question is whether or not there should be somebody else with an additional voice, saying: "If we have not approved this competition, you don't dare compete or there will be repercussions."

Mr. EMERY. My reaction to that is that an organization to which college institutions voluntarily joined or with which they associate does not have, or should not have, that responsibility for a student's decision. I think it has to be placed in the hands of the people who know whether or not he should go.

Now, the question of whether it is a fly-by-night situation, I think, has to rest on whether or not the organization in this country which is responsible for international amateur athletic relationships feels that the contest or the trip is worthwhile. I don't think a governing body of college athletics can say: "Yes, unless we sanction this event." Because what sources of information do they have that are better than the organization that is maintaining relationships with the other international governing bodies?

Let us say arrangements for an international trip are made between the governing bodies and it is assumed on each end if it is going to be in East Germany, West Germany, or Italy, the governing body there has verified that this promotion is legitimate. It is not a fly-by-night operation.

By the same token, the organization that is interested in bringing athletes of other countries to this country is interested in checking out the promoter and promotion to verify it. So there has to be some checking out, there is no question about it. I don't think it has to be done by too many organizations.

Mr. DELLENBACK. You were saying you don't think there should be any association—if I read you correctly—or organization that has a power beyond the athlete and his school to say: "Thou shalt not"?

Mr. EMERY. Yes, for the purpose of international competition, correct.

Mr. DELLENBACK. So you want the control to rest with the student and the school. Should the school have the power or the athlete have the power or should they have it together?

Mr. EMERY. I think the school.

Mr. DELLENBACK. You are willing that the athlete not have the sole voice?

Mr. EMERY. Yes.

Mr. DELLENBACK. You don't want the sole voice, though, to go beyond the school?

Mr. EMERY. No; I don't want it to go beyond the school. I think that the student knows what his progress is. He knows his leaving for 1 week will perhaps endanger his academic progress and that is the essential reason for his being in school, although it is hard to tell in many cases that it is.

So, once the student determines he is there for an education, he should be able to tell whether or not it is a good time to leave.

I would like to point out that invitations are coming all the time during the school year to this country and are being channeled by existing governing bodies to the schools, where decisions are sometimes made by the coach, with the athlete never knowing that the invitation even came, because the coach says, "Well, it is a bad time; our season is on; and that is all there is to it." The coach notifies the people that issued the invitation he can't come.

Australia, you see, being in the other hemisphere, has a habit of issuing invitations for people to come during their season, which is not our season necessarily, and maybe our athletes are more involved in school than during the summer, and they get an invitation during a time that is inappropriate. The decision should rest with the local school.

When you say "school," we really have to define who. The president? No; he is not in a position to know if the student should leave or not at that time, but his faculty adviser would be in a position to know whether he should leave.

Mr. DELLENBACK. I don't know we ought to be legislating—now we are within the school, and we are willing to say only, "Somewhere within the school?"

Mr. EMERY. Somewhere within the school.

Mr. DELLENBACK. Your recommendation is: It should be the individual school, not the athlete alone but it should be the athlete in conjunction with some people within the school itself but, beyond that there should be nobody who should say they can't participate?

Mr. EMERY. Correct.

Mr. DELLENBACK. But there should be somebody beyond that, some organization, that investigates and makes a recommendation?

Mr. EMERY. Yes; that would make sure that competition is reasonable and it is going to be conducted under appropriate conditions.

Mr. DELLENBACK. You feel if we enact legislation something like 5623 that we will take the pressure off of what would still be competition outside in the way of investigating and making recommendations, whether it be the NCAA or whether it is the Track and Field Association or the AAU or whoever it will be, there will still be somebody out there but you would leave to the school the choice of whose recommendation it leans toward and, if there were two or three organizations investigating and they make different recommendations, then it would still be up to the school and athlete again to determine which of the recommendations they would base their decision upon, is that correct?

Mr. EMERY. Yes; I would hope that there would be only one organization per sport doing this verification in this case.

Mr. DELLENBACK. The problem right now is, in some of the sports, there is not just only one organization per sport but multiple organiza-

tions per sport, and that is the gravamen of the problem to a degree; they are fighting to be the organization—the organization—and, unfortunately, as the chairman has put it a number of times—and I am inclined to agree with him—the athlete is the pawn in the operation.

While they struggle out here—and I don't mean to attack them as individuals, because the people I met and dealt with on these things seem to be very capable and sincere people—whatever their struggle is to determine which one is going to be the organization that makes the decision, the person that gets caught in that crack, in the bite of the line, is the athlete. He may want to participate, but he can't.

Mr. EMERY. That is exactly right. That is why I feel this legislation is appropriate.

Mr. DELLENBACK. We won't bring you into the mechanics of the legislation. The question has been raised about whether it will do the trick in advance or whether you should wait until after the thing had taken place and then you have a threat to use it afterward, and the question is whether postevent punishment will give rise to the pre-event action that you hope for, and that is a problem for us to wrestle with on the committee.

From your standpoint of dealing and living with this, you come out squarely on the basis of the decision's ultimately being made by the institution; you would not do away with outside organizations' recommending but not give them the power to override the decision of the school and student athlete?

Mr. EMERY. Absolutely not.

Mr. O'HARA. Mr. Peyser.

Mr. PEYSER. Thank you, Mr. Chairman.

Mr. Emery, we are delighted to have your testimony here, and I am also pleased to hear what you said in answering questions of Congressman Dellenback in dealing with the penalty situation. I think we are all in agreement on that issue. At least this morning we are all in agreement. We have got to be that way every day; we don't think the penalty rights should not exist.

As I read and listened to your testimony, it seems that you predicate a great deal of your, let us say, report on 5623 on the paragraph that says:

Removal of the threat of penalty against athletes, coaches, and institutions could have the net effect of pushing these organizations together.

And I assume you refer to NCAA and AAU. Is that correct?

Mr. EMERY. Yes.

Mr. PEYSER. OK. Now, this is where we differ, because I think the long experience of years and years of mediating by some tremendously important and capable people to bring these organizations together has resulted in a deliberate action by one of the organizations to push themselves further apart.

Now, I am sure you are familiar with this but, just for the record, I will bring it out. Are you familiar with the application that the NCAA sends to a person for AAU for sanctioning a meet, question 18 on the application? Question 18, by number—and I wouldn't expect you to know the number—question 18 specifically asks if they have received the endorsement and approval of the USTFF.

Now, do you know what the USTFF is basically created for? But, as far as I am concerned, it is merely an arm of the NCAA. It was

created as a direct opposition to the AAU. This is really what it is competing with—with AAU—because they are covering that area and, if the NCAA, in its printed formal application, says to the AAU, "We first want approval and the statement that you have asked this competitor organization that we have created for their approval," do you really think that is an indication they are working together, or do you think the NCAA is willing to say, "USTFF, forget it; we don't want any part of you; 5623 has been enacted and we are ready to push you off the deep end and don't think you were ever in existence"? Do you think that should happen?

Mr. EMERY. I think one of the primary levers of NCAA—and AAU, too, although talking about student athletes—and the AAU doesn't presume to control those in the same way as nonstudent athletes—I think one of the primary levers is the threat of removal of further eligibility in collegiate competition if you do this.

I would just like to see the Government's involvement proceed perhaps one step at a time; let us remove the threat of this penalty, because it has been one of the primary levers or clubs held over the heads of the athletes and the institutions, and then let us see what will happen. We can always enact the next step.

Mr. PEYSER. That may be years from now.

Mr. EMERY. No.

Mr. PEYSER. It is not going to happen quickly. I can tell you, if we enact legislation today, you are not going to see, next year or 1975 or 1976, another such thing as this developing.

We will say: "Well, we have taken this action; let us give them 3 or 4 or 5 years or more." And I am just telling you the practical application of it, that to get this stirred up again this way, it is going to be very difficult.

I am wondering why we are, in effect, trying to treat with kid gloves at this point two organizations that have been absolutely devoid of any feeling when it came to penalizing an athlete or an institution as to what effect it had on his future or the institution's future and suddenly feel that all we have to do is put this particular penalty threat in.

I say it is a threat and, in reading 5623—and you recognize that the ultimate decision there rests with the courts—that is, in 5623—it rests with the courts, not with anyone else. They have to go to court. Then it is subject—and there is no guarantee in a court what the decision will be, and that is why you have a court. If it was just open and shut under this, there would be no purpose one way or another. But there has to be a decision reached at that time.

I wonder, if a situation developed, whether you would find colleges ready to jump in or individual athletes even ready to jump in and go to court if the NCAA or AAU took an action that they felt was violating 5623. They then would have to go to court.

Now, I am not so sure that either schools or individual athletes are ready to either put up with the expense of that operation, the risk of the operation, and willing to go to court to do it.

Mr. O'HARA. Will the gentleman yield at that point?

Mr. PEYSER. Yes, sir.

Mr. O'HARA. Under the enforcement mechanism for the legislation you have referred to, H.R. 5623—it is found in section 1804 and 1804

(a)—provides a penalty for willful violation of the act; that is, declaring ineligible for further competition a student athlete because of the student athlete's participation in representing the country.

You don't go to court. If you wish to see this penalty imposed, the proper course would be for a person having knowledge of such a violation to contact the U.S. attorney for the district in which the violation occurred, or what have you, or any district in which jurisdiction over the case would be shown, and the school or the athlete would not be in court, but the U.S. attorney would be in court.

Now, you get that in 1304(a) and in 1304(b)—the district court shall have jurisdiction for cause shown to restrain violations.

Again, the procedure would be that prior to the violation, if there were a threatened violation, again the school or the athlete would go to the U.S. attorney and ask the U.S. attorney to seek an injunction to restrain the violation.

We can, of course, change it. I just want to point out, you know, it is not up to the court; the only thing up to the court is to enforce the law. So the only thing here before the court is not the question of what to do, but it is a question of a factual matter: "Has a violation occurred?" and "Yes" or "No" or "Is one about to occur?" and "Yes" or "No."

Mr. PERSER. I think it is the decision of the court. As I say, you are correct in clarifying the point on how it would go to court. I think we have a perfect example in what has just happened in the Richmond meet. On Wednesday, I believe, or Thursday, finally, the court rendered a decision; that is, the day before the meet, and a day before the meet the fact that an injunction—temporary injunction, incidentally—was put down, in no way allowed the athletes, who were supposed to be served by the injunction, to compete.

The day before the meet, you can't bring an athlete in and get him ready to compete the next day. There is nothing in here that prevents the NCAA or any other organization from taking their action 3 days before a meet or 2 days before a meet. In that kind of instance, the fact of whether he goes to the district court or not is not going to let the athlete compete.

I wonder if I can ask: In your experience, Mr. Emery, since you have been in this field a great deal certainly, are there any subtle means that are not really quite a direct application, such as declaring ineligibility—are there any subtle means the organizations have—such as the NCAA—of bringing pressure to bear on an institution?

Let me cite a few I can think of, and I would like to have your comments. I guess the most obvious is the recruiting violations. Now, there have been recruiting violations existing in schools, according to the regulations, by the score, and most of them are not ever called up for action, even though the regulations of the NCAA and competing colleges would allow them to be called up.

I am wondering if we are not getting the NCAA to have another tool here if we take this one way and say: "Well, you are going to take that action; that is fine. You have your legal right to go ahead, and now we are going to look and see. What about that boy you brought in last year that we didn't raise a question on?"

There have been so many of these cases that never came up, and occasionally one comes up, and we had testimony yesterday citing case

after case where the NCAA had gone after schools and specific athletes, and it is a matter of the record yesterday where they wanted to get violations on recruiting, where they could get them in dozens of other schools as well but had a particular reason to go where they went.

Mr. EMERY. Let me respond to your separate questions.

As far as the subtle means are concerned, recruiting violations generally are initiated by opposing schools. In other words, the NCAA office does have an investigative staff, but they are not called into it until someone calls a violation to their attention. That is done by a rival who was recruiting that same athlete and lost. They say:

Well, they must have given him more than we offered; we know what we offered, so they obviously are in violation of the rules.

So that is the way they are brought to their attention, and once the investigation gets started, of course, you know, everything is generally brought out.

But this is somewhat the way violations are brought to the attention of the registration committee in the AAU, because none of these organizations—and AAU is staffed mainly by volunteers, I mean over the country. The NCAA has a far larger professional staff and more money to operate with than AAU, but violations of rules are brought to the attention—from the grassroots level by somebody who notices it and brings it to the attention or, in some cases, the violation is rather obvious, and then the registration committee might initiate the action.

I don't think there would be that kind of subtle pressure. There might be other ways in which NCAA could easily gain the same thing they now gain by policy, by established rules and such.

Mr. PEYSER. How is that?

Mr. EMERY. Well, perhaps not putting schools on television in the football series. That is a fairly important place to be. If you are not there and if you are one of the schools that perhaps has permitted athletes to compete in meets that are not approved, by NCAA, maybe they could keep you out of it. There is a television committee, and they pretty much decide on a system of rotation as to the schools that get into that program.

There are other pressures that probably could be brought to bear. The Randy Williams example at USC—he qualified for the Richmond Meet, and his coach and he both indicated he was going to come. He didn't come. At the last minute, he said he was told by his coach that it would be better if he did not. There was no direct threat so far as you can determine; nevertheless, he didn't show up and was the No. 1 long jumper and certainly hurt the effectiveness of the American team.

This kind of thing could still be carried on. I think once you really remove the threat—and you see the reason Randy Williams' coach said, "You better not go"—is: They had undoubtedly been told by NCAA, "You had better not let him go." And that is what I think this piece of legislation—5623—does remove.

Now, the athletes who got the injunctive relief—that is the first time, I think, an athlete had ever taken that course; and now that the precedent has been set, I don't think athletes or their coaches will be reluctant to take it. I think they have learned by this action, if it is

sustained—and there is going to be a hearing later on for permanent injunctive relief, so I think that is going to help.

Mr. PEYSER. I think it is also going to be a question of what happens to a school in relationship to future relations with NCAA; they will also watch—"Will they be cut out or subsequently eliminated from?"—as you just indicated, and I think that is an important part of it.

Mr. EMERY. In response to your previous question about whether or not this legislation to establish the commission is really not needed along with the removal of the threat, I hope something can be done. If that is needed, if that is the final approach that is needed, then I am for it.

I would like to see, if it is possible, that an arbitration board is established to which these disputes simply had to be brought and that their decision would be binding and that would be it. Maybe this commission is the arbitration board but, as I read the bill, the commission really has a right to establish rules.

Mr. PEYSER. Well, if I might interrupt at that point, you are right on that, and we are making a change in that particular regulation. It would come on page 3, and it would be in title IV, under section 3, and what we are suggesting is that rules and regulations as used in section 6 shall not be construed as to conflict with any rules and regulations of the International Olympic Committee or any other international amateur governing body.

In other words, we think your point is well taken there, and we have had this raised previously, and so we are correcting that error so that it would not, in effect, do something in conflict with any international body. So I hope that will satisfy you.

Mr. EMERY. Yes, that would go a long ways. I think what we would see is the situation—as I have indicated in the second paragraph, or first paragraph, of the reasons, on the second page, which is that you would find governing bodies between the Devil and the deep blue sea, especially when it comes to a question of amateurs.

One of the great questions in amateur sports is: "Who is an amateur?" and "What are the Europeans doing?" and "What are we doing?" This debate goes back and forth. We say they are better off than we are, and the Europeans say, "Yes, but nowhere else can you get a free education based on your athletic ability except in the United States." And athletes come here from all over the world to do just that. That debate is a separate one and needs to be faced up to.

If that commission were limited in its area of jurisdiction, I would not object to it, because I think something has to be done at the top level because, at the local level, I can see it working, and in our district I can see cooperation; I know it can exist between people. You can't label people and say, "That is the way they are going to act and think." They don't do it that way.

Mr. PEYSER. Thank you, and thank you, Mr. Chairman.

Mr. O'HARA. Thank you, Mr. Emery. I found your testimony very helpful.

An element of the dispute we have been hearing about regarding the coming tour of the Soviet basketball team can be traced to the organization our next witness represents. The YMCA is responsible for inventing the game of basketball. That organization is also responsible in large part for the spread of the game throughout the world.

Mr. Lloyd Arnold is national director, health and physical education, National Council of the Young Men's Christian Associations of the United States. When he read of this subcommittee's proposed hearings beginning on March 5, he immediately wrote and offered his help.

Mr. Arnold, please take a place at the witness table, and we will be pleased to hear from you.

STATEMENT OF LLOYD ARNOLD, NATIONAL DIRECTOR, HEALTH AND PHYSICAL EDUCATION, NATIONAL COUNCIL OF THE YOUNG MEN'S CHRISTIAN ASSOCIATIONS OF THE UNITED STATES

Mr. ARNOLD. Thank you, Mr. O'Hara and gentlemen. I am sorry I do not have a written statement. I will get that to you, but I have been on the road and didn't have copies of the bills until late last evening.

Before I begin to comment directly on the bills, I would like to give you some additional information about the YMCA because I think it represents an element to the problem that we are really not considering as we look at the bills.

As I understand it, the bills are primarily aimed at the dispute between the AAU and NCAA, but I represent an organization which is equally as large in terms of the total impact on athletes in this country. There are 1,800 YMCA institutions. Over 7 million persons are in our constituency. During the past year, we had over 60,000 athletic teams enrolling 889,000-plus athletes.

The YMCA has been conducting national championships in 14 different sports for men and women since 1923. We established our first regulations for amateur competition in 1925.

Recently, in 1968, we revised our standards for athletic amateur standing, and we believe that we have taken into consideration the modern approach to what an amateur athlete is.

An amateur, according to our standard, is anyone who is not paid to participate in a particular sport. A professional basketball player can participate with YMCA's in any sport except basketball. So we have a freedom of movement in an area which we think is the way of the future.

You mentioned the fact that the YMCA has been creative in the development of basketball, in the spread of basketball; and the same is also true of volleyball, which is also an international and Olympic sport.

The YMCA, over the years, has sponsored national competition between YMCA's in other countries and in this country. We have YMCA's in over 80 countries. The YMCA is a place where many of our high school and collegiate and international caliber athletes get their start.

Recently, an Olympic official in aquatics told me that over 80 percent of the recent U.S. Olympic swimming team, men and women, got their beginning in YMCA competition.

I need to emphasize that over 30 percent of our people are women and girls.

In the dispute, primarily in basketball between NCAA and AAU, the YMCA has seen itself as a neutral party. We don't really belong to either organization. We collaborate and cooperate with both. We

attend their meetings. We are also active with the Olympic Committee and have representatives on the Olympic Games Committee.

As the basketball situation was developing, I was involved in the original meeting to restructure the basketball federation. There was a followup meeting. An invitation came to me, and I mailed a letter at that time dated December 4, which I would like to quote a portion of to you:

If you will recall, I called to the attention of the group meeting at Springfield College last month that there were some United States basketball organizations which were not included in your letter of invitation.

And this refers to the first meeting.

At that time, it was mentioned this was an oversight and there would be no objection to an invitation being extended to them.

It is my understanding from the brief conversations that I have had—that invitations to the December 6 and 7 New York meeting were not issued to the NAIA, Armed Forces, National Parks and Recreation, CYO, JWB, and AAU.

I am convinced that decisions which are made regarding basketball by a group which does not include the above-mentioned cannot significantly represent basketball interests in this country and would not and could not be accepted. I would encourage you to broaden the base of your invitation so all could be included.

I am further convinced that an organization which is representative of the basketball interests for the United States must be operated on a premise that all are equal and voting privileges should be developed so that each concern would have equal stature. Voting privileges based on financial resources would present obvious problems.

Now, as a result of that meeting—which I did not attend because of my objections to the invitation—there was a constitution developed, and the proposed annual membership for an active member was set at \$500.

Now, obviously, because of the various kinds of sports which the YMCA participates in, we cannot get involved in a federation at that level of funding. But that is only part of the problem.

Further, there is provision for active organizations to get additional voting representation by paying an additional fee of \$2,000 per delegate or representative up to a maximum of four, or they could conceivably have five representatives.

So you can see that the strength and power of that organization is really based, to a large extent, on the financial resources available.

The constitution also allows for additional assessments of active members to meet budget requirements.

The YMCA, in closed competition—and by “closed competition,” I refer to competition just between YMCA organizations and members, between its different units and branches—has been a self-governing, autonomous organization, and, I might add, with a great deal of success and very little conflict, even though each local YMCA maintains its own autonomy.

However, the YMCA is beginning to feel the results of rules and regulations which are passed by other organizations which, in essence, govern and control activities of athletes beyond the confines of that organization's competitive season, essentially infringing on the athlete's freedom to decide how he will spend his free time.

From that standpoint, I support the bill H.R. 5623 to amend the Higher Education Act to protect the freedom of student athletes and their coaches to participate as representatives of the United States in

amateur international athletic events; however, I would question whether it goes far enough when it limits its application to international events. I submit that international athletic amateur events are only the visible portion of the iceberg.

In reference to H.R. 5024, I would raise the following kinds of questions for your consideration, and you have discussed some of them.

What effect will such a commission have on voluntary sports organizations such as the YMCA, especially as it relates to closed competition or competition between its own units and athletes?

Will the local and national autonomy and decisionmaking powers of the YMCA be lost?

Second, in the realm of international competition, is it proper or even possible for such a commission to make rules which relate to international competition for this Nation's athletes? Attempts in the past to foist rules on international groups have led to confusion, disillusionment, and inability of our athletes to compete at an international caliber event.

Third, is it possible for a commission of five and an advisory council of eight to adequately represent the United States in the international sports scene from the standpoint of time, understanding, and ability?

I believe if we can deal realistically with these major questions, we will be taking a giant step forward.

I support strongly the other functions of the commission, including protection and promotion of interests of amateur athletes in the United States engaging in international competition, providing for rules and regulations which improve coordination between amateur organizations, promotion of friendly international amateur athletic competition among nations, and, even more important from my standpoint, between athletes, and to study factors which relate to health and safety.

I also support the function of preparing and submitting a yearly report which would include appraisal, statistical analysis, long-term projection, evaluation of observance of rules, summary of problems, and compilation of issues and other pertinent information.

Finally, let me suggest once again that the international aspect of this problem, although important, really affects a very small percentage of our athletes and is only a portion of the total problem.

Mr. O'HARA. Thank you very much, Mr. Arnold.

The reasons we have proposed legislation to the international competition—are, of course, twofold—one is because that seems to be the sorest point certainly at the moment; second, because that gives us some definable limits within which the legislation shall operate, and it does not require us to get into a complete review of all of the different aspects of this problem as relates not only to international competition but domestic competition.

I think you are right; I think the problem is much larger than international competition. But the question that I tried to face, and others on the committee, is this: Should we now stop and delay any action until we have made a thoroughgoing review of all aspects of the amateur sports scene and then try to enact a comprehensive piece of legislation that might meet all of the problems, or should we go ahead and take care of this one prominent problem, one very difficult and prominent problem, and then perhaps return to the subject and do a more extensive thing, take a more extensive look at it?

My own feeling is to go ahead with the more limited approach first and then, as we learn more, perhaps try to do more.

That is just by way of explanation of why the approach as we did it, and I don't suppose you quarrel especially with that.

Mr. ARNOLD. No; I don't.

Mr. O'HARA. I am certainly impressed with the YMCA's activities in this field. I know of the great contributions the YMCA has made to amateur athletics in the United States in many fields, particularly those you mentioned and particularly swimming in addition to those you mentioned.

I think that we ought to look at the broader problems, too, and I appreciate your comments in that regard.

Mr. Dellenback, any questions?

Mr. DELLENBACK. Mr. Chairman. Thank you.

We do appreciate your coming here, Mr. Arnold, and giving us the benefit of your testimony, and we will be covering what you covered, and this has been taken down by the reporter and it won't be necessary for you to duplicate your own efforts; but, if there is anything else you would like to add to what you said this morning, I am sure we would welcome it and it would be made part of the record. We recognize the time pressures on yourself, and we do thank you for your giving us this time.

Now as to the basic questioning that was put to Mr. Emery, which you heard and which I would ask of you: Would you agree—having dealt with young men and women alike, would it be your feeling that, when it comes to participating in international athletics, the decision as to whether or not a young person or an older person, an athlete, can participate, can soundly be left to the athlete and maybe the coach of the athletic group to which the young person or the athlete belongs, or should there be an outside organization which would have the power and right to say: "No, you cannot participate in this particular amateur competition without certain repercussions"?

Mr. ARNOLD. Well, I disagree with Dr. Emery at that point. I think essentially it needs to be the individual's decision. He certainly should seek the counsel and advice of the coach and school officials, but it seems to me that needs to be an individual's decision and should not be a reflection of his organization or his school's thinking.

Mr. DELLENBACK. You went one step further than Mr. Emery went, because Mr. Emery, as I read his testimony, said, in effect, this: The athlete has to influence the decision and, if the athlete is part of a school team, then somebody in the school, whether it is the president or athletic director or counselor or coach, somebody there, somebody in the institution also has a voice in the particular position, but he then drew the line there and said there should not be an outside organization—NCAA or AAU or anybody else—an organization which would have the power to say: "She can't or he can't compete."

Are you saying you would agree with Mr. Emery under those circumstances as to what he said or would you believe the decision should be left even further to the individual and say: If, in the middle of a basketball season, the star center was invited to compete in Australia and he said, "I am going to go and compete in Australia," that the school should not have any decision, the school he belonged to, they should have no voice in that?

Mr. ARNOLD. Obviously they have a voice, but I don't think they should have control.

Mr. DELLENBACK. If the athlete wants to go off and do it, he should be able to do it without being censured by the school?

Mr. ARNOLD. Well, he would be censured, I am sure. He would lose his spot on the team, and that probably would be part of the advice the coach would give him; but, you know, it seems to me he needs to have that ability to make that decision.

Mr. DELLENBACK. Would you penalize the school if they took him off of the team under those circumstances?

Mr. ARNOLD. No, I wouldn't.

Mr. DELLENBACK. Do you think we ought to do this? You see, under 5623, the proposed legislation, we say or propose to say, in essence: If an athlete competes in international competition, then he can't be declared ineligible or there can't be repercussion insofar as intercollegiate competitions; it works both ways. They can't say he can't compete and if he does compete they can't say: "This is going to happen to you domestically."

They can't withdraw or suspend the eligibility of an athlete to compete in any intercollegiate athletic events also, and would you give the school the right to say that "In our school, if you drop out in the middle of the season, when we are driving for the championship, we are not going to let you compete in basketball any more"? Would you say the school should not have that power?

Mr. ARNOLD. No; I would give them that power.

Mr. DELLENBACK. So you feel the school should have some sanction, then?

Mr. ARNOLD. Yes; when you use the word "sanction," I rebel against that.

Mr. DELLENBACK. Should they be able to say: "Certain things will follow as a consequence of this act"?

Mr. O'HARA. Will the gentleman yield?

Mr. DELLENBACK. Of course.

Mr. O'HARA. It seems to me every team I ever heard of had rules and, if a student or if a member of the team didn't show up for the game or even missed a practice, he would be subject to suspension from the team.

Mr. ARNOLD. Yes; and that is the coach's decision.

Mr. O'HARA. Yes; the coach's decision—or even subject to being thrown off the team, not for having participated, say, in an international event but just having violated the team rules and not being available to play in a particular game.

Mr. ARNOLD. It is drawing a rather fine line, but I do think there is a difference, you know, between giving that authority to the school and tying the decision in with the team and his contribution to that team.

Mr. DELLENBACK. Following your statement that you disagree with Mr. Emery, because, if I listened to Mr. Emery's testimony correctly and if I understand your testimony correctly, you are not really very far apart at all, you are saying substantially the same thing, that the AAU or NCAA or someplace else of this nature should not have power to say certain things.

And, while we talk—and Mr. O'Hara and Mr. Peyser will have a chance to talk later in committee—but whether we call it a rule that is violated or call it something else, substantially the result is the same; they say: "If you do something we don't want you to do, whether we

get you directly because you competed internationally or wherever you were, whether at home sleeping or competing internationally, you were not there at the game and therefore we say certain things follow."

The testimony that Mr. Emery gave is to the effect that neither you nor the NCAA have any such situation at all.

Mr. ARNOLD. We do not support that.

Mr. DELLENBACK. But you would support the athlete and school somehow having an impact?

Mr. ARNOLD. Right.

Mr. DELLENBACK. And that is the distinction and that is the concern for which we are trying to find a remedy and trying to be of help for the athlete's sake, which is really what it is all about. We want to be sure the person involved, the young woman or man, is given freedom to participate without this kind of arbitrary decision being made outside, and we are afraid it is too often made for extraneous reasons and it is not really for the welfare of the athlete.

If the decision is made for the welfare of the athlete, that is one thing, but a decision made ostensibly for the athlete but perhaps for some other reason is something we are trying to get into and make sure it does not run amuck to the detriment of the athlete, and I am sure that is what you essentially agree with.

Mr. ARNOLD. I do.

Mr. O'HARA. Mr. Peyser.

Mr. PEYSER. Thank you, Mr. Chairman.

I certainly welcome your testimony and fully recognize the great job that the YMCA has done in this area of sports for the young men and women throughout the country.

I guess I would like to answer your questions. You presented a couple of questions: One, the effect of the YMCA on the local committee would be absolutely nothing, there would be no effect, there would not be a loss of authority under my bill or, for that matter, 5628, in their own actions; and, secondly, on the international complications by trying to test rules, I believe you heard of the additions we have made to my proposed legislation here which I think very clearly answers that it would not be that problem.

Thirdly, the question of committee size, we are open to evaluating that and seeing what is realistic and how that should be handled. The important thing on that committee is understanding really that the committee is aimed primarily and purely at defining the participation in international events—participation—in other words, we are not putting NCAA or AAU or anybody else out of business, but we are just reserving that right of participation so we don't get into the situation we have seen take place time and time again over the years.

So I really appreciate your testimony, and I have no questions. I just wanted to answer those you had asked me. If you want to respond now in any way, please do.

Mr. ARNOLD. Let me just emphasize the point I was trying to make; that is, in the field of athletics, there is so much enthusiasm coming from people who are volunteers essentially, and there is a large work force there which represents our country and puts much labor into the administration of athletics.

That kind of grouping, that kind of citizen contribution, that kind of a activity I don't see being picked up in this function. I guess

what you were saying to me is that it would still be there, and that would help me.

Mr. DELLENBACK. Will you yield?

Mr. PEYSER. Yes.

Mr. DELLENBACK. There is always the danger in this kind of thing that, as we ask you questions, we will really be quarreling less with you than trying to make the case that really exists among members of the committee.

I would just say to my colleague Mr. Peyser, and also to you, Mr. Arnold, at this time, that one of the things that does worry me at this stage—and I don't mean my mind is made up at all on 5624—but one of the things that worries me about the 5624 approach and the 5623 approach is not there is a problem going into them but, if we try to get the Federal Government in as deeply as 5624 would take them into this whole field, we would do exactly what you say—we would be preempting the field to such a degree that we would kill off, with a handful of people, five people on one group and eight people on another group, the real decisions that just are made by hundreds of people.

If you take the AAU and break it down into its 19-plus individual committees, there are literally, throughout the country, thousands of people who are involved in the whole process, and it is much of that that I don't think we suddenly should have the Federal Government try to take over.

If we can, through a relatively simple approach of 5623, break loose abuse of a part of the picture, we will have made a long step forward. And it seems that you are saying that, and if this is what you say, I am in agreement with you, that there is risk in the broad-scale approach that we would so preempt the field that much of this great voluntary involvement, which is the heart of the YMCA, could be placed in jeopardy. Do I read you correctly? Is that what you say?

Mr. ARNOLD. Partially. I agree with the functions as described in the bill. I just question whether the apparatus is there to carry them out essentially.

Mr. PEYSER. I think what has just been expressed by Mr. Dellenback is where perhaps a difference in understanding of what the legislation does exist, because at no point in this legislation is it contended that any of the groups would seek this in any of their functions; I mean I think the bill specifically states that.

Now, if this is going into the theory that Mr. Dellenback may be taking—"Well, we let the Federal Government get into this one area, and then they may try to get into other areas later on"—I would say it could happen under 5623 as well as under 5624, and I guess my feeling is: I want to stop the idea of the courts being involved and injunction proceedings and all of these other things inherent in 5623 as a "must" action and simply resolve the fact that our best athletes, regardless of what organizations they belong to, as long as they qualify for the amateur standing, can compete, or the best American athletes can compete internationally. That is the only aim.

Thank you very much for your testimony.

Mr. O'HARA. Thank you, Mr. Peyser. And thank you, Mr. Arnold. We enjoyed having you.

Our last witness this morning is Mr. Peter Oliver of Arthur D. Little, Inc., Cambridge, Mass. We will be delighted to hear from you.

STATEMENT OF PETER OLIVER, ARTHUR D. LITTLE, INC.

Mr. OLIVER. Thank you, Mr. Chairman. I would first like to say that General Gavin, who was asked to appear here today, asked me to express his regrets that he could not appear personally. He asked me to appear in his stead.

I will ask your forgiveness if I make any errors in my presentation, since this is the first congressional hearing in which I have participated.

First of all, in the way of background, I would like to explain why we were asked and why we volunteered to appear today.

I think it stems from two major studies that we conducted in the mid-1960's, the first for the U.S. Olympic Committee, a project with a budget of \$150,000, the purpose of which was to study the organization and policies of the U.S. Olympic Committee itself and to review the performances of our athletes and the development plans of each of the 30 Olympic and Pan-American sports in the United States in the interest of advising what might be done to improve our performance in those sports.

I might also add that by virtue of the complexity of the task and our underestimation of what it would take, we overran our budget by \$30,000, thus we contributed \$30,000 unintentionally to the project so that total was \$180,000 worth of consulting effort and expenses.

At the time we did that study for the Olympic Committee (completed by the way in 1965), we also were commissioned by President Johnson at the request of Bob Kennedy to study whether there was a need for Federal assistance, support, and recognition of amateur sports, and to determine, if the answer was in the affirmative, what form that support should take. That study was funded in the amount of \$50,000, half from Peter Fuller, chairman of the Fuller Foundation, and half a contribution of our time as a public service.

The reason we are here today is that we turned in a positive report to President Johnson in January 1965, and we have the desire (again, in the public interest, as a public service) to see that report implemented.

We have been working since January 1965 behind the scenes, both at the White House and now in Congress, to see that some legislation is passed to implement the findings of our report to President Johnson.

As for my involvement, I had the opportunity to participate in both of those studies by virtue of my interest and continuing participation in amateur sports. I have been a behind-the-scenes guy who has been borrowing time from other projects to try to achieve implementation of our report to President Johnson.

I might also say that I have had the opportunity this past week to talk to the staff of all of the Congressmen who have submitted bills, with the exception of Mr. Dellenback. These discussions included four bills that have already been presented or are about to be presented to Congress.

What I would like to do today is to review each of those bills with your permission and discuss the pros and cons. I would like to first summarize my conclusions and tell you what I hope to convince you of here.

First of all, I want to say that you have identified a very grave problem and I want to say that we appreciate, and I think the athletes particularly appreciate, the fact that you are taking your valuable time to address yourselves to the problem. I want to tell you that we at ADL think that this issue is deserving of your time although it is very valuable.

The dispute between the NCAA and the AAU is not a recent problem, as you probably know. It has been going on in various forms since 1920 when it first surfaced. There has only been one brief lull, during World War II when the Olympic games were temporarily suspended. The problem is that the public-at-large only thinks there is a problem every 4 years around the Olympic games because that is when it usually surfaces, and that is when the press pays attention to it and portrays the wrongs that are done to athletes. I would like to point out that during the 4 years when the press is not paying attention, those same wrongs are going on all the time.

I would like to call your attention, if you have not seen this already, a doctoral dissertation by Arnold William Flath, entitled "History of Relations Between the National Collegiate Athletic Association and the Amateur Athletic Union of the United States, 1905 to 1963." It was a dissertation for a degree at the University of Michigan. It explains in great detail what goes on year-in and year-out and recounts many incidents which were not picked up by the press.

What I would like to do today is convince you that a bill that is going to be submitted in April in the Senate by Senators Gravel, Randolph, and Thurmond and probably other cosponsors, will do much or all of what you want to accomplish and my plea is to wait for that bill and perhaps incorporate in it some of the very good ideas you have brought forth in your legislation.

By virtue of having the opportunity of talking with your staff and also those of Senator Cook and Senators Gravel and Thurmond, I have become convinced of one thing; that your objectives are all the same. You are aiming at the same problem, you are frustrated as are many other people in trying to do something to solve it as quickly as possible and that you differ only in your methods.

I also get the sense from my discussions that you are willing to make changes in your bills or adapt your bills so that we can have one good bill that will be passed both in the House and in the Senate in a bipartisan effort and that will solve the problem right now.

I agree with Mr. Peyser who said that if we don't do something now it is going to take a long time (at least 4 years, I would say) before there is similar interest again raised in this issue, before there is momentum built up to solve it. Then 4 years from now they will say, "Yes, someone proposed a bill back in 1973 and we turned it down." Therefore they may be predisposed to vote against it. Therefore, I would say a bill has to be passed now and has to succeed now, otherwise it will be at least 4 years before a practical solution will be developed.

With that I would like to quickly review each of the bills and discuss our opinion from Arthur D. Little, Inc., trying to distinguish my personal opinion, because I can't obviously speak for a firm of 1,500 employees, each of whom would have different personal opinions. I did have the opportunity to talk yesterday, however, with General

Gavin, so we have a meeting of the minds as to generally what our approach will be. Again, we are willing to bend if new facts and more effective approaches are introduced.

First of all, H.R. 5623 by Messrs. O'Hara and Dellenback. On the plus side, the bill is refreshingly direct, a direct and immediate solution to the problem. In fact, I will say General Gavin laughed with delight when I showed him the bill and reviewed it because it was so direct and so simple and apparently so effective.

The concerns that we have about this bill are, first of all, it places sanctions on individuals who would prevent athletes from competing in international competition, but it does not seem to us to solve the core problem; that is, it does not guarantee that there will not be further reprisals, and this has been brought out earlier, further reprisals placed against institutions, coaches or athletes who raise a red flag and call attention to the district court to obtain remedial action.

Second, although I am not a lawyer, I see a problem in that all of the decisions rest with the district courts. Everyone knows the great loads the courts are carrying and the difficulty of getting speedy action. There is no assurance that the district courts can handle this extra burden.

Third, again, although I am not a lawyer, I have had discussions with some lawyers who question the constitutionality of the bill.

Now, as to H.R. 5624 by Mr. Peyser, the positive side of this bill is that it establishes a permanent body with clout, the kind of clout necessary to solve disputes between the AAU, NCAA, and for that matter, between other amateur sports organizations that might have disputes in the future.

One of the problems in the past is that Congress and the public-at-large has tried to deal with the problem on an ad hoc basis, as Mr. Peyser pointed out, and individuals including General MacArthur, General Gavin, Dr. Bruce Old from Arthur D. Little, Inc., and finally the Kheel committee, have been asked or appointed on an ad hoc basis to solve the dispute.

Well, the dispute has been going on in various forms under the surface continually so there is no one regulation that is going to assure that these organizations do not come into conflict in the future. Therefore, a permanent body to mediate disputes is a definite requirement, and we think that is one of the most positive parts of the bill.

I have already voiced my objection to the wording under section 6 entitled "Federal Sports Rules" in Mr. Peyser's bill, and the wording change he announced this morning answers my objection. In fact, I passed to the secretary a chart which might be helpful to you in explaining the interrelationships of various sports organizations.

If you look to the right on the chart this illustrates that there is an international body of law regulating amateur sports. The International Olympic Committee (IOC) is the key organization for the Olympic games and as such also has a great influence on all international amateur athletics. The IOC must satisfy itself that the National Olympic Committees and both international and national sports governing bodies are established along lines proper for amateur sports. It has developed broad guidelines. This authority provides the IOC tremendous leverage to further the ideals that it was created to enhance.

Secondly, right under the IOC you notice the international sports federations, currently 26, one for each sport. These are also powerful

in that they control, from the technical rules and eligibility standpoints, all international amateur athletic events, including Olympic and Pan-Am games. No national sports body can sanction events in the international field unless it is recognized by the corresponding international sports federation and once so recognized, the international body acquires the right to name delegates and so forth.

In other words, these sports federations would not, necessarily, take any rules from the United States and adopt them for international competition. The rules changes that are made by international federations are done by democratic action in voting by the members of the federation.

That issue has been taken care of, so I will pass on.

Now, another objection or question we might raise, is whether such an organization should be under HEW. If a commission is to be formed, it would be better to form a separate body and not place it under one of the existing departments. The latter approach just adds constraints to its functions and reduces its visibility.

I would like to convince you, however, that the bill to be proposed in April will do even more, will do it better and still encompass all of Mr. Peyser's ideas.

I briefly reviewed Mr. Cook's bill, S. 1192 and essentially found it had the same positive aspects and the same drawbacks raised by Mr. Peyser's bill, but I will say here that there are a number of substantial defects in our view.

First, of all, it preempts the authority of the U.S. Olympic Committee itself—although maybe it should be preempted—but I think much greater study should be done to determine what form that preemption, if any, should take.

A second problem is the proposed Federal control of university and college facilities. We don't think that would be acceptable, not only to the college administrators, but to the athletes themselves. I think they would raise serious objections.

Thirdly, the bill combines a research function, that is, the proposed division of safety and health with a regulatory function; we believe those should be separated and not part of the same body.

Also, we might add the budget of \$5 million per year that it proposes appears expensive and excessive relative to the proposed functions and roles of the Commission proposed by Mr. Cook.

Finally, I would like to go on to discuss Senate 4088, which was introduced in September, 1972, in the second session of the 92d Congress. That bill is about to be reintroduced with new wording in April of this year. At this point, I would like to call your attention to the statement sheet I passed out entitled "National Amateur Sports Development Foundation Fact."

If you will, I would like to read this into the record.

The establishment of a National Amateur Sports Development Foundation (NASDF) is the subject of a new bill to be introduced in the Senate in April 1978. This bill was critically reviewed November 30, and December 1 by a widely representative Sports Advisory Committee assembled by the Senate sponsors of the bill.

The NASDF is to be a private foundation chartered by Congress and endowed by private contributions matched by Federal funds up to a total of \$100 million.

The central purposes of the foundation are to sponsor and encourage broader participation in sports by all age levels and to promote equal opportunities

for sports involvement by both sexes in all social, economic, and geographic groups.

To accomplish these objectives, the foundation expects to support and supplement the interest and activities of national organizations concerned with sports, and related educational and recreational programs of local, State, and Federal Government.

Direction of the foundation will be the responsibility of an independent 17-member Board of Trustees chosen from the private sector on the basis of their wide knowledge of all aspects of sports development including management, education, facilities, finance, medicine, research, et cetera. Of significance is the intention to include recent key athletes on the Board in order to have the benefit of their thinking regarding the dynamic changes occurring in sports. Furthermore, the terms of office of the Board members are to be restricted in length in order to insure an appropriate insertion of fresh thinking. Successors to Board membership are to be nominated by peer groups for consideration by the Board. The day-to-day operation of the foundation will be the responsibility of a full-time salaried president.

To assure democratic procedures within the foundation, there will be no membership representation of any sports organization on the board, and, therefore, no block votes by membership groups.

The foundation staff will provide technical and consulting services to all interested amateur sports organizations in the areas of: communications services, financial services, facility planning, coaching and training aids, sports medicine, and statistical analysis employing a comprehensive sports data bank. In addition, the foundation staff will include sports program developers to assist organizations interested in preparing requests for foundation developing grants.

It is envisioned that when the foundation reaches full operation, at least 75 percent of its annual endowment income will be applied to sports development grants. The \$100 million endowment should generate an annual income of \$5-10 million.

Questions or suggestions concerning the proposed foundation should be addressed to Senator Strom Thurmond of South Carolina or Senator Mike Gravel of Alaska.

Essentially, what I would like to say in summary on this bill is that it is the "carrot approach," as you can see, to solve the problem that you have identified. The chief question that might be raised is whether there is enough stick with the carrot to obtain immediate action in solving the AAU-NCAA dispute. I would like to read for you the conclusions of a subcommittee of this Sports Advisory Council in which I participated on November 30 and December 1 which addressed itself to that very question.

This committee was requested to study the relationship of a National Amateur Sports Development Foundation to existing sports organizations. Three questions relevant to your concerns were posed and a position was prepared on each one as follows.

The first question was the feasibility of membership in the Sports Foundation. We concluded there should be no organizational membership. However, we recognized that for communications purposes there is a need for an identifiable list of any organizations interested in amateur sports. The organizations can be considered affiliates of the National Amateur Sports Development Foundation.

The second question concerned the use of the Sports Foundation's allocation of resources as a force for restructuring amateur sports. The position taken was that the Sports Foundation will allocate resources to serve as a catalyst for development of amateur sports programs at all levels. It is envisioned that at least 75 percent of the funds will go to program development when the foundation reaches full operation.

The third question concerned the role of arbitrator of disputes. The position taken was the National Amateur Sports Development Foundation should first serve as a catalyst to bring groups together to solve their own problems." This does not imply that the foundation cannot be used as an arbiter in certain circumstances. Moreover, I also note that the bill provides that the foundation can request additional legislation or can appoint an outside arbitration commission if it wishes.

So, in conclusion, what I wish to stress is that this bill incorporates many of the sound ideas that you gentlemen have presented. It forms a permanent body that can become educated and really understand the problems of amateur sports and serve to put out the fires as they occur every year and every day. The Foundation should have visible widespread Federal recognition and thus the ability to, we think, be a very convincing and forceful instrument in solving disputes which occur and more importantly to improve the quality of participation and the performance of athletes in amateur sports.

I thank you.

Mr. O'HARA. Thank you very much, Mr. Oliver. We appreciate your testimony and we know we have just heard from someone who has given this a good deal of thought and has been working on it for a number of years and has had interest for a long time and for that reason we consider your testimony especially valuable, but what you would propose in essence is that we take the proposal that you had last year, the proposal you came up with some time ago, the NASDF and expand it by adding some regulatory and arbitration funds; is that correct?

Mr. OLIVER. If need be, yes.

I would like to say that, if you don't mind me interrupting for this one point, that my approach is this: You have put both organizations on notice that insofar as Congress, or at least the House of Representatives is concerned, there will be no more toleration of this dispute and particularly of its impact on the athletes.

Essentially, what I would like to propose is giving them one last chance and saying, "An arbitration board or a regulatory agency really is going to come next unless they can solve the disputes themselves, but, first, we are going to give you the carrot."

Mr. O'HARA. Right.

Would you have any objection, Mr. Oliver, to enactment of a rather simple direct bill which would sort of be a partial disarmament of all of this such as 5623?

Mr. OLIVER. That is right, sir. I have no personal objections, nor I am sure does General Gavin. It is only the questions which we raised concerning the bill's drawbacks.

Mr. O'HARA. With respect to that, I have already addressed myself to the enforcement question, but with respect to the constitutional question, I think that perhaps it would be well to insert in the bill some of our congressional findings which establish that we are acting under the power given to the Congress by the Constitution to regulate commerce among foreign nations and among the States.

It is very clear, of course that the use of this eligibility weapon is the burden on that commerce and inhibits commerce in this sense from taking place. So I personally, although I am not going to question the point that has been raised, I personally have no qualms about the Congress and what we are doing.

Mr. PEYSER, any questions?

Mr. PEYSER. Thank you, Mr. O'Hara. I certainly appreciate the testimony that Mr. Oliver has given us this morning because I think it is very detailed and very thought out and he is probably more experienced than any of us on the committee in dealing with this matter. I certainly think we are going to have to give serious thought to the recommendations you are making and I am sure we will.

I would like to call on your expertise, though, and background in the field on one of the questions I had raised this morning and perhaps you have a further insight on this which would be very worthwhile for us to hear and this is the question of ability of an organization such as the NCAA, to use other than the pure eligibility situation to bring pressures on the school.

Have any of your studies turned up any situations that would lead you to believe that those, let's say, subtle pressures can be made?

Mr. OLIVER. Let me first say that the method of approach in our studies, in both the U.S. Olympic Committee study and the study for President Johnson, was simply to interview people more knowledgeable than ourselves in amateur sports, throughout the world, not only in the United States. We attended the Olympic games and talked to people throughout the world.

So our method of research was to listen to both sides, to the extreme elements as well as the moderate elements, and to form our own conclusion, for which we take full responsibility. So I will have to answer your question and say "Yes" in interviewing various athletes and athletic directors and coaches and volunteer administrators in sports, that many incidents came to our attention where subtle pressures are brought to bear by both organizations.

I won't point a finger of blame at any one, but Mr. Emery this morning cited some very good examples, the television committee of the NCAA, for example.

We did a study for Holy Cross College 3 years ago concerning the role of athletics in a liberal arts college. They were questioning what to do with athletics in their college. Should they drop football? Should they deemphasize or should they emphasize? Part of the procedures in that study was to talk to about five other colleges whom they looked up to either academically or athletically and direct evidence came out of those schools.

First of all, the basic finding is if you don't have a good football or basketball program, you can't support other sports, because football and basketball are usually the only moneymakers.

Second, television provides the biggest income in these sports except for a few colleges who have large stadiums and can attract, particularly in the South, large audiences to fill their stadiums. But for the other colleges, particularly Eastern colleges, television income represents over half of the income derived from football or basketball. So the ability to tell a school by one rationale or another that they are not going to be televised next year has a tremendous clout.

There are other subtle pressures. I believe, although anyone can call an investigation of a college, an investigation can also be called at the very top of the NCAA. I am picking this organization because these are clear-cut examples. Essentially I will say this, that having studied athletic programs in many colleges, everyone has some dirt under the rug.

If you want to call an investigation you just have to scour around a little and you will find someone has made an infraction of the rules at some point in time. Many colleges cannot control the actions of their alumni. The alumni are individual sports fans and do things outside the rules and really outside the control of the athletic department of

the school and those things are infractions and can always be found if you call an investigation. You can always find dirt.

Mr. PEYSER. So you would feel then that just the limitation of the so-called eligibility alone would not necessarily serve the purpose of keeping either athletic body of the two we happen to be talking about from exerting other influences to gain the specific results they want?

Mr. OLIVER. Exactly right.

Mr. PEYSER. Mr. Oliver, I really once again want to thank you because I think you have rendered an excellent service in your testimony, what you had to say and I appreciate your being here.

Thank you and thank you, Mr. Chairman.

Mr. OLIVER. Well, I think you did answer the other question I posed to Mr. O'Hara, and that is the only additional point I want to make.

Mr. PEYSER. Yes; Mr. Oliver, do you happen to know what committee of the Senate, S. 4038 was referred to?

Mr. OLIVER. Judiciary Committee and also it will be referred to the Judiciary Committee in the House since it requires a Federal charter. It will be reintroduced to that committee or referred to that committee this April.

Mr. O'HARA. Sometime next month, but you don't know just when.

Mr. OLIVER. That is right, my secretary seems to think it is the 19th.

Mr. O'HARA. Well, your secretary went to the last day of the month that she could have gone and still found the Congress in session, because we will not be in session over the following 10 days.

Mr. OLIVER. I am glad you noted that and I think it was a message from on high that I got.

Mr. O'HARA. The Easter recess begins at the close of business on the 19th. Thank you very much, Mr. Oliver. That concludes today's hearing. We will meet at 10 a.m. on Monday, April 2, next Monday, downstairs in room 2175, at which time we will hear from Association, the athletic director and track coach from Princeton University, and executive secretary of the National Federation of State High School Associations and a representative of the U.S. Gymnastic Federation.

Thank you.

[Whereupon, at 11:45 a.m. the subcommittee recessed, to reconvene at 10 a.m., Monday, April 2, 1973.]

PROTECTION OF COLLEGE ATHLETES

MONDAY, APRIL 2, 1973

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

The subcommittee met at 10 a.m., pursuant to recess, in room 2175, Rayburn House Office Building, Hon. James G. O'Hara (chairman of the subcommittee) presiding.

Present: Representatives O'Hara, Dellenback, Peysner, Esch, Kemp, and Burton.

Mr. O'HARA. The Special Subcommittee on Education of the House Committee on Education and Labor will come to order.

Today is the last of six scheduled hearings on H.R. 5623 and H.R. 5624.

The first of this series of hearings was held on March 19. Two weeks prior to that, on March 5, this subcommittee heard testimony with regard to the just issued declaration by NCAA that the coaches and students at least under its jurisdiction were not permitted to participate in the U.S. tour of the Soviet Union's National Basketball Team that is to begin near the end of this month. Witnesses from the AAU and NCAA were heard March 5.

H.R. 5623 and H.R. 5624 were introduced March 14, 1973. Notwithstanding that we had recently heard from the AAU and the NCAA, we wished to have them back to give us their views on the two bills. The AAU representatives returned to testify on March 19.

Our first witnesses this morning are National Collegiate Athletic Association representatives.

The subcommittee's invitation to the NCAA was addressed to Mr. Walter Byers, executive director of the association, and I understand he is here. He has been with the NCAA since 1947. He became the NCAA's first full-time executive director in 1951, and has held that position ever since.

Before going to work with the association, he was a reporter with the United Press International following his graduation from the University of Iowa in 1943.

There are several gentlemen accompanying Mr. Byers: Mr. Chapman, president of the NCAA, Mr. Richard P. Koenig, secretary-treasurer of the NCAA, Mr. Thomas Hansen, who testified here on March 5, the assistant executive director of the NCAA, and Mr. Donald B. Canham, director of athletics of the University of Michigan.

Both Mr. Canham and Mr. Byers are representatives of the NCAA on the United States to the Track and Field Federation.

Will you please take your seats at the table and the subcommittee will be pleased to hear from you.

STATEMENT OF WALTER BYERS, EXECUTIVE DIRECTOR, NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, ACCOMPANIED BY ALAN J. CHAPMAN, PRESIDENT, NCAA; RICHARD P. KOENIG, SECRETARY-TREASURER, NCAA; THOMAS HANSEN, ASSISTANT EXECUTIVE DIRECTOR, NCAA; DONALD B. CANHAM, DIRECTOR OF ATHLETICS, UNIVERSITY OF MICHIGAN; AND SAMUEL E. BARNES, PROFESSOR OF HEALTH AND PHYSICAL EDUCATION, DISTRICT OF COLUMBIA TEACHERS COLLEGE

Mr. O'HARA. Perhaps for the members of the committee and the clerk, you could identify yourselves from left to right or, Mr. Byers, you could introduce those accompanying you.

Mr. Byers. Mr. Chairman, we will be happy to do that.

On my immediate right is Alan Chapman. His position at Rice University has been identified. He has been a noted authority in his field and primary consultant to NASA for the past 5 years, and faculty representative from Rice University to the NCAA for the past 10 years. He is a former outstanding track athlete as an undergraduate at Rice.

On his right is Dick Koenig, our secretary-treasurer, vice president at Valparaiso University, a highly successful athlete and coach at the university.

On my left is our immediate past secretary-treasurer, Samuel E. Barnes, who for a number of years was a highly successful athletic director at Howard University in this city. He is now a member of the faculty at District of Columbia Teachers College.

Mr. Chairman, there are other representatives of educational institutions in the room. I recognize that they are not on the witness list and not entitled to testify. However, they are here because of their concern about what many of us feel has been inaccurate information and misconceptions which have been presented to your committee, and I wonder if it would be in order, Mr. Chairman, to introduce them. They stand ready to answer any questions you may have.

Mr. O'HARA. We would be happy if you would do that.

Mr. Byers. They can acknowledge the introduction by standing or raising a hand, so you can identify them.

Robert C. James is the commissioner of the Atlantic Coast Conference. He is chairman of the NCAA Extra Events Committee. He was, previous to his ACC assignment director of inter-collegiate competition in college athletics at the U.S. Air Force Academy, and was an outstanding athlete at the University of Maryland in undergraduate days.

You have referred to Don Canham, who is to my left. He is director of athletics at the University of Michigan, and a former coach. He was an NCAA champion as an undergraduate, and he has taken track teams to all parts of the world. He is executive director of the U.S. Track Coaches Association.

Col. Jack Stephens is the assistant athletic director at the University of Notre Dame. He retired after 30 years' service in the U.S. Army and joined the staff at Notre Dame and became assistant director at that university.

Harry Fritz, professor and director of physical education at the State University of New York, Buffalo, had a long, distinguished career prior to that at Western Illinois University, and he is a leader in matters of physical education and athletic management.

H. Boyd McWhorter has been a member of the faculty at the University of Georgia for 24 years. He was professor of English and dean of the College of Arts and Sciences at that university, and then became commissioner of the Southeastern Athletic Conference just this past year.

Harvey Chrouser is the athletic director of Wheaton College. He was one of the most successful football coaches in the history of the college division of the NCAA. He is now athletic director and chairman of the health education and recreation department.

Bob Calihan, a member of the faculty for 25 years at the University of Detroit. For 21 of those 25 years, he has been head of basketball at that institution, and a professor in the department of physical education and athletics.

These gentlemen are a cross section of the educational institutions of the whole membership in the NCAA, and I hope, if you have any particular information you would like to solicit from them, you will do so.

Mr. Chairman, we have a statement here, and some exhibits. All these exhibits were not ready at the time our statement was done, but we have, I believe, distributed the exhibits to you. We would like to submit those exhibits for the record, as we think that all this information, Mr. Chairman, is most relevant and pertinent to not only the bills which are before the subcommittee, but because we think it is important for this subcommittee to obtain a better grasp of amateur athletics, also pertinent to the administration of amateur athletics, and what makes the whole thing go.

With your permission, I would like to go through this statement and highlight pertinent points, introduce exhibits, and then we stand ready to answer any questions you might have.

Is that agreeable?

Mr. O'HARA. That is certainly agreeable.

Mr. BYERS. Let me say at the outset that we regret exceedingly that the issue before this subcommittee seems no longer to be a pursuit of a solution to the amateur sports problem or the proposed Russian basketball tour.

The issue at this point in time is the propriety of the Federal Government interfering in the management of the institutions of higher education in this Nation, specifically by Federal edict telling our university executives and faculties that they no longer shall have institutional autonomy in the management of their affairs and the contracts they execute with their employees.

We will return to that point in the statement, and as indicated in the outset of the statement, we come here in a spirit of cooperation. We think it would be a dereliction of our responsibilities as citizens if we did not at this time offer a suggested course of action which we think will be most effective in solving the dispute that obviously concerns you, and deeply concerns us, and solving the dispute by a means which

will effect the absolute minimum of Federal interference in the affairs of private organizations.

First, we do have some points we feel must be made for the record, because the record, Mr. Chairman, was rather extensive before we got here.

On the first page of the prepared statement, we remark that we think it is unfortunate that other amateur sports bodies have not been required to justify their practices and their rules in the manner that the NCAA has been required to justify its procedures.

We are happy to justify our rules. We think that they are educationally sound. We do make the point that it is unfortunate that other amateur sports bodies have not been required to do the same thing.

On the bottom of page 1 and the top of page 2 we outline six areas we would like to cover in this statement.

We feel that the committee has received inaccurate information, sometimes intentionally misleading information. Items 1, 2, 3, and 4 are an effort to try to correct the record, and to present to the committee a better perspective.

On page 2, the point is made that the colleges of the NCAA conduct the most respected amateur sports program in the world. For example, the colleges each year turn out superbly skilled athletes who populate the professional football leagues that are now spread from coast to coast. They move directly into starting roles.

The same story is found in basketball, where the superstars of the ABA and NBA are the former superstars of previous years at NCAA colleges, and these athletes, as you know, command substantial salaries.

If you will study the successes that our Olympic basketball teams have accomplished throughout the history of the games, you will find that the NCAA college athletes are the performers who have made U.S. basketball teams successful in Olympic competition, until the unfortunate incident in Munich, and we lay some of that—this is an irrelevant observation, but I hope some day somebody will look at it—we lay that to the inability of the U.S. Olympic Committee to persuade some of our finest athletes to represent the U.S.A. in Olympic competition. We think that interested bodies should look into why that situation exists.

Going on to page 3, speaking to track and field, the U.S. citizens, 22 of them, hold or share world track and field records.

I am going to ask Mr. Hansen to give a listing of those records to the recorder, if that is agreeable, so you will have a listing of the world records and who holds them.

Mr. O'HARA. Without objection, that will be inserted in the record at the appropriate point.

[Listing follows:]

WORLD RECORDS

Event	Record	Holder and nation	Site	Date
100 yard	9.1st	Bob Hayes (United States)	St. Louis, Mo.	June 21, 1963
	9.1	Harry Jerome (Canada)	Edmonton, Alberta	July 19, 1966
	9.1	Jim Hines (United States)	Houston, Tex.	May 13, 1967
	9.1h	Charles Greene (United States)	Provo, Utah	June 15, 1967
100 meter	9.1	John Carles (United States)	Fresno Calif.	May 10, 1969
	9.9s	Jim Hines (United States)	Sacramento, Calif.	June 20, 1968
	9.9s	Ronnie Ray Smith (United States)	do.	Do.
	9.9s	Charles Greene (United States)	do.	Do.
	9.9	Jim Hines (United States)	Mexico, City	Oct. 14, 1968
200 meter	9.9	Eddie Hart (United States)	Eugene, Oreg.	July 1, 1972
	9.9h	Ray Robinson (United States)	do.	Do.
	19.8	Tommie Smith (United States)	Mexico, City	Oct. 16, 1968
220 yard	19.8	Don Quarrie (Jamaica)	Coli, Colombia	Aug. 3, 1971
	20.0	Tommie Smith (United States)	Sacramento	June 13, 1968
400 meter	43.8	Lee Evans (United States)	Mexico, City	Oct. 19, 1968
440 yards	44.5	John Smith (United States)	Eugene, Oreg.	June 26, 1971
800 meter	1:44.5	Peter Snell (New Zealand)	Christchurch, New Zealand	Feb. 3, 1962
	1:44.5	Ralph Doubell (Australia)	Mexico, City	Oct. 19, 1968
880 yards	1:44.5	Dave Wottle (United States)	Eugene, Oreg.	July 1, 1972
	1:44.8	Jim Ryan (United States)	Terre Haute, Ind.	July 10, 1968
	2:16.2	Jürgen Mey (East Germany)	Erfurt, East Germany	June 20, 1965
1,000 meter	2:16.2	Franz-Josef Kemper (West Germany)	Hanover, West Germany	Sept. 21, 1968
	2:16.2	do.	do.	Do.
1,500 meter	3:33.1	Jim Ryan (United States)	Los Angeles	July 8, 1967
Mile	3:51.1	do.	Bakersfield Calif.	June 23, 1967
	4:58.2	Michel Jazy (France)	St Maur, France	Oct. 12, 1968
2,000 meter	6:20.8	Anders Gardarud (Sweden)	Helsinki	Sept. 14, 1972
Steeplechase	7:57.8	Emiel Puttemans (Belgium)	Stockholm	Aug. 14, 1972
3,000 meter	9:14.0	Lasse Viren (Finland)	Stockholm	Aug. 14, 1972
2 mile	12:47.8	Emiel Puttemans (Belgium)	Brussels, Belgium	Sept. 20, 1972
3 mile	13:19.0	do.	do.	Do.
500 meter	26:47.8	Ron Clarke (Australia)	Oslo, Norway	July 14, 1965
6 mile	27:30.4	Lasse Viren (Finland)	Munich	Sept. 3, 1972
10,000-meter	13:07	Rod Milburn (United States)	Eugene, Oreg.	June 25, 1971
120-yard high hurdle	13.2	Martin Lauer (West Germany)	Zurich, Switzerland	July 7, 1959
110-meter high hurdle	13.2	Lee Calhoun (United States)	Bern, Switzerland	Aug. 21, 1960
	13.2	Earl McCullough (United States)	Minneapolis, Minn.	July 16, 1967
	13.2	Willie Davenport (United States)	Zurich, Switzerland	July 4, 1969
400-meter long hurdle	13.2	Rod Milburn (United States)	Munich	Sept. 7, 1972
	47.8	John Akil-Bus (Uganda)	do.	Do.
440-yard long hurdle	48.8	Ralph Mann (United States)	Des Moines, Iowa	June 20, 1970
Marathon	2:04:39.8	Derek Clayton (Australia)	Antwerp, Belgium	May 30, 1969
20-kilometer walk	1:25:50.0	Peter Frenkel (East Germany)	Erfurt, East Germany	July 5, 1970
	1:25:19.4p	do.	do.	June 23, 1972
50-kilometer walk	1:25:19.4p	Hans-Georg Naimann (East Germany)	do.	Do.
	4:03:42.8	Venjamin Soldatenko (Soviet Union)	Moscow	Oct. 5, 1972
High Jump 2.29	7-8¼	Pat Matzderf (United States)	Berkeley, Calif.	July 3, 1971
Polevault 5.63	18-5¼	Bob Beamon (United States)	Eugene, Oreg.	July 2, 1972
Long Jump 8.90	29-2¼	Bob Beamon (United States)	Mexico City	Oct. 18, 1968
Triple Jump 17.44	57-2¼	Viktor Saneyev (Soviet Union)	Sukhumi, U.S.S.R.	Oct. 17, 1972
Shotput 21.78	71-5¼	Nendy Matson (United States)	College Station, Tex.	Apr. 22, 1967
Discus throw 68.40	224-9	Jay Silvester (United States)	Reno, Nev.	Sept. 18, 1968
	224-9	Ricky Bruch (Sweden)	Malmö, Sweden	July 5, 1972
Hammer throw 76.40	250-8	Walter Schmidt (West Germany)	Lair, West Germany	Sept. 4, 1971
Javelin throw 83.00	307-9	Janis Lusis (Soviet Union)	Stockholm	July 5, 1972
Decathlon	8454	Nikolay Avilov (Soviet Union)	Munich	Sept. 8, 1972
400-meter relay	38.2	United States	Mexico City	Oct. 20, 1968
	38.2	do.	Munich	Sept. 10, 1972
440-yard relay	38.6	Southern California	Provo, Utah	June 17, 1967
1,600-meter relay	2:56.1	United States	Mexico City	Oct. 20, 1968
Mile relay	3:02.8	Trinidad-Tobago	Kingston, Jamaica	Aug. 13, 1968

Mr. BYERS. Those records were set by NCAA undergraduates or former NCAA students who were competing immediately after college graduation.

Going on, foreign coaches from all over the world visit the colleges of this Nation to find out how we do it, study our facilities, training techniques, medical supervision, and coaching skills.

Our coaches are in constant demand for State Department sponsored tours to provide better teaching techniques and knowledge to nations in all corners of the globe.

Two particular sports are of concern today to this subcommittee—basketball and track and field. My remarks, in the main, will be directed to them. And if you have inquiries on any other sports, I hope you will ask us.

The AAU doesn't have a meaningful program in either sport. I defy anyone to name an AAU basketball team which plays a regular schedule, has a regular playing site, and hires a coach full time.

In track and field, where are the AAU track teams? Where can you find a track team managed by the AAU with a full time track and field coach, with competitors on their team, and a regular schedule?

I think the point we want to emphasize at this juncture is that an organization that has no program assumes carte blanche authority to schedule international competition in a very inadequate fashion—without regard to any of the other interests in amateur sports today. Much of the embarrassment and difficulties that result can be laid to that fact.

At the top of page 4, the AAU has no program for the college dropout or the boy not going to college.

I hope you will remember that point.

The AAU should be concerned about the boy that can't benefit from the college program, but where is the program for that boy? A great segment of our young people are not being served.

They are adequately being served by the college program which is the fountainhead of U.S. athletic might in this country.

But the boy who is not fortunate enough to go to college has nobody looking out after him.

We consider that one of the weaknesses of your subcommittee's approach to the problem. We will come back to that later.

Now, as to the NCAA as to item No. 2: NCAA was created in 1906 by 13 eastern colleges. It is a creature of the colleges. It only does what the colleges direct it to do.

It is a voluntary, nonprofit, educational organization composed of 770 members at the present time.

The statistics are there before you. The membership provides competition for almost 200,000 athletes each year in 23 different sports. Our members spend over \$230 million a year on intercollegiate competition.

This does not embrace intramurals and physical education. We are talking of solely competitive intercollegiate athletics, and spend over \$230 million in those programs, and subsidize the annual outlay by almost \$23 million.

What I am saying is that at the time that higher education is beset by probably the most severe financial crisis in its history, the management of our institutions think well enough of this program that they

will subsidize it by almost \$23 million, because they think it is a valuable experience in the institutional conferences, and NCAA legislation keeps that program within basic educational concepts.

With your permission, I would like to introduce—I believe you have this—the roster of NCAA members.

It is provided from a non-NCAA source, so it is not just a house publication.

[The document referred to is, "Roster of NCAA Members," a reprint of information taken from "The Blue Book of College Athletes for 1972-73." The document is filed in the office of the Special Subcommittee on Education, where it is available for inspection.]

Mr. BYERS. We want you to leaf through there and look at the number of institutions. It tells about the enrollment, their coaches, their facilities.

We think it would be interesting if other amateur sports organizations would give you a roster of their coaches and their programs. I would hope the committee would ask for a comparable submission for the record.

Going on, sir, on page 5, the NCAA, as I indicated, is a voluntary organization of institutions. No institution is required to belong to it. Any member or group of members is free to resign from it.

NCAA policies are determined by delegates voting in annual convention, and those delegates are appointed by the chief executive officer of the university.

If I may submit this as an exhibit, we think this is a piece of evidence you should be aware of.

Mr. O'HARA. It will be entered in the record at this point.

[The document referred to follows:]

The National Collegiate Athletic Association

Sixty-Seventh Annual Convention
Chicago, Illinois, January 11-13, 1973

NOTICE OF APPOINTMENT OF DELEGATES

YALE UNIVERSITY

Name of Institution

ACCREDITED DELEGATES (not more than 3 to be named)

(Director of Athletics,
Voting Delegate: DeLaney Kiphuth (Physical Education and Recreation)
Name Academic Title

Alternate: James G. Hoicote, Associate Director
Name Academic Title

Alternate: David B. Smoyer, Associate Director
Name Academic Title

VISITING DELEGATES (any number to be named)

Alfred Fitt, Special Advisor, Office of The
Name President Academic Title Athletics,

Carmen Cozza, Acting Director, Physical Educa-
Name tion and Recreation Academic Title

Name

Academic Title

Kingman Brewster, Jr.

Name of Appointing Officer

Kingman Brewster, Jr.
President

Academic Title

The National Collegiate Athletic Association

Sixty-Seventh Annual Convention
Chicago, Illinois, January 11-13, 1973

NOTICE OF APPOINTMENT OF DELEGATES

PURDUE UNIVERSITY

Name of institution

ACCREDITED DELEGATES (not more than 3 to be named)

Voting Delegate: Roy L. Whistler, Professor of Biochemistry

Name

Academic Title

Alternate: George S. King, Jr., Director, Division

Name

Academic Title

of Intercollegiate and Intramural

Alternate:

Name

Academic Title

Athletics

VISITING DELEGATES (any number to be named)

Name Academic Title

Name Academic Title

Name Academic Title

Arthur Hanson
Name of Appointing Officer

President

Academic Title

The National Collegiate Athletic Association

Sixty-Seventh Annual Convention
Chicago, Illinois, January 11-13, 1973

NOTICE OF APPOINTMENT OF DELEGATES

University of Arkansas
Name of Institution

ACCREDITED DELEGATES (not more than 3 to be named)

Voting Delegate: Albert M. Witte Professor of Law
Name Academic Title

Alternate: George Cole Director of Athletics
Name Academic Title

Alternate: Frank Broyles Head Football Coach
Name Academic Title

VISITING DELEGATES (any number to be named)

Name Academic Title

Name Academic Title

Name Academic Title

David W. Muller
Name of Appointing Officer

President, University of Arkansas
Academic Title

The National Collegiate Athletic Association

Sixty-Seventh Annual Convention
Chicago, Illinois, January 11-13, 1973

NOTICE OF APPOINTMENT OF DELEGATES

University of California, Berkeley

Name of Institution

ACCREDITED DELEGATES (not more than 3 to be named)

Voting
Delegate: Professor Robert Steidel
Name Academic Title

Alternate: David Maggard Athletic Director
Name Academic Title

Alternate: Jane Kirksey Adm. Serv. Ofr.
Name Academic Title

VISITING DELEGATES (any number to be named)

Name Academic Title

Name Academic Title

Name Albert H. Bowker Academic Title
Albert H. Bowker
Name of Appointing Officer

Chancellor
Academic Title

ARTICLE 5, SECTION 6**MEETINGS**

(a) There shall be an annual Convention of this Association during the second week of January, or at such other time as may be prescribed by the Executive Committee.

(b) Special meetings of the Association shall be called by the President on the written request of twelve or more members of the Council.

(c) One hundred active members represented as prescribed in this Constitution shall constitute a quorum for the transaction of business of the Association.

(d) Each active and allied member shall be entitled to one vote and may be represented at the annual Convention and at special meetings by one to three accredited delegates.

(e) Each associate and affiliated member shall be entitled to one delegate without voting power.

(f) Member and non-member institutions are authorized to send visiting delegates who shall be without voting power and shall not actively participate in the business proceedings of the Association.

(g) The certification and voting of delegates shall be conducted as follows:

(1) Delegates shall be certified to the secretary as entitled to represent the member in question by the proper executive officers of their institutions or organizations.

(2) In case an active or allied member is represented by more than one delegate, it shall designate the delegate entitled to cast its vote.

(3) The same delegate may represent both an active and an allied member.

(4) No delegate shall represent any active or allied member unless he is actually identified with such member.

(5) Whenever the Association votes by roll call, either written or viva voce, on any question, on demand of any delegate the names of delegates as they vote shall be checked by the Committee on Credentials in order to verify the authority of the voter.

(6) Voting by proxy shall not be allowed.

Mr. Brens. I believe we have five institutions as examples, and the appointment of delegates appointed to vote at the 1973 NCAA convention.

We have something like 450 more of these, if you don't think this is an adequate random sample.

We topped the list by Yale University just to show you gentlemen, contrary to what impression may have been left earlier, President Brewster of Yale appoints the delegates to our convention, and they are well represented with five delegates.

You can go through these other institutions and see the presidents' signatures.

These delegates come to our convention after meetings of the athletic board of their institutions, on which all the institutions with which I am familiar have student representation, meetings of the faculty of their institutions, and frequently meetings of conferences, to discuss in great depth at the institutional and conference level the issues that are going to be considered at the convention, and then the delegates come to vote.

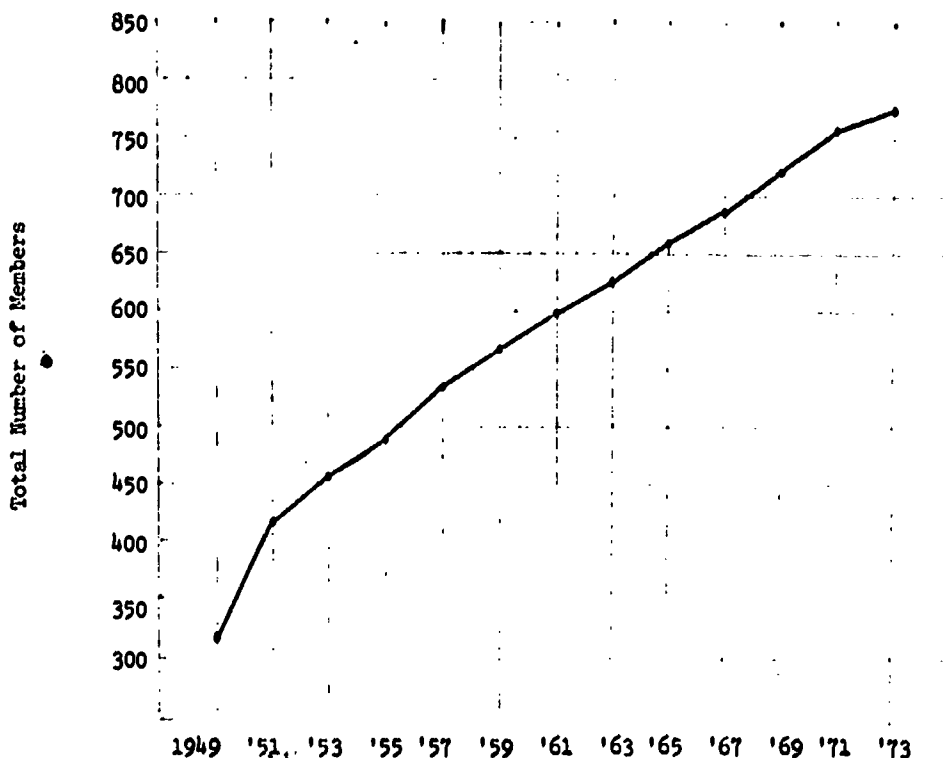
I have another exhibit, Mr. Chairman, having to do with the NCAA growth, this chart here, which I would ask to be accepted for the record.

Mr. O'HARA. Without objection, so ordered.

[The exhibit referred to follows:]

BEST COPY AVAILABLE

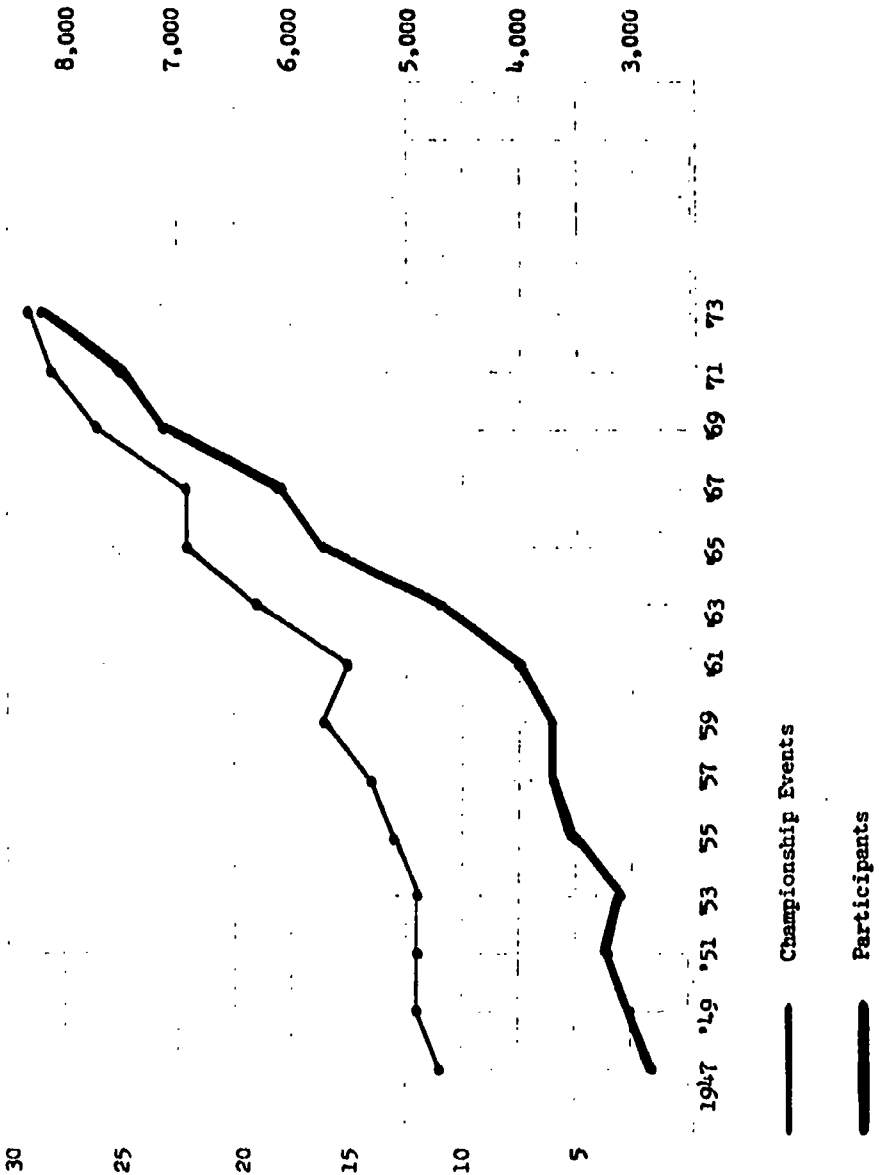
NCAA MEMBERSHIP GROWTH, 1949-1973



Year	Institutional members	Organizational members	Total
1949	306	11	317
1951	392	23	415
1953	426	30	456
1955	454	35	489
1957	496	35	531
1959	521	46	567
1961	547	52	599
1963	566	57	623
1965	597	62	659
1967	624	68	692
1969	656	75	731
1971	689	75	764
1973	695	75	770

Participants

GROWTH IN NCAA CHAMPIONSHIP EVENTS, 1947-1973



Mr. BYERS. Our point here is the NCAA membership has increased since 1949 by 142.9 percent. The chart reflects that increase.

The colleges and universities must be satisfied with the way the NCAA operates, and they must value the services of the NCAA, or they wouldn't enroll in the organization, it doesn't seem to me, in such great numbers.

There is no scheduling requirement which precludes NCAA colleges from competing with nonmembers. You don't have to belong to the NCAA to get a schedule.

At the top of page 6, gentlemen, I think this is critical to an understanding of the problem. I am going to read it verbatim, if I may.

"To understand the problems which we face"——

Mr. Chairman, let me interject this: nobody is more tired, or more upset by the dispute in amateur sports than the NCAA. We are totally committed to finding an equitable solution for the students, at least, and the college that makes the program go.

We are not interested in any degree in prolonging this dispute, but we think equity should be a part of the solution, so that we can have the best program in the United States, so our best athletes and our best teams are brought together with the best logistic support to represent this country in international competition.

I think this paragraph is critical to an understanding of the basic problem.

Excuse me for interpolating there. I did want to make that point.

The NCAA authority is solely that given to it by its membership institutions voting in convention assembled. The AAU authority, on the other hand, does not flow upward from those it seeks to govern, but rather it is imposed downward upon those whom it attempts to govern. Its authority stems from certain international rights it acquired by historical accident around the turn of the century.

The AAU feels it can keep its foreign-dispensed authority secure only if it displays to the international governing sports body that it is in control of the sports concerned in the United States.

Please bear in mind the AAU seeks to exercise its control by permitting or preventing athletes from competing in international competition, since it has lost virtually all its other controls it previously attempted to exercise over domestic competition.

Now, our rules and regulations have three fundamental purposes.

And sometimes, Mr. Chairman, I have had the feeling that you think—I don't mean to personalize that—I think the subcommittee has the feeling that sometimes when a coach comes here to speak, he speaks for the NCAA, he is an NCAA spokesman.

That is not correct. He may speak his personal views, or the views of the coaching association to which he belongs. But the NCAA viewpoints are those by the presidentially designated representatives, sometimes elected by the faculty, and sometimes appointed by the president.

A great many of our rules, I would say a substantial majority of our rules, are designed to protect the student at least from encroachment upon his time and institutional obligations by the coach or outside promoters. They are protective rules, designed by people concerned with his education.

Secondly, many of our rules are designed to keep the sports activity under appropriate educational boundaries.

We limit the playing season, we limit the practice times, we limit how many times the coach can call the squad together for pictures, or things like that.

Given a free rein, a coach in basketball would have the boy dribbling the ball 365 days a year, and the skilled promoter would have the superstar in every meet he could rent an auditorium for, if there were not some restraints.

Those restraints can only be effective if institutions are bound together commonly, because of the recruiting and scheduling pressures, which I will be happy to discuss with you.

Finally, we have a third point in our rules. That is to maintain the college program, a perfectly legitimate function of educational institutions, to maintain our programs, which makes all this wonderful world of sports possible, and also to maintain some reasonable equity in matters of academics and athletics between institutions when they take the field or floor to compete between or among themselves.

Now, on pages 7 and 8, gentlemen, we want to point out to you that the extra events program of the NCAA, a program generally to inspect outside competition, is not a new program.

It was originated in 1948 because of the educational concern caused by the great increase in number of postseason football games.

Later, it was expanded into basketball as basketball became more popular and there were problems with outside promoters in that sport.

It was extended into track and field and gymnastics.

It is not extended willy-nilly to fight another organization. You don't find swimming there. Swimming is not a problem.

To leave the impression that these regulations are for organizational aggrandizement is wrong. They are not weapons against the AAU. They are used only to prevent disruption of academic programs and pressures on the athlete.

If outside promoters want exceptions to the rules, these exceptions are granted, if the competition meets proper standards.

On page 8, I point out these rules. The basketball coaches have wanted modification for 3 years in a row on the out-of-season basketball rule, and for 3 years in a row, the delegates have turned them down.

Our institutions have frequently had an opportunity to examine the merits of our regulation of out-of-season basketball competition. Even though their coaches' association wants relaxation, the management says no, that basketball should be controlled in the manner it has been.

Likewise in track and field. Track and field legislation was put in approximately 8 years ago, and 3 years ago the membership adopted a constitutional amendment—which requires a two-thirds vote—to strengthen that legislation.

It was not done to strengthen it in terms of the AAU inviting the Russian team to the United States. It was done on the principle the rule needed further clarity and meaning.

We have considerable reservations, gentlemen, as to whether the Congress should attempt to substitute its judgment for the wisdom of college presidents, faculty members, and athletic directors appointed to vote for their institutions on matters affecting the welfare of those students who engage in high-pressure athletics.

Going to page 9, gentlemen, the problem which prompts you to spend a great amount of your valuable time on this issue was caused by the AAU.

We assert in the strongest terms possible that they are solely and exclusively responsible for the problem, and it would have been quite a simple procedure if they would have been willing to proceed according to the same policies that many, many other outsiders follow.

If they had followed those procedures, if they had told us of their contract when it was executed, and gone through the essential notification, there would not have been a problem.

The extra events committee of this association annually certifies approximately this number of events: 12 postseason football games, 37 track and field meets, 11 gymnastics meets, 23 college all-star football and basketball games, and, in addition, through comparable machinery, we certify approximately 59 high school all-star football and basketball games.

We have, Mr. Chairman, a listing of these events. We think it is important for the record, if you will accept it. It is a wide variety of organizations and citizens scattered throughout these United States. Whether you want to talk about the Rose Bowl, the Orange Bowl, or Sugar Bowl, whether it is the Lions Club, Sertoma, Red Cross, all these organizations have no problem in following the procedures prescribed by the extra events committee.

We think it is ironic that the AAU sets itself above all the other organizations of this country, and sets itself above the college rules, and chooses to ignore them, and foments this type of unnecessary crisis.

If it is agreeable, may we put this in the record?

Mr. O'HARA. Without objection, it is so ordered.

[The document referred to follows:]

CERTIFIED POSTSEASON FOOTBALL GAMES—1972

- Astro Bluebonnet Bowl: Greater Houston Bowl Assn., Houston, Texas, December 30, 1972.
 Cotton Bowl: Cotton Bowl Athletic Assn., Dallas, Texas, January 1, 1973.
 Fiesta Bowl: Arizona Sports Foundation, Phoenix, Arizona, December 23, 1972.
 Gator Bowl: Gator Bowl Assn., Inc., Jacksonville, Florida, December 30, 1972.
 Liberty Bowl: Liberty Bowl Festival, Memphis, Tennessee, December 18, 1972.
 Mideastern-Southwestern Bowl: Mideastern-Southwestern Conference, New Orleans, Louisiana, December 2, 1972 (Renamed Pelican Bowl—Played at Durham, North Carolina).
 Orange Bowl: Orange Bowl Committee, Miami, Florida, January 1, 1973.
 Peach Bowl: Peach Bowl, Inc., Atlanta, Georgia, December 29, 1972.
 Sugar Bowl: New Orleans Mid-Winter Sports Assn., New Orleans, Louisiana, December 31, 1972.
 Sun Bowl: Southwestern Sun Carnival Assn., El Paso, Texas, December 30, 1972.
 Tangerine Bowl: Tangerine Sports Assn., Inc., Orlando, Florida, December 29, 1972.

CERTIFIED OUTSIDE TRACK AND FIELD MEETS—1972

- Border Olympics: Border Olympics, Inc., Laredo, Tex., March 3-4, 1972.
 Freedom Games: Southern Christian Leadership Conf., Philadelphia, Pa., May 14, 1972.
 Annual Orlando Invitational: U. of Fla. & Orlando Track Club, Orlando, Fla., Mar. 4, 1972.
 CSTFF Nat'l Championship: Wichita State, Wichita, Kans., May 26-27, 1972.
 Bakersfield Invitational: Chamber of Commerce & Bakersfield Col., Bakersfield, Calif., May 20, 1972.

- Coliseum Classic: So. Calif. Sports Asso., Los Angeles, Calif., June 9, 1972.
 Kennedy Games: U. of California Regents, Berkeley, Calif., June 10, 1972.
 Ty Terrell Relays: Lamar Tech & Young Men's Business League, Beaumont, Tex., May 12, 1972.
 El Paso Invitational: El Paso Amateur T & F Asso., El Paso, Tex., May 20, 1972.
 California Relays: Modesto Jr. College, Modesto, Calif., May 27, 1972.
 U.S. Nat'l Jr. Championships: Chevrolet & Jefferson County Tr. Club, Lakewood, Colo., June 23-24, 1972.
 Carmel Classic: All Civic Clubs of Carmel, Carmel, Indiana, June 24-25, 1972.
 Compton Jaycee Invitational: Compton Jaycees, Los Angeles, Calif., June 4, 1972.
 Annual Sr. Men's Championships: U. of Washington, Seattle, Wash., June 15, 16, 17, 1972.
 Portland Rose: Portland Rose Festival, Gresham, Ore., June 24, 1972.
 USA-USSR Jr. International: Sacramento Jaycees, Sacramento, Calif., July 28-29, 1972.
 Ft. Lauderdale Holiday Meet (Broward County T & F Assoc.): Ft. Lauderdale, Fla., Dec. 28, 1972.
 San Diego Relays: San Diego Track Club, San Diego, Calif., April 8, 1972.
 Nat'l Invitational: U. of Md. & Catholic Youth Organization, College Park, Md., January 15, 1972.
 Albuquerque Jaycee Invitational: Albuquerque Jaycees, Albuquerque, New Mex., January 15, 1972.
 13th Annual Chesterfield Invitational: Chesterfield Jaycees, Richmond, Va., Jan. 21, 1972.
 Examiner Games: San Francisco Examiner-Hearst Papers, San Francisco, Calif., Jan. 21, 1972.
 Philadelphia Track Classic: Dept. of Recreation, Philadelphia, Pa., Jan. 21, 1972.
 Sunkist Invitational Indoor: So. Calif. Sports Asso. & Sunkist Growers, Los Angeles, Calif., January 22, 1972.
 Wanamaker Millrose Games: Wanamaker Millrose Ath. Asso., New York, N.Y., Jan. 28, 1972.
 Oklahoma City Jaycee Invitational: Oklahoma City Jaycees, Oklahoma City, Okla., Jan. 28-29, 1972.
 Oregon Invitation: Ore. State & Uni. of Oregon Alumni, Portland, Ore., Jan. 29, 1972.
 Ft. Worth Coaches: Ft. Worth Coaches Asso., Ft. Worth, Tex., Feb. 4, 1972.
 Knights of Columbus Track Meet: Knights of Columbus, Cleveland, Ohio, February 5, 1972.
 Graduate "N": NSU Graduate "N" Club, Natchitoches, La., February 5, 1972.
 Times Indoor Games: LA Times, Inglewood, Calif., Feb. 11, 1972.
 Astrodome Federation Nat'l Championship Meet: UST & F, Houston, Tex., Feb. 12, 1972.
 Athens Invitational: Athens Sports, Inc., Oakland, Calif., Feb. 12, 1972.
 Mason-Dixon Games: Kentuckiana Cinder Club, Louisville, Ky., Feb. 12, 1972.
 San Diego Track Club Indoor Games: San Diego Track Club, San Diego, Calif., Feb. 19 & Apr. 8, 1972.
 USTFF Southern Championships: Wahabi Shrine & UST & F: Jackson, Miss., Jan. 22, 1972.
 USA Indoor Men's & Women's Indoor Championship: AAU, New York, N.Y., Feb. 25, 1972.
 Champions Invitational: So. Calif. Sports Asso., March 4, 1972, Los Angeles, Calif.
 U.S. Olympic: N.Y. State Olympic Committee, Madison Square Garden, N.Y., Feb. 18, 1972.

CERTIFIED OUTSIDE TRACK AND FIELD MEETS—1971

- National Invitational: Univ. of Maryland & Catholic Youth Organization, January 8, 1971, College Park, Md.
 All American Games: San Francisco Examiner-Hearst Newspapers, January 22, 1971, San Francisco, California.
 Philadelphia Track Classic: Dept. of Recreation, Philadelphia, Pa., January 23, 1971.
 Albuquerque Jaycees Invitational: Albuquerque Jaycees, Albuquerque, New Mex., January 23, 1971.

- Wanamaker Millrose Games: Wanamaker Millrose Athletic Asso., New York, N.Y., January 29, 1971.
- Oklahoma City Jaycees Invitational: Oklahoma City Jaycees, Oklahoma City, Okla., January 30, 1971.
- Oregon Invitational: Oregon State & Uni. of Oregon Alumni, Portland, Ore., January 30, 1971.
- Sunkist Invitational: Southern Calif. Sports Asso. & Sunkist Growers, Los Angeles, Calif., January 22, 1971.
- Kennedy Games: Univ. of California Athletic Dept., Berkeley, Calif., June 6, 1971.
- USTFF Outdoor: Wichita State, Wichita, Kan., June 11 & 12, 1971.
- Knights of Columbus Indoor: Knights of Columbus, New York, N.Y., February 5, 1971.
- Ft. Worth Coaches Games: Ft. Worth Coaches Assoc., Ft. Worth, Tex., Feb. 5 & 6, 1971.
- Seattle Invitational: Carroll Club of Seattle, Seattle, Wash., Feb. 6, 1971.
- Sun Papers All East: Baltimore Sun, Baltimore, Md., Feb. 6, 1971.
- Graduate "N" Club Indoor: NSU Graduate Club, Natchitoches, La., Feb. 6, 1971.
- L.A. Times Indoor: L.A. Times, Los Angeles, Calif., Feb. 12, 1971.
- Athens Invitational: Athens Sports, Inc., Oakland, Calif., Feb. 13, 1971.
- Astradome Federation Meet: UNT & F, Houston, Texas, Feb. 13 & 14, 1971.
- Mason-Dixon Games: Kentuckiana Under Club, Louisville, Ky., Feb. 14, 1971.
- U.S. Olympic Invitational: N.Y. State Olympic Com., New York, N.Y., Feb. 19, 1971.
- AAU Indoor Champ.: AAU, New York, N.Y., Feb. 26, 1971.
- Chesterfield Invitational: Chesterfield Jaycees, Richmond, Va., March 3, 1971.
- Border Olympics: Border Olympics, Inc., Laredo, Tex., March 5 and 6, 1971.
- San Diego Relays: San Diego Track Club, San Diego, Calif., April 10, 1971.
- Sr. Men's Champ.: Oregon Track Club, Eugene, Oregon, June 25, 26, 1971.
- Knights of Columbus Indoor Meet: Knights of Columbus, Cleveland, Ohio, April 19, 1971.
- Martin L. King Games: Southern Christian Leadership Conference, Philadelphia, Pa., May 10, 1971.
- Texas Invitational: El Paso Amateur T & F, Houston, Texas, May 15, 1971.
- El Paso Invitational: El Paso Amateur T & F Assoc., El Paso, Tex., May 22, 1971.
- Ty Terrill Invitational, Lamar Tech and Young Men's Business League, Beaumont, Tex., May 15, 1971.
- Memorial Stadium, Chamber of Commerce and Bakersfield Col., Bakersfield, Calif., May 15, 1971.
- California Relays: Modesto Jr. Col., Modesto, Calif., May 29, 1971.
- Compton Invitational: Compton Jaycees, Los Angeles, Calif., June 5, 1971.
- Ft. Lauderdale Holiday Meet: Broward County T & F Assoc., Ft. Lauderdale, Fla., Dec. 29, 1971.
- Portland Rose: Portland Rose Festival, Portland, Oreg., June 12, 1971.

CERTIFIED OUTSIDE ALL-STAR BASKETBALL GAMES—1972

- New England Sr. Hall of Fame Game: Naismith Memorial-Basketball Hall of Fame, Inc., Springfield, Mass., March 19, 1972.
- Iowa Sr. Charity Game: Cedar Rapids Sport Club, Cedar Rapids, Iowa, March 25, 1972.
- Iowa All-Stars vs. Wisconsin All-Stars: Mid America Basketball Camp, Dubuque, Iowa and Eau Claire, Wisc., March 25, 26, 1972.
- Kentucky-Tennessee All-Star Game: Sertoma Charities, Louisville, Ky., March 26, 1972.
- Press Schmitz Charity Game: Sertoma Charities, Memphis, Tenn., March 26, 1972.
- Eddie Matthews Memorial North-South Game: Missouri Heart Asso., March 31, 1972.
- National Asso. of Basketball Coaches East-West Game: NABC and Uni. of Dayton, Dayton, Ohio, April 1, 1972.
- Tennessee-Kentucky All-Star Game: Franklin Rd. Jaycees, Nashville, Tenn., April 1, 1972.
- Aloha Classic: Cystic Fibrosis Foundation, Honolulu, Hawaii, April 6, 7, 8, 1972.
- North-South College Classic: Support Our Sports Club of Erie, Erie, Pa., April 8, 1972.

Indiana-Ohio All-Star: Sertoma Charities, Indianapolis, Indiana, April 14, 1972.
 Ohio-Indiana All-Star: Sertoma Charities, Columbus, Ohio, April 15, 1972.
 M. S. Hope Chest Classic: Multiple Sclerosis Foundation, Philadelphia, Penn.,
 April 15, 1972.
 Pizza Hut Charities All-Star: Pizza Hut Charities, Las Vegas, Nevada, April 15,
 1972.
 Southern Shooting Stars Play for Charity: Service League of Lafayette, La-
 fayette, La., April 15, 1972.
 All-Illinois Collegiate Classic: Kiwanis(all) & Radio WMBD, Peoria, Illinois,
 March 13 or 14, 1972.
 Pro-Ked's-Nassau-Suffolk College Basketball Coaches Assn.: NSCBBCA, Green-
 ville, N.Y., April 15, 1972.

CERTIFIED OUTSIDE ALL-STAR FOOTBALL GAMES—1972

American Bowl Game: Lions District 35-B, Tampa, Florida, Jan. 9, 1972.
 Blue-Gray Game: Montgomery Lions, Montgomery, Ala., Dec. 27, 1972.
 Hula Bowl: Association for Hawaii Newspaper Agency Charities, Honolulu,
 Hawaii, Jan. 8, 1972.
 North-South Shrine Game: Muhl Shrine Temple, Miami, Fla., Dec. 25, 1972.
 Ohio Shrine Bowl: Ohio Shrine, Westerville, Ohio, Dec. 2, 1972.
 Shrine East-West Game: Islam Temple Shrine, Dec. 30, 1972.
 Whitney Young Classic: C. E. Van Jones, Houston, Tex.

CERTIFIED OUTSIDE GYMNASTICS MEETS—1972

Nat'l AAU Championships: Montana AAU, Apr. 27-29, 1972; Billings, Mont.
 Annual Lake Erie: Lake Erie AAU, Cleveland Heights, Ohio, April 9, 1972.
 Diablo Valley Nat'l Invitational: Diablo Valley College, Concord, Calif., March 18,
 1972.
 USGF Nat'l Championships: U.S. Gym Federation, Statesboro, Ga., May 6-8,
 1972.
 Waterman Invitational: San Diego Downtown YMCA, San Diego, Calif., Oct. 6-7,
 1972.
 Rocky Mountain Open: Colorado Gym Assoc., Aurora, Colo., December 2, 1972.
 Nat'l Compulsory Open: Midwest Gym Assn., Downers Grove, Ill., Oct. 28, 1972.
 Indiana Collegiate Gym. Invitational: Fulton Jr. High School, Indianapolis, Indi-
 ana, Nov. 10, 1972.
 Midwest Open Championships: Ill. High School Gym Coaches Assn., Lombard,
 Ill., Nov. 24, 25, 1972.
 Nat'l Gym Clinic: National Gym Clinic, Inc., Sarasota, Fla., Dec. 28-30, 1972.
 U.S. Gym. Federation Open: USGF N.Y. Area Technical Committee, Farmingdale,
 N.Y., Dec. 9, 1972.

CERTIFIED OUTSIDE SOCCER TEAMS—1972-73

California: Berkeley Mavericks, Oakland; Club Deportivo Guadalajara, Oakland;
 German-Americans, San Diego; Northern California Bears, Corte Madera;
 Oakland Rams, Oakland; San Francisco Athletic Club, San Francisco; San
 Francisco Vikings, San Francisco.
 Canada: P. A. Nationals, Toronto, Ontario.
 Connecticut: Connecticut All-Stars, Branford; Hartford Ukrainians, Hartford;
 Italian-American All-Stars, Hartford; Middletown InterClub, Middletown;
 New Britain Falcons, New Britain; New Haven City, East Haven; Southern
 Connecticut, Branford; University of Connecticut, Storrs; Vasco da Gama,
 Shelton; Westport, Westport; Wilton, Wilton.
 Florida: Florida Intercollegiate Soccer Conference (East and West Teams),
 Winter Park; Jacksonville, Jacksonville; Lakeland, Lakeland; Orlando,
 Apopka; Rollins College, Winter Park; WFLA-TV, Tampa; Winter Park Reds,
 Winter Park.
 Georgia: Georgia State University, Atlanta.
 Illinois: Olympic Team, Edwardsville; Southern Illinois University, Edward-
 ville; Wheaton College, Wheaton.

Indiana: Indiana East All-Stars, Muncie; Indiana West All-Stars, Bloomington; Indiana Senior All-Stars, Bloomington.
 Maryland: T. F. Casa Blanco, Baltimore.
 Massachusetts: Bay State, Springfield; Chelsea, West Springfield; Neisl All-Stars, Babson Park; Worcester College All-Stars, Worcester; Worcester Seams, Worcester.
 Missouri: Bachelors II, St. Louis; Big 4 Chevrolet, St. Louis; Busch, St. Louis; Carondelet Sunday Morning Athletic Club, St. Louis; Kama Ment, St. Louis; Katis, St. Louis; Larry May, St. Louis; Latin American, St. Louis; Our Lady of Sorrows, St. Louis; Pepsi Cola, Florissant; St. Matthias, St. Louis; St. Stephen's, St. Louis; Seven-Up Junior, St. Louis; Seven-Up Senior, St. Louis; T & C Ford, St. Louis; Volpi Virtus, St. Louis; Woodson City, St. Louis; Ziegenhein, St. Louis.
 New Jersey: Cherry Hill, Cherry Hill; West Deptford, Woodbury.
 New York: Bennington, Haasie; Binghamton, Vestal; Buffalo, Cheektowaga; Colonial, Binghamton; Eastern Soccer Coaches Association All-Stars, New York; German-American Kickers, Rochester; German-Americans, Rochester; Long Island University, Brooklyn Center; Oneonta, Oneonta; Pozzallo, Brooklyn; Rochester Rangers, Rochester; Salt Springs, Syracuse; Schenectady Football Club, Schenectady.
 North Carolina: Chapel Hill, Chapel Hill; Davidson, Davidson.
 Ohio: Akron Kickers, North Canton; Indians, Akron; Stow, Stow; Vikings, North Ridgeville.
 Pennsylvania: Conoco, New Britain; Drexel University, Drexel; Elizabethtown, Elizabethtown; Lighthouse Nationals, Philadelphia; Philadelphia Inter-Club, Philadelphia; Reading American, Laureldale; Swarthmore, Wayne.
 South Carolina: Clemson University, Clemson.
 Vermont: Arlington, Arlington; Bennington, Bennington; Castleton, Brandon; Ludlow, Ludlow; Manchester, Manchester; 10th Green, Proctor; Proctor, Proctor.
 Virginia: Golden Dukes, Harrisonburg; Purple Pride, Harrisonburg; Williamsburg, Williamsburg; Virginia Intercollegiate East and West Teams, Ashland.
 Washington: Heidelberg, Seattle; Nickerson Gang, Seattle; Seattle Falcons, Seattle.
 Washington, D.C.: Washington Internationals.
 Wisconsin: Milwaukee Kickers, Milwaukee.

CERTIFIED OUTSIDE SOCCER TEAMS—1971-72

California: Club Deportivo Guadalajara Soccer Club, Oakland; Concordia Soccer Club, San Francisco; German-American Soccer Club, San Diego; Greek-American Soccer Club, Daly City; Hollywood Stars, Hollywood; HSF Soccer Club, Corte Madera; Inakoh Athletic Club, San Francisco; Northern California All-Stars, Corte Madera; St. Stephen's Soccer Club, Downey; San Francisco Athletic Club, San Francisco; San Jose Groundlers, San Jose; San Vidro 76ers, Chula Vista; Scandinavian-American Soccer Club, Los Angeles; Tentonah Soccer Club, Mill Valley; University Soccer Club, Los Angeles; Valley German-American Soccer Club, North Hollywood.
 Canada: P. A. Nationals, Streetsville, Ontario; S.S. Juventus Soccer Club, Niagara Falls, Ontario.
 Colorado: International Soccer Club, Denver; University of Denver Soccer Club, Denver.
 Connecticut: Falcon Soccer Club, New Britain; Generale Ameglio Soccer Club, New Britain; Hotchkiss School Alumni, Lakeville; Italian-American Soccer Club, Bloomfield; New Haven Soccer Club, New Haven; Pole Soccer Club, East Haven; Sons of Italy Soccer Club, Plantsville; University of Connecticut Soccer Club, Storrs; Vasco da Gama Soccer Club, Bridgeport; Westport Soccer Club, Westport; Wilton Soccer Club, Wilton.
 Florida: East-West Soccer Teams, Winter Park; Florida Athletic Club, Tampa; Jacksonville Soccer Club, Jacksonville; Lakeland Soccer Club, Lakeland; Orlando Soccer Club, Winter Park; University State Bank Soccer Club, Tampa; Winter Park Sports Shop Reds, Winter Park.
 Georgia: Georgia State University Soccer Club, Atlanta; North Georgia College Rangers, Dahlonega.

- Illinois: MacMurray Club, Jacksonville; Southern Illinois University Soccer Club, Edwardsville; University of Illinois at Chicago Circle Soccer Club, Wilmette; Wheaton Soccer Club, Wheaton.
- Indiana:—Indiana College All-Stars (East and West Squads), Muncie; Indiana Collegiate Senior All-Stars, Bloomington.
- Maine: Buxton-Standish Soccer Club, West Buxton; Cape Elizabeth Soccer Club, Portland; Cumberland Soccer Club, Cumberland Center; Falmouth Soccer Club, Falmouth; Freeport Soccer Club, Freeport; Gorham Grads, Gorham; Hilltoppers, Portland; Portland, Portland; Scarborough Soccer Club, Scarborough; University of Maine Soccer Club, Portland.
- Maryland: Baltimore Kickers, Baltimore.
- Massachusetts: Bay State Soccer Club, Springfield; Berkshire Kickers, Holyoke; Chelsea Soccer Club, West Springfield; Melrose Soccer Club, Melrose; NEISL All-Star Teams, Boston; Worcester Seams, Worcester.
- Minnesota: Stoga Soccer Club, Minneapolis.
- Missouri: Busch-Bavarian Soccer Club, St. Louis; Cardinal Glennon Soccer Club, St. Louis; Carondelet Sunday Morning Athletic Club, St. Louis; Designated-Green Star Soccer Club, St. Louis; Glesler-Jorgen Sporting Goods, St. Louis; Harris Soccer Club, St. Louis; Kickers PNA United Soccer Club, St. Louis; Kutis Soccer Club, St. Louis; MacMurray Soccer Club, St. Louis; Our Lady of Sorrows Soccer Club, St. Louis; St. Louis Big 4 Chevrolet, St. Louis; St. Louis 7-UP Soccer Club, St. Louis; St. William's Soccer Club, St. Louis; Seven-UP Soccer Club, Ferguson; Volpi Virtus, St. Louis.
- New Jersey: Cherry Hill Soccer Club, Cherry Hill; Cinnaminson Soccer Club, Cinnaminson; Glassboro Soccer Club, Glassboro; Interboro United Soccer Club, Magnolia; Montclair State College Soccer Club, Upper Montclair; Princeton Soccer Club, Princeton; West Deptford United Soccer Club, Woodbury.
- New York: Binghamton Soccer Club, Vestal; Colombo Soccer Club, Scienceville; Eastern Soccer Coaches Association All-Star Team, Woodhaven; Goulds Pumps Jets Soccer Club, Seneca Falls; Salt Springs Soccer Club Syracuse; Sauer's B.S.C. North Tonawanda; Oneonta United Soccer Club, Oneonta.
- North Carolina: Chapel Hill Soccer Club, Chapel Hill; Davidson College Soccer Club, Davidson.
- Ohio: Akron Italians, Akron; Akron Zips, Cuyahoga Falls, Ohio; GAF All-Stars, Muncie; Greek Olympic Soccer Club, Columbus; Mentor Soccer Club, Mentor; Offshoot Soccer Club, Wooster; Ohio Collegiate Senior All-Stars, Dayton; Viking Soccer Club, Shaker Heights.
- Pennsylvania: Conshohocken Soccer Club, Conshohocken; Delaware Soccer Club, Springfield; Drexel Soccer Club, Philadelphia; Elizabethtown Soccer Club, Elizabethtown; King's College Soccer Club, Wilkes-Barre; McVeigh Recreation Center, Philadelphia; Oak Lane Soccer Club, Philadelphia; Penn State Soccer Club, Philadelphia; Reading-American Soccer Club, Reading; Scranton Soccer Club, Scranton; Swarthmore Athletic Club, Wayne.
- Vermont: Bennington Soccer Club, Bennington; Bristol Booters, Middlebury; Manchester Soccer Club, Manchester Center; Randolph Soccer Club, Randolph; Stowe Blue Team, Stowe; Waterbury United Soccer Club, Waterbury.
- Virginia: Richmond Internationals, Richmond; Virginia Intercollegiate Soccer Association East and West Teams, Ashland; Williamsburg Soccer Club, Williamsburg.
- Washington: Triumph Continental Soccer, Seattle.
- Washington, D.C.: British Lions; Washington Internationals.
- Wisconsin: Fox Valley Bombers, Appleton; Milwaukee Kickers, Milwaukee.
- Wyoming: Cowboy Soccer Club, Laramie.

CERTIFIED HIGH SCHOOL ALL-STAR FOOTBALL AND BASKETBALL GAMES—1973

- Arizona All-Star Football Game: Arizona State Coaches Association, August 11, 1973, Flagstaff, Arizona.
- San Gabriel Valley All-Star Game: Glendora Rotary Club, July 19, 1973, Azusa, California.
- Kiwanis 605 All-Star Game: Whittier Kiwanis Foundation, July 13, 1973, Cerritos, California.
- Orange County North-South All-Star Game: Orange County Youth Foundation, August 9, 1973, Costa Mesa, California.
- Eureka Rotary All-Star Game: Eureka Rotary Club, August 25, 1973, Eureka, California.

- Central California All-Star Game: Central California Foundation, August 10, 1973, Fresno, California.
- Shrine North-South All-Star Game: Shrine Temple, August 12, 1973, Los Angeles, California.
- Alameda-Contra Costa County All-Star Game: Cerebral Palsy Fund, August 30, 1973, Oakland, California.
- Riverside East-West All-Star Game: Riverside Jaycees, August 11, 1973, Riverside, California.
- Optimist All-Star Game: Optimist Club, August 12, 1973, Sacramento, California.
- Ross Valley All-Star Game: Ross Valley Kiwanis Club, August 18, 1973, San Rafael, California.
- Santa Barbara County All-Star Game: Santa Barbara Boys Club, August 4, 1973, Santa Barbara, California.
- Lions All-Star Game: West Torrance Lions Club, August 9, 1973, Torrance, California.
- Solano County East-West All-Star Game: Vallejo Police Activities League, August 3, 1973, Vallejo, California.
- San Fernando Valley All-Star Game: San Fernando Valley Foundation, August 10, 1973, Van Nuys, California.
- Tulare Kings County All-Star Game: Visalia Optimist Club, August 9, 1973, Visalia, California.
- Nutmeg Bowl Game: Boys Club, August 17, 1973, Bridgeport, Connecticut.
- Delaware All-Star Game: Delaware Foundation for Retarded Children, August 18, 1973, Newark, Delaware.
- Indiana North-South All-Star Game: Indiana Jaycees, July 28, 1973, Bloomington, Indiana.
- Iowa Shrine Bowl: Shrine Temple, August 10, 1973, Des Moines, Iowa.
- Kansas Jaycees All-Star Game: Kansas Jaycees, August 10, 1973, Wichita, Kansas.
- Crippled Childrens Bowl: Louisville Jaycees, July 28, 1973, Louisville, Kentucky.
- Lowell Sun All-Star Game: Lowell Sun Charities, Inc., August 21, 1973, Lowell, Massachusetts.
- Harry Agganis All-Star Game: Harry Agganis Memorial Foundation, August 10, 1973, Lynn, Massachusetts.
- Montana East-West All-Star Game: Shrine Temple, August 18, 1973, Great Falls, Montana.
- Mentor Lions All-Star Game: Mentor Lions Club, August 11, 1973, Mentor, Ohio.
- Oregon East-West All-Star Game: Shrine Temple, August 18, 1973, Baker, Oregon.
- Shrine All-Star Game: Shrine Temple, August 11, 1973, Portland, Oregon.
- Lehigh Valley All-Star Game: Association for Retarded Children, July 28, 1973, Bethlehem, Pennsylvania.
- Seven-eye All-Star Game: Lions Club, August 11, 1973, Erie, Pennsylvania.
- Big 33 All-Star Game: Pennsylvania Big 33 Inc., August 18, 1973, Hershey, Pennsylvania.
- UNICO East-West All-Star Game: Wilkes-Barre UNICO Chapter, August 10, 1973, Kingston, Pennsylvania.
- Lancaster County All-Star Game: Wheatland Sertoma Club, August 11, 1973, Lancaster, Pennsylvania.
- Cancer Crusade All-Star Game: The American Cancer Society, June 15, 1973, Langhorne, Pennsylvania.
- Cumberland County All-Star Game: Lions Club, July 28, 1973, New Cumberland, Pennsylvania.
- Montgomery County All-Star Game: Child Development Center, August 2, 1973, Norristown, Pennsylvania.
- Reading A1 Star Game: Berks County Touchdown Club, June 23, 1973, Reading, Pennsylvania.
- Lions Dren a Game: Lions Club, August 10, 1973, Scranton, Pennsylvania.
- Hope Chess Football Classic: National Multiple Sclerosis Society, June 16, 1973, West Chester, Pennsylvania.
- Cambria Area All-Star Game: Cambria Football Coaches Association, August 3, 1973, Windber, Pennsylvania.
- Oil Bowl Football Game: Shrine Temple, August 17, 1973, Wichita Falls, Texas.
- Ohio Valley All-Star Game: Ohio Valley Athletic Conference, August 10, 1973, Wheeling, West Virginia.

1973 CERTIFIED BASKETBALL GAMES

- Arizona All-Star Basketball Game: Arizona State Coaches Association, August 11, 1973, Flagstaff, Arizona.
- Kiwanis All-Star Game: Kiwanis Club, June 23, 1973, Costa Mesa, California.
- Eureka Rotary All-Star Game: Eureka Rotary Club, June 19, 1973, Eureka, California.
- Central California All-Star Game: Big Brothers, July 12, 1973, Fresno, California.
- San Diego College-Prep All-Star Game: High School Basketball Coaches Association, August 1, 1973, San Diego, California.
- Indiana-Kentucky All-Star Game: Indianapolis Star, June 23, 1973, Indianapolis, Indiana.
- Ripley County All-Star Game: Ripley County Volture 1047, June 22, 1973, Versailles, Indiana.
- Kansas Jaycees All-Star Game: Kansas Jaycees, August 11, 1973, Wichita, Kansas.
- Regional All-Star Game: Hazard Jaycees, June 1, 1973, Hazard, Kentucky.
- Kentucky-Indiana All-Star Game: Lions Club, June 10, 1973, Louisville, Kentucky.
- Eastern Montana All-Star Game: Midland Roundtable, June 23, 1973, Billings, Montana.
- Faith-7 Bowl: Civil Club, August 19, 1973, Shawnee, Oklahoma.
- Oregon All-Star Game: High School Coaches Association, June 15, 1973, Eugene, Oregon.
- York County All-Star Game: March of Dimes, June 11, 1973, York Pennsylvania.

CERTIFIED HIGH SCHOOL ALL-STAR FOOTBALL AND BASKETBALL GAMES—1972

- Arizona All-Star Football Game: Arizona State Coaches Association, August 12, 1972, Flagstaff, Arizona.
- San Gabriel Valley All-Star Game: Glendora Rotary Club, July 6, 1972, Azusa, California.
- Kiwanis 605 All-Star Game: Whittier Kiwanis Foundation, July 7, 1972, Cerritos, California.
- Orange County North-South All-Star Game: Orange County Youth Foundation, August 17, 1972, Costa Mesa, California.
- Eureka Rotary All-Star Game: Eureka Rotary Club, August 26, 1972, Eureka, California.
- Central California All-Star Game: Central California Foundation, August 24, 1972, Fresno, California.
- Shrine North-South All-Star Game: Shrine Temple, July 27, 1972, Los Angeles, California.
- Alameda-Contra Costa County All-Star Game: Cerebral Palsy Fund, August 18, 1972, Oakland, California.
- Riverside East-West All-Star Game: Riverside Jaycees, August 12, 1972, Riverside, California.
- Optimist All-Star Game: Optimist Club, August 12, 1972, Sacramento, California.
- Scout Bowl: San Diego Jaycees, August 4, 1972, San Diego, California.
- Ross Valley All-Star Game: Ross Valley Kiwanis Club, August 18, 1972, San Rafael, California.
- Santa Barbara County All-Star Game: Santa Barbara Boys Club, August 5, 1972, Santa Barbara, California.
- Big Brothers All-Star Game: Big Brothers, July 1, 1972, Torrance, California.
- Lions All-Star Game: West Torrance Lions Club, August 10, 1972, Torrance, California.
- San Fernando Valley All-Star Game: San Fernando Valley Foundation, August 10, 1972, Van Nuys, California.
- Tulare Kings County All-Star Game: Visalia Optimist Club, August 17, 1972, Visalia, California.
- Nutmeg Bowl Game: Boys Club, August 18, 1972, Bridgeport, Connecticut.
- Indiana North-South All-Star Game: Indiana Jaycees, July 29, 1972, Bloomington, Indiana.
- Crippled Childrens Bowl: Louisville Jaycees, July 29, 1972, Louisville, Kentucky.
- Lowell Sun All-Star Game: Lowell Sun Charities, Inc., August 22, 1972, Lowell, Massachusetts.
- Harry Agganis All-Star Game: Harry Agganis Memorial Foundation, August 12, 1972, Lynn, Massachusetts.

- Montana East-West All-Star Game: Shrine Temple, August 12, 1972, Great Falls, Montana.
- East-West All-Star Game, Cincinnati Enquirer, June 17, 1972, Cincinnati, Ohio.
- Mentor Lions All-Star Game: Mentor Lions Club, August 12, 1972, Mentor, Ohio.
- Oregon East-West All-Star Game: Shrine Temple, August 10, 1972, Pendleton, Oregon.
- Shrine All-Star Game: Shrine Temple, August 12, 1972, Portland, Oregon.
- Lehigh Valley All-Star Game: Association for Retarded Children, July 21, 1972, Bethlehem, Pennsylvania.
- Save-an-eye All-Star Game: Lions Club, August 19, 1972, Erie, Pennsylvania.
- Big 33 All-Star Game: Pennsylvania Big 33 Inc., August 19, 1972, Hershey, Pennsylvania.
- FNCO East-West All-Star Game: Wilkes-Barre FNCO Chapter, August 10, 1972 (canceled because of flood), Kingston, Pennsylvania.
- Lancaster County All-Star Game: Wheatland Scouting Club, August 12, 1972, Lancaster, Pennsylvania.
- Cancer Crusade All-Star Game: The American Cancer Society, June 16, 1972, Langhorne, Pennsylvania.
- Cumberland County All-Star Game: Lions Club, August 5, 1972, Camp-Hill, Pennsylvania.
- Montgomery County All-Star Game: Child Development Center, August 4, 1972, Norristown, Pennsylvania.
- Lions Dream Game, Lions Club, August 11, 1972, Scranton, Pennsylvania.
- Hope Chest Football Classic: National Multiple Sclerosis Society, June 23, 1972, Philadelphia, Pennsylvania.
- Cambria Area All-Star Game: Cambria Football Coaches Association, August 5, 1972, Windber, Pennsylvania.
- Game for Hope: American Cancer Society, July 1, 1972, Arlington, Texas.
- Oil Bowl Football Game: Shrine Temple, August 18, 1972, Wichita Falls, Texas.
- Ohio Valley All-Star Game: Ohio Valley Athletic Conference, August 12, 1972, Wheeling, West Virginia.

1972 CERTIFIED BASKETBALL GAMES

- Arizona All-Star Basketball Game: Arizona State Coaches Association, August 11, 1972, Flagstaff, Arizona.
- Kiwanis All-Star Game: Kiwanis Club, June 17, 1972, Costa Mesa, California.
- Eureka Rotary All-Star Game: Eureka Rotary Club, June 29, 1972, Eureka, California.
- Central California All-Star Game: Big Brothers, July 13, 1972, Fresno, California.
- Southern California All-Star Game: July 12, 1972, Los Angeles, California.
- All State Classic: June 20, 1972, Oakland, California.
- San Diego College-Prep All-Star Game: High School Basketball Coaches Association, August 2, 1972, San Diego, California.
- City County All-Star Game: Louisville Jaycees, July 28, 1972, Louisville, Kentucky.
- Kentucky-Indiana All-Star Game: Lions Club, June 17, 1972, Louisville, Kentucky.
- Indiana-Kentucky All-Star Game: Indianapolis Star, June 24, 1972, Indianapolis, Indiana.
- Ripley County All-Star Game: Ripley County Vulture 1047, June 16, 1972, Versailles, Indiana.
- East-West All-Star Game: Cincinnati Enquirer, June 10, 1972, Cincinnati, Ohio.
- Fifth-7 Bowl: Civic Club, August 19, 1972, Shawnee, Oklahoma.

CERTIFIED OUTSIDE SUMMER BASEBALL TEAMS—1972

The following is a list containing the names and addresses of summer baseball leagues and teams certified as indicating they will meet the provisions of 1972 NCAA Summer Baseball Requirements.

Atlantic Collegiate Baseball League: John W. Kaiser, 85-14 Broadway, Elmhurst, New York 11368.

- Bergen Pilots: H. David O'Brien, 449 Ingram Avenue, Staten Island, New York.
 Brooklyn-Queens Dodgers: Allen G. Goldis, 6402B 192nd Street, Apt. 3A, Flushing, New York 11365.
- Long Island Nationals: Ed Mathis, 415 Fairview Avenue, Ridgewood, New York.
 Mt. Vernon Generals: Jack Fisher, 49-23 216 Street, Bayside, New York 11364.
 Scranton Collegiate Red Sox: Dave Ocorr, University of Scranton, Linden Street, Scranton, Pennsylvania 18510.
- Basin League: Pat Morrison, Jr., Mobridge, South Dakota.
 Chamberlain Mallards: Robert F. Kirwan, North Grace Street, Chamberlain, South Dakota 57325.
- Mobridge Lakers: Herbert McClelland, Mobridge, South Dakota.
 Pierre Cowboys: Vern McKee, Box 190, Pierre, South Dakota.
 Rapid City Chiefs: Floyd Fitzgerald, Box 1506, Rapid City, South Dakota.
 Sturgis Titans: Lloyd Keszler, Box 530, Sturgis, South Dakota.
 Cape Cod Baseball League, Inc.: Lawrence W. Upton, c/o Holiday Inn, Route 132, Hyannis, Massachusetts.
- Bourne Catalinas: John A. Sanford, 16 Pleasant Street, Sagamore, Massachusetts.
 Clatham Town Team: Merrill T. Doune, 164 Heritage Lane, Clatham, Massachusetts.
 Cotuit Kettleers: Arnold Mycock, 150 Crocker Neck Road, Cotuit, Massachusetts 02635.
- Falmouth Commodores: George H. Creighton, 18 Salt Pond Road, Falmouth, Massachusetts 02540.
 Harwich Mariners: H. William Morey, 5 Hoyt Road, Harwichport, Massachusetts.
 Orleans Cardinals: John T. Awdycki, 252 Ash Street, Gardner, Massachusetts 04140.
- Wareham Gatemen: Harold C. Cleveland Marlon Road, Wareham, Massachusetts.
 Yarmouth Red Sox: Richard J. Torrio, 8 Ice House Road, South Yarmouth, Massachusetts.
- Central Illinois Collegiate League: Jack Horenberger, 1920 Garling, Bloomington, Illinois.
 Bloomington Bobcats: Dennis Bridges 1900 East Jackson, Bloomington, Illinois.
 Charleston-Mattoon: Jim Herauf, 20 Circle Drive, Charleston, Illinois.
 Galesburg Pioneers: Donald W. Balley, 2425 Costa Drive, Galesburg, Illinois.
 Macomb Macs: C. Herman Watson, P.O. Box 100, Macomb, Illinois 61455.
 Peoria Pacers: Glen Mc'nulough, 1303 North Glenwood, Peoria, Illinois.
 Springfield Caps: Roger L. Moore, P.O. Box 1485 Springfield, Illinois.
 Helme Melne Semi-Pro: Tony Grower, 4920 Millsar, St. Louis, Missouri.
 E. C. Hydraulics Baseball Team: Thomas J. Eckelmann, 7140 Waterman Avenue, St. Louis, Missouri 63130.
- Raiders Summer Baseball Team: Bob Reiner, 12224 Blackhall Drive, St. Louis, Missouri 63128.
 Hoffmeister Baseball Team: Charles J. Rothmann, 902 Pardella Avenue, St. Louis, Missouri 63125.
 Kutis Summer Baseball Team: Gus Lombardo, 6620 Tholozan, St. Louis, Missouri.
- St. Louis Braves: Fred Roberts, 5023 Aubert Street, St. Louis, Missouri 63115.
 Karl Young Invitational College Baseball League: Lee L. Egalnick, 3810 Westholmer, Houston, Texas 77027.
- Interiors & Office Builders: 3810 Westhelmer, Houston, Texas 77027.
 Karl Young Buffs: 3810 Westhelmer, Houston, Texas 77027.
 Lighting, Inc.: 3810 Westhelmer, Houston, Texas 77027.
 Southline Metal Products: 3810 Westhelmer, Houston, Texas 77027.
 Valley Baseball League: Charles S. Gell, Secretary-Treasurer, 1107 South Dogwood Drive Harrisburg, Virginia.
 Charlottesville Hornets: R. B. Goodman, P.O. Box 3785, University Station, Charlottesville, Virginia.
- Harrisonburg Turks: James W. Lueweaver, P.O. Box 4, Harrisonburg, Virginia.
 Madison County Blue Jays: William P. Foley, Madison, Virginia.
 New Market Team: William T. Donald, New Market, Virginia.
 Shenandoah Indians: Charles Laukford, 510 Seventh Street, Shenandoah, Virginia.
 Waynesboro Generals: R. M. Poole, 2446 Mount Vernon, Waynesboro, Virginia.

INDEPENDENT TEAMS

- Alaska Goldpanners: Don Dennis, P.O. Box 1154, Fairbanks, Alaska.
 Boulder Collegians: Baudie Mosechett, 1024 11th Street, Boulder, Colorado.
 Chicago Stars: A. J. Hartoch, 1723 Bryn Mawr Avenue, Chicago, Illinois.
 Fort Dodge Levein Chevrolet Team: Jerry Patterson, 2019 Highland Park Avenue, Fort Dodge, Iowa.
 Grand Junction Eagles: Rudy Susman, 2015 North Fifth, Grand Junction, Colorado.
 Halstead Cowboys: Bob Conditine, 522 West Second, Halstead, Kansas.
 Humboldt Crabs: Ned Barsaglia, 500 54th Street, Arcata, California.
 Liberal Bee Jay Baseball Assn., Inc.: W. A. Shufelberger, Box 352, Liberal, Kansas 67301.
 Pouchatoula Athletics: Albert L. Wright, 555 Boyd Avenue, Apartment 4, Baton Rouge, Louisiana 70802.

CERTIFIED OUTSIDE SUMMER BASEBALL TEAMS--1971

The following is a list containing the names and addresses of summer baseball leagues and teams certified as indicating they will meet the provisions of 1971 NCAA Summer Baseball Requirements.

- Atlantic Collegiate Baseball League: John W. Kaiser, 85-14 Broadway, Elmhurst, New York 11300.
 Brooklyn-Queens Dodgers: Allen G. Goldis, 6402B-192nd Street, Apt. 3A, Flushing, New York.
 Long Island Nationals: Anthony Russo, 104-16 88th Street, Howard Beach, New York.
 Mt. Veron Generals: Jack Lyons, 5445 Netherland Avenue, New York, New York 10471.
 Scranton Collegiate Red Sox: Dave Ocorr, University of Scranton, Scranton, Pennsylvania.
 Staten Island Pilots: H. David O'Brien, 440 Ingram Avenue, Staten Island, New York.
 Basin League: Pat Morrison, Jr., Mobridge, South Dakota.
 Chamberlain Mallards: Robert F. Kirwan, North Grace Street, Chamberlain, South Dakota 57325.
 Mobridge Lakers: Herbert McClelland, Mobridge, South Dakota.
 Pierre Cowboys: Vern McKee, Box 100, Pierre, South Dakota.
 Rapid City Chiefs: Floyd Fitzgerald, Box 1506, Rapid City, South Dakota.
 Sturgis Titans: Lloyd Keszler, Box 530, Sturgis, South Dakota.
 California Collegiate Baseball League, Inc.: Thomas C. Lenn, Jr., P. O. Box 502, La Mesa, California 92041.
 Dowrey Reds: E. W. Giddings, 0712 Garnish Drive, Dowrey, California 90240.
 La Crescenta Collegians: Ralph Hines, 6230 Foothill Boulevard, Tujunga, California.
 La Mesa Collegians: Tom C. Lenn, Jr., 8130 Alliston Ave.—P. O. Box 502, La Mesa, California.
 National City Collegians: John W. Cunningham, 2707 Myrtle Avenue, San Diego, California.
 Ontario Collegians: Arlen H. Downs, 2032 S. Helen Avenue, Ontario, California.
 San Bernardino Collegiates: Steve Smith, 100 E. Madrona, Rialto, California.
 San Fernando Orioles: Mike Nosette, 22757 Kittridge, Canoga Park, California.
 Cape Cod Baseball League, Inc.: Lawrence W. Upton, c/o Holiday Inn, Rt. 132, Hyannis, Massachusetts.
 Bourne Cammen: John A. Sanford, 10 Pleasant Street, Sagamore, Massachusetts.
 Chatham Town Team: Merrill T. Doane, 164 Heritage Lane, Chatham, Massachusetts.
 Cotuit Kettleers: Arnold Mycock, 150 Crocker Neck Road, Cotuit, Massachusetts 02035.
 Falmouth Commodores: George H. Creighton, 18 Salt Pond Road, Falmouth, Massachusetts 02540.
 Harwich Mariners: H. William Morey, 5 Hoyt Road, Harwichport, Massachusetts.
 Orleans Cardinals: John T. Awdycki, 252 Ash Street, Gardner, Massachusetts 04140.

Wareham Gatemen: Harold C. Cleveland, Marion Road, Wareham, Massachusetts.
 Yarmouth Red Sox: Richard J. Terrio, 8 Ice House Road, South Yarmouth, Massachusetts.
 Central Illinois Collegiate League: Jack Horenberger, 1920 Garling, Bloomington, Illinois.
 Bloomington Bobcats: Jack Horenberger, 1920 Garling, Bloomington, Illinois.
 Galesburg Pioneers: Donald W. Bailey, 2425 Costa Drive, Galesburg, Illinois.
 Macomb Maes: Jack Pickard, RR 3, Macomb, Illinois.
 Peoria Pacers: Glen McCullough, 1303 N. Glenwood, Peoria, Illinois.
 Springfield Caps: Roger L. Moore, P.O. Box 1485, Springfield, Illinois.
 Jamestown Twilight League: Robert J. Poseley, Commissioner, Box 831, Jamestown, North Dakota.
 Eiks: Box 831, Jamestown, North Dakota.
 Merchants—Jamestown: Box 831, Jamestown, North Dakota.
 Merchants—Valley City: Box 831, Jamestown, North Dakota.
 Karl Young Invitational College Basketball League: Lee L. Egalnick, 3810 Westhelmer, Houston, Texas 77027.
 Interiors & Office Builders: 3810 Westhelmer, Houston Texas.
 Karl Young Invitational League #1: 3810 Westhelmer, Houston, Texas 77027.
 Karl Young Invitational League #2: 3810 Westhelmer, Houston, Texas 77027.
 Lighting, Inc.: 3810 Westhelmer, Houston, Texas.
 Southline Metal Products: 3810 Westhelmer, Houston, Texas 77027.
 Valley Baseball League: Charles G. Gell, Sec.-Treas., 1107 South Dogwood Drive, Harrisonburg, Virginia 22801.
 Charlottesville Hornets: R. B. Goodman, P. O. Box 3785, University Station, Charlottesville, Virginia.
 Harrisonburg Turks: James W. Lineweaver, P. O. Box 4, Harrisonburg, Virginia.
 Madison County Blue Jays: William P. Foley, Madison, Virginia.
 New Market Team: William L. Donald, New Market, Virginia.
 Shenandoah Indians: Charles Laukford, 510 Seventh, Shenandoah, Virginia.
 Staunton Braves: Harry K. Elluls, 1001 Stuart Street, Staunton, Virginia.
 Waynesboro Generals: R. M. Poole, 2446 Mt. Vernon, Waynesboro, Virginia.

NORTH CAROLINA COLLEGIATE BASEBALL LEAGUE

Campbell College Team: Nell Haldeman, Rt. 1, Lillington, North Carolina.
 Lenoir College Team: Russ Frazier, Lenoir, North Carolina.
 University of North Carolina Seminoles: University of North Carolina, William J. Brooks, Wilmington, North Carolina.
 University of North Carolina Team: Walter Rabb, P. O. Box 2126, Chapel Hill North Carolina.

INDEPENDENT TEAMS

Alaska Goldpanners: Don Dennis, P. O. Box 1154, Fairbanks, Alaska.
 Boulder Collegians: Baulde Moschetti, 1024 11th Street, Boulder, Colorado.
 Hoffmeister Team: Charles J. Rathmann 982 Purlala, St. Louis, Missouri.
 Humboldt Crabs: Ned Bursaglia, 870-14th Street, Arcata, California.
 Chicago Stars: A. J. Hartoch, 1723 Bryn Mawr Avenue, Chicago, Illinois.
 Ft. Dodge Leyden Chevrolet Team: Jerry Patterson, 2010 Highland Park Avenue, Ft. Dodge, Iowa.
 Grand Junction Eagles: Rudy Susman, 2015 North Fifth, Grand Junction, Colorado.
 Halstead Cowboys: Bob Considine, 422 West Second, Halstead, Kansas.
 Liberal Bee Jay Baseball Assn., Inc., Box 352, Liberal Kansas 67001.
 Sullivan's Furniture Baseball Club: 279 Bridge St., N.W., Grand Rapids, Michigan 40504.
 (No Name): John R. Smith, 1013 Monticello Street, Waynesboro, Virginia 22080.

Mr. Byens, I am on page 11, gentlemen.

A lot of the certification programs were designed to prevent the very thing that happened in the Russian basketball tour.

Leadtime is one of the most important ingredients in successful athletics, and the lack of leadtime, the secretive negotiations, the 11th-hour announcement concerning the Russian basketball tour really underscore the necessity of having a type of program like this.

This deal was made with the encouragement of CBS and some financial assistance. This deal was made in August of 1972. The first public announcement that we know anything about occurred February 12, 1973, at a meeting of the Los Angeles Track and Field Writers in Los Angeles.

A reporter of the Los Angeles Times called us, and that was our first contact, outside of one telephone call from a coach who had been talked to in Cincinnati in January.

On February 12, the president of Marquette University wrote us a letter—it was dated February 12—we got it after that date. He inquired about the rule, and what was necessary to get the tour certified.

From August to February, nothing was done, and even at this date, in February, the coaches had not been selected, and the players had not been selected, and many of the sites had not been contracted for, and some of the players who had been announced as going to play on the team had not been contacted as to whether they wanted to play on the team.

Now, the Congress surely cannot by tacit approval permit that type of irresponsible scheduling and planning practice to go on, if we are sincerely interested in having our best athletes properly prepared under the best training and coaching methods to represent this Nation in international competition.

I think it is the greatest endorsement for the need of the Extra Events Committee, the greatest endorsement of the need of some type of inspection procedure.

I don't say it facetiously, but I think an athletic director would be fired if he scheduled an event without that type of advance planning, and I think the AAI should be fired as our national representative. They have no understanding of the management of sports in the United States.

I know you are concerned that NCAA procedure may be pro forma, it may be designed as a weapon. I hope all of us can convince you it is not.

I would like to put in the record what some people think about the way the AAU runs its own indoor championship. If you have the idea in your mind the AAU is a super-promotor and knows how to run track meets, this is not so.

I have here a clipping from the New York Post. This is about the AAU, its own national indoor championship in New York City.

I don't know if you have this copy of the clipping, but here is a New York Post article. This is from the Track and Field News of March 1, 1972.

[Complete article follows:]

[From the New York Post, Feb. 27, 1973]

NEW YORK CITY INDOOR CHAMPIONSHIP

The National AAU office in Indianapolis is wringing its hands over the ineptitude of its New York office. The national office has been trying for a few years to upgrade its operation, knowing well that every time it pulls a boo-boo, the NCAA is waiting right there to tell the world about the bunglers who run the AAU show.

The one time a year that the scene moves to New York—the Indoor Track Championships—there are colossal foul-ups, thanks to the local branch. For five years the AAU tried holding its meet in the provinces—Albuquerque, Oakland,

Philadelphia. But the meet simply didn't draw in those places, and it drew 16,000 in the Garden Friday night, and this is an organization that's always strapped for funds.

So the errors come, and everyone hopes that next year things will be better, and they never are. The shot put and weight foul-up was the big one this time. No one could figure out who was responsible for getting the implements up to the Baker Field bubble, nor any of the other things necessary to run a competition, such as competitors' numbers and medals.

It seems that Dan Ferris' staff understood how to get everything on the bus to Baker Field, but didn't count on the necessity of getting it off the bus. But there were more boo-boos.

Like the time schedule. It follows the same unrealistic pattern every year. The people who set it up simply can't visualize a meet in progress. They set up the trials of the hurdles at the same time the women's high jump is going on, and if they stop to think, they'd realize the two areas overlap. You can't jump with hurdles all over the area, and you can't warm up for the hurdles while you're dodging high jumpers.

Friday's casualty from this mish mosh was our Olympic gold medalist in the hurdles, Rod Milburn, who suffered a slight pull in the afternoon trials, and aggravated it further that night.

"We couldn't warm up for the trials because of the high jumpers," he said. "The hurdles were set up, and boom, we were off. When you don't warm up, you pull muscles."

Let me say Track and Field News is the most authoritative publication in the United States, and it has a substantial international distribution.

[From *Track & Field News*, Mar. 1, 1972]

WOODS' FIRST RECORD: STEEL SHOT, IN BUBBLE, FOR 10 FANS

"I was really glad to get the record," said George Woods of his new indoor shot best at the AAU, "but I wish a few more people had been there to see it. That one was one of the thrilling moments of the indoor season-breaking a world record for 10 people." While Tracy Smith had an appreciative audience of 15,043 to see his 3M effort in Madison Square Garden, Woods got his marker in front of a throng of about 10 at the Columbia Air Bubble. The 10 who did show up were treated one of the great series in indoor shot history—67-10¼, 67-7¼, 68-6¼, 69-0½, 68-10¼, 68-3½, for an average of 68-6 1/16. Only Feneberbach's five-put indoor average of 68-6 15/16 from San Diego the week before is better. "I just got my technique in the groove, and bam," explains Woods. "I was coming straight across the circle for a change." For George, the record was totally unexpected. "I sort of gave up the indoor season two weeks ago to begin my outdoor training. I've been lifting a lot more and paying less attention to throwing. I guess I just needed the strength more than the technique. The change sure paid off in a hurry, didn't it."

Woods was also helped by something else—an outdoor shot. "Handling the steel ball helped," he reveals. "I can always get more snapp on the outdoor shot than I can on the big indoor thing. I've never had so much trouble with the plastic shot as I have this season. I didn't really get psyched about using the steel shot though. I didn't know how I would be able to handle it." The competitors only came to be using an outdoor shot through a comedy of errors. When the competitors arrived at the bubble they found that the officials had no implements (for the weight throw or shot), but a couple of competitors had outdoor shots in their bags, which were used. After the competition, no facilities were readily available to check the legality of the shot (it wasn't checked beforehand), so it had to be shipped to the department of weights and measures in the next county, where it checked out. Former indoor record holder Al Feneberbach commented, "The last two times I came to this meet I brought my own shot, but they wouldn't let me use it. They said we had to use the official implements. So I didn't bring one this year. Reaction to the whole shot competition was rather negative. Leading official Charles Blanford commented, "I've had it with the AAU—the hell with them. It's unbelievable that the AAU meet could be so flaky-dink. I've run developmental meets that were better." And Pole Wladyslaw Komar [1972 Munich Polish Gold Medalist] (who almost didn't get to compete because his entry hadn't been cleared) queried, "This is your national championship?" *Garry Hill.*

Mr. Byers. The point is that application of the inspection procedures to the AAU seems perfectly plausible, in our judgment.

Another point on the Richmond meet: I think the implication has been left in these hearings that because the meet was uncertified by the NCAA because the AAU didn't ask, and because the meet was uncertified by the NCAA, the nation didn't win, the U.S. team didn't win.

It was not a U.S. team. If the AAU had wanted a U.S. team, they could have obtained the approval and, presumably, recruited all the athletes.

But I want to present to you the names of some athletes in this country, athletes who did not participate in Richmond, who did not participate because they have no regard for the AAU: Al Feuerbach, shotput, world record holder, set in 1973, U.S. Olympian at Munich, ranked second in the world.

Steve Smith, pole vault, world record holder, set 1973, Olympian at Munich, 1972.

Brian Oldfeldt, shotput, world record holder, 1972 Olympian.

Marty Liquori, 1968, Injured 1972, probably one of the best milers in this Nation today.

These athletes didn't go to the meet. No organization certification was required. Ask Al Feuerbach what he thinks of AAU management of indoor track in this country.

Well, to go on, we do want to correct the record, Mr. Chairman, on several points.

Let me say we have had some difficulty in getting all the transcripts as early as we would have liked, and we don't want to indicate this is a complete correction, but there are certain points we would like to go over.

First, neither Fred Samara, Dennis Walker, nor any other college athlete was threatened. We don't threaten athletes or institutions.

Obviously, when an institution calls up, we tell the institution a rule. If it requires an interpretation, and they are not sure about it, we interpret. If they ask a question, we have to answer.

We have never at any time or any place threatened athletes.

Now, as to "pawns" and "jeopardizing their scholarships." I don't accept the contention that athletes have been so used by the NCAA.

We hold that the scholarship and grant-in-aid system of the colleges has done more for young people to get a college education, particularly those that come from poverty backgrounds, than probably any other one force in this country.

Now, you may say that is an exaggeration, but we hold the view that over the last 40 years, the college grant-in-aid system has enabled more poor people, poor young men from poverty backgrounds, to move out of that acute poverty background into the mainstream of American society on a highly successful basis.

I don't know whether you saw the telecast of the NCAA championship on Monday night.

Incidentally, you don't lose as much class time playing a championship on Saturday and Monday as you do on Thursday and Saturday, which was the previous format. We plan to write Senator Cook on that.

I don't know whether you watched Monday night, but I hope you saw Cazzie Russell. He came from a poverty background, and what he said about what the program meant to him, I think, is one of the most touching things I have ever heard.

I think saying our program is injurious to the athlete, it makes him a pawn in an effort to get the king—I just don't see any way to support that assertion, in light of the success that those student athletes have had as a result of this program.

Further, the NCAA rules explicitly prevent any graduation or termination of a scholarship or grant-in-aid during the period of award for athletic reasons.

Mr. Peyser was concerned about a report of threats made to Colgate. There was no credence to it, and there was no monetary penalty imposed on any student. There is no fine procedure.

And with all due regard for the Colgate program, Colgate has not been on the television program for over 13 years, and so I don't think whoever has broadcast that report has any possible basis to support it.

Further, the schedule for the television program is selected by the network, and not the NCAA committee.

The AAU deliberately has created the impression that NCAA rules are established and administered by a remote oligarchy, that the colleges really are opposed to NCAA rules. This is a calculated misrepresentation given currency by repeated assertions. In short, it is a lie. The preceding testimony proves it.

We label it a lie because the people broadcasting it know it is a lie.

The AAU has also tried to say time and time and time again that the NCAA wants to control all amateur sports.

We never once have had that in the back of our minds, or never once made that assertion.

We label that a lie for the same reasons.

It is ironic, it seems to us, that the AAU makes these claims, yet it demands a privilege of absolute control, the right to act selfishly and secretly on its own motion, without regard to the interest of others.

Mr. Chairman, the dispute is not over economics. As to point "f," if the NCAA needed money, we could put a 1-percent certification fee on all the postseason football games, and we would generate more dollars—1 percent, now—that would bring in more dollars in 1 year than if we put a 10-percent tax on every other amateur sports event in the country for 10 years.

Dollars are not involved in this at all, insofar as we are concerned. Our concern is for the athlete and his right to be properly selected, properly prepared, and properly coached when he goes into international competition to carry the colors of this country. It has not been that way, and that is our sole concern.

I tell you from the deepest convictions I can convey that that is what we are talking about.

We have a hard time believing that it is accurate to say that we "struck" against the games at Richmond. They could have got the games approved.

In fact, in July 1972, at Sacramento, Calif., the AAU sponsored a Russian-U.S.A. national junior dual meet. The competition was certified. That competition was sanctioned by the U.S. Track and Field

Federation, and certified by the NCAA. Why didn't the Richmond competition follow the same course?

On page 15, we cannot follow a double standard.

I am in the middle of the second full paragraph there.

We ask the Los Angeles Times to obtain certification for their indoor meet. One of the most prestigious events in the country, the Cotton Bowl, applies for certification, the California Orange County Youth Foundation, the Optimists, the Lions, American Cancer Society, Multiple Sclerosis Society, March of Dimes, they run all events in which they would like the college athletes to participate for desirable charitable purposes. They all work under the program. Why can't the AAU work under the program?

One of the great AAU problems is its absolute refusal to cooperate with the colleges. They claim, however, that cooperation is wonderful with the colleges, it is just the Kansas City crowd that bothers them.

If they are interested in cooperation, why don't they follow the same procedures everybody else follows? Why don't they respect the rights of delegates voting at the conventions for these rules, and not try to erode them? Instead, they say, "Forget the certification."

We can't operate on a double standard. The entire AAU could not put on the Rose Bowl Parade if they worked 10 years, but the Rose Bowl people are content to work with us. There are people scattered around the country working with us to put on these events, and they observe the rules of certification.

I know I have gone on much too long. I will try to get to a conclusion. I am tired of hearing my voice.

H.R. 5623 we have looked at from two points of view. We debated whether it was a weapon designed by the committee to get recalcitrant parties to negotiate their problems privately, which I am sure is the preference of this committee.

We think the bill is defective from that viewpoint, I think unwittingly, because I don't think whoever wrote the bill grasps some of the fundamental problems.

It is strictly an anticollage bill. It cuts only one way. If it cuts only one way, why would the other party care?

So it is not very successful, really, from the standpoint of prompting private negotiations.

And as far as a measure to really deal with the problem, we very reluctantly have come to the conclusion it embraces all the old AAU arguments. It embraces a lot of arguments that General McArthur, Attorney General Kennedy, and others threw out as not valid arguments. It really embraces all those.

As we read the bill, it reflects a position that what the AAU does is all right; it is not going to do much about that. I speak specifically to the one section designed for the AAU. It is imperfect. The AAU can do what it wants.

But the colleges and the rules their delegates have adopted are to be struck down by the Federal Government.

So we look at it quite simply as a straight-up anticollage bill, and don't really believe people who think this bill has merit really understand what it does.

We are trying to say—I think when we conclude, you will see this—what you are trying to do, we support, but the vehicle and the words you have chosen are unfortunate.

The proposed legislation preempts the rights of this Nation's institutions of higher education to individually and collectively adopt eligibility and administration standards for the conduct of their intercollegiate athletic program. It specifically tells the faculty of the University of Michigan and the faculty of the University of Oregon that they cannot adopt binding eligibility rules for the universities' intercollegiate squads or limitations on the playing season.

We again question—which was my opening statement—whether this kind of interference with the voluntary regulations of educational institutions is constitutional or desirable.

Second, it gives what amounts to total freedom for the college coach to exploit the college program and college student for his own personal gain.

5623 strikes down over 50 years of collective experience in the management of intercollegiate athletics.

We think if our program were a failure, the colleges should do something about it, but we have considerable pause that the Congress would want to adopt a bill that strikes at the college program when it is eminently successful.

Let me give you some concrete examples of the bill's effect.

The LSU football team could evade our out-of-season practice rules by playing in Mexico.

The Michigan Tech hockey coach could select an all-star hockey team from Michigan, Michigan State, and Tech to play a series of games in Canada during the examination periods of the institutions.

The owner of the Chicago Stadium could match a Big Ten all-star track team against a track team from Red China in the middle of the intercollegiate track season.

A professional promoter could hire a college coach to take the University of Florida basketball team to South America in violation of the limitation on practice.

College students could be recruited for private ventures in violation of the amateur rules, if a professional promoter could hire a college coach and take a team to South America.

Believe me, gentlemen, it opens the door for massive exploitation of college programs by outside promoters, including television packagers and networks. I guess we are all aware sports is the hottest commodity in the television industry. Never before have they sought sports events as they seek them now.

Finally, the bill is discriminatory in the very worst sense. It professes to protect the rights of college student-athletes, but gives no support or recognition of the out-of-college athlete.

The college student has a faculty representative, a counselor, and athletic department personnel to protect him. It seems this bill says these people are not to be trusted, and the Federal Government must intervene.

The out-of-college athlete has no one to protect him against the arbitrary and capricious rules of the AAU. Rules are based on a foreign-granted franchise. This bill ignores him, and we think that approach is difficult to understand.

As to H.R. 5624, we do have reservations about a great deal of the language. We have reservations about substantial portions of the language, but we believe the principle has merit.

In fact, we believe the good intentions of this subcommittee, including the presumed objectives of 5623 and the principles of 5624, can be merged to develop a most constructive bill which would be based on sound legal principles, which would not affect the operations of any of the existing sports bodies, and would answer the desires of the American public, which want our best athletes performing under our best coaches with the best logistic support.

We think we have been criticized unduly, but then that is part of the game.

We come here in a spirit of cooperation. We think any solution has to accommodate the college program, because it is the most successful program in America, and we are not unmindful of the magnificent international program conducted by Mr. Fagan's operation. Without that program, there would be no meaningful NCAA program.

Item a in our prepared statement is a review of what I have already said to you.

We do find a little bit of contradiction in some of the thinking. We don't know to whom to attribute the thinking that the NCAA may not be representative of the colleges. I hope that we have persuaded you that type of thinking is not correct.

The thinking appears to go, "The NCAA may not be representative of the colleges. We will tell the colleges by Federal edict what they can and cannot do." I feel that is quite contradictory.

b. We are sorry the proceedings have been limited as they have.

c. We think other people ought to be put to it to justify their programs.

Item d leads us into what we hope will be a constructive suggestion.

We think the organizations which have national programs in the respective sports should be the ones to participate in the decision-making process when this country comes to select or qualify its national teams to represent it in international competition.

As I speak of national teams, we are speaking of a team which carries the American colors into competition, has the Nation's name on it, and carries the flag in its vanguard, as opposed to less than national team competition. An example of something less than a national team would be when Valparaiso goes to Australia to play, or when the Big Ten basketball team went to the Far East for a series of games. We would not think that those types of competition, which are going on constantly, should be brought under any Federal inspection program.

We are speaking of truly national teams. When it comes to that type of competition, we think that national organizations only who truly have a national program should be in the planning stage, so we suggest under item e that a commission for track and field, a commission for basketball, and a commission for wrestling, which is needed, should be chartered by the Congress as private organizations to serve as boards of approval for international competition in which the national teams of two or more nations are involved.

These commissions would be the final boards of review for such international competition—excuse me—any organization which desired to promote and schedule such events would be required to obtain approval of its plans from the commission before proceeding.

That is critical if you are going to have the commission get behind something. The commission has to know when, where, and how.

Any organization qualified under d should have the right to propose such competition, and only organizations qualified under d, above, would have the right to appear before the commission to object to such plans.

This would include Olympic competition in the sports in question.

f. If other sports develop problems, then similar commissions can be created as the need arises.

In carrying forward the proposal in e, I do believe it has in general the thrust of 5624, and carrying forward that, I think you could build in what I call an athlete's bill of rights, which is what I really believe 5623 was addressing itself to.

Let me say parenthetically I am not sure the athlete himself doesn't have recourse right now in the courts. That is a relatively new area of legal experience, but it is a fast-growing area.

What I am trying to say is that the idea a student athlete, or any athlete, has no weapon of any kind at his command overlooks the fact that there are increasingly court actions testing the wisdom of athletic decisions. But I am not suggesting that that is sufficient. I am throwing that in as a side observation.

I think there could be built in to this concept, an athlete's bill of rights—that an organization could not impose ineligibility upon any student or noncollegiate athlete for purely organizational gain.

The commission procedure would make certain that unqualified promoters could not embarrass our Nation, at least by inadequate planning, and prevent the selection of coaches on the basis of cronyism, and the selection of athletes on the basis of organizational aggrandizement.

In conclusion, let me add that the anticipated objections from the U.S. Olympic Committee and the AAU about the international rules not permitting such procedures are invalid. The United States Government obviously has legal authority to pass upon those organizations and people who are going to carry our Nation's flag in international competition.

I am sorry to have been so long.

We say in closing that we want to cooperate with you in a constructive solution.

I know you are going to flinch at this, but I have two more comments to make.

May I?

Mr. O'Hara, Please do.

Mr. BYERS, We would like to correct the record on the statements made here by the spokesman for the NAIA.

He is quoted as saying that he believes—this is direct quotes that we got from the transcript or took from notes.

"I believe . . . not only the athlete, but a coach in an institution should not be prevented by domination from participation in any area of amateur athletics which he wishes to choose."

He is also quoted as saying, "Our philosophy and belief on the competition, the right of their athletes to participate, is . . . outside the season of play we only insist that they be amateur and that they have the approval of the president of their institution."

[The documents referred to follow:]

MEMORANDUM

MARCH 29, 1973.

To: Walter Byers.

Subject: Rebuttal to Remarks of A. O. Duer Before House Subcommittee.

Duer said, "I believe a coach or athlete in an institution should not be prevented by domination from participation in any area of amateur athletics which he wishes to choose."

He also responded "Yes" to Mr. Lehman questions, ". . . the NCAA does not want its players to play on this so-called national team at this particular time. That is about the way it is, is it not?"

Mr. O'Hara said, "The NCAA has a rule that limits the participation of members of athletic teams of affiliated institutions, limits their participation through the school team, but it limits participation in sports outside the regularly accepted season?" Dr. Duer said, "Yes." Mr. O'Hara asked, "Do you have a similar rule in the NAIA (emphasis mine). Mr. Duer said, "We do not." Later, Duer said, "Our philosophy and belief on the competition (is) the right of athletes to participate . . ."

REVIEW OF NAIA BYLAW VI, SECTION III

Photocopies of this Bylaw, title "Penalties and Appeal Procedures" are attached. Also attached is a letter from Dixon Farmer, former track coach at Occidental, to Bill McClure indicating Farmer's reason for resigning membership on the NCAA Track and Field Rules Committee. I believe this rule has been rescinded since that time.

Duer failed to mention the following rules which restrict participation by NAIA member institutions:

1. Institutions sponsoring an NCAA event "in conflict with the best interests of the NAIA program" are subject to a two-year suspension from all NAIA events.

2. Institutions participating in an NCAA event which conflicts in date or in fact with an NAIA event are subject to a two-year suspension from all NAIA events; it shall be ineligible for participation in the statistical services; it shall lose its right to vote, and no member of its staff shall be eligible to serve on committees during the penalty period.

3. Institutions which schedule more than 25 per cent of their football or basketball games against "Major" (NCSS definition) opponents are ineligible for all district, area and national events sponsored by the NAIA.

Although I have absolutely no proof of this statement, I have been led to believe by persons closely associated with the NAIA program that Duer would institute a certification program if he believed it would be a source of revenue.

LOUIS J. SRY.

OCCIDENTAL COLLEGE.

Mr. BILL McCURE,
President, NCAA Rules Committee,
Kansas City, Mo.

Bill: It is with a great deal of regret that I must write to you with information about my resignation from the three year appointment as Secretary and At Large Member of the NCAA Rules Committee.

Occidental holds dual membership in the NCAA and NAIA, and unknown to me at the time of my original acceptance to be on the committee, there is an NAIA rule against service on any other national committee for the purpose of organizing or administering any part of the NCAA program. (Sec. II, Article VIII of the NAIA Handbook.)

Therefore, I am hereby submitting my resignation from the NCAA Rules and Games Committee as of October 20, 1970.

Respectfully,

DIXON FARMER,
Track and Field Coach.

NAIA BYLAW—ARTICLE VI

PENALTIES AND APPEAL PROCEDURES

- SECTIONS I Enforcement Policy,
 II Notification of Penalties,
 III Infractions.

SECTION I. ENFORCEMENT POLICY

The Executive Committee of NAIA has the power to enforce provisions of the NAIA Constitution and Bylaws and all other policies.

The Executive Committee, in specific cases considered by it, shall take such action as it deems wise after consultation with the appropriate District Committee. An opportunity shall be given the President of the Institution involved to present its case.

SECTION II. NOTIFICATION OF PENALTIES

The Executive Secretary-Treasurer of NAIA shall inform the President of the Institution involved of action taken by the Executive Committee and shall send a copy of the letter to the District Chairman. He shall further inform all District Chairmen of NAIA of the action taken in enforcement of the rules and standards within the membership.

SECTION III. INFRACTIONS

1. **Sponsoring of conflicting events:** The holding or sponsoring of any national college athletic association event by an NAIA member Institution which is in direct conflict with the best interests of the NAIA program shall be in violation of NAIA policy. Institutions violating this policy shall be subject to a maximum two-year suspension from all NAIA events.

2. **Participation in conflicting events:** If an Institution worthy of, or qualified for, participation in NAIA district or national events which elects not to participate in such events, should then participate in a conflicting tournament or meet, either in date or in fact without written approval of the Executive Committee, through the Executive Secretary-Treasurer, it shall be liable for any or all of the following penalties:

(a) The Institution shall be suspended from all district, area, and national events to a maximum of two years.

(b) It shall be ineligible for participation in statistical services, to a maximum of two years.

(c) It shall lose its right to vote on district or national issues during the penalty period.

(d) No member of its staff shall be eligible to serve on district or national committees during the penalty period.

3. **Use of Ineligible Athletes in Intercollegiate Competition:** Any member Institution which permits the use of an athlete who is ineligible, according to NAIA rules and standards, shall thereby automatically be suspended from competing in all district, area, and national events sponsored by NAIA pending a full investigation by the Executive Committee.

4. **Institutional Scheduling of Football-Basketball:** NAIA member institutions must schedule 75 per cent of their season's schedule in football and basketball, tournaments included, with other institutions recognized as below the major level of competition to be eligible for participation in the NAIA events program. Institutions which schedule over 25 per cent of their season's schedule, in basketball or football, with recognized "major" competition institutions, will thereby render their Institution ineligible for participation in all district, area, and national events sponsored by NAIA.

NOTE: The National Collegiate Sports Services Listing of "major-minor" participation institutions, issued each year, will be used for this policy. In borderline cases, the decision of the NAIA Executive Committee will be final. We urge that all member institutions carefully examine their schedules to assure their conformance with this policy.

5. **Statistics and Records by Suspended Schools:** Records made by an institution during the time of suspension by the national organization shall not be carried in statistical releases or in the NAIA Record Book, published annually. However, statistical records made by an individual may be counted toward a total four-year record. Should penalty of suspension be limited to a given

sports(s), only such sport(s) as stipulated in the suspension shall be affected.

6. *Delinquent Eligibility Reports:* Institutions which are delinquent in filing eligibility certificates with their District Eligibility Chairman (see Article V, Section IX) shall:

(a) Be declared ineligible to participate in any post season competition in the sport found delinquent for that season.

(b) Cause statistical service of NAIA to be withheld until eligibility is cleared.

(c) Cause participation in all other NAIA district, area, or national events to be withheld until clearance for the delinquent sport is obtained.

(d) Cause the institution to be investigated by the Executive Committee of NAIA for possible institutional censure and/or suspension of the institution.

ARTICLE VIII—GENERAL COMMITTEES

- SECTIONS I Policies of Selection.
 II Dual Membership Policy.
 III Processing of Recommendations.
 IV Committees and Descriptions.

SECTION I. POLICIES OF SELECTION

A great deal of the planning and work on the various projects of the NAIA is accomplished by standing committees, which are appointed by the NAIA President.

Each year the President normally requests the District Chairman to submit recommendations for outstanding persons to serve upon the standing committees.

Each standing committee has a member of the Executive Committee or a national staff member as coordinator. A chairman and vice-chairman are appointed, and the general membership of the committee is composed of one representative from each of the eight NAIA areas. The committee is selected from outstanding individuals from member institutions who have been active in the particular region which is the field of study of the committee and who have shown by performance a dedication to the ideals and standards of NAIA.

SECTION II. DUAL MEMBERSHIP POLICY

NAIA member institutions which permit any member of their athletic staff or college administration to serve on any committee for organizing or administering any part of the NCAA program shall thereby disqualify all members of their administration or athletic staff from serving on any NAIA committee, Coaches' Association, National Sports Section or National Sports Advisory Committee.

It shall be interpreted that this policy shall apply to any committee to further the "College Division" program of those Federations which are under the direction of NCAA, specifically the Basketball, Track and Field, Gymnastics and Wrestling Federations.

SECTION III. PROCESSING OF RECOMMENDATIONS

In order for a recommendation of a committee or segment of NAIA to be given approval at the time of the annual meeting, the recommendation shall be in the hands of the Executive Secretary-Treasurer of NAIA at least thirty (30) days before the date of the annual meeting. All recommendations presented at the annual meeting, without having previously been presented in accord with the above stated procedure, will be "accepted" and action taken at a later date by the Executive Committee.

Mr. Byens, I think he testified, or at least he left the distinct impression the NAIA has no more requirements than that.

I wish to introduce and give copies to the recorder of the 1971 bylaws of the NAIA, which specifically provide that "International competition for individuals sanctioned by the individual institution shall be permitted, *provided it is approved by the NAIA Executive Committee.*" (Emphasis added).

I also want to point out a rule which says that NAIA members may not compete in more than 25 percent of their schedules in football and basketball against the NCAA colleges. A member of the NAIA may not compete 26 percent against the NCAA major colleges.

The NAIA has put on this provision, and deprived these institutions of competition in the NAIA events, solely because the institutions competed at Boise State, Southern Colorado, Montclair State basketball and North Park basketball.

The only cause for ruling those institutions ineligible for NAIA competition was the fact they competed in an NCAA event.

I didn't want the committee misled on this point.

Mr. O'Hara. Without objection, those will be entered in the record. [Bylaws follow.]

NAIA CONSTITUTION AND BYLAWS, 1971 EDITION--BYLAWS

[An asterisk (*) in the margin next to a statement denotes further information is located in the Casebook Section.]

ARTICLE 1

General Policies

- | | | |
|----------|------|--|
| SECTIONS | I | Control of Athletic Program. |
| | II | Admission Standards. |
| | III | Scholarships, Grants-in-Aid, and Student Loans. |
| | IV | Campus Visitation and Recruitment of Prospective Student-Athletes. |
| | V | Recruitment of a Matriculated Student-Athlete. |
| | VI | Institutional Statement of Athletic Aims and Objectives. |
| | VII | Types of Institutional Memberships. |
| | VIII | Membership Implies Full Support of Program. |
| | IX | Frequency of Play and Scheduling Policies. |
| | X | Membership Dues Payment Deadline. |
| | XI | High School All-Star Games. |
| | XII | Amendment Procedures. |

SECTION I. CONTROL OF ATHLETIC PROGRAM

The control of athletics shall be the responsibility of the school administration. No member institution shall participate in any athletic contest which is not under the direct control and supervision of the college administration.

International competition for individuals sanctioned by the individual institution shall be permitted, provided it is approved by the NAIA Executive Committee. Such competition will normally include the Olympic and Pan American Trials and Games and FISU* competition. Such international play shall not affect seasons of eligibility.

The Athletic Department shall have a place in the institutional structure comparable to all other departments. Members of this department shall have the same professional status and tenure as other faculty members. There should be an athletic board appointed by the President to act in an advisory capacity.

SECTION II. ADMISSION STANDARDS

Athletes and non-athletes shall be admitted to the institution under the same admission standards. All shall be enrolled through the regular procedure established by the institution.

*SECTION III. SCHOLARSHIPS, GRANTS-IN-AID AND STUDENT LOANS

Assignment of Scholarships, Grants-In-Aid, or Student Loans shall be controlled by the faculty through the regularly constituted committee on student loans and scholarships.

Mr. BYERS, Thank you. I am sorry I took so long.
[Complete statement follows:]

TESTIMONY OF WALTER BYERS, EXECUTIVE DIRECTOR, NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION

Mr. Chairman and members of the subcommittee, we are gratified that this subcommittee has made inquiry into the administration of intercollegiate athletics. We join you in a spirit of cooperation and with a desire to respond completely and fully to all questions. We would hope that this Subcommittee—or another Congressional committee if yours is bound by the perimeters of your education assignment—would make similar inquiry into the rules and practices of other amateur sports bodies, particularly the Amateur Athletic Union and the U.S. Olympic Committee.

It is essential that this Subcommittee and the Congress obtain an understanding of the administration and conduct of amateur sports in this country, and particularly intercollegiate athletics, if present difficulties are to be resolved. Surely, such a resolution is the proper and necessary objective of any legislation.

We believe that the Subcommittee's perspective has been obscured and intentionally misdirected by testimony which it has heard, testimony which at many points is grossly inaccurate and misleading.

The presentation of the National Collegiate Athletic Association will be divided into these principal areas:

1. A perspective of amateur sports today and the intercollegiate program.
2. An examination of the National Collegiate Athletic Association as an organization and a comparison of the NCAA with the Amateur Athletic Union.
3. An analysis of the problems which brought about these hearings.
4. Refutation of the erroneous information and allegations which have been presented in connection with these hearings.
5. Consideration of the principles embodied in the bills before the Subcommittee.
6. The long-range interests of the nation and the athlete, including proposals for resolving these and any future difficulties.

1. PERSPECTIVE

The most successful and the most respected amateur sports programs in the world today are the intercollegiate programs conducted by the member institutions of the NCAA. The student-athletes of our member colleges at the ages of 21 and 22 are so skilled that they immediately become standout performers in the USA professional football leagues and command remarkable salaries. This unending flow of talent sustains two major professional football leagues which are spread from coast to coast. The same story is found in basketball, where NCAA graduates are the superstars of the NBA and the ABA. Study Olympic team after Olympic team in basketball and you will find that the players from NCAA colleges are the stars who have built an unparalleled series of Olympic successes until the disastrous Munich effort. During the past eight years, it is unfortunate that the U.S. Olympic Committee has not been able to persuade some of the best American college basketball athletes to represent it in that sport—a situation which would, in itself, be worth a detailed examination.

The intercollegiate track programs of NCAA member colleges provide the United States' national-class athletes and this nation's world-class performers. Twenty-two USA citizens hold or share world track and field records and three USA relay teams hold world records. Every record-holder is a product of the NCAA college track and field program. The records our nation holds were either established by NCAA undergraduates or NCAA former students competing shortly after graduation. Sport after sport displays the same record. In those sports which the American public most admires, it is the NCAA college programs which are the fountainhead of USA athletic might, professional or amateur.

Foreign coaches from all over the world visit NCAA colleges to study facilities, training techniques, medical supervision and coaching skills. Our coaches are in constant demand for State Department-sponsored tours to provide better teaching techniques and knowledge to nations in all corners of the globe.

Two particular sports are of concern today to this Subcommittee—basketball and track and field. My remarks, in the main, will be directed to them.

The AAU does not buy a meaningful program in either sport. I doubt if a member of this Subcommittee can name an AAU basketball team which employs at least one full-time coach, has a regular playing site and plays a regular schedule.

As to track and field, where are the AAU track and field teams? How many AAU clubs employ a full-time track and field coach? Is there an AAU track and field club which has a regular, published, season-long schedule? Few, if any, exist. Suppose, Congressmen, that one of us had a son who was interested in developing his basketball skills to the greatest degree possible. Would we want him to enroll at a well-qualified NCAA college under the tutelage of a well-qualified NCAA coach? Or would we prefer that he play for an AAU team? If the latter is the case, can anyone here name an AAU coach or team for which he would like his son to compete and learn the sport?

A dramatic illustration of this can be found in the fact that if a young man wants to develop skills in track and field and basketball beyond high school and cannot attend a college, those skills will not be developed. The AAU has no quality program for the college dropout or the high school graduate who chooses not to go to college.

This is one of the most shocking indictments of the AAU's dereliction of duty, especially as it professes to be the sole governing body for basketball and track and field in the United States. Instead of trying to foment issues to embarrass the colleges and the NCAA, why doesn't the AAU spend its time stimulating a program for these needy individuals. A great segment of young people is not being served.

Thus, the NCAA college program is successful beyond question; the AAU domestic program is a failure, particularly for the non-college athlete. Please weigh this fact of life before steps are taken to force unneeded changes in the operations of NCAA member institutions.

2. THE NCAA AND ITS MEMBERS

This Association is a voluntary, non-profit, educational organization. It is composed of 770 members of which 695 are four-year colleges and universities and 75 are allied and affiliated organizations. The NCAA membership provides intercollegiate competition in 23 different sports in which more than 100,000 students compete annually. In total, NCAA members annually spend more than \$230 million in the administration and conduct of intercollegiate competition. Deducting all sources of income to the colleges from gate receipts, television, radio programs and like source, NCAA four-year institutions of higher education today are subsidizing intercollegiate competition by approximately \$22.5 million. This means that at a time when higher education is faced with the most critical financial crisis in its history, it is running a deficit of \$22.5 million in an effort to maintain intercollegiate athletics because it thinks sports participation is a valuable educational experience. (exhibit A—membership list).

NCAA member institutions, working through regional athletic conferences and the NCAA at the national level, are responsible for the United States athletic might in those sports in which the American people are nationally proud. The investment is enormous, the end-product superb and the facilities, coaching skills, training methods and medical attention to athletes at NCAA colleges are unparalleled in any other nation of this world.

The NCAA is a voluntary organization of institutions. No institution is required to belong to it. Any member, any group of members or all members are free to resign from it. NCAA policies are determined by delegates voting in annual Convention and those delegates are appointed by the chief executive officer of each member institution and allied athletic conference. Sometimes the voter is a college president, more often he is a faculty athletic representative and frequently, he is an athletic director (exhibit B—delegates' forms). A key element of the NCAA structure is the required rotation of all officers, a member of the Executive Committee and Council and members of all committees of the Association.

The membership growth of the NCAA attests to the value placed upon NCAA services by member colleges and universities of the Association. In slightly less than 25 years, the NCAA membership has grown from 317 to 770, an increase of 142.0% (exhibit C—membership growth).

To understand the problems which we face, it is essential that there is understanding of the flow of power. The NCAA authority is solely that which is given to it by its member institutions voting in Convention assembled. The AAU au-

thority, on the other hand, does not flow upward from those whom it seeks to govern, but rather it is imposed downward upon those whom it attempts to govern. Its authority stems from certain international rights it acquired by historical accident around the turn of the century. The AAI feels that it can keep its foreign-dispensed authority secure only if it displays to the particular international governing sports body that it is in control of that sport in the United States. Please bear in mind that the AAI seeks to exercise its control by permitting or preventing athletes from competing in international competition, since it has lost virtually all of the controls it formerly attempted to exercise over domestic competition.

Our Association's rules and regulations have three fundamental purposes:

a. To prevent the student-athlete or the athletic program from being exploited by the coach, his institution or outside promoters. Exploited as used here means that other parties capitulate upon the athlete's or college team's athletic prowess without regard to the student's educational needs and attainments.

b. To maintain those particularly popular intercollegiate sports activities within reasonable educational boundaries and control so that in fact they can be justified as a desirable extracurricular function of an institution of higher education.

c. To maintain a reasonable degree of equal opportunity and competitive balance between and among institutions of higher education on the playing floor and field. This encompasses number of games, outside practice, extracurricular competition, recruiting, financial aid and other limitations in areas of activity in which institutions find themselves in intense competitive situations with each other.

The NCAA Extra Events Committee was created in 1948 to bring under some reasonable control the plethora of postseason football games which were causing the management of our member institutions considerable difficulty. Thus, standards were established which the managements of such games were required to meet before the games were certified and member institutions could compete in them. The history of the colleges' control of outside competition has been that the membership of the NCAA has brought these activities under inspection and approval only when it has found that the outside promoters in a particular sport were disrupting the college programs and the student-athlete's educational commitment, or there was need for assurances that the competition was properly managed for the purposes of the competitors' safety. For example, you will find controls of varying degrees apply in football, basketball, track and field and gymnastics, but not in swimming, lacrosse or fencing. Further, NCAA members have never contended they should have an exclusive certification or sanctioning authority.

It has been disturbing to read of witnesses testifying before this Subcommittee that the NCAA's rules really are not desired by NCAA members, but are imposed upon them. I can understand why the AAI makes that allegation, because it is by arbitrary rules dictated from the top that it has attempted to impose controls upon American athletes, teams and colleges by virtue of its foreign-granted authority. Exactly the opposite is true as to NCAA requirements.

During the past three NCAA Conventions, the National Basketball Coaches Association has been desirous of modifying the NCAA prohibition on out-of-season basketball competition—simply to permit summer leagues approved and certified by the NCAA. Each time, the institutional voting delegates, appointed by the colleges' chief executive officers, have rejected this relatively mild liberalization of the rule.

Furthermore, apropos to the track and field issue, the membership two years ago voted to strengthen our certification program for outside track and field meets (such as the Russian-USA meet in Richmond) by overwhelmingly adopting a Constitutional amendment, which amendment required a two-thirds affirmative vote of the members.

The point I am making here is that the rules are adopted by the NCAA membership as needed to provide proper administrative direction for their programs. They are rules tailored to the experience and programs of NCAA members—other college institutions may have different rules to fit their own programs and experience. The rules of the NCAA are the rules needed by member institutions in the administration and conduct of their programs and they definitely are NOT in any sense regulations designed as weapons to combat the AAI. They become bothersome to the AAI solely because the AAI chooses to ignore them. I seriously question whether the Congress should attempt to substitute its judgment for the wisdom of college presidents, faculty members and athletic directors appointed

to vote for their institutions on matters affecting the welfare of those students who engage in high pressure athletics.

3. THE CURRENT PROBLEM

The difficulties associated with the Russian-USA track meet and the contemplated tour of a Russian basketball team were caused solely and exclusively by the AAU. We flatly reject any contention that the NCAA was responsible for the fact that college undergraduates were not able to compete at Richmond and we reject unequivocally any contention that the problems associated with preparation for the Russian basketball tour are the responsibility of anyone except the AAU.

In the immediately preceding section, we have outlined the reasoning behind NCAA legislation. The NCAA membership has carefully designed rules in the best interests of its students and the college program, and has provided adequate means whereby legitimate promoters and other outside interests may operate within the rules adopted by the NCAA membership.

Please bear in mind that the NCAA Extra Events Committee was created a quarter of a century ago to make certain that outside competitions to which student-athletes were invited met reasonable educational standards in the areas of timing, preparation, medical attention, insurance and like fundamental needs of athletic management. The Extra Events Committee annually certifies approximately this number of outside events: 12 postseason football games, 37 track and field meets, 11 gymnastics meets, 23 college all-star football and basketball games and in addition, through comparable machinery, we certify approximately 50 high school all-star football and basketball games. We deal pleasantly and satisfactorily with a variety of promoters throughout this nation and the AAU is the only group with which we have had any appreciable or continuing difficulty.

I am submitting herewith a listing (Exhibit D—Certification Lists) of the outside events which the NCAA has certified in recent years. Please note the diversified sponsorship and the national distribution of these agencies. We are sensitive in having this referred to as a pro forma procedure because, in fact, it is not.

For example, the managements of the Rose Bowl and Sugar Bowl each year file detailed reports on their operations in order to gain approval for the next year. Some of the finest people in America unite in the management of the various postseason football games across the country, but they recognize the need for meeting standards and are pleased to submit to our certification program. The entire AAU organization does not have the management skills to put on one Rose Bowl parade and game, yet the Rose Bowl supports the Extra Events Committee and its program, while the AAU refuses to cooperate with it. The Philadelphia Track Classic is put on by the Department of Recreation of Philadelphia, the Wanamaker Millrose Games are staged in New York City, the Baltimore SUN manages an All-East Track Meet and the Los Angeles TIMES Indoor Track and Field Championships is one of the leading indoor events of the country. All these reputable concerns cooperate with the Extra Events Committee.

It is the AAU which has caused the crisis associated with the Richmond competition and the Russian basketball tour. It simply is incredible that an organization which has not one single national reputation basketball team and cannot identify a national track and field program should have the right to schedule—privately and exclusively—international competition in these sports. On top of that, the AAU schedules international events apparently on a whimsey, keeps such arrangements relatively secret until almost game time, refuses to cooperate with the established certification program of the colleges and then provokes a Congressional investigation on the charges of un-American and illegal activity by the NCAA.

The colleges deeply resent this type of irrational and irresponsible conduct.

Anyone who has the slightest knowledge of sports respects the importance of lead time—that is, scheduling of facilities, selection of teams, selection of coaches, training, physical preparation, strategy planning and all that goes with a successful undertaking. If a representative of a reputable college had agreed to a match of international prestige in the summer and for six months had done nothing about securing a team or coach, he would or certainly should be fired.

The AAU should be fired as this nation's international representative in matters of track and field and basketball because of its total lack of understanding of athletic management and preparation.

It is more than an insult to our national honor, it is totally unfair to these athletes who are expected to represent our country.

The same type of mismanagement and fuzzy thinking which has surrounded the problems that we have encountered here in basketball and track and field may be found in similar proportions in the difficulties that our Olympic basketball and our Olympic track and field teams encountered in Munich. The same organization which is responsible for the foul-ups at Richmond and in connection with the coming Russian basketball tour is responsible for the Olympic basketball disaster and the mismanagement of our Olympic track and field effort. The same people are doing the planning and scheduling in each instance.

4. CORRECTION OF THE RECORD

The recent incidents and these hearings have evoked a great deal of misinformation. We understand that it is difficult and time-consuming to probe for facts in depth. We think that it is essential, however, to refute what we feel are critical misrepresentations which tend to divert the Subcommittee's attention from the fundamental issues.

Specifically, we make these comments with the understanding that this does not represent a complete rebuttal to all of the points which we feel need correcting.

a. Neither Fred Samara, Dennis Walker, nor any other college athlete was threatened in any manner by the NCAA or any of its spokesmen in connection with his participation in the Richmond meet. In the case of Samara, the University of Pennsylvania made inquiry of our office regarding the status of the meet and the question was answered. The University then advised Fred Samara as to what the rules were, advised him not to participate and did tell the young man the ultimate decision regarding the matter was solely his.

b. The statement has been made that student-athletes are being used as "pawns" and their scholarships "jeopardized". The scholarship and grant-in-aid sports programs of the colleges for the past quarter of a century have enabled countless young people to obtain a college education who would never have been able to do so by any other means. Many of them have emerged from an acute poverty background to enter the mainstream of American society on a highly successful basis. No more meaningful testimony to the good of this process can be found than the comments of Cazzie Russell of Detroit, former University of Michigan All-American, as he was interviewed on national television via NBC the evening of March 26. Certain eligibility standards are necessary for the proper maintenance of the program which has helped Cazzie and thousands of others. To say that students are being used as "pawns" by the colleges when an outside promoter ignores the procedural rules of the colleges is not only unfair, it is not true!

Further, the NCAA rules explicitly state that scholarships or grants-in-aid may not be graduated or terminated for athletic reasons.

c. The statement has been publicized that Colgate University will lose approximately \$125,000 if it does not abide by the rule in question. There is no monetary penalty associated with the Extra Events Committee legislation. The implication that there is a fine procedure is not correct.

d. The AAT' deliberately has created the impression that NCAA rules are established and administered by a remote oligarchy; that the colleges really are opposed to NCAA rules. This is a calculated misrepresentation given currency by repeated assertions. In short, it is a lie. The preceding testimony proves it.

e. The AAT' deliberately has repeated the fiction that the NCAA desires to control "all amateur sports" in the United States. The NCAA never once has thought of or suggested such a goal. The assertion is an intentional misrepresentation; i.e., another lie. The NCAA consistently has proposed that the solution to the amateur sports problems is a common sports council where those national organizations which sponsor and conduct national programs could come together for common planning and cooperation for the good of each other, the athlete and the nation. It is the AAT' which demands the privilege of absolute and exclusive controls—the right to act selfishly without regard as to the interests of others.

f. On March 19, the statement was made "Our finest college athletes (are) being denied the opportunity to compete as members of the American team—solely because those two athletic organizations, the AAT' and the NCAA, were engaged in a power struggle—and an economic one as well—over who was to control and profit from International basketball competition."

The NCAA rule in question as I have stated above, does not stem from the AAU dispute and is not being used in this instance as a weapon in a power struggle over international competition. The economic factor has never—I repeat never—been a consideration in NCAA councils on the problems associated with getting proper international administration for amateur sports competition.

g. Again, on March 10, the statement was made that "without warning, the NCAA struck against these games" meaning the meet at Richmond, Virginia, March 10-17. The NCAA certification program has been a part of our Bylaws for a great many years. It has been perfectly clear in recent years that the rules applying to track and field outside competition governed all forms of meets held on domestic soil. This legislation (NCAA Bylaw 2-4-(f)) was made explicit by membership vote.

It is difficult for us to understand how the NCAA could be said to have struck at a particular meet without warning when the legislation in question clearly applies and the sponsor of the meet (AAU) knew of the legislation. In fact, the AAU, itself, has obtained certification for its own indoor and outdoor track meets from the NCAA. Foreign competition regularly takes place in those meets.

The solution to the problem was for the AAU to submit a certification request for the Richmond meet just as the Los Angeles TIMES and the Cotton Bowl have followed certification procedures and, for that matter, such organizations as the California Orange County Youth Foundation, the Optimists Club, the Lions Club, the American Cancer Society, the National Multiple Sclerosis Society, the March of Dimes, and so on.

We welcome an objective appraisal of the issues, but we are concerned by proposed legislation (specifically H.R. 5023) which would disrupt the operation of the colleges and in effect give legal endorsement and sanction for the procedures followed by the AAU.

5. NCAA Position Re H.R. 5023 and H.R. 5024

a. H.R. 5023 can be studied from two viewpoints. It could be considered a punitive measure directed at both organizations as a weapon to force them to work out their problems voluntarily. Or, it can be measured as a serious attempt to deal with the problems which concern the Subcommittee.

As a weapon, it cannot be successful. It is directed almost exclusively against the colleges and gives tacit approval to the procedures and operations of the AAU. Such a one-sided measure cannot be effective in forcing parties to come together.

As a measure designed to deal with the problems, it is inadequate. The following comments are directed to this latter appraisal. Whereas we are sympathetic to the objectives of the legislation, H.R. 5023 has serious defects both conceptually and technically. We oppose the bill in the strongest terms possible for these reasons:

(1) The proposed legislation preempts the rights of this nation's institutions of higher education to individually and collectively adopt eligibility and administrative standards for the conduct of their intercollegiate athletic programs. It specifically tells the faculty of the University of Michigan and the University of Oregon that it cannot adopt binding eligibility rules for the University's intercollegiate squads or limitations on the playing season.

We question whether this kind of interference with the voluntary regulations of educational institutions is Constitutional or desirable.

(2) It gives what amounts to total freedom to the college coach to exploit the college program and the college student for his own personal gain.

(3) H.R. 5023 strikes at over 50 years of collective experience in the management of intercollegiate athletics—management which has been so successful that our programs are the envy of the world.

The bill ignores the reasons why the colleges have adopted these rules and accepts the AAU's arguments that the rules are wrong. We are disappointed indeed at the concept of this legislation.

(4) For example, H.R. 5023 would permit:

(a) The Louisiana State University freshman football team to evade the out-of-season football practice rules by playing a series of games in Mexico.

(b) The Michigan Tech hockey coach to select an all-star hockey team from Michigan, Michigan State and Tech to play a series of games in Canada during the examination periods of the institutions.

(c) The owner of the Chicago Stadium to match a Big Ten all-star track team against a track team from Red China in the middle of the intercollegiate track season.

(d) A professional promoter to hire a college coach to take the University of Florida basketball team to South America in violation of the limitation on practice.

(e) College students to be recruited for private ventures in violation of the amateur rules.

(f) Massive exploitation of the college program by outside promoters—including television packagers and networks—without regard to the safety or welfare of the competitor or the welfare of the college program which lays the golden eggs which so many outside persons desire to use for their own gain.

(5) The bill is discriminatory in the worst sense. It professes to protect the rights of college student-athletes but gives no support or recognition to the out-of-college athlete. The college student has a faculty representative, a counselor and athletic department personnel to assist him and protect him. This bill says that those people are not to be trusted and the Federal government must intervene. The out-of-college athlete has no one to protect him against the arbitrary, capricious rules of the AAI—rules that are based upon a foreign-granted franchise. This bill ignores him. Such a biased approach is difficult to understand.

b. We believe that H.R. 5624 contains the principle upon which a solution to the problem can be constructed.

In fact, we believe that the good intentions of this Subcommittee—including the presumed objectives of H.R. 5623 and the principles of H.R. 5624—can be merged to develop a most constructive bill which would be based upon sound legal principle, which would not appreciably affect the operations of any of the existing amateur sports bodies and would answer the desires of the American public which wants our best athletes performing under our best coaches with the best possible logistic support.

6. SPECIFIC PROPOSALS AND ALTERNATIVES

Although we are deeply concerned by the unjustified criticism, we come to this hearing in a spirit of cooperation and a desire to be of assistance in arriving at a long-term solution in the best interests of the athlete and the nation. We submit that to accomplish such a solution, it is essential that the interests of the intercollegiate program of NCAA colleges be fully accommodated, because without these highly effective programs, there would be no process by which national caliber and international class athletes would be developed in the United States. We are fully conscious also that without the magnificent interscholastic programs of the nation's high schools—as represented by and administered under the aegis of the National Federation of State High School Associations—there would be no meaningful intercollegiate program.

So, with these "facts of life" in mind, we submit these observations:

a. Our present rules and procedures are democratically arrived at and the product of the best judgment of the educational leaders and experts in our high schools and colleges who have devoted their lives to the administration of an amateur program which, I repeat, has been the envy of the world. We constantly review our legislation to make certain that it meets current needs and circumstances. We seriously question whether a basis has been laid in these hearings for Federal intervention in the management of higher education; i.e., the substitution of a Federal declaration as to what rules are needed or appropriate.

The Subcommittee's approach seems quite contradictory. On the one hand, the Subcommittee appears concerned that the NCAA rules may not be those that the colleges desire. On the other hand, members of the Subcommittee are proposing legislation that the Federal government shall not permit the colleges, individually or collectively, to adopt meaningful rules that the colleges believe are necessary for the management of their programs.

b. We believe that this inquiry has been far too limited. It has been designed as a critical examination of the college sports system, has ignored the failings of the organization which caused the problem and has not examined why an organization which has no program should insist upon exclusive control of all international competition in that sport. This is a serious shortcoming of these proceedings and ignores the interests of the out-of-college athlete.

c. We recommend that each and every United States amateur sports organization which controls international competition in any form be required to submit

to the same form of inquiry and justification of its program and procedures as we have.

d. It is our conviction that any amateur sports organization in the United States which cannot show that its members, in fact, conduct a national program in the sport in question should NOT be permitted to participate in decisions as to the planning and conduct of international competition. Our definition of national program would be explicit and our definition of international competition would be more limited than that used by this Subcommittee to date.

e. We suggest that a commission for track and field, a commission for basketball and a commission for wrestling should be chartered by the Congress as private organizations to serve as boards of approval for international competition in which the national teams of two or more nations are involved.

These commissions would be the final boards of review for such international competition and any organization which desired to promote and schedule such events would be required to obtain approval of its plans from the commission before proceeding. Any organization qualified under d. above should have the right to propose such competition and only organizations qualified under d. above would have the right to appear before the commission to object to such plans.

This would include Olympic competition in the sports in question.

f. If other sports develop problems, then similar commissions can be created as the need arises.

g. In carrying forward the proposal in e. above, we think that an "Athlete's Bill of Rights" should be a companion principle of the bills creating the commissions. It is our belief that this encompasses the principles embraced by some Subcommittee members which prompted them to sponsor H.R. 5023 and accommodates the basic concept of H.R. 5024. The "Athlete's Bill of Rights" would prohibit imposition of ineligibility for purely organizational gain. The commission procedure would make certain that unqualified promoters could not embarrass our nation and its athletes by inadequate planning, the selection of coaches on the basis of cronyism and the qualification of athletes on organizational aggrandizement.

In conclusion, let me add that the anticipated objections from the U.S. Olympic Committee and the AAC about international rules not permitting such procedures are invalid. The United States Government obviously has the legal authority to pass upon those organizations and people who are going to carry our nation's name and flag into international competition.

In these hearings, mention has been made of other efforts to resolve this problem and the failures of those efforts. They have involved General MacArthur, Attorney-General Kennedy, Senator Magnuson and the Commerce Committee and the Sports Arbitration Board (an unfortunate misnomer) appointed by Vice-President Humphrey. Their failures can be attributed to a number of factors, but one flaw has been common. That is the reluctance to take the time to develop a lasting solution as compared to the expediency of a temporary patch-work decision designed to deal with a highly-publicized moment of concern.

We stand ready to cooperate in achieving that lasting solution.

Mr. O'Hara. Thank you. Mr. Byers.

You have spoken of your support for an athlete's bill of rights. I presume along the lines of the bill that Senator Griffin put in a few years ago that you on the occasion mentioned to me. Is that correct?

Mr. Byers. That is correct.

Mr. O'Hara. Let me ask you if you believe this proposed athlete's bill of rights, the bill of rights as you conceive it, would have prevented the NCAA from requiring Yale University to declare Jack Langer ineligible for further intercollegiate competition because of his participation in a 1960 Maccabean game?

Mr. Byers. I will answer that question gladly.

Let me say that the Eligibility Committee of the Eastern College Athletic Conference ruled Jack Langer ineligible originally. The university appealed that to the ECAC General Assembly. I believe,

I will get my hands on the full record in a moment.

It was denied there. It was denied on the basis that Yale, when it took out membership in the Eastern College Conference, had agreed to observe the rules of the Committee on Eligibility of that conference.

What I am trying to say is merely correcting the context in which you put your question.

It has been assumed that this so-called Langer case was a direct NCAA-Yale confrontation, and that was all. That is not correct. The ECAC, the conference of which Yale is a member, imposed ineligibility in accordance with its rules.

Now, as to the bare question of whether the—let me answer this way: if there were an NCAA rule that prevented Langer from being eligible, and it could be shown that that rule was based solely on an organizational struggle, in other words, it was designed and used as a device to win a point vis-a-vis another organization, that rule would be inoperable under the athlete's bill of rights, as I understand it.

Mr. O'HARA. You were director of the NCAA at the time. Specifically, do you envision that Jack Langer, that Yale could have been required to declare Jack Langer ineligible if the bill of rights you are talking of had been law at that time? That particular case I am asking about.

Mr. BYENS. I say to you that the case involving Jack Langer was Yale University's decision not to apply the decision of the ECAC eligibility, and subsequently our council, and as a member institution, it was obligated to apply the rule.

The NCAA did not rule Jack Langer ineligible at any time. The NCAA placed Yale University on probation because it violated an NCAA rule.

Mr. O'HARA. Let's ask this way: If the athlete's bill of rights had been in effect, do you believe that the NCAA would have been able to put Yale University on probation because of its actions in the Jack Langer case?

Mr. BYENS. If the NCAA had a legitimate rule for the inspection of outside competition, and those rules are based on sound educational principles, and an institution ignores those rules, the athlete's bill of rights would not be applicable.

Any rule that the NCAA would have that was not based upon an educational principle in the interest of the student athlete in the college, that rule would be struck down by the athlete's bill of rights.

Mr. O'HARA. Yes, but would you apply that principle to the Jack Langer case for us?

Mr. BYENS. The Maccabiah games were foreign competition at a time in which there was not a foreign body representing the United States in FIBA, which is the international governing body.

I do not envision—perhaps the athlete's bill of rights could go to this point, but I have not envisioned that the athlete's bill of rights would strike down the international approval rules, the international body FIBA, to a particular country who is a member of FIBA.

Perhaps you should do that. I don't profess to say that it is undesirable.

The athlete's bill of rights, as I envisioned it, was directed to national organizations having rules based solely on organizational purposes, and not valid athletic purposes.

Mr. O'HARA. Then you don't—

Mr. BYERS. Let me see if this answers your question.

What bothers me, I guess, is trying to relate the *Langer* case, to say that that was strictly an organizational dispute, and no other elements were in the case.

If the decision affecting Langer, whether made by NCAA, the Athletic Conference, or ECAC, if it was solely a means of trying to get the international franchise, the FIBA franchise held by the AAU, if it was solely designed as a weapon to do that, that type of rule would be struck down by the athlete's bill of rights.

Mr. O'HARA. I am trying to get a fix on this.

You know the *Langer* case. You were intimately involved with it in the beginning.

Let me put the question again: Was that the only purpose behind the requirement that Langer be declared ineligible and the suspension of Yale for its failure to declare him ineligible?

Mr. BYERS. No, I don't think it was the sole reason. I think that was part of the reason, because the AAU had gone to FIBA—I don't have the dates in mind—had gone to FIBA and persuaded FIBA to suspend the international rights of the Basketball Federation. Those rights were in suspension at that time.

Until there was an approved procedure set up by FIBA for international competition, we took the position until those procedures were known and established, there would be no more international competition.

That was the reason it was taken. The international traffic at that time was, in effect, suspended.

I will not try to persuade you that was not a factor in that decision.

Mr. O'HARA. You feel there were other factors as well, and, therefore, the proposed athlete's bill of rights that you have suggested would not have applied to that situation, and, therefore, the same thing would have happened in the *Langer* case that did eventually happen.

Could you give us an example of a case that has arisen since you have been executive director of the NCAA—which is now some 20 years or more—where action was taken against an athlete or against his school that would have been forbidden by the so-called athlete's bill of rights that you have endorsed?

Mr. BYERS. Right.

Let me go back to the other question a minute.

I think another benefit from the commission and athlete's bill of rights would be that the fighting over international franchises would be considerably lessened.

What I am saying is that suspension of American representation in the international sports governing body, such as in basketball, as you spoke of, that is presently suspended in the current basketball situation.

A lot of that international unrest and dissatisfaction, I think, would be considerably lessened by this commission concept.

One of the problems is that a great segment of amateur sports do not believe our international representatives are doing as good a job as they should. That leads to attacking or trying to seek international franchises to get better people to represent our country.

The commission, we suggest, solves that problem, because it gives a chance to reconcile in our country inadequacies of international representation, as opposed to having the turmoil taken abroad.

I also say this: If there were a case like Langer again, and an ingredient of organizational disputes in it, the bill of rights would strike those organizational reasons down, and we are for that.

Other cases, yes, there has been case after case where athletes and organizations have been denied the right to go abroad in international competition solely because they could not get the so-called clear customs to go abroad. I will give you an example, Gary Lindgren, a super, long-distance runner from the State of Washington a few years ago.

He could not go to Europe and run on his own. He had friends, and was going to make his own arrangements. He couldn't go because the AAU would not give him a pass out of the country. The AAU wanted him to compete on a tour they were running.

I think that should be struck down.

I don't want you to think we are proposing an athlete's bill of rights that cuts one way and not the other. We think a rule that supports wholly the organization and not the interests of the students, we are willing to have that cut down.

Mr. O'HARA. Are there examples of athletes having lost their eligibility from decisions that you think would have been prevented by the rule you advocate?

Mr. Byers. Well, I suppose we will have to await decisions from some court cases. There are a few pending court cases testing that principle.

We have had court cases testing our 1,600 prediction rule. I think two cases are pending on that question now.

We have cases questioning our transfer eligibility rule.

We have a court case in Richmond testing the validity of our extra events on the track meet.

We may find through that process, not a congressional bill, we may find in fact the Federal courts think our rules are not educationally sound.

Mr. O'HARA. You see, Mr. Byers, we would not be satisfied with the proposed athlete's bill of rights, because I think I can speak for most of the members of the subcommittee by saying we think the NCAA and the ECAC were wrong in the *Jack Langer* case, and we want legislation that would prevent that sort of penalty being imposed on an athlete in the future.

We think that at the absolute minimum, and we want to be convinced anything we do will at least stop what we consider the abuse that took place in the Langer case.

You have set forth on pages 6 and 7 of your testimony the three fundamental purposes of your rules, and I would like to have you tell us just which of those fundamental purposes were served by the requirement that Jack Langer be declared ineligible to play basketball for Yale because of his participation in the Maccabiah games.

Could you explain further which of these purposes were served by the NCAA's 2-year suspension of Yale University's teams in basketball and all other sports? Could you respond to that?

Mr. Byers. Yes. May I get my file from the hallway?

Mr. O'HARA. Certainly. Perhaps while we are going on with that, while that is coming in, maybe Mr. Dellenback may have a few questions on other matters, and we can go on from there.

Mr. DELLENBACK. Thank you, Mr. Chairman.

I am looking down the line at my colleagues. Perhaps it would be in order if I stay within 5 minutes and then come back, because I think this is something we would like to pursue.

Mr. O'HARA. I think it is apparent, and I will have to beg the indulgence of our other witnesses today. I think it is apparent, and members of the committee will agree, that an afternoon session will be required today.

I say that to the other witnesses awaiting opportunity to testify, and I hope they can make travel plans that would fit in with that.

Mr. Dellenback, you may proceed.

Mr. DELLENBACK. Thank you, Mr. Chairman.

I recognize that Mr. Byers is flanked by a series of other witnesses who are here as officials of the NCAA; and, Mr. Chapman, may I put a few questions to you as president of the organization?

Mr. CHAPMAN. Yes, sir.

Mr. DELLENBACK. Can you tell me what the nature of the NCAA is with respect to voting strength and power and organization? You have how many members?

Mr. CHAPMAN. 690 institutions.

Mr. DELLENBACK. Mr. Byers' testimony said 695. How many institutions altogether in NCAA?

Mr. CHAPMAN. That is it.

Mr. DELLENBACK. Mr. Byers' testimony says there are 75 more beyond that.

Mr. CHAPMAN. Those are allied conferences. I am talking of educational institutions.

Mr. DELLENBACK. How is the voting right of each member broken down?

Mr. CHAPMAN. Each member institution has one vote.

Mr. DELLENBACK. To do what?

Mr. CHAPMAN. Act on any proposed rule changes.

Mr. DELLENBACK. Are all things acted on by the full membership?

Mr. CHAPMAN. Yes, in full convention.

Mr. DELLENBACK. Do you have any sort of board elected by the full membership?

Mr. CHAPMAN. There is an elected 18-member council empowered to make interpretations of the rules between conventions, but they may not enact rules inconsistent with the constitution.

Mr. DELLENBACK. They are the executive board?

Mr. CHAPMAN. Right.

Mr. DELLENBACK. How are they elected? Are they chosen by the full membership?

Mr. CHAPMAN. They are elected by the membership at the end of the annual convention.

Mr. DELLENBACK. Does each of the 75 other members, Mr. Chapman, besides the 695 colleges and universities, have 1 vote in the selection of this board?

Mr. CHAPMAN. The allied members and conferences have one vote each.

Mr. DELLENBACK. How long is the term of a person on the executive committee?

Mr. CHAPMAN. On the council, some have 2-year terms; there are some with 3-year terms. There is also a required rotation; a man may not succeed himself more than two terms in the 2-year vice-presidency.

Mr. DELLENBACK. Is there any geographical allocation of those memberships?

Mr. CHAPMAN. Yes, NCAA is divided into eight geographic districts. Each of those districts must be represented on the council, and there are at-large positions as well.

Mr. DELLENBACK. So it is not quite a free choice. You couldn't select all 18 from the eastern part of the United States; there is a geographical spread?

Mr. CHAPMAN. Yes, and there is some traditional balance in the large universities and small colleges.

Mr. DELLENBACK. Their powers are to interpret, not to make any decisions.

Which part of the NCAA would approve or disapprove a meet, a tournament, or athletic competition? Would the full membership meet to do that?

Mr. CHAPMAN. No, the full membership adopted the rule requiring such certification.

Mr. DELLENBACK. So the council approves each meet?

Mr. CHAPMAN. The extra events committee.

Mr. DELLENBACK. How many serve on the extra events committee?

Mr. CHAPMAN. Six, I believe.

Mr. DELLENBACK. Are they all members of the council?

Mr. CHAPMAN. No.

Mr. DELLENBACK. They are outside the council?

Mr. CHAPMAN. They are a separate committee of the organization which is elected by the organization.

Mr. DELLENBACK. The committee is elected by the members or the council?

Mr. CHAPMAN. By the membership.

Mr. DELLENBACK. It is the committee that approves or disapproves all meets?

Mr. CHAPMAN. Yes, makes the certifications.

Mr. DELLENBACK. Have you been a member of that committee ever?

Mr. CHAPMAN. No.

Mr. DELLENBACK. Do they actually meet, do you know, Mr. President, to determine which meets are to be approved or which meets are not to be approved?

Mr. CHAPMAN. Yes, they do.

Mr. DELLENBACK. The council meets to determine approval for all such meets or tournaments?

Mr. CHAPMAN. The extra events committee meets.

Mr. DELLENBACK. The extra events committee actually meet to do this?

Mr. CHAPMAN. Yes.

Mr. DELLENBACK. Is this done by the professional staff of NCAA or by the committee?

Mr. CHAPMAN. The committee chairman is here.

Mr. DELLENBACK. Is the chairman one of the witnesses today?

Mr. CHAPMAN. No.

Mr. DELLENBACK. But he is here?

Mr. CHAPMAN. Yes, if you would like to ask him.

Mr. DELLENBACK. I would be interested in knowing whether the committee meets and does all of the approving.

Mr. CHAPMAN. Mr. Bob James, commissioner of the east coast region.

Mr. JAMES. The extra events committee is selected by a committee which has broad representation, one from each district, as well as including college division and university division schools. We do meet. Our upcoming meeting will be April 28 and 29 at which time we will review the certifications for all events for the coming year which are on file at that time.

In order to get the proper leadtime, we do require that an event such as a post season bowl game must be in hand this year for certification next year. We review all the certifications, so that they are in order. If they meet the requirements of the NCAA, we then recommend this for approval to the council at its meeting also in April.

Mr. DELLENBACK. So the final approval is given by the council?

Mr. JAMES. Yes, sir. Well, I have not served on the committee for any long period of time. I have not found that recommendations of the committee were questioned by the council. We are a committee of the NCAA and under the council as are all other committees.

Mr. DELLENBACK. Your recommendations are pretty universally and uniformly accepted by the council?

Mr. JAMES. Yes.

Mr. DELLENBACK. Do you in turn delegate as a committee to your chairman or to anybody the power to approve or disapprove of an event?

Mr. JAMES. Only within concepts which have been established at previous conventions to the effect that we will conduct and approve these competitions, if they meet the requirements, then for expediency we do.

Mr. DELLENBACK. For expediency the full committee does not meet to make determination, then. There are times when you have the authority as the chairman to make the determination?

Mr. JAMES. We also have a staff member at the office in Kansas City, as do other committees who handle the administration work for the committee.

Mr. DELLENBACK. Sometimes the staff person has that responsibility?

Mr. JAMES. He would invariably contact the chairman. If the chairman felt it necessary to call the full committee, there would be no hesitation whatsoever. If there was a question about the certification, if it didn't meet fully all the requirements, there would be consultation. We usually do it with a telephone conference call of the members.

Mr. DELLENBACK. What we have is a membership of 600 organizations that elect a council of 18 which chooses a committee of six which has a chairman of one which, in turn, has a staff person who will oftentimes make many of the determinations which are, in effect, the decisions of the full NCAA?

Mr. JAMES. No, sir; not quite that way. The representation on the committee is not at the pleasure of the Council but rather of a committee on committees which appoints membership to all other committees, general committees of the NCAA.

Mr. DELLENBACK. Appoints or recommends?

Mr. JAMES. Appoints; they select and nominate at the convention those persons they feel best qualified to serve on the Commission.

Mr. DELLENBACK. How large is the committee on committees?

Mr. JAMES. That is 12.

Mr. DELLENBACK. It is the committee on committees which chooses the six?

Mr. JAMES. Yes.

Mr. CHAPMAN. Our membership votes on the slate.

Mr. JAMES. There can be nominations from the floor.

Mr. DELLENBACK. It is the full membership that elects and not the committee on committees?

Mr. JAMES. Yes; they nominate the members they feel qualified to serve.

Mr. DELLENBACK. Mr. Chairman, the other members of the committee have been waiting patiently but, if you can return to me, I would appreciate it as I have other questions.

Mr. O'HARA. Mr. Kemp.

Mr. KEMP. Mr. Byers, you say on page 20 of your testimony that it is your conviction that any amateur sports organization in the United States which cannot show that its members in fact conduct a national program, then the sport in question should not be permitted to participate in decisions and conduct of international competition. Are you referring to AAU?

Mr. BYERS. Not necessarily; no. You are asking me if that is a way of excluding the AAU?

Mr. KEMP. Right.

Mr. BYERS. No; it was suggested as a means of controlling traffic.

Mr. KEMP. You would recognize their jurisdiction in international competition?

Mr. BYERS. I would say they are the international franchise holder in track and I would think they have—

Mr. KEMP. On that predicate, extending it to the domestic, for instance, track and field for a moment, how then would you and the AAU work together on the domestic scene, recognizing their jurisdiction in the international scene and recognizing this crosses over at a domestic level, how would you work out jurisdiction within the confines of the United States?

Mr. BYERS. Mr. Kemp, I don't believe we have any real problems at the subnational team level. If I understand your question, as far as domestic competition, the AAU Indoor and Outdoor Track and Field Championships, for example, are certified under the NCAA program.

They are certified each year and there is no difficulty at that point. As I understand the problem in this instance, the AAU decided not to put these two competitions under the certification program because they were of a national team character. Is that responsive?

Mr. KEMP. If I remember their testimony, it appears to me—correct me if I am wrong—it seemed to me they said in their testimony

they had been conducting, especially as it relates to the basketball competition with Soviet Russia, they had been engaged in this type activity for 14 or 15 years and never had to seek sanction by the NCAA and now all of a sudden it was being called into question over this particular competition.

I wonder why, if that is true, why for the first time? If it is not true, would you clarify it?

Mr. BYENS. I don't think that is true. In 1955 or 1956, somebody may know the right year, there was a Russian basket-ball team and the AAU chose not to apply for certification. NCAA college students did not compete against that team and they went ahead with the tour.

My point is they were aware of it back that far, which is 7 years ago but they chose not to follow the certification route at that time, just as they chose not to follow it at this time. There is one distinction—

Mr. KEMP. What happened at that time?

Mr. BYENS. The tour was held. The team came and either college seniors who had completed their season or noncollege students played against the Russian team that year. There is one distinction between that time and now in that the AAU is no longer the international franchise holder now and it was then.

Mr. KEMP. Another question, you talked of developing lasting—you mentioned in your testimony about a lasting solution instead of some type of expedient patchup job.

I would agree with you. I think that is the purpose of the hearings and certainly the reason I endorsed the chairman's bill to provide some impetus for a long-run and viable solution so as to provide for the welfare of millions of fine, young athletes in the country. I know that is your reason as well.

I wonder if you would endorse the principles of a longrun solution as outlined in the Kheel committee report or how you would respond to those principles?

Mr. BYENS. I think the Kheel report suffers first, from being outdated. It is approximately 7 years old, maybe 1966, anyway 6 or 7 years old. Moreover, it did not address itself, in our judgment, to this critical issue of having some cooperative planning for our national teams.

It did not treat that issue and that is really one of its fundamental weaknesses. The Kheel board did not, as I recall, consider that issue. My memory is not as good as it used to be. It did not treat this one fundamental gut issue.

Mr. KEMP. Well, did it not suggest—I am not as familiar as I would like to be—did it not suggest there be a commission somewhat made up in part as you have suggested here today for cooperative resolution of these problems?

Mr. BYENS. Maybe Don Canham can recall. I didn't reread the decision, and my memory is, there was a conversation board, a talking board, but a board with no authority of any kind. That is my memory.

Mr. KEMP. The board to which you alluded in your testimony would be made up of the commissions of different sports; is that it? How would that work and how would the commission be made up for a particular sport?

Mr. BYERS. Let's take basketball as an example. There would be a five-man commission chartered by Congress or authorized by whatever machinery appropriate.

Mr. KEHR. This isn't for basketball?

Mr. BYERS. Yes, just for basketball. I think you would have to have commissions for different sports. Maybe you want an umbrella commission.

I conceive it in my mind as commissions by sports because sports are different. I don't think that is a critical point. Five men would be appointed to the commission presumably by the President unless there is a better appointing authority.

These men would not be directly associated with any of the existing national sports organizations. The commission's authority would be that an organization could not send a team into international competition as a national team, they could not use the Nation's name and colors without the commission approving it.

They could arrange competition, but they would have to lay their plans before the commission, explain their plans, for example, where they are going to play. That would have to be approved and then the team could play representing our country.

They could take the Nation's name off it and it wouldn't go before the commission. In that approval process, we use the term "national body" to merely control traffic. Any qualified national body could come before the commission and point out what it thought were defects in the plan for a national team and the commission would hear it.

If they decided the arrangements were proper, they would approve the team's plans; if not, the commission would require some adjustments. It would not disturb the AAU's international franchise in track and field.

As to the Commission's authority, I would envision authority in two ways, the Commission—let me put it another way. Any organization not appearing before the Commission and submitting plans for approval could not use the flag and the colors.

That is critically important to any promoter. Conversely, any organization that didn't obey, say a disputant came in and wanted to challenge certain planning techniques or scheduling, the disputant, if it didn't obey the Commission's decision, that disputant would lose any right to challenge the Commission.

I think those two provisions give the Commission authority to get something done and also minimize intrusion in private organizations.

Mr. KEHR. I know I have had more than 5 minutes, but you deplore Federal interpretation and then you ask for a Commission chartered by the Congress, a five-man Commission appointed by the President or some other individual of authority. I wonder how you rationalize the seeming incongruity.

Mr. BYERS. I don't have as much trouble as it would appear.

Mr. KEHR. You say an umbrella organization, it could be a Commission for each sport or a type of umbrella organization comprising all types of sports, chartered by the Congress and appointed by the President.

It seems you are referring back to the Magnuson bill of a few years ago; this was something he tried to get at and I wondered if you would explain your rationale.

Mr. BYERS. I think anybody in sports, you have had a superlative career in it, shudders at the thought of Federal intervention in any form and particularly in amateur sports. I am sure all the college people in this room shudder at that thought.

Mr. KEMP. As do we, I can assure you.

Mr. BYERS. I think—I failed to say this. Mr. Chairman, this statement was approved by the executive committee and council of the association. It was mailed out and everybody had a chance to phone in their comments.

To get back, it seemed to us the two bills before you strike most deeply. In fact we think that H.R. 5623 is a far, far greater intrusion into the internal affairs of private organizations and institutional autonomy of educational institutions and represents a far more drastic Federal intervention than the other one. Mr. Peyser's bill is substantial in that direction, too.

This subcommittee has two bills penetrating deeply into private organizations and into education. Looking at that end and some of the other measures floating in and out of Congress over the last 2 or 3 years, it seemed to us there is quite a drive among Members of Congress to get something done, and desiring to get something done also, we felt this was the best means of doing something about the pressures of Congress in this direction, while minimizing the scope of intervention.

Mr. KEMP. You are talking about dereliction of responsibilities, I think those of us on this committee after all these years of warfare, the fact we are talking of legislation that perhaps precipitated your response, the warfare might be one of the reasons there is some attempt to come up with some viable solution.

We think it is because of the dereliction of responsibilities on the other side of the table, because of this warfare, perhaps this legislation might be obviated. We hope it is. If it served the purpose as a catalyst, then perhaps it has been the type of Federal intervention that is a positive and has some merit in the future.

I certainly hope so and I cointroduced and cosponsored the legislation for that single purpose, not to provide a long-run solution but to bring about the type of climate where that solution could be worked out.

Mr. BYERS. We appreciate your thinking and good intentions in that regard, Mr. Kemp. I think we are given pause that the bill, as I said at the outset, cuts sharply one way and puts no pressure on the other party.

If I understand what you just said, I have the impression that this subcommittee would much prefer the parties in dispute to get together privately without having legislation.

Mr. KEMP. I can't speak for other parties, but I would hope that. I have not seen any manifestation—

Mr. BYERS. I don't think your proposal would force the other party to the bargaining table as it should. No offense intended, I am just pointing out the bill as we see it.

Mr. KEMP. Thank you.

Mr. O'HARA. Mr. Esch?

Mr. Esen. Thank you, Mr. Chairman.

I sense, Mr. Byers, that most of the attitude of your testimony was in an adversary role with the committee and I think that is unfortunate. I wonder if we couldn't just reach out and see where you and the committee might agree a little based on the comments of my colleague from New York.

I think we are in agreement with you on the fact that most of us wish to have a system which would bring about an orderly method through which the U.S. athlete could compete both domestically and internationally with a degree of predictability and a degree of protection.

I think your organization hopefully is not system oriented but it is primarily concerned with the protection of that individual at least and his endeavors. Would that be a fair assumption?

Mr. Byers. Yes, sir.

Mr. Esen. Second, I sense, and obviously, most of the committee senses they would like a system that is self-governing rather than governed by any legislative action. You may not sense that.

Mr. Byers. I am open to persuasion.

Mr. Esen. The intent of the O'Hara bill, which I did not sponsor, would seem to me a direct attempt to protect that individual at least if he desires to compete in any competition, thus leaving the choice directly up to him.

I sense your organization says there are so many pressures on these individual human beings that one of the aims of your organization is to protect the individual at least in their competition intercollegiately and to, in effect, protect them from pressures of competing in international games. Would you comment on that?

Mr. Byers. I think that is correct, to protect the student at least and the college program both, in that order.

Mr. Esen. So, in effect, the legislation in the O'Hara bill, while it provides for specific opportunity in participation, it may not protect the athlete from the pressures that he may have for competition?

Mr. Byers. Correct. It lays him open to intensive promoter pressure.

Mr. Esen. So, in effect, what you are suggesting is the defect of the O'Hara bill inherently is the failure to protect that athlete from undue pressures? I am trying to get at where you agree fundamentally.

Mr. Byers. That is correct, I would think we have a broader objection in that it charts a course of Federal intervention and dictates to institutions of higher education in broader principles.

We have serious objections to that and I think you will find college presidents across the country will have serious reservations but on a narrower point, yes, it precludes any meaningful protection for the student.

Let me amplify that, sir. I am sure that a person might sit here and say—

Well, let the University of Michigan decide whether Don Canham, Jr., can high jump in those games in New York and take a foreign tour to Europe in April. This is sufficient guidance.

First the bill prevents any action by the University of Michigan. If he decided to ignore the advice of the athletic director and coach, it can do nothing, it is advisory.

Let's take the second step and say the institution should have a say, but nobody else. Michigan can't give any authority to the Big Ten Conference. Setting aside the administrative convenience—the program is a great administrative assist for every athletic director on every campus: he can go to one source and find out about the competition.

Setting that aside, you have to take in the problem of recruiting. Let me examine how this works.

Let's say Michigan has a policy that at no time during the training season shall a member of its track squad compete with any other organization except the varsity team of Michigan. Let me say student athletes come out for the squad of their own volition and decide to abide by the rules.

If you are not a member of the varsity squad, you can do anything you want. Our rules apply only when you become a member of the varsity squad.

Michigan's policy is you can't compete during the collegiate season, you can't go off to Europe because they are running a tough outside schedule.

Michigan State, on the other hand, has a more lenient policy. When you are in competition for the super track athlete, he will go where he has maximum freedom. Institutions operating exclusively by themselves are brought down to the lowest denominator in the recruiting process, their standards are lowered to the common denominator because of the necessity of recruiting good student athletes.

The same is true for academic standards. You couldn't compete on Michigan's squad unless you had a 2.0. Some other institutions didn't have as high standards. The Conference was concerned with the academic equality because some students could get to other institutions in the Big Ten without the academic qualifications. So the Big Ten put in the requirement that you had to meet academic qualifications.

Mr. Esen. That is why we are suffering.

Mr. Chairman, I recognize my colleague's time.

I sense we are perhaps agreed on purpose but you are very much concerned about the other variable you mentioned, that is, the variable of the direct intervention of the Federal Government into only one aspect of the dispute and, if worst came to worst, or best came to best, your organization might at least recognize perhaps the need to set up or to examine legislation that would be an umbrella type organization that would affect all intercollegiate athletics.

You would prefer that to be the last case and would prefer that it be worked out apart from that.

What we are asking for, and hope we can have it forthcoming from you, is what is the least undesirable of the alternatives. We really won't want that answer today.

I remember, Mr. Chairman, a very, very heated discussion some years ago when we had the disturbances on campus and had to come down a hard line of whether we stood for Federal regulations against disturbances and having the Government step in, or whether we felt institutions themselves should do the job. We have not had assurance that the institutions can control the individual and yet allow that degree of freedom. So I am sure there is a point in remembering 3 years ago, Mr. Chairman.

Thank you very much.

Mr. O'HARA. Thank you, Mr. Esch.

Mr. Byers has had opportunity to look at the file in the *Jack Langer* case. I would like to repeat my question.

With respect to the fundamental purpose of the Association's rules and regulations set forth on pages 6 and 7, I would like to ask, Mr. Byers, which of those purposes were served by the requirement that Jack Langer be declared ineligible for further competition and by the suspension of Yale University athletic teams for 2 years and in what way those purposes were served?

Mr. BYERS. We think the rule that is the springboard, or was the springboard in the *Yale*—it was never the *Langer* case in our terminology, it was the *Yale* case—is a very valid rule.

The rule limits the basketball season as to practice and playing time and precludes any form of outside competition. There is an exception procedure in that for international competition approved by the Department of State and the NCAA Council.

As I have indicated in my testimony in this statement, there have been coaches and others desiring to modify that rule for the last three annual conventions to make out-of-season competition much easier for the student athlete. The council has denied the application.

They want that rule to be tight and sharply enforced, because we have had a lot of difficulty in basketball, not only in the gambling area to which I think you referred earlier, but also in using foreign teams for recruiting and practice advantage.

Let me give you an example. It developed that a coach would get a foreign team lined up and then he would put on it a particular attractive prospect. He is recruiting, say, a June graduate and he is going abroad in July. He has an all star team and he says, "Son, come to our place and you will get a trip to Africa", or wherever he was going.

We had that problem and we also had the problem of a coach getting two or three of his players on one team going and therefore, assuring additional training and practice advantages for his squad for the next year.

For those reasons, the point I am making is there are other considerations in our out-of-season basketball limitations other than strictly the gambling problem, although the gambling problem was the one that did much to bring about imposition of the rule.

The rule, I think, meets the purpose of (A)—prevention of exploitation of the student athlete by the coach or outside promoter—and, (B)—I think the rule in question meets the requirements of maintaining sports activities within reasonable educational boundaries.

As I mentioned earlier, if the coach were given free rein, he would have the ball bouncing 12 months a year.

That is the rule that was in question. Is that responsive?

Mr. O'HARA. Yes; that is responsive but let me make a couple of observations at this point. One, with respect to the exploitation of the player, in this case, Jack Langer, by the coach, the institution, or outside promoters—let me make the record clear that Langer's coach had nothing to do with the Maccabiah games, he was not involved, didn't go, had nothing to do with organizing the team, nor did Yale have anything to do with it, and the outside promoters were the same promoters that promoted the rest of the Maccabiah games in which NCAA ath-

letes competed without fear of penalty, that is all other events except basketball; that same year and the same promoters that promoted the Maccabiah basketball in 1964 where NCAA players participated without fear of penalty.

In respect to (B), I would call your attention to the fact that Langer was a student in good standing at Yale University who was going to the Maccabiah games during his summer vacation and I find it difficult to understand how it interfered with the educational process in this case.

Mr. BYERS. My reference to the rule and its application to (A) and (B) was not specific in the matter of one case. I was speaking to what I thought the question was, the rationale of the rule and does it meet (A), (B), and (C).

It seems to me you are questioning whether the particular application of that rule met (A) and (B). I was speaking initially to the rule itself.

Mr. O'HARA. My questions all along have been directed at trying to put your statement in specific perspective, so I selected a case for you to discuss. Please tell me how you justified your actions and whether or not the legislation you proposed would inhibit you from taking those same actions in an identical case in the future?

Mr. BYERS. I will try to speak to both parts of that question. I have the file here and think I am a little better acquainted with the facts. You complimented me on my memory but it is not all that good.

First, Yale is a member of the NCAA, the student athlete is not. I should say these decisions were made by the NCAA council and reviewed on the convention floor after they were made.

Second, we have never felt that Langer was exploited or used as a pawn by the NCAA. Third, we seriously question Yale's use of Mr. Langer in this instance. Yale encouraged the student athlete to go contrary to the rules Yale had agreed to abide by.

They knew they were in violation of the rules of their own conference, which are adopted independent of NCAA, the rules of the Eastern College Athletic Conference, so he was violating two sets of rules.

Next there were a number of athletes in the Ivy League and elsewhere who had the opportunity to go and did not go. I don't have these names but I think there were two in the Ivy League, two at Penn and possibly one other.

There was a boy on the west coast, UCLA, I think, who didn't go. Yale, however, encouraged this one young man to go.

With regard to other sports, let me interject that there are no rules applicable to many of the other sports in the Maccabiah games of the kind applied to basketball. This out-of-season prohibition on basketball does not apply to other sports because we don't have problems in the other sports.

When Langer returned, Yale would not rule him ineligible, he was found ineligible by the ECAC executive council. Yale would not rule him ineligible. Here is a press release from the ECAC News Bureau which I would like in the record.

Mr. O'HARA. Without objection it will be entered in the record.

[Document referred to follows:]

[P. 1 Release]

EASTERN COLLEGE ATHLETIC CONFERENCE

Yale University has been censured by the Executive Council of the Eastern College Athletic Conference for its use in intercollegiate competition of Jack Langer, a basketball player declared ineligible by the Conference's Eligibility Committee, and has been asked to "cease and desist" in such use of the player.

This was announced today by Asa S. Bushnell, commissioner of the E.C.A.C., following a resolution passed by the Council on Tuesday evening, the announcement being delayed until Yale had been notified by telegram of the action.

Bushnell's message further stated that "if Yale declines to comply with this directive the Executive Council shall refer the matter to the Conference membership for consideration of possible further penalty. . . ."

Langer was declared ineligible for intercollegiate competition by the E.C.A.C. Eligibility Committee after he had competed in the Maccabiah Games last summer without the special permission from the E.C.A.C. required by Conference regulations. Such permission must be predicated upon State Department approval and NCAA waiver, but the latter was not forthcoming.

The text of the telegraphed resolution, sent to DeLaney Kiphuth, athletic director at Yale, follows: "The Executive Council of the Eastern College Athletic Conference supports the September 22 action of the E.C.A.C. Committee on Eligibility in decreeing ineligibility for Jack Langer of Yale and further censures Yale for its use in intercollegiate competition of this ineligible player. The Executive Council directs that Yale University immediately cease and desist in such use of an ineligible player. If Yale declines to comply with this directive the Executive Council shall refer the matter to the Conference membership for consideration of possible further penalty under the provisions of Constitution, Article Four, Section VIII."

The cited constitutional article makes the organization's member colleges as a body responsible for dealing with violations of the Conference's rules, regulations and obligations of membership. It designates what disciplinary action can be taken and the methods by which such can be implemented.

Mr. BYERS. It is dated December 10, 1969, and sets forth the fact the executive council supports the decision of the Eastern College Athletic Conference taken December 22 in the case involving Jack Langer of Yale and censures Yale.

The case came to the NCAA on the basis of would Yale apply the rule to Langer.

Let me make clear what it means when a student athlete participates in an uncertified event. This will be true in the Russian track meet, the Russian basketball series, or the events of Jack Langer. If the competition is not approved, the institution is required to rule the student athlete ineligible.

However, the institution has full right to appeal that ineligibility immediately to the NCAA committee on eligibility, and then to the Council, second, if it is not satisfied with that decision, and then, finally, to the convention floor.

Yale would not rule the boy ineligible in accordance with the ECAC rules or in accordance with our rules. It could have ruled that boy ineligible. I suspect if it followed the rules on the ineligibility matters, that boy would have been reinstated.

I don't think anybody in the ECAC or NCAA thought they were committing a crime. The problem came with Yale, a member of both organizations, which steadfastly refused to follow the rules the membership established for ineligibility cases.

They absolutely refused to follow that procedure. That is what led to the penalties on Yale.

Is that satisfactory?

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Mr. O'HARA. Yes, that is. I believe that answers my question.

I am going to have to go on and get back to Mr. Dellenback. Let me say this, Mr. Byers, with respect to the assertion in your testimony that the adoption of H.R. 5623 would prevent institutions of higher education from maintaining proper standards for its student athletes, for preventing athletic departments or coaches from taking disciplinary action against an athlete whose actions would warrant it.

I want to make it clear I have no such intention, the legislation would not permit that interpretation, it doesn't seem to me.

What we are saying is that the student athlete should be held to the same standards as any other student. If he wishes to go off and compete in a foreign track meet and as a consequence of his having done so, he misses class, he misses examinations, he falls behind in his academic work, there is nothing in my legislation that would permit that institution of higher education from suspending that student or from expelling him for academic reasons so long as the standard they applied to him was the same standard they applied to every other student.

It wouldn't matter whether he was off competing in a track meet or spending a week on the beach at Fort Lauderdale. If he misses class, falls behind in academic work, he is subject to academic discipline.

Second, with respect to the athletic department of the coach, every team I ever heard about has team rules, you have to appear at all the games, you have to appear at all the sessions unless you are excused for some reason.

If you fail to appear at a practice or an event in which your team is scheduled to participate, you are subject to being suspended from the team or expelled from the team.

Nothing in our legislation would make any change in that. If a student athlete goes off and participates in an international event and, as a consequence, misses two track meets his university is engaged in, and he has not been excused for that purpose, then he can be thrown off the team as far as our legislation is concerned, so long as the same standard that is used to discipline him is used on the other members of that team, and whether or not it was an international unsanctioned event he went off to compete in, or a sanctioned event he went off to compete in, if you want to apply the standards equally and fairly, we have no complaint with that.

For instance, at the Richmond track meet, if Chris Dunn of Colgate had been going off on a Friday night and a Saturday to play the bongo in a five-piece orchestra, I don't think he would have run into the problems he did or that Colgate did with NCAA, and so we think that what you have done in the *Langer* case, which I think is the best example of it, and in other cases, is you have tried to exert your organization's power in a way that would promote the aims of your organization. It has very little regard for the welfare of the student athlete involved.

That is why we are here today. We would not be here if we did not think that.

I might say maybe it is unfortunate public relations but, if you were to go out into the hallway and ask the first 10 citizens you saw what their opinion of the matter was, I am sure you would find them more or less in agreement with me.

I am sorry, but that is the way it is. Our legislation would not prohibit the university or the team from taking disciplinary action so long as they were not doing it for the sole reason that that student or student athlete had not been participating in something you had not sanctioned.

Mr. BYRNS. May I respond to that?

Mr. O'HARA. Yes.

Mr. BYRNS. I don't quarrel with your good intentions, Mr. Chairman, or those of other members of the committee interested in this particular piece of legislation. I would have to make several comments to your remarks and appreciate the chance to do so.

I don't think, with all due respect, your bill says what you envision in your mind, the bill does not have on the printed page the words you are using.

Secondly, I can tell you, and I think every athletic director in this room will tell you, the same thing, it is absolutely, without question, impossible to manage an intercollegiate athletic program by treating the student athlete the same as you treat the bongo player or debater.

It is not a fact of life you can do that. Fifty years of experience with the NCAA is overwhelming testimony to that. I am sure all of you are aware that institutions of higher education are enormously jealous of institutional prerogatives; institutional autonomy is what the presidents and faculty constantly argue for.

It is true that they have yielded some of the institutions' autonomy to their athletic conferences, which have a whole variety of rules for athletic participation; and to a lesser degree, they yielded some institutional autonomy to NCAA.

Why? Because it was absolutely necessary and essential to do so for the proper management of intercollegiate athletics. That is the only reason institutions across the country have yielded some rights to their organization, so that proper athletics could be controlled. The reason you don't have similar rules in debate, music, or any other extracurricular activity you wish to discuss, is because the need is not there.

I can say it would be absolutely a disaster for the intercollegiate program of this country if we tried to run a program in which there could not be legislation to govern intercollegiate athletics because it is not applicable to other students engaged in other extracurricular activities.

Mr. O'HARA. Mr. Esch.

Mr. ESCH. I want to make sure, and I certainly concur there have been mistakes made in the past, but even in the light of that, is he suggesting that every amateur athlete ought to be a free agency so if he is dismissed from one team, he could automatically go to another team without a penalty or another school without penalty?

Is he suggesting we should give the individual athlete the ability to become a completely free agent?

Mr. O'HARA. With respect to his ability to change from school to school, I think that rules exist with respect to that. Our legislation proposes to make no change with respect to transfers from one school to another.

I think there have been some arbitrary actions in that regard, but we don't propose to deal with them. We had a witness testify to that a few days ago.

Mr. PEYSER?

Mr. PEYSER. It's been a long morning. I know. I am appreciative of your coming here today with your people.

In reading your testimony and listening to it, I want you to understand that this committee is not out to get the NCAA. As a matter of fact, I think most of us agree the NCAA does an outstanding job in areas not in intercollegiate activities. The NCAA youth program, for example, that is a tremendous contribution to the country. But we have grave concerns that have been created by specific instances in the international area where the United States is being represented in international competition. The legislation we are discussing really deals with this international question.

To give you an idea of the depths of the concern facing the people of this country today as reflected in their Representatives, aside from the fact that between Congressman O'Hara's and my own legislation, we have over 80 and possibly 90 cosponsors in the House of Representatives, I have just received a few minutes ago a letter that is addressed to you and will be delivered to you. This is a letter from Members of the U.S. Senate sent to me by Senator Cook, who as you know, has been active in this area.

This has signatures of 25 Republicans, 23 Democrats, 8 committee chairmen, and 9 ranking minority members of the committees.

[The document requested follows:]

U.S. SENATE.
COMMITTEE ON THE JUDICIARY,
Washington, D.C., March 29, 1973.

Mr. WALTER BYERS,
Executive Director,
National Collegiate Athletic Association,
Kansas City, Mo.

DEAR MR. BYERS: As a member of the United States Senate, in an effort to promote and encourage international athletic competition, and continuing the spirit of multinational cultural exchange, I respectfully urge you to permit athletes of NCAA member institutions to participate in the forthcoming series of basketball games with the Russian National Team, without fear of reprisal or penalty to those athletes or institutions.

Yours sincerely,

Marlow W. Cook, Ky.; Robert T. Stafford, Vt.; Barry Goldwater, Ariz.; Strom Thurmond, S.C.; J. Glenn Beall, Md.; Clifford P. Hansen, Wyo.; James O. Eastland, Miss.; J. W. Fulbright, Ark.; Howard H. Baker, Tenn.; James A. McClure, Idaho; Edward J. Gurney, Fla.; Quentin N. Burdick, N. Dak.; Lowell P. Weicker, Jr., Conn.; Lee Metcalf, Mont.; Walter D. Huddleston, Ky.; George McGovern, S. Dak.; Charles H. Percy, Ill.; Vance Hartke, Ind.; Henry Bellmon, Okla.; Milton R. Young, N.D.; Joseph M. Montoya, N. Mex.; Jennings Randolph, W. Va.; Dewey F. Bartlett, Okla.; Hiram L. Fong, Hawaii; Frank G. Moss, Utah; Walter F. Mondale, Minn.; John O. Pastore, R.I.; Lawton Chiles, Fla.; John L. McClellan, Ark.; Gale W. McGee, Wyo.; William D. Hathaway, Maine; Stuart Symington, Mo.; Carl T. Curtis, Neb.; Clifford P. Case, N.J.; Wallace F. Bennett, Utah; Hubert H. Humphrey, Minn.; Mike Gravel, Alaska; John V. Tunney, Calif.; Harold E. Hughes, Iowa; Thomas F. Eagleton, Mo.; Adlai E. Stevenson, Ill. Ill.; Birch Bayh, Ind.; Mark D. Hatfield, Oreg.; Roman Hruska, Nebr.; Ted Stevens, Alaska; Alan Cranston, Calif.; Harrison P. Williams, N.J.; Hugh Scott, Pa.; Edward M. Kennedy, Mass.; William Saxton, Ohio; Gaylord Nelson, Wis.; Lloyd Bentsen, Tex.; Bob Packwood, Oreg.; William Roth, Del.; J. Bennett Johnston, La.; Mike Mansfield, Mont.; Edmund S. Muskie, Maine; Thomas J. McIntyre, N.H.

Mr. PEYSER. They represent 50 States in this country, and they indicate that they just put this together in the last day and a half. They probably could have had the entire Senate. This letter says:

As a member of the U.S. Senate in an effort to promote and encourage athletic competition and to continue the spirit of multinational cultural exchange, I respectfully urge you to permit athletes of NCAA member institutions to participate in the forthcoming series of basketball games with the Russian National Team, without fear of reprisal or penalty to those athletes or institutions.

To add to that, this morning I received word concerning Bill Walton who is certainly well known to all of us and is one of the outstanding college basketball players in the country. Based on the information I received this morning, Mr. Walton will be calling you or reaching your office in Kansas this afternoon, with the personal request to you that he be enabled to play in the games against the Russian teams.

Coupled with that statement, the request of the U.S. Senate Members, the Members of the House of Representatives, who have too long a list to run through, I am just wondering if you can't make a major step forward for your organization this afternoon and for the country by saying, in spite of the problems of the past, that we can put aside what many of us have considered, rightfully or wrongly, a bickering power struggle between the NCAA and AAU.

Glenn Cunningham, a great miler in our country, was in Washington last Thursday. He gave a simple statement; he said he would appreciate it if I would see that this become a matter of record:

This is a stupid, ridiculous situation where the amateur athletic organizations use the athletes as pawns for their own selfish interests.

I think this legislation is long overdue. Representative Peyser is to be congratulated on his bill. It will enable amateur athletes to compete without fear of being ruled ineligible by one organization or another.

If these organizations were really interested in promoting amateur athletics, as they pretend to be, they could easily resolve their differences.

I would like to make a suggestion and I would appreciate hearing from you on this, if this isn't the time. Perhaps the first step could be made by your organization to give the permission at this time for the NCAA athletes, the basketball players who want to compete because of their skills, to compete in the competition that is coming up with the Russians.

I would appreciate your comment on this.

Mr. BYERS. Mr. Peyser, let me say I appreciate your good intentions with the comments you have made, and I want to thank you in behalf of all these colleges here and elsewhere who have appreciated your support in seeing that the National Summer Youth Sports programs have continued.

For those of you not aware of the program, it is run at over a hundred colleges where collegiate money puts up about 45 percent and the Federal Government puts up 55 percent for young people not having money to go away to summer camp.

We have other services we perform which we think are beneficial to the Nation.

We thank you for the support you have given in that area. It is a good program.

We are also appreciative of the interest of the people you mentioned there. Senators and others, also appreciative of the concern of this subcommittee.

I am sure that no one is suggesting that the NCAA adopt a double standard. I am sure you and others of the Congress who are involved in legislation and desire American people's respect for the legislation

you adopt are not suggesting to the colleges of the NCAA that we should apply a double standard, that what applies to the Pasadena Tournament of Roses Association should not apply to the AAU, or what applies to the Los Angeles Times Charities, Inc., should not apply to the AAU.

We cannot live with our membership, much less live with our own conscience by doubledealing with people we have to live with and deal with. I don't anticipate—maybe this is anticipatory—but I don't anticipate you are suggesting that, but I do make the point.

I also want you to be aware of the fact that there is no agency within the association to change the rules of the NCAA other than by convention action.

This goes to Mr. Dellenback's question. He wants to know whether the Council controls everything and whether the executive staff in that isolated cave in Kansas City runs everything.

If I were to sit here and say to you, "Why, certainly, we will change all our rules for you," it seems to me it would confirm some of the concerns expressed by some members of this subcommittee concerning the operations of the NCAA.

I do want to say there is no agency, the Council, or anybody else that can change a piece of legislation embedded in the bylaws of the constitution of our association other than the annual convention where the members vote.

Mr. Preyer. You made a statement, and I would like to be sure I understand it, dealing with this authority that you have. The question is whether you have this authority to excuse members and allow them to compete in this competition.

I guess what I am really asking you and the other organizations to do is put aside as much as possible this feud and to think that the United States of America has a team in competition, and we want to put our best team forward and that this calls for some extreme action.

I am reading from the NCAA manual, 1971-72; it is section 5(d), paragraph (d). It says, "If the Council after review of the 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 Council may exercise the discretion to take no further action."

In other words, you could, in effect, as I understand this, decide that this situation would not embody any infraction or penalties with it and by so doing you would, in effect, release these athletes to compete in this particular competition. Then we would be in a position, perhaps, to really address ourselves to the problem of how do we solve what has been for years a very difficult situation between the NCAA and the AAU and get this situation worked out.

Right now the Members of Congress, the Members of the Senate, and the public at large, the American people all want these athletes to be able to compete. Based on your own rules, I think you have the authority to allow these people to compete.

Mr. Brers. Congratulations on your research.

Following up in what I was saying about the double standard and so on, I will give you this example and then I will be responsive to your question in a moment.

After USC won the Rose Bowl and Oklahoma won the Sugar Bowl, we had an offer of \$2½ million from the Astrodome to permit USC and Oklahoma to play one more football game, for Nicaraguan relief.

I must say, the interest you cited was not as extensive in that case as in this, but I want to say to you there was considerable pressure visited upon the University of Oklahoma and USC to cooperate in the venture and pressure on the NCAA to permit it.

Regarding your question, I don't think we can, in handling our enforcement procedures, make commitments on what the penalty will be if you decide not to obey the rules. I don't think that is the procedure. I think, however, that there is a procedure available to us, and I have conferred with my officers regarding it. Parenthetically, if Yale had done what they should have done as an institutional obligation of membership and appealed Langer back under that procedure, we might not have had a problem. That was the point I was trying to get through earlier in my comments to the chairman.

I don't think it is advisable to countenance or to give permission for nonobservance of the rules by the promise of no enforcement later on for certain people and not others.

We did not do it in Nicaraguan relief. We did not have the authority.

I think in other sections of the current NCAA manual, however, there is a way which a solution can be approached, which does not put the NCAA in the position of living by a double standard with its own members and with institutions and people outside our own family. I have not received the actual number, I think that the provision involved is constitution 3-9(f).

The officers have conferred earlier with the possibility of this interpretation without council and they think it is a reasonable interpretation that the American team need not be considered a college all-star team.

If you make that interpretation, that removes the proposed competition from the extra events legislation that deals in a certain area and throws it solely under the foreign competition legislation, which subjects such competition to review by the Council, as I have noted.

Under that provision—constitution 3-9(c)—the Council has authority to grant exceptions for out-of-season competition in connection with bona fide foreign tours. There is a 30-day proviso; that is so that a reasonable amount of planning might be a part of the action.

In deference to the chairman and the subcommittee, and the desire to see some progress made, as you have described it, Mr. Peyser, and without in the slightest relaxing our opposition to the planning, promotion, and timing of the tour, the 11th hour promotion through a network, and all the related academic problems of the students raised by a competition coming at the end of a tough tournament season, the officers of the Council are amenable to amending the 30-day requirement, providing the AAU will apply for approval just as any other sports organization in the country does, so we are not in the business of double timing our friends.

I might say this approach has been reviewed here and very quickly by the NCAA staff with our President. It has also been reviewed with the acting chairman of the ABA, the Amateur Basketball Association, which is going to become this country's member of the international

basketball federation, and he advises under the present situation where the AAU is no longer the franchise holder, he does not think we have to have approval of FIBA, or the interim—

Mr. PEYSER. Do I understand you are saying in the simplest terms that the NCAA will lift any restrictions at this time on college players who wish to compete in this present tour in competition with the Russians and, in effect, whether it is Bill Walton or any other highly qualified player, the NCAA will not stand in their way?

Mr. DELLENBACK. Will my colleague yield? I have read your comments to us as containing a position dependent that there must be an application by the AAU?

Mr. BYERS. That is correct.

Mr. DELLENBACK. If they make application, you have opened up under your normal procedures a possibility which could be determined in very short order. We could have an answer, I understand, perhaps by this afternoon, if the AAU makes application, as to whether you could grant approval?

Mr. BYERS. Yes.

Mr. DELLENBACK. Mr. Chairman, in view of the tightness of our time, may we ask your intentions relative to this hearing?

Mr. O'HARA. I had said earlier we would have to go to an afternoon session. What I would now like to do, with the agreement of the members of the committee, is to recess for 15 minutes to give us an opportunity to go over to vote and come back, and we will be into our afternoon session if that is all right with the witnesses?

Mr. BYERS. Fine.

Mr. O'HARA. All right, we will return at 1 o'clock to make sure we can get over and back and that will give all of you an opportunity to make a couple of phone calls or do whatever you want with your time.

The committee will stand in recess until 1 p.m.

[Whereupon, at 12:40 p.m., the subcommittee recessed to reconvene at 1 p.m. the same day.]

AFTERNOON SESSION

Mr. O'HARA. The Special Subcommittee of the House Committee on Education and Labor will come to order.

At the conclusion of the morning session, we were hearing Mr. Walter Byers, executive director of the NCAA and other witnesses from that organization.

Mr. Byers is now in his place, and we will now continue with the questioning. Following Mr. Byers, appearance we will hear our other witnesses scheduled today and conclude our hearings today.

Mr. PEYSER?

Mr. PEYSER. Thank you, Mr. Chairman, I will be brief so the other witnesses have the opportunity of testifying.

I would like to go back, if we may, Mr. Byers, to the point where we were interrupted due to the vote on the floor.

As I understand it, you stated that if the AAU—we are speaking now to one specific situation, which is the present basketball series between the American players and the Russian players—were to make application to the NCAA, that the 30-day rule would be waived, and that the consideration of that application would have no other factors

involved or no other organizations that would have to be involved except strictly the AAU and NCAA, is that correct?

Mr. BYRNS. To the latter point of your question, that is correct.

Let me say it in my words to make sure we are saying the same thing, if that is permissible.

We are saying, after consultation with the officers—we have checked with enough people now—that the NCAA's prepared to waive the 30-day requirement as you have described. We also have checked with the person responsible for knowing the existing international rule and find that we do not have a problem there because of the current situation.

He says this tour is in order as far as they are concerned because there is no ruling at this moment except for an interim convenor. So it is correct that if the council approves one or more of these games that approval does not have to be approved or seconded by anybody else.

I do want to make a couple of other comments. It is not in any sense a hedging on what I said, but I don't want a misunderstanding later because we were not clear.

I am not say—let me start from a different point. I am not saying that the Council, I am not guaranteeing that the Council will approve this tour, but I am saying, if the AAU completes those forms, we will air mail special or send them by telefax to our Council members so they will have the forms before them.

We will immediately initiate a Council call and take a vote on the matter by conference call.

Mr. PEYSER. I have just heard from the offices of the AAU in Indianapolis that they are willing to make this application and I think that they are doing it as you are doing it at this time, in the best interests of the country to see that we can put forth a good representative American team in this competition. I would hope at this time that it in no way puts to bed the entire issue we are discussing, because that is in no way one issue or one event, but it does show the feeling of cooperation between you and the AAU to work out something.

The AAU has indicated they would authorize the completion of the application via a telephone through one of their representatives in Washington. If you had such an application with you or your staff, the AAU is willing to authorize the completion via a telephone and get it to you today to make this thing really move. Would that be acceptable, or is it possible for you to do that?

Mr. BYRNS. We have such application at hand. We would want written assurances that the person from the AAU who is filing this application is authorized to act for the association.

Mr. PEYSER. Of course, without any question that would be required and my understanding is they would agree to do that and would personally by phone contact you to give you that direct authorization.

We would like to proceed on that as, let's say, a step forward at this time and if an application could be made available, a member of my staff would be glad to convey this to the people involved here and get moving on it. We would like to get that part wrapped up this afternoon.

No further questions, Mr. Chairman.

Mr. BYERS. Mr. Peysler, I want to bring to your attention one other point. Again in the interest of avoiding misunderstanding, there are a number of athletic conferences that have rules about this all on their own.

They are not NCAA rules. I am not saying these conferences are going to waive their rules. The Atlantic Coast Conference, for example, may have a rule that when it is near exam time, nobody may go any place.

Mr. PEYSER. I am not asking you to commit any other organization. A college may say they don't want their students to compete, that is their business. We are trying to clear the air on the issue between the AAU and NCAA. I appreciate your statement, but I am not expecting anything from the other organizations, just from yours.

Mr. BYERS. Then only to pick up one observation you made, sir, that it does tend to alleviate the immediate problem, and I would hope, we would hope, speaking for, I think, everybody in the room here from the colleges, that it would afford time to this subcommittee to give further study to the problem. We say to you earnestly and sincerely we think there are ingredients here, principles available that have been discussed that could be shaped up into a long range solution.

I think at this time, care and deliberation is more in the interest of all of us than haste.

Mr. PEYSER. Thank you.

Thank you, Mr. Chairman.

Mr. O'HARA. Mr. Dellenback?

Mr. DELLENBACK. Thank you, Mr. Chairman.

Mr. Byers, before we let go of this one, may I ask a couple more questions.

Assuming that this application can be submitted immediately, is it correct that the application can be submitted by the AAU to cover the entire tour? Or is it incorrect that the AAU can submit a single application to cover all the proposed games on this tour?

Mr. BYERS. The application has three parts, one has to do with the general issues like insurance and team physician and things like that.

Another has to do with the coaches and athletes, and a third has to do with individual games.

I did not explain this very well. In any event, it is possible for one person, if he knows the sites of the games and the arrangements, to fill out the third part which would be an individual form for each of the separate games. He can do that here, but he will have to have the information to fill it out.

Mr. DELLENBACK. It would not be necessary, however, for any organization in any of the individual cities where the games would be played to join in that application, is that correct?

Mr. BYERS. Let me refresh my memory on it, if you will.

Mr. DELLENBACK. Let me say, while you are looking at that, at the time when we had representatives of the NCAA and the AAU before us before and your Mr. Hansen was representing you, I was struck by the complete willingness on his part and on the part, if you will, of the representatives of the AAU.

Genuinely, to try to work something out. We appreciate very much what you are now demonstrating on this one particular issue. I wanted to say to you I commend your Mr. Hansen for the fine way he ex-

pressed himself as we strived urgently to try to work something out.

Mr. BYERS. We appreciate those remarks.

My information is correct, if he has the information, one person could execute the whole form.

Mr. DELLENBACK. I think that is important. With the time limitations, if we have to go to eight different cities and get two organizations to join in, we are against a time bind almost impossible to meet.

What you indicate to me and to the subcommittee is that if there is a representative of the AAU and who is duly authorized by the AAU, this, of course, you would have to satisfy yourself on, he can take forms which are in your present possession so it could be done this afternoon.

He could fill out the forms and, providing he has the necessary data, I assume he could get that by telephone if necessary and he could complete doing that this afternoon, then that would be a valid application for you to then act upon?

Mr. BYERS. That is correct.

Let me supplement that by this, I don't want to suggest to you that we are going to ignore inadequate completion of the questionnaire, nor are we going to waive standards that we apply to any other organization.

Mr. DELLENBACK. I assure you that so far as our subcommittee and our interest in this particular problem is concerned it is not to seek to get you to condone an operation that is inadequate.

If you find that the arrangements would not measure up, then I think you ought to be free to act on that in that form, but I just wanted to be sure about the nature of the application and whether or not it would be adequate if it covered the entire tour versus individual applications.

Then, because time really becomes important in this, how rapidly, assuming the application were to be given to you this afternoon, would you and your council be able to act on it? Could you move in such a rapid fashion that it would be able to be determined by the morning?

Mr. BYERS. No; I don't think that is feasible. I would imagine that the procedure we would follow—I think you are optimistic in your premise, I don't believe they will have the information at hand for all these competitions.

But setting aside your optimistic premise, and it would be here this afternoon, I would think we would transmit it to all Council members by telefax—maybe I already said this—telefax or airmail special, they would have it in front of them, and then we would initiate a conference telephone call and, if the forms would be here this afternoon, and we could duplicate them and airmail them or transmit by telefax, and we could transmit them this afternoon, if the mails go as we hope they go, we could have a conference call, I think, by Friday or Saturday.

Mr. DELLENBACK. Some of us have a little less confidence in the instantaneous delivery of the mails than we once had. If telecopy facilities were made available to you here on the Hill, would it be possible to get them out this afternoon?

Mr. BYERS. Yes; it is a question of whether the source has the same equipment, but, right.

Mr. DELLENBACK. The thing that concerns me, and I don't mean to push you unduly, you are not interested in making an empty ges-

ture and we are not interested in being involved in a question that is going to become an abort before the mission is accomplished, but it is my understanding that the selection of athletes to participate is underway almost literally at this moment, and that some of the eligible athletes have been contacted. This means you are in a situation where a day or two will actually be the determiner whether athlete A or athlete X is requested or invited to participate.

So, it would seem to me that Friday or Saturday is quite far out whereas tomorrow or Wednesday is still a feasible time.

I don't mean to intrude into something that is your concern, other than expressing this concern that the matter is almost at the stage where if it is to be effective I gather it needs to be done in a very few days.

Mr. BYERS. We certainly will proceed expeditiously and we have never tried to say we are going to do something and then not do it, or delay it to be ineffective.

I do want to make this point, we are most sensitive about this, we are quite irritated by it, that is the pressure visited on individual athletes, the fabrication and distribution of false quotations, the encouragement of college athletes to violate college and NCAA rules by outside parties.

This has occurred. If the procedure is going to be one of saying to athletes now, "Everything is cleared up, it is routine, come along and make a commitment," that would be a misrepresentation.

It will not deter our processing of this application, I think it merely reinforces our points.

I know nothing of the fact Bill Walton is going to call Kansas City. I hope he does; he is a super young man.

The Los Angeles Times ran an article that Bill Walton was drafting a letter to write to President Nixon. Bill Walton never did that, his best friend on the team said he never drafted a letter to President Nixon; Bill said he had not, but the story got wide circulation.

We are cooperating, gentlemen, we are on record we will cooperate and we will. But what this does is open up athletes to intensive pressure, which is one of the reasons these rules are in the book. If they are going out and pressure these athletes to do things they may not want to do, they are 18-, 19-year-old boys, and we will resent it considerably.

Mr. DELLENBACK. I understand and, as far as this one Member is concerned, I have not attempted to quote anybody else as to whether it be Walton, De Gregorio, or anybody else in the book as to whether they would be willing to play or not. I join with you. I don't want to put any of these young men under unfair pressure.

All I am concerned about is to try to understand what has been said so that whatever is going to follow, follows, and everyone knows it.

When I indicated the selection process was underway, I didn't mean to imply young men were being selected who are in NCAA schools and who should not be pressured under these circumstances. Rather the implication I meant to confer, drawn from what I understand of the situation, is assuming that the NCAA athletes are not going to be participating, that means there may be selections of other athletes. If that is not to be the case, if there are to be some of the

NCAA athletes available, then the AAU might not proceed with certain other selections. That was the only time pressure I meant to allude to.

Mr. PEYSEN. Will the gentleman yield?

Mr. DELLENBACK. Yes, sir.

Mr. PEYSEN. I agree completely with what Congressman Dellenback said. As far as I am concerned, there is no effort to open the door to any player for pressure, saying, "Come on, it's all settled."

There is nothing settled, until the application is completed by the AAU and you have a chance in your committee to review it and approve it for the public statement.

I would say to athletes all over, there is nothing settled. I would like to say, in deference of getting it moving as quickly as we can, if you do have a copy of an application present. I would like to have a member of my staff be able to pick one up because the AAU people would be willing to get to work on it right away.

Mr. O'HARA. Will the gentleman yield to me?

Mr. DELLENBACK. Yes, sir.

Mr. BYERS. We anticipate there are going to be competitions and it will not be possible to approve because I don't think they have made the arrangements, so when you see it come short, I want to flag you, if you see it come short of eight games, it will be somebody else's fault.

Mr. O'HARA. Your assistant, Mr. Hansen, was before us a month ago. He said it is the position of the NCAA that the tour proposed by the AAU, to wit, this basketball tour, would seriously jeopardize the success academically of any college player who might participate.

Is that still the view of the NCAA?

Mr. BYERS. Yes, sir, I told you at the outset that we have all the reservations about this tour that we voiced before.

We think it is poorly scheduled, scheduled at the wrong time. They should give the AAU a Lenin star to bring a Russian team here in April to accommodate the Russians because they are going to South America.

These boys are in classrooms taking exams. We think it is a bad time, but in deference to you and the committee, we are trying to cooperate. I am sorry to speak as strongly as I do, but we feel very strongly.

Mr. O'HARA. Hold on a minute. I want it clear that the committee believes that any athlete who has reason to believe that his academic career would be jeopardized by participating is not being asked by this committee to do so. There were a number of players, as you pointed out, who were asked to participate in the Olympic games who chose not to do so.

I hope and trust there will be players asked to participate in the series with the Soviet Union that will decide their academic welfare precludes their participation. No one on this committee is trying to say that the academic welfare of these students comes second. I don't want that impression to get around.

Mr. James is here today, I would like to ask him a question if I might.

Mr. James, at that hearing a month ago, Mr. Hansen read a statement from you in which you said, "Academically the tour is detrimental, three of the ACC schools are in final exams and this would

serve as a detriment. Any out-of-season competition must be approved by the academic chairman of a player's institution. I doubt any ACC institution would approve participation even if the NCAA were to back the tour."

Then a little later on, "Couple this with 2 weeks on the tour and a player would lose too much class time of the year, besides the player would be physically and mentally tired from the long season." Does that still represent your view?

Mr. JAMES. Yes, sir; our competition of all our sports is concluded this year on the week of the 16th of April, for one specific reason, to provide an opportunity for that young man to successfully complete his academic pursuits.

We have, as mentioned there, institutions whose final examinations begin the last week in this month or very early in May. Coaches, when I talked to them about it, I talked to a group, felt to adequately prepare this team that a coach should be given a minimum of 2 and preferably 3 weeks.

The assembling of a group of talented athletes does not in itself indicate they will be a team unless they are given this opportunity.

So when I added the time in preparation, 2 to 3 weeks, plus 2 weeks on the tour, sir, I can't see how a young man could miss that much time from his classroom. I said that with all sincerity and I believe it now.

Mr. O'HARA. Thank you very much for letting us know what your thoughts are.

Do you still doubt that any ACC institution would approve participation?

Mr. JAMES. That is my personal opinion. We have a rule in our Conference that any competition by any one of our athletes other than that scheduled by the institution must have the written approval of the faculty chairman of his institution.

We have a basketball team of one of our member institutions at this time which is considering a foreign tour. It happens to fall at a time when it would have to advance the final examination schedule for a number of the players to do this. It has been a minimum of 10 days that they have been researching each player on that team to see what this would do because, as is probably going to happen here, sir, a young man would want this competition.

As Mr. Byers said, he might evaluate his academic success a little bit differently than someone who would be looking at it from a long term possibility.

Mr. O'HARA. Thank you very much.

Mr. DEMENTSK. At this stage—once again the Pavlovian reaction must take place, we have to go vote. But I would like to make this brief statement.

There is no question sports have become important, in many ways a vital part of the lives of many Americans. Certainly the majority of the male population of this country and I think a growing percentage of the female population identify with sport, whether as spectators or as participants.

When there is a problem in sports activities between two major bodies that our citizens can't understand, there are questions.

I join with you and would be reluctant to see the Federal Government moving into control of sports competition. However, if there is a

serious chance that athletes or spectators are going to be abused by an argument of any nature, then I believe we have an obligation to take action.

I don't want any action we take in an attempt to solve one problem to create a host of other problems. That is why I want to be very careful what we do in the way of legislation that what we do is sound. I don't agree with Mr. Cunningham's statement that this was a simple problem. It is not, it is complex.

There are a number of participants trying for a long period of time, so far without success, to bring peace and harmony. And I have heard them testify as to how complex this matter really is. Understand it is not because of a great desire to leap into new legislation that we are concerned about the problem.

May I close with one statement and I won't ask any more questions. Maybe it is unfair to hold the witnesses longer.

You made one tactical error. When you introduced your colleagues and associates, you failed to introduce one of the men who is representative of one of the outstanding schools of the West Coast. You passed up Mr. Norval Ritchey after having brought him back to be on the scene. We are displeased that you failed to bring the University of Oregon to the front.

Mr. O'HARA. Thank you, gentlemen, for your testimony. I don't know, but I hope you will hold yourselves in readiness, because it may be that this subcommittee, in pursuit of its jurisdiction with respect to institutions of higher education, might wish to call you back on another occasion on this matter or related matters.

We appreciate it that you have taken your time and given the committee the benefit of your viewpoint on this question. Even though we may not always agree, I want you to know we appreciate the time you have taken and the job you are doing.

We will have to now vote again. I will declare the committee in recess until 2 o'clock. At 2 o'clock we will hear our next witness, Mr. Larry Ellis, head coach of track at Princeton.

Thank you very much for your time. We will recess until 2 o'clock.

[Whereupon at 1:45 the subcommittee recessed for quorum call, to reconvene at 2 p.m. the same day.]

Mr. LEHMAN. At this time we will reconvene the Special Education Subcommittee.

The next witness will be Mr. Larry Ellis, track coach at Princeton University.

STATEMENT OF LARRY ELLIS, TRACK COACH, PRINCETON UNIVERSITY

Mr. ELLIS. Thank you very much for inviting me to appear here at the committee to give whatever comments I can that can be of some clarification or help in terms of resolving this problem revolving around amateur athletics in the United States.

I circulated a brief statement. I am not sure whether everyone has a copy of that statement or not, but since it is brief, I hope you don't mind if I read the entire statement.

Mr. LEHMAN. You go ahead as you prefer.

Mr. ELLIS. To the members of the Special Subcommittee on Education, my name is Lawrence Ellis and I am currently head coach of track and field, and cross country at Princeton University. I am speaking as a witness at this hearing as a result of a phone conversation between Mr. Royce Flippin, the athletic director at Princeton University, and Mr. Franklin, the counsel to the Special Subcommittee on Education. The phone conversation was a follow-up of my withdrawal from the position of assistant coach of the U.S. track team that was selected by the A.A.U. to compete against the Soviet Union track team in Richmond, Va., on March 16, 1973.

I wish to make it clear that my testimony today does not reflect official Princeton University policy. The administration at Princeton has had some preliminary discussion relevant to the issues involving jurisdiction of amateur athletics in the United States and the proposed bills H.R. 5623 and H.R. 5624. We have not had the time to carefully examine all areas of concern so that policy decisions could be determined. During the next several weeks the university will examine these issues critically in an attempt to carefully develop institutional concerns and policy. We will be in consultation with other Ivy League institutions in order to develop a more comprehensive understanding of the problems and hopefully effect a league position.

It was most unfortunate that some of the athletes and coaches of the U.S. team that were to compete against the Soviet Union's track team could not have the freedom to participate in this international competition. The inability of all athletes and coaches to participate hampered attempts to place America's quality of indoor track and field performance on a higher level of competency. Athletes that were forced to withdraw were denied the opportunity to enhance their educational experiences and coaches that were forced to relinquish their positions were denied a chance to gain invaluable professional growth and experience. It is my hope that in the near future athletes and coaches will not have to go through the traumatic experiences that developed prior to the Richmond meet.

The proposed bills are basically good and can aid the objectives of international competition as well as restructure amateur athletics in the United States. However, some changes in the bills may be necessary to accomplish optimum results. Most colleges and universities would probably like to maintain their institutional autonomy by deciding whether it is academically feasible for their athletes to participate in international athletic competition. I feel that a commission governing policy in amateur athletics is important, provided the commission delegates the authority to previously established and experienced groups to promote amateur athletics.

I would like to amend the last part of that sentence to include as well as the new organization that the commission feels can satisfactorily administer amateur athletics.

I would like to go back to my being involved in this situation. Early in March I received a call from the AAI indicating that they would like to have me participate as an assistant coach. After consulting with my athletic director and other administrators at the university, we accepted this offer and I was very pleased and honored that I was being awarded this position.

That Monday prior to the competition, March 12, the associate director of athletics at Princeton came into my office a few minutes before I was to depart for Richmond and indicated he saw in the morning edition of the New York Times that Chris Dunn, the high jumper from Colgate had decided not to go to the meet in Richmond because of the possibility of his school being placed on probation if he competed.

Mr. Howell then indicated he had looked into the manual of the NCAA and noted that there is a statement saying that athletes and representatives of member institutions could cause the universities to be placed on probation if they participated in meets or activities that were not sanctioned.

He said he called the NCAA office in Kansas to determine whether or not this meant the coach as a representative of the institution. He was told that yes, both coaches and athletes were to be considered possibly causing their institutions to be placed on probation.

Mr. Howell then asked directly would that mean that Princeton University would be placed on probation if Mr. Ellis participated as an assistant coach. The answer was given there is the direct possibility that Princeton University could be placed on probation.

With that, it was decided to call the AAU and ask them would they consider asking the NCAA to sanction the meet. The AAU indicated to us that they had never before been asked to sanction international competition and that the year before the meet was held in Richmond, Va., and that they were not required to ask for sanction at that time and they saw no need to ask for sanction for this particular meet.

So we were, in effect, caught in the middle between two organizations that were not willing to relinquish their power and come together to make some agreement so that athletes and coaches could participate.

I went to Richmond to try to get more specific information from the AAU representatives there and to talk with the gentleman who was named the head coach, Mr. Jim Banner from Pittsburgh University. We were told we had to make a decision. If we could not stay in the position of coaches, someone else would have to be brought in to do some preliminary work regarding the team.

I was in consultation with the athletic director and he felt we did not have enough time to contest this or to look into the validity of the university being placed on probation as a result of my participation and as a result I withdrew from that assignment.

I might also indicate that it was quite an unusual experience to meet some of the athletes and to have them express their desire to want to participate and note the type of anguish that many of them went through in terms of coming to their decisions that they and their universities had to make.

I feel it is quite unfair that the athletes had to go through this sort of anguish of not knowing what to do and the total implications that would involve themselves and others at the universities.

I feel that the bills that are proposed are basically sound bills and after hearing some of the testimony and some of the comments later this morning I gather that, as I pointed out earlier, that the institutional autonomy would not be violated as far as athletes are concerned in determining whether or not they can participate and whether

it would affect their eligibility, or whether it would conflict with their athletic schedules during the course of the year.

So in essence, if this is followed through I can see that this bill can do nothing but good as far as promoting international competition.

It almost seems to me that the committee has played a very important role in bringing together the AAU and the NCAA in at least trying to resolve these problems for the good of the country and for the good of the athletes themselves.

I think that basically my own feeling is that the athletes' well being must be placed first and not rules and regulations that are set up for an organization and to promote the betterment of the organization as such.

May I come back to one further point? As far as myself being selected as assistant coach, one of the things I felt very upset about was the fact that Princeton University is my employer. That no one should have the right to determine what activities I participate in except Princeton University, if we both agree these are relevant kinds of activities for me to participate in.

That if Princeton University felt I should participate in a clinic or as a coach of a team, that we should have the right to decide this and not someone else make this decision for us.

Mr. LEHMAN. Thank you for your remarks.

Mr. Dellenback.

Mr. DELLENBACK. Thank you, Mr. Chairman.

Mr. Ellis, we appreciate your being here and your giving us this testimony. We hope that there are no repercussions that follow so far as the NCAA is concerned as far as your participating in this event today. So far as we know this is a sanctioned hearing.

May I ask about the meet in Richmond, was there at any time any question raised about the meet, the condition of the track, the health of the athletes, the living conditions, the economics, whether or not doctors were in attendance or the normal type of things that would go into an investigation of a meet to determine whether it should be an approved or sanctioned meet?

Mr. ELLIS. Are you asking did the NCAA look into this?

Mr. DELLENBACK. In connection with your participating or not participating in the meet you were in a position you had to make a tough decision whether or not to stay with it considering the repercussions that could hit Princeton and not just you as an individual, was there any objection raised by anybody that it was not a first class meet?

Mr. ELLIS. No, not at all. There were no objections as far as I understand or as far as I heard that the athletes were not being cared for properly—that the athletes were being taken advantage of by promoters. All things were in top notch condition as far as promoting a meet is concerned.

Mr. DELLENBACK. Did you have a chance to look at the situation there enough to see anything that might have caused you to be concerned about the manner in which the meet was being conducted?

Mr. ELLIS. Not from my viewpoint. I did have an opportunity to see the facilities where the meet was being held.

Mr. DELLENBACK. You did or you did not?

Mr. ELLIS. I did have the opportunity. I saw nothing wrong with the facilities as far as the meet was concerned. I saw where the athletes were housed. It was the same hotel I was staying in, John Marshall, a very fine hotel in Richmond.

There were a number of team leaders and managers that were caring for the athletes and seeing that everything was taken care of for them properly. So I don't think athletes were being neglected.

Mr. DELLENBECK. You can understand the basis of my questions. If you had an athlete who was going to participate—or if it be some outside institution or agency—you would be much concerned about this type of thing. If it was a fly-by-night operation you would not want to be associated yourself or have an athlete involved. But you saw no indication for objection on those grounds in Richmond?

Mr. ELLIS. No. And I think precedent had been established the year before. The same type of meet was held with the same type of conditions being prevalent so I saw no reason to assume anything else would be different as far as this meet was concerned.

Mr. DELLENBECK. From the standpoint of the time the meet was held and how much effort it took to get from Princeton to Richmond and considering the time an athlete or coach would have to be away from school, there was nothing untoward about this?

Mr. ELLIS. No. Athletes were asked to be there approximately by Thursday morning, that was the day before the meet, so this should not pose any great undue difficulty on athletes as far as academic responsibilities are concerned unless there was some unusual particular problem that an athlete may have with an examination or something else.

But it was not any long and unusual stay that an athlete had to make in Richmond. He had the option of arriving as early as Tuesday, the Tuesday before the meet or that Thursday before the meet began, which was held on Friday.

Mr. DELLENBECK. Did you get any indication as to what the NCAA would have done had there been a request by AAU for a sanction of that meet?

Mr. ELLIS. No.

Mr. DELLENBECK. So you do not know what might have happened under those circumstances?

Mr. ELLIS. No, I don't.

Mr. DELLENBECK. Let me ask some other questions, Mr. Ellis, that go to the basics of what, if anything we should do in connection with legislation.

The issue that is in part involved here is should an athlete be able to decide for himself or herself whether he or she wants to compete in an event, or secondly, should an athlete in conjunction with some representative of the individual school where that athlete is in attendance make that decision, or should it be a three part decision with the athlete and the institution and some outside agency making the decision?

What would be your feeling as a representative of one of the primary eastern institutions—and that comes hard for me to say as a Yale man, but as I have trouble doing that, but I am doing it with a straight face. But as a representative of an outstanding institution, what would be your thinking about where the decision ought to rest for this kind of participation?

Mr. ELLIS. My feeling basically is that there should be some administrative body that should set forth certain policies for the institution and the individual to be able to work within, determining the kinds of activities that they feel they would like to participate in, whatever their particular responses are.

I do not think that any one individual should have the right to determine all of the types of activities that he may participate in if he is representing an institution because he might not have the background or expertise to look into all phases of the types of competitions and the type of conditions we discussed relative to the meet at Richmond, to determine this. I think there should be a structured policy procedure wherein the university and the individual can operate together to determine this. However the institution or the organization setting the policy should not be able to dictate individual aspects of how the university or the individual ought to operate.

Mr. DELLENBACK. Would you see that outside organization then as being principally a supplier of information or would you see it as actually being able to set up rules with which the individual and the institution must comply?

Mr. ELLIS. Not necessarily setting up rules that the individuals must comply with but setting up rules that make it feasible for the institution and the individual to operate in. I am sure this will perhaps come up as far as the commission that we are speaking of is concerned.

It is like an organization that you are setting up where someone is going to administer a program, someone is going to supervise the program and see that the administration is done fairly and properly for all people to be able to participate in.

I think here there is some instances where there are certain things administered in the program but it is not quite fair that all people cannot participate freely in the manner in which they decide upon.

Mr. DELLENBACK. I am not quite sure that I see the line you draw. Let me try to phrase the question again.

Would you feel that in addition to the institution and its athletes being involved in the decisionmaking process, that there ought to be some outside organization which would have to give its approval to any given competition, whether it be a meet or tournament or what you will, in order for an athlete or a coach from that institution to participate?

Mr. ELLIS. Yes; there would have to be rules that would have to be followed through.

Mr. DELLENBACK. And there would have to be some outside control in this sense and if that control were not complied with, then no matter what the athletes wanted to do or what the institution wanted that athlete to do, there would have to be some controls?

Mr. ELLIS. Yes, sir.

Mr. DELLENBACK. So you do not speak on favor of the decision being left on the shoulders of the athlete or coach and the institution? You are not looking for that kind of institutional autonomy?

Mr. ELLIS. No.

Mr. DELLENBACK. Would it be bad if we were to move in that particular direction?

Mr. ELLIS. I think it would be. It would certainly splinter, fragment aims and objectives of many institutions where they would tend to look to their own designs. I think it could also, shall we say, exploit athletes to some extent.

Mr. DELLENBACK. So you don't think we could rely upon the individual institutions to make the soundest decision for their athletes or coaches? You think there has to be some outside structure or control to take away the complete control from the institution?

Mr. ELLIS. I think there has to be some general policy, yes, in regards to that.

Mr. DELLENBACK. That is very helpful to me. You are in a position to know if anybody should perhaps be wanting to say the control ought to be local, that Princeton and the people who are there making the decision ought to be able to make the best decision for their personnel, whether it be student or whether it be coaching personnel, as to whether or not there ought to be participation.

Yet, that is not what you are saying. You are saying you should not leave the decision to the individual institution. They should have a major part of it, of course. Nobody should be able to make you participate if you did not want to, or nobody should make your athlete participate if he or she did not want to but you are not willing to go the last step and say the full control should rest with that athlete or that institution.

Mr. ELLIS. When you say full control, I think if one is participating with an organization in terms of running various activities, that there has to be an agreement in terms of general policy in which people will operate.

For instance, Princeton University operates with the Ivy League institutions and there are certain rules and regulations that the Ivy League institutions set among themselves to decide how they will run their events and their activities. However, I think that there are those cases, there are those individuals, those situations, where perhaps policy rules and regulations may not clearly define the area in which an individual may dissent from that and feel that his individual rights are being abridged to some extent.

There are Ivy League rules and regulations that we perhaps may not agree with, but I think we can come together and talk about that and try to resolve that. There is a mechanism here for this.

If there is no mechanism to resolve that situation, then what does one do? Does one continue to be oppressed by someone who is not understanding of their individual situation, the individual desires and shall you continue to labor under that or say, "No, I feel this is the correct approach to that".

With the setting up of our league situation, we have come together to make certain recommendations in terms of the way in which we operate. However, there are sometimes errors in the way in which we set up those things and sometimes errors in the manner in which they are administered and if there are errors in the way in which they are administered, if there are rules and regulations that are not fair, then what other recourse does an individual or an institution have but to find some way to rebut these rules?

Mr. DELLENBACK. Is it enough to say that every institution had a voice in the making of these rules?

Mr. ELLIS. I think that is most important.

Mr. DELLENBACK. Is that true of the NCAA?

Mr. ELLIS. This is something that is difficult for me to answer for you because I do not know and I have not looked into the background to determine whether or not the NCAA has completely provided this opportunity for all institutions to have a complete say in these things.

Mr. DELLENBACK. As we got the structure outlined for us this morning, there are 770 institutions of one kind or another. They make by group decisions, by majority vote, the decision as to what the rules will be and then everyone of the 695 institutions plus the 75 other members must comply with those.

Would you be willing to say that is adequate, that is a sufficient voice and if you don't like the rule, that is just tough. You better try to change the rule?

Mr. ELLIS. If the direct procedure was used, and I think there is doubt that the direct procedure was used in bringing about this particular rule. There are some people who feel that it was not, that that Roberts Rules of Order were not followed in terms of bringing about this legislation.

So once again a lot depends upon the manner in which the legislation is developed.

Mr. DELLENBACK. By legislation you mean the rule within NCAA which was here not complied with and that forced you out of competition?

Mr. ELLIS. Yes.

Mr. DELLENBACK. Now if I have understood you correctly in your testimony, you think it should perhaps be perfectly proper that there be an organization larger than the individual educational institution setting up some criteria or rules which must be complied with and if they are not complied with then the athlete goes by the wayside.

If I have understood you correctly on that, then maybe you do not favor H.R. 5623.

Mr. ELLIS. No, that is in terms of running the organization domestically as far as amateur athletes is concerned in the United States, not addressing itself to the aspect of the athlete having the opportunity to compete in international competition.

Mr. DELLENBACK. So far as the athlete competing in international competition you feel the athlete and the coach should be free to make the decision?

Mr. ELLIS. Provided it meets with the general philosophy of the university and provided it does not, shall we say, overstep any bounds in terms of who sets up that competition.

Mr. DELLENBACK. Would it be possible that two different institutions in the same conference or the same league, might make different decisions as to whether they want their athletes to participate? Should each one be free to make that individual decision?

Mr. ELLIS. As far as international competition is concerned?

Mr. DELLENBACK. So far as international competition is concerned.

Mr. ELLIS. Yes, sir.

Mr. DELLENBACK. Let us talk about the international track meet at Richmond—an international competition. Should it have been possible for Princeton University and you to make the decision on your own, as to whether or not you should participate free of any possible sanction

from the Ivy League or free of any possible sanction from the NCAA?

Mr. ELLIS. Yes, because I feel as a coach, as an employee of Princeton University I should have the right to, shall we say, participate in any activity that my employer and I feel are legitimate kinds of activities.

Mr. DELLENBACK. And there should be no organization above and beyond Princeton that can sit in judgment as to whether or not you should?

Mr. ELLIS. As far as myself is concerned.

Mr. DELLENBACK. Let's switch to one of your quarter-milers. Should the same thing pertain to that athlete?

Mr. ELLIS. I think we are talking about a different situation. I think with a coach we are talking about employment, the right to earn a living, the right to pursue his professional objectives.

I think with the amateur athlete, he is working or he is operating under a different set of rules and regulations according to amateur athletics. And there is currently a structure which the college athlete operates under. However, that structure does not presently allow for the athlete to freely operate in international competition with sanction of his university.

Mr. DELLENBACK. Should it?

Mr. ELLIS. I think it should.

Mr. DELLENBACK. So again where the athlete is concerned, you are saying the institution and the athlete should be free to make the decision shy any outside control, is that correct?

Mr. ELLIS. I think what I am saying, and I hope I have not been too misleading in this respect in terms of trying to get exactly at the point of what you are saying, I think what has to be done is that the two organizations must come together so they can set up rules, so the athletes can do this. The way it is set up now the athletes cannot do this.

Mr. DELLENBACK. But you think it is possible, or you think it is proper that there be some outside organization over and above the university that can say to an individual athlete, "If you participate in this international event, then these repercussions and results are going to follow."

Mr. ELLIS. No; I don't think that is correct.

Mr. DELLENBACK. You don't think they should be able?

Mr. ELLIS. No.

Mr. DELLENBACK. It should be just the university and the athlete making that decision and that should be what controls the individual athletes participation in the international event?

Mr. ELLIS. Yes, in that respect.

Mr. DELLENBACK. Thank you very much. Thank you Mr. Chairman.

Mr. LEHMAN. Why don't we just turn this problem over to the Princeton School for advanced studies. They don't have enough problems of their own do they?

The next witness is Mr. Clifford B. Fagan, executive secretary of the National Federation of State High School Associations, a federation of 50 State high school athletic associations and 7 Canadian affiliates. For a long time, Mr. Fagan was associated with the Basketball Federation of the United States of America as its president. Mr. Fagan has helped the Basketball Federation U.S.A. in its attempts to organize the Amateur Basketball Association of the U.S.A. ordered

by the International Basketball Federation to be brought into existence to replace the AAU as this country's national representative and international franchise holder.

Thank you for coming to give us your help.

**STATEMENT OF CLIFFORD B. FAGAN, EXECUTIVE SECRETARY,
NATIONAL FEDERATION OF STATE HIGH SCHOOL ASSOCIATIONS**

Mr. FAGAN. Thank you, Mr. Chairman and members of the committee.

Mr. LEHMAN. Without objection your statement will be included in the record.

You can read it if you want.

Mr. FAGAN. I would like to supplement my introduction myself if I may, members of the committee, by saying that I have coached for a number of years at both the high school and intercollegiate level. I have been an administrator of interscholastic events at the high school level for a quarter of a century.

I participated in rules committees, that is the writing and interpreting of rules, principally basketball, at the intercollegiate and interscholastic levels. As the chairman indicated, I am a past president of the Basketball Federation of the U.S.A. I am now a member of the U.S. Olympic Committee.

I was very heartened near the end of the testimony this afternoon to learn that the committee as a group indicated it was not interested in establishing an organization which would dictate to sports bodies but rather that it would solve a present problem. I think it is important we have that point of view.

My comments to you this afternoon are general, if you please. I would call your attention to the fact that the National Federation of State High School Associations and the approximately 21,000 schools represented by it are sincerely appreciative for the privilege of submitting a formal statement regarding its views of bills designated as H.R. 5623 and H.R. 5624. It is most appropriate that the broad athletic interest of secondary schools in the United States be recognized when national sports legislation is considered. There are high school programs in every community in the country. An increasing number of high school age athletes and teams are participating internationally as well as domestically each year.

It is significant to note here that the interscholastic sports programs in the United States involve more communities, more competition, more contests, and more players than at any other level. As we have indicated, there are at this time approximately 21,000 high schools sponsoring interscholastic athletic teams. An increasing number of these schools are presently including extensive sports programs for girls as well as boys. Over all, somewhat over 2 million students, boys and girls, take part in a high level type of competition each year. The degree of skill is markedly high. The high school sports curriculum varies, but the average school includes nine different sports. Thousands of schools sponsor 15 different activities.

These are programs of wholesome activities and interests for boys and girls. In these programs the students are motivated to keep themselves physically fit, and from them they derive a very worthwhile edu-

educational experience while taking part in activities which bring families together and which are viable community affairs.

Interscholastic athletics, in fact, supplement the school's academic program. The purpose of these sports programs is to contribute to the education of those who participate actively or as spectators. Thus, it is necessary the institutions supporting the programs maintain the highest possible educational standards. In order to make certain the same high standards prevail for interscholastic athletics as far as the academic program in virtually all situations, coaches are required to be certified teachers and bona fide members of the faculty. The administration of the athletic program resides with the head of the school, in most instances, the principal.

Even though the principal purpose of interscholastic athletics is to contribute to the individual's education, participation in the presently constructed program enables the athlete to attain a remarkable degree of skill. But because the program is first of all concerned with education, the standards must be constructed so there is an assurance of this educational objective being attained.

I think to a great extent this is one of the problems that the committee faces. That is those who are concerned with the sports alone or the excellence in sports are likely to be less concerned with the welfare of the school community. Those whose primary interest is the excellence of sport itself rather than the welfare of the individual frequently demand relief from school standards. Obviously educational institutions cannot compromise their position in these matters.

As the interest in interscholastic athletics grew, it was necessary for schools to organize into associations for the purpose of adopting regulations and standards to maintain educational outcomes. Virtually every standard State associations have for the conduct of their athletic programs, and there is similarity in all of them, is the result of a demonstrated need. These standards generally fall into four categories, namely:

(1) Those to protect the athlete's physical welfare; to insure his normal academic progress; and to assure he is a bonafide student;

(2) Those to protect the school's program so that the school will be able to maintain its commitments; to provide for equitable competition; and to assure the program is under the direction of school officers;

(3) Those for the purpose of providing a means of constructing and developing game rules which best serve the needs of adolescent boys and girls; and to provide a method of training officials who are qualified to administer interscholastic contests; and

(4) Those for developing and maintaining a program of sportsmanship so interscholastic contests may be conducted in an educational atmosphere.

The policies, procedures, and standards which are promulgated for the purposes of maintaining interscholastic athletics as an adjunct of the secondary school curriculum is appropriately the responsibility of educators. Participation in interscholastic athletics is a completely and totally voluntary action on the part of the student athlete. I believe gentlemen, to a very large degree this is true also at the intercollegiate level. The athlete is not required to take part. It is, in fact, a privilege

which he may choose to enjoy or to reject. When the student commits himself to the program of interscholastic athletics it is reasonable to expect him to abide by the standards which are established for the governance of the sport and constructed by those organizations which sponsor the activity.

As an aside there is a difference in the interests of an organization which sponsors only sport competition as compared with the interests of the organization that is concerned with the individual as a student.

We respectfully submit that the high schools have, to a remarkable degree, fulfilled any sports obligation to the country by introducing millions of boys and girls into organized athletic competition. The schools have provided excellent coaching and fine facilities. These have been available to all students who desire to acquire a mastery in sport skills of their choice. The high schools have contributed to the development of wide interests in sports programs as have no other institutions. We believe it fair to conclude that the school sports programs have been extremely successful and have provided a great service to the athletic interests in the United States. The great majority of participants at all levels of athletic competition in our country today have been developed through the school-college program, and this includes those at the international level.

Therefore, it is obvious the school's must control their own athletic programs. Such control has contributed to the development of outstanding athletes rather than adversely affected their growth. It is apparent to us that H.R. 5624 could and perhaps would eliminate educators from the governance of the school sports program. The high standards, which educational institutions have maintained for these programs, certainly compliment the dignity of the school. The great amount of participation, both by the athlete and the spectator in the program is indicative of the popularity of the sports curriculum as presently administered. The educators responsible for the policies and procedures involved in the program are concerned with the welfare of the individual, his academic progress, his safety, and general well-being. This has been the principal concern of those who have administered the program and who have been responsible for the construction of the policies, procedures, and rules which prevail in it.

The country's interest in international competition and the desire for the success of athletes representing our country is legitimate, but it is only one aspect of the entire sports program of the United States. In our opinion, it is not desirable to compromise other levels of the program to the extent that domestic programs are adversely affected, that present standards are reduced or eliminated. The elimination of a means of disciplining athletes who leave their teams during a sports season to participate internationally would make it impossible for the schools to fulfill commitments. The skilled participant developed by the educational community would be used indiscriminately for international competition if the proposal being considered were adopted. The school or college team would be left without adequate manpower to provide good competition. Promoters, not interested in the program of the educational institution, and promoters who are selfish would exploit the talented boy and girl with no real concern for his

or her welfare. Most certainly, numerous tours would develop which would not be well planned and would be clumsily executed.

We urge any legislation adopted for the governance of sports programs in the United States protect the existing programs of the educational institutions. No other group has made such outstanding contributions to the sports programs of our country as have the educational institutions. To destroy their programs would be most assuredly fatal at the international level of competition.

We are positive the Members of Congress will recognize these contributions and make certain that the educational institutions are not denied the opportunity to continue to provide maximum development. The future of U.S. representation in international athletic competition to a large degree depends upon the protection of the programs sponsored by educational institutions. These institutions must determine their own destiny so that athletic competition sponsored and supported by schools and colleges may continue to make the maximum contribution at all levels.

I have not spoken about specific instances. I have tried to summarize for you a philosophical background if you please, and the basis on which rules are developed and constructed for high school and college competition.

Mr. LEUMAN. Thank you very much, Mr. Fagan.

Mr. Dellenback.

Mr. DELLENBACK. Thank you, Mr. Chairman.

Mr. Fagan, we appreciate your being here and your waiting so patiently and so long to finally get to testify. We find it helpful.

There is not any question that the role of the high school in producing athletes, both male and female who go on to involvement after high school, principally in college and universities, but also outside of that, is a very significant role.

I would like to be sure, though, that I understand what you suggest, not on the high school level, but on the post high school level. The same type of questions I was putting to Mr. Ellis I would like to put to you.

Would you feel that for the individual athlete and for the individual institution it is undesirable to have some structure over and above and beyond that institution which will control what an athlete can or cannot do so far as international competition is concerned?

Mr. FAGAN. I definitely feel within sports seasons particularly, Congressman, that it is necessary there be some organization made up of the institutions sponsoring intercollegiate athletics, that there be some organization which would determine when a student athlete could participate internationally. I want to repeat I say particularly during a given season. I think it is necessary, sir.

Mr. DELLENBACK. Would you go beyond that? Would you say it was not necessary in the nonseason for that particular sport?

Mr. FAGAN. Not entirely. There would be some qualifications. These would be based upon the need to protect the particular student's academic interest.

Mr. DELLENBACK. But you are not willing to leave the responsibility for that on the shoulders of the institution which the athlete is attending. You want some agency and organization over and above and beyond that institution?

Mr. FAGAN. Yes, I believe I understand your question and I do not believe this would function to the best advantage of the individual, of the institution, or of the athlete.

Mr. DELLENBACK. Can you say why not, Mr. Fagan. I am not sure I understand the why's of this.

Mr. FAGAN. Of course, there is some presumption on my part in making this statement. But I think there is much greater possibility of pressures being effective on a particular institution, or on a particular set of officers of an institution—a much greater possibility than there is in an organization of institutions, Congressman.

Mr. DELLENBACK. So I assume from what you say that the student would be the one who would then be the loser—if not the individual student, students collectively. Is that correct?

Mr. FAGAN. I would choose not to say loser and I say this respectfully because I think the organization is interested in the student's welfare. The representatives of the institutions perhaps have more experience than the student has himself as to whether it is good for him to enter a certain competition at a certain time.

Mr. DELLENBACK. I did not make the question clear. I mean I understand your testimony to say that unless there is an outside organization of some sort, then the student really loses because the student would then be subjected to inordinate pressures that his institution or her institution could not resist.

Mr. FAGAN. Yes, sir, of this I am certain.

Mr. DELLENBACK. Would it also create serious disparity among institutions in the way of recruiting and the like, if institution A adopted a very loose policy relative to participation in international events and institution X adopted a very stringent policy, might that affect a young person's decision as to which institution he might attend?

Mr. FAGAN. Yes; I am sure it would. I am sure it has.

Mr. DELLENBACK. Wouldn't that be good? Don't we want diversity in higher education? Don't we want different kinds of institutions? Don't we want some that lean in one direction and some that lean in another and wouldn't this contribute to that?

Mr. FAGAN. I don't believe it would be good. It would make problems. I think that you can have no kind of competition at the interscholastic or intercollegiate level without some basis for equality of competition, within some limitations, if you please, sir, but I think that the institutions which are competing in a given event for given honors, Congressman, have to have some kind of similarity in standards.

If they do not have these, the thing gets out of balance and I think there are examples that it does get out of balance sometime.

Mr. DELLENBACK. Would you have any suggestion to the Congress as to what we ought to do legislatively, even if your suggestion is leave the whole subject alone.

Mr. FAGAN. I believe it should be left alone.

Mr. DELLENBACK. I am giving you a broad choice of what you recommend to us.

Mr. FAGAN. You are very fair.

Mr. DELLENBACK. We have come to this stage with the realization that with the Congress by and large leaving it alone the problem has not been resolved. We find various organizations—and I don't

mean to speak judgmentally about any of them—battling among themselves in a way that has not created harmony. What should we do as your representatives—concerned as you are about sports and about millions of high school young people yet to come—what should your Congress do about this?

Mr. FAGAN. As far as the present basketball situation is concerned, Congressman, I think it emanates to a very great degree from the fact that an organization which has no basketball program continues to maintain and hold the international franchise. Speaking specifically of the situation that we now have, sir, the AAU at one time served a good and useful purpose as far as basketball is concerned, but at the present time they have no basketball program. They find themselves in this dilemma because until very recently it held the international franchise and it had to depend upon someone else for the talent.

It is interested, Congressman—and I say this respectfully to you committee members—it is interested in doing what it can for the AAU rather than for basketball as a whole. And they have some commitments that it has to fulfill in this particular matter. If the people, organizations and people that have the basketball program had an opportunity to adjudicate these things internationally and were properly represented, I feel we would not be confronted with this problem that we are here today.

Mr. DELLENBACK. I don't mean to battle with you on these questions with respect to any organization. I might say that in the years I have been watching sports and participating in sports and in the years I have been dealing with people involved in sports I have emerged with a rather uniformly high regard for those who give their lives to amateur sports, whether it be in high school, whether it be in NCAA, whether it be in NAIA, whether it be AAU, whether it be individual coaching slots.

So I do not question the motives of anybody who is involved with any one of these organizations. I think the people are of rather high caliber and I am not sure I go along with you on what you said about that. But I do understand what you are saying about the problem and certainly everybody who is involved should be concerned about the athletes and not about some organizational bureaucracy, whatever it is that we might be talking about.

Mr. FAGAN. I think, Congressman, I agree with you on that. You should be concerned about the athletes. But there is a difference, Congressman, in the interests of an organization that is interested only in sport performance and an organization that is interested in the education of boys and girls and which has as one facet of this education participation in sports. There is a great difference. I say this with some positiveness, if you please.

Mr. DELLENBACK. The point was made in your testimony that when you get education mixed with sports proficiency, to the degree they are in conflict, education must prevail. But education is a very broad term and it is not just academic and A plus B times A minus B. It is a great many things.

Mr. FAGAN. I concur with you. What you say is absolutely true. But this is the reason we have sports and athletics in education, because education is a very diverse thing and you appeal to different people through different channels in different ways.

Mr. DELLENBACK. Thank you, Mr. Fagan. Thank you, Mr. Chairman.

Mr. FAGAN. Thank you for the courtesy you have extended to the high schools.

Mr. LEHMAN. We have now Mr. Frank Bare.

Mr. Bare is the representative of the U.S. Gymnastic Federation. We appreciate your waiting to testify and thank you for making your appearance.

STATEMENT OF FRANK BARE, U.S. GYMNASTIC FEDERATION

Mr. BARE. Thank you, Mr. Chairman. I would simply like to make one specific point relative to the many days of hearings that your committee has conducted to this subject.

I represent probably the only organization in the United States that encompasses virtually every association that has appeared before you. Our membership is comprised of nine national associations which include CAA, AIA, AAU, YMCA, and of course many coaches and officials associations.

Further during the 10 years since the inception of the U.S. Gymnastic Federation we have been on both sides of the international sanction fence and find ourselves now not only the internationally recognized body for the sport of gymnastics, but I am personally a member of International Federation Executive Committee.

The area of concern that prompts me to appear here today is that in connection with the international influence in the development of American teams. Although it may seem strange that as I sit here I represent the International Gymnastics Federation and I am responsible for that sport in this hemisphere. I do nonetheless feel that the problem which has presented itself among U.S. organizations over the past 40 years has primarily been based on international franchise holders and the power that the franchise does give to those associations.

It is very opportune for some association to jump behind what I would call a shield in the form of an international franchise. However, I assure this committee that most international federations are not deeply concerned with how a country goes about solving the problem of developing teams within its own boundaries.

Any act therefore taken by our Congress which would not clearly define the responsibilities to develop national teams within the confines of the country would, I think, not serve any purpose to solve the feud which has existed in this country for some 40 years.

Subsequent to the Olympic games in Munich, it was my privilege to chair the committee on arrangements and planning for the Committee for a Better Olympics with which I remain quite active. I am absolutely convinced and wish to make this one point here; that if the Congress of the United States is to take action, which I am not necessarily sure that I endorse, but if they are to take some action, it should be aimed at creating organizations within the country, not made up of a congressional committee but made up of those organizations within the country who conduct a program within the United States, one that is measurable and viable and then see to it that they administer that program in the most appropriate way. It makes little

difference which of the constituents of such an organization hold the international franchise.

I can perhaps give you one or two examples which I think will illustrate what I am trying to describe. We fought with the Amateur Athletics Union 8 years and in 1970 we became the governing body and the Amateur Athletics Union then joined the U.S. Gymnastics Federation. We have had little problem with any constituent organization.

This year, however, and in the same vein as you have experienced the problem with the Russian track tour and the proposed Russian basketball tour, we found in late 1972 that the Amateur Athletic Union had invited the Russian athletic team to tour the United States in 1973. My office was unaware of the fact that the invitation had been extended but when I was informed that the invitation had been extended, I wired the Soviet Federation and said, "We do not approve of your coming," and the reply I got back said, "If you do not approve we will not come."

In the meantime Faberge the sponsors of the Soviet tour came to my office along with Mr. Cassell, director of AAU, and explained even though it had been incorrectly issued, the invitation I speak of, Faberge remained the company interested in sponsoring the tour of the Russian gymnastics

Mr. Cassell and I had a private session in which we agreed to a joint sponsorship. It was not my intention to treat them in the exact manner they treated the U.S. Gymnastics Federation during its formative years. We signed an agreement with Faberge—Mr. Cassell signed it and so did I—and the tour took place. As you know it was an ultimately successful tour appearing before many thousands of people across the United States and twice on national television networks.

In spite of the fact that the AAU acted erroneously and improperly extended the invitation, we took the stand that it was a promotion tour which would benefit the sport of amateur gymnastics and solved the problem by mutual sponsorship.

But I wish to point out here that at no time during the negotiations relative to the Russian gymnasts appearance in America was the IOC involved or was the International Gymnastics Federation involved. The shield by saying we must protect ourselves to not violate international rules is really not applicable except in very technical ways. And what should be the chief concern here is the national program and organization working within the United States without undue concern over whether or not one of those associations happens to carry an international franchise.

I think, Mr. Chairman, without belaboring the point, that I came to Washington simply to make that statement. That my experience has led me to believe that the Olympic problem which we face in America today and the NCAA-AAU feud, as it has been known down the years, could perhaps best be solved if the associations could be formed into one along with the other viable organizations such as the National High School Federation and that they might enjoy the cooperative exchange of ideas and sponsorships that we have enjoyed in the Gymnastics Federation, but to defend and act on the basis of an international franchise or international federation membership, I believe would be erroneous and give undue weight to that international membership.

Mr. LEHMAN. Thank you very much, Mr. Bare.

Mr. Dellenback.

Mr. DELLENBACK. Thank you very much, Mr. Chairman.

Mr. BARE, we appreciate your testimony. You have made your point, I think, elegantly and clearly. You laid to rest one of the apprehensions we would have as to our moving forward in this field.

At the same time you raised a question in my mind as one who is reluctant, as I have indicated before, to see the Federal Government really pre-empt sports, to move to enact legislation to take over the governing of the sport—I am concerned about what you suggest we ought to do in the field of domestic intranational, intercollegiate sports.

Do you really want the Congress to legislate in this field and take over the domestic sports picture?

Mr. BARE. I suppose, Mr. Dellenback what I would suggest here is that—first, let me say if the Government must get involved to put an end to the feud; then if there could be—whether the name is Commission or some other similar type of group of august individuals, a Commission that could see that the organizations which represent the United States are truly representative of the program in the United States. I don't mean they should necessarily legislate rules, rule changes, eligibility standards. What I am saying is if it is, in fact, true that the Amateur Athletic Union has no basketball program, or if it is true that NCAA has no boxing program, then those two organizations and those two particular sports should not have undue weight in determining national policy relative to the program within the confines of this country or as it regards international events.

Mr. DELLENBACK. You don't think we can rely upon the normal procedures of water seeking its own level or the free interplay of forces on a volunteer basis solving this type of problem. You think we have to legislate to solve it.

Mr. BARE. I would say that based on the historical studies we have read over the past 40 years, that is the history of relations between the organizations that have met here before you during the past few weeks, some guidance in that line might be necessary from the Government.

Mr. DELLENBACK. Let me ask a couple of questions about the field of gymnastics about which I confess I know little. Your organization has now become the recognized international voice. Will you also have the principal responsibility domestically in the field of gymnastics?

Mr. BARE. Yes, sir, I think that makes an interesting point that I did not dwell on. That is the Gymnastics Federation made up of all the organizations with the programs in the United States has never determined it to be their responsibility to duplicate those programs. That is to say if the high schools have a great program, which they do, and junior colleges and NCAA, have their programs, we do not attempt to duplicate that. Rather we tie those together at our annual meeting and exchange ideas.

Mr. DELLENBACK. So in the field of gymnastics your federation is really the umbrella federation. You are dealing both with the national and the international aspects of this particular sport?

Mr. BARE. Yes, sir, we are.

Mr. DELLENBACK. And you indicate this is unique. This holds only for the sport of gymnastics, no other sports.

Mr. BARE. As far as I know, I know of no other organization which encompasses all the organizations in the country involved in this sport.

Mr. DELLENBACK. What do you think is going to happen with gymnastics tours next year after this year's episode with the AAU?

Mr. BARE. I can assure you there will be no repetition of that. One of the things we are most proud of and one of the reasons we declined to have the Russians come in initially—2 weeks prior we had Rumania and Hungary tour the country at the same time. The Rumanians departed on Wednesday and the Russians landed Wednesday.

That crowds us somewhat. The only reason we did allow it was because of the impropriety of the AAU invitation and Faberge was heavily obligated and we did not want to discourage any company that had put so much into an event by not proceeding.

Mr. DELLENBACK. I would commend you and those who worked with you for solving the problem this way. You see this is the way it seems to me whenever it is possible, we ought to be solving these problems. Instead of your toes being so severely tramped on, when you found out that the AAU had extended an invitation they had no right to, you worked out something with them which ended up, as you said, with a splendidly successful tour. I think you are to be commended for that and I think that is the case for the individual rather than the system controlling what happened.

Would this be possible in all other sports were the same thing to happen in—you name the sport. I think the earlier testimony today as to what NCAA is willing to do in this basketball situation is indicative of the same kinds of thing. I think they are making a real effort to try to work something out and I think they are to be commended for that just as I commend you now for what you are doing.

I thank you very much for this testimony. It is helpful. And, Mr. Chairman, we yield back the balance of our time.

Mr. LEHMAN. I want to sum up. If there is any other comment you would like to make, Mr. Bare, to respond to Mr. Dellenback, you have time to do that.

Mr. BARE. I don't think so, Mr. Chairman. I thank you for the time.

Mr. LEHMAN. Without objection the staff will be permitted to add such other material in the hearing record as is pertinent. We thank all those here today and the previous witnesses and people who have come before this committee to enlighten and help this group here prepare the kind of legislation that would be of benefit to the broad spectrum of our youth of this country.

Thank you again.

[Whereupon, at 3:30 p.m. the subcommittee recessed, to reconvene at the call of the Chair.]

WASHINGTON METROPOLITAN TRACK COACHES ASSOCIATION

Members of the Special Education Committee: Please accept my thanks for being permitted to submit this statement to your committee.

At the age 66 I look back on nearly fifty years of association with various aspects of track and field. In that period of time performances in track and field have improved, probably as much as those in any sport, with the possible exception of swimming. In the same fifty years track and field administration has changed little. Ironically the popularity of track as a spectator sport has waned as performances have improved. Once largely restricted to the sons of economic

means if not real wealth, track now is more apt to be the sport of the have-nots. The economic burden has grown as the financial resources have dwindled. Almost unknown prior to 1930 the scholarship athlete now dominates the scene. A whole change of values has resulted yet men who conceive of track as a sport bank-rolled by parents and friends pretty much dominate it.

A kind of ambiguity has come to surround our track men who attain fame in the Olympics. Everybody takes pride in their victories and reasonably or otherwise, criticize those who do not win, but with a strangely channeled vision no thought is given to the fate of these heroes when they return to their everyday careers. Time was when father took care of such problems. Now the athlete may have dependents but no well heeled father. What should be done is a problem but what happens after the bands stop playing is part of the question.

To be more specific I see little benefit in a bill which would take only negative action. As of now such a measure would simply continue AAU domination. It seems only reasonable that those elements which coach, train and, in the case of scholarship athletes, support the participants should have a voice in what is done. As Eastern Regional (High School) Representative on the Executive Committee of the U.S. Track Coaches Association I am convinced that equity lies in permitting the high schools of the nation an equal voice with the Colleges, and with those who represent post college athletes (presumably the AAU or a similar body limited to Track and Field administration.). The high schools have the most tracks and some of the best. Perhaps two-thirds of the serious participants in track and field are high school students. Few, if any, college athletes achieve prominence without previous high school experience. The awarding of track scholarships is based upon performance in high school. Only a very few who complete high school and college continue serious track and field participation post college. It seems to me that any program which purports to improve the situation in track and field would have to take notice of conditions from high school years on past the period of college competition. Every track athlete is a potential Olympian. A program which does not look to the interests of all would serve only a few and unfairly neglect the rest.

It is needless to repeat the accounts of vulgarly administration of Olympic funds secured by donations. The temptation to conserve such funds for the benefit of the group administering them has not been resisted, nor will it be. There should be Federal funds to support a national team when the existence of such team is merited and there might be funds to assist athletes in getting jobs, though not directly support those who plan to continue post-college participation. Many must earn a living yet they need time to train. There should be subsidies for a number of coaches mostly part-time. Upgrading of facilities and equipment and the support of athletes at final and possibly semi-final meets surely would change the picture of U.S. participation in Olympic track and field and in the right direction.

Those of us who feel that track and field has contributed much to the fabric of this country are convinced that changes in track and field administration cannot be long deferred. The choice seems to be between a program which takes into consideration conditions as they really exist or just throw in our shoes and vacate our place in the parade of athletes when the Olympians assemble in Montreal in 1976.

CHARLES L. STOUT,
Secretary-Treasurer.

Newburgh, N.Y., March 23, 1973.

Hon. JAMES G. O'HARA,
Chairman, Special Subcom. mitter on Education, House of Representatives, Wash-
ington, D.C.
(Attention: Al Franklin, Counsel).

DEAR CONGRESSMAN O'HARA: Pursuant to my telephone conversation with Mr. Zack of your office yesterday, I'd like to add my views to your current examination of the state of amateur athletics in the United States. I am an Assistant Attorney General for the State of New York, but I write to you as a private citizen.

I have been following your hearings with interest, and I note that you have heard witnesses from the ranks of college athletes, the sports media, et al., but there is one large mass of interested parties which has not been represented—the American sports fans. I grant you, it is as difficult to tap the views of the "average sports fan" as it is to poll the "average citizen"; but certainly in your cross-examination of witnesses you could ask them to state for the record

their expert opinion as to the effect of the NCAA-AAU feud on the paying public.

I have had the opportunity to attend amateur sporting events from coast to coast. Often I have traveled up to 700 miles to see a track meet, basketball tournament, or swimming meet. From talking with people I meet at these events, I find I am not alone in my views.

At last month's AAU indoor track and field championships at Madison Square Garden it was announced that the winners in each event would again qualify for this year's Soviet-American meet in Richmond, thus making the latter another premier confrontation among the best athletes of the two nations. On that basis, I sent for a ticket, and last weekend I drove over 900 miles round-trip to see the meet.

As you know, at the last minute the NCAA decided that participation in this meet would not be "in the best interests of" our collegiate athletes, and consequently withheld their official sanction of the meet. Needless to say, without the collegians the meet was a terrible disappointment. (Incidentally, I sat next to a couple of your constituents who had come all the way from Michigan, and they shared by disappointment in the meet.)

Please understand, my evaluation of the meet is not based upon the fact that the American team "lost." Most track fans couldn't care less about team scores. They go to a meet to see the best athletes perform. The NCAA action effectively destroyed a year-long effort by the Richmond community to stage a world-class event, to the disappointment of fans who traveled from all over the country to see it.

Aside from the effects on individual athletes, schools, alumni, and communities, this was just a typical example of how organizations like the NCAA run roughshod over the interests of the fans. After all, we're the ones who pay the way for these events, we financially support the colleges and universities fielding teams, we contribute to the U.S. Olympic Fund, our tax dollars build the beautiful arenas and stadiums popping up all over the country, and, I might add, we elect the representatives in Congress who can speak for us.

I am presently planning my trip to Montreal for the 1976 Olympic Games. I'll be the first to admit that the modern Olympics have degenerated considerably from the lofty ideals of their founder in 1896, Baron de Coubertin. But the quadrennial affair, with all its overdone pageantry, is still the class sporting event of the world. I hope my trip to Montreal three years hence will not be ruined by a continuation of this petty domestic squabbling.

There is great interest in the upcoming series of basketball games between the Soviet and American national teams. I trust one of your immediate goals will be to assure the best possible competition by seeing to it that our college athletes are not barred from trying out for our national team.

I could go on about abuses in our system of Olympic selection and training, but this probably would drift afield of your subcommittee's goals. I sincerely hope, on behalf of millions of taken-for-granted sports fans whose views have apparently not yet been brought to your attention, that your hearings will result in strong, meaningful legislation to control the abuses in American amateur athletics which have made us the laughing stock of the sports world.

Respectfully,

PETER A. BERKOWSKY, Esq.

THE UNIVERSITY OF MICHIGAN LAW SCHOOL,

Ann Arbor, Mich., March 22, 1973.

HON. JAMES G. O'HARA,

Chairman, Special Subcommittee on Education, Rayburn House Office Building,
Washington, D.C.

MY DEAR CHAIRMAN O'HARA: Yesterday I received a copy of H.R. 5623 introduced in the House of Representatives on March 14, 1973 by you on behalf of yourself and Mr. Dellenback. I am Faculty Representative of the University of Michigan to the Intercollegiate (Big Ten) Conference and this year I am serving as Chairman of the Conference. The purpose of my letter is to record strong opposition to the bill in its present form.

For at least two decades and probably more our Conference has sought to deal in an equitable manner with the question of competition by our athletes during school time representing outside organizations and bodies. We have sought to do so by our Eligibility Rule 70 which governs "Outside Competition" and specifies the times and conditions under which Big Ten athletes may represent or be a mem-

ber of a team representing any person or organization other than the member university which he attends. I enclose a copy of that rule in its present form which has been drafted and redrafted through the years.

The Big Ten has been fortunate in the past in having many prominent athletes in various fields of sport. One of the principal problems that accompanies the prominence of athletes is the temptation that exists on the part of people outside of the university to make use of these athletes for their own purposes. Sometimes persons who seek to do this are highly motivated and the causes are entirely worthy. Thus it used to be fairly common for the YMCA or a church group in the home town of the athlete to ask him to participate in a basketball game or whatever sport was involved for the benefit of the YMCA or the church group or for the general edification of the local sports' enthusiasts. Oftentimes these requests would come when school was in progress or the sports season in which the athlete participated was in progress and he would be placed in an extremely difficult position as a result of such requests. He would face the alternative of declining the request for which he might feel considerable sympathy or on the other hand absentsing himself from his school work or from his participation on the campus during the time in question.

Sometimes the persons requesting him to participate in outside events were not at all as worthy or as charitably inclined as the YMCA or a church group. A private promoter who seeks his own personal purposes, likely financial gain, might also be tempted to make use of the athlete and to arrange programs and competitions which would have a similar deleterious affect.

In addition to the considerations that he would be taken away from school or from his university sports' program there was also the consideration that the university had no control over the types of competitions that were arranged or the conditions under which they were carried on. For example, some of the hazards or dangers that might arise relate to poor medical attendance at the event, the presence of professional scouts who might attempt to get the youngster to do something to jeopardize his amateur standing, or the ever present gambler whose initial contacts with athletes in the past have frequently been competitions which were not held on university premises and which were not carefully administered. You may recall the scorching opinion written by a New York Supreme Court judge about 10 years ago when the basketball gambling scandals occurred in which he criticized college and university officials severely for not being more careful of the conditions under which their athletes were permitted to compete.

I mention these matters in order to make the point that rules restricting the competition of university athletes away from the campus and providing for approval of such competition are created for legitimate academic reasons and other reasons looking toward protection of the welfare of the athlete and his status in amateur sports. These are not rules created in order to further any organizational aims or to serve as a weapon in some alleged "power struggle." The public has been seriously misled in this respect.

As I understand your bill it would prohibit university controls with respect to an athlete's participation individually or on teams "representing the United States in amateur, international athletic competition against individuals or a team or teams representing any other country or countries." It seems to me that this would open a door to a tremendous amount of abuse. For example, we are located near the Canadian border. In the case of hockey there is considerable interest. It would be entirely possible if this law were to go into effect for a promoter to get together a team representing Canada and arrange a hockey tournament with a team or teams representing the United States made up of hockey players from the members of the Western Collegiate Hockey Association and the universities would be powerless to do anything about it. Such contests might be held for example in the middle of an examination period or in the midst of the regular hockey season of the WCHA. It is of course true that an individual hockey player could refuse to participate of his own free will but we are dealing with young men in many of these situations who might be extremely tempted by the prospect of spectacular opportunities to perform in public, or who may be subjected to intense pressure by interests that have in mind the success of the promotion. Public officials may even participate in inviting athletes publicly or in other ways exercising influence or creating inducements for the student to participate in the international competition. In a city such as Minneapolis which already has a considerable amount of non-university hockey such tournaments would be a natural development. Indeed even with our rule as it is we have difficulties in this area.

The same thing could occur in basketball. Some years ago a number of prominent Big Ten basketball players whose eligibility expired with the last game of the season and who were no longer affected by our Rule 10 were induced to get together and form a pickup team which traveled around the country in accordance with a program set up by a private promoter and some of the men spent the latter part of the senior year following the pled piper in this fashion. Of course even our rule didn't prevent that. It would be far worse, however, to have a situation created in which such events could occur while the student still had eligibility left and the universities were prevented from doing anything about it.

It is my understanding that your purpose in this bill and that of Mr. Dellenback is to prevent the use of athletes as weapons or pawns in disputes between organizations. This is a worthy purpose and I am 100% in favor of it. It can be accomplished in a different way, however, which does not upset legitimate controls that the universities can and should exercise with respect to their athletic programs and the student participants. I draw your attention to a bill introduced by Senator Robert Griffin on January 18, 1968 (S. 2836) which was entitled the "Amateur Athletes Bill Of Rights Act". That bill or one similar to it would I believe accomplish the worthy purposes that you have in mind and at the same time would not have the collateral adverse consequences which I am afraid might follow if your measure were to become law.

I had hoped to get to Washington to present these views to you orally but my teaching schedule is so heavy this semester that I am unable to be away from Ann Arbor. After May 1st I will have more free time and if you are interested in having me appear personally or come to your office to discuss the matter I will be happy to make myself available at any time in that month that suits your convenience.

I would be deeply appreciative of any consideration that you give to the foregoing sentiments.

Very truly yours,

MARCUS L. PLANT, *Professor of Law.*

RULE 10. OUTSIDE COMPETITION

Section 1. Intercollegiate Sports.—The provisions of this rule shall apply only to participation in athletic contests in any sport which the Department of Athletics of the student's institution includes as a part of its intercollegiate athletic program.

Section 2. Students Affected.—(a) This rule applies to all students who practice with or are members of a freshman, junior varsity or varsity team. While regularly enrolled, they must have been and shall currently be in compliance with this rule.

(b) While a student's only connection with the member institution is enrollment in its extension or correspondence divisions he shall not be deemed to be regularly enrolled.

Section 3. During Term Time.—(a) Except as specifically cited in Section 5 a student affected by this rule may participate during term time in an athletic contest only if he represents his institution as a member of a freshman, junior varsity or varsity team.

(b) "Term time" as used in this rule shall mean the period of the duration of classes and of examinations for that student. It does not include summer sessions.

(c) Participation in an athletic contest shall be deemed to occur during term time if it occurs during a quarter or semester during which the student is regularly enrolled and prior to the date when he officially loses his right to continue as a student for any cause whatever.

Section 4. During Vacations or While Not Enrolled.—Subject to the proviso of subsection (b) a student may participate in an athletic contest in which he represents, or is a member of a team representing, any person or organization (whether or not primarily athletic in character) :

(a) during any term when he is not regularly enrolled at a member institution ;

(b) during officially scheduled vacation periods or between terms, if he has received the prior written permission for each contest from the Director of Athletics of his institution ;

(c) during the scheduled summer vacation period of a member institution even if he is enrolled as a student in the institution's summer session.

Section 5. Exceptions.—The provisions of this rule shall not be construed to prohibit a student from participating (1) in his institution's sports programs; (2) as an unattached individual (not a member of a team) whether or not that occurs during term time; (3) in Olympic, Pan-American or World University Games or their regular, designated trials; (4) in such other contests as may be specifically authorized by vote of the Faculty Representatives, upon recommendation by the Directors of Athletics; (5) in an All-Star contest after approval of the athlete's participation by the Commissioner.

Section 6. Conditions.—Any participation in athletic contests not prohibited by the preceding sections shall be subject to the following conditions:

(a) It must in all cases be on a strictly amateur basis with respect to the student whose eligibility for intercollegiate competition is involved. Participation shall be deemed to be on a strictly amateur basis if (1) during term time, the financial assistance received by the student is in compliance with Rule 7; (2) reimbursement for expenses does not exceed the cost of legitimate, verifiable expenses incurred by a student who competes as an unattached individual; (3) compensation from any employer is governed by the provisions of Rule 6, Section 1 (d); (4) in the case of team sports, it must be in compliance with the provisions of O.I. 3 of the Constitution of the National Collegiate Athletic Association.

(b) To participate as an unattached individual during or between terms, away from the institution's facilities, the student must secure the prior written approval of the Director of Athletics of his institution. This requirement applies also to exhibitions, clinics, and organized practices.

(c) The student's institution may not pay a student's expenses if he competes at any time as an unattached individual, or during vacations or while not regularly enrolled, as specified in Section 4.

(d) No Conference member shall authorize any member of its freshman, junior varsity or varsity squads to compete in any event which is not exclusively intercollegiate in nature or sponsored and managed by a collegiate institution unless (1) that event is subject to certification and has been certified by the Extra Events Committee of the National Collegiate Athletic Association or unless (2) competition in that event has prior written approval by the Commissioner.

(e) Competition in an "open event" by a student who competes "unattached" shall not be counted as a season of competition subject to Rule 5, Section 1.

Section 7. Penalty. Any student violating any of the restrictions imposed upon him by the foregoing provisions shall forfeit one full year of eligibility for intercollegiate athletic competition. This year shall begin with the start of the term immediately following the determination of the fact of such violation except that, if such determination be made during a student's final year of eligibility, he shall become immediately ineligible.

(NOTE: In addition to the provisions of this rule, student-athletes and member institutions are governed by pertinent regulations of the NCAA. Attention is directed specifically to the NCAA Constitution, Article 3, Section 10 (c), which requires that a student-athlete be declared ineligible if he has participated in any organized outside basketball competition except during the permissible playing season specified in NCAA By-Law 8, and to Article 3, Section 10 (d) with respect to outside competition in soccer.)

RICHMOND NEWSPAPERS—RICHMOND COLISEUM,
Richmond, Va., March 22, 1973.

Hon. JAMES G. O'HARA,
Rayburn House Office Building,
Washington, D.C.

SIR: This concerns the matter of the NCAA-AAU problem.

My name is Richard R. Hollander; my address is 2884 Bridwood Road, Richmond, Virginia 23225. I am the General Solicitor for the Seaboard Coast Line Railroad Company in Richmond. Track and field athletics, including the organization of meets throughout Virginia, is, you might say, my avocation. Among other things, I was instrumental in having the Russians come to Richmond for their meets against teams from the United States in 1972 and 1973; and I acted as the Meet Director and Chairman of the Games Committee for both of those events. I should say, too, that for a number of years I have been active in officiating at NCAA track meets. So, in one way or other, I have been caught up in the NCAA-AAU dispute on many occasions, and I have given careful consideration to the problem.

074

I have concluded, in my own mind, that there is a clear need for two organizations to govern the sport of track and field in the United States. One organization should relate to the program in the colleges and universities, and the other should concern itself with the remainder of the total program. The name which each organization should take is unimportant.

The basis of the problem in the sport of track and field arises, of course, because of the question of jurisdiction which each body should possess.

It is my firm opinion that, since the two existing organizations cannot come to an agreement, the matter of jurisdiction can only be settled through binding arbitration. As you know, arbitration was attempted during the years 1965-1968 by Theodore W. Kheel pursuant to a resolution of the Senate, No. 147. Mr. Kheel submitted his report on February 1, 1968, but unfortunately, one of the organizations, the NCAA, would not accept his recommendation. Rather than go through the entire process again, it seems to me to be appropriate to bend every effort to get the two parties to agree to the Kheel proposal. If that cannot be done, an attempt at new binding arbitration should be made.

It is my opinion, further, that a Federal commission is unnecessary, undesirable, and, if an attempt is made to give to one such body all of the powers it would need, probably would be unconstitutional.

If there is any way in which I can assist in this matter, please do not hesitate to call upon me.

Very truly yours,

RICHARD A. HOLLANDER.

[From Swimming World and Junior Swimmer, August 1973]

AMERICAN SWIMMERS, OFFICIALS FACE SUSPENSION BY AAU

The objects of the FINA shall be: a) To promote and encourage the development of Amateur swimming, diving, water polo, synchronized swimming and natatorial pursuits throughout the world.

The above is the first object listed in the 1972-76 FINA Handbook and is a part of the Constitution of FINA, under Article 3.

And here is Rule 53 of the FINA.

"A swimmer of an affiliated country shall not compete against a swimmer of a non-affiliated country in which there is or was a body governing swimming, provided that swimmers of affiliated countries may, with the permission of the FINA Hon. Secretary, engage in competitions with swimmers of such countries where no National Swimming Federations or similar controlling bodies exist on the understanding that such organizations will apply for affiliation when formed.

"No affiliated country shall be permitted to compete against and/or with swimmers of a country formerly affiliated to or currently under suspension by the FINA.

"No affiliated countries shall allow any foreign swimmer to compete, or give exhibitions in its territory with its affiliated organizations or swimmers, unless he previously presents the corresponding travel permit from its national federation. This includes the FISU Games. Any affiliated body that does not comply with the above rule shall be sanctioned with a suspension of its rights for a minimum of three months and a maximum of two years, according to the decision of the FINA Bureau or Congress."

It is the AAU's contention that the eight swimmers and two divers, who are not registered AAU athletes, as well as the two coaches and two journalists who participated in a recent tour of the People's Republic of China sponsored by the U.S. State Department in answer to a personal invitation by Premier Chou En-lai violated the FINA Rule 53.

On February 22, in a public press conference, after his return from Peking, Dr. Henry Kissinger, Assistant to the President for National Security Affairs, stated, "With respect to increased exchanges between the two countries, the Chinese invited during this year, the Philadelphia Symphony by the fall of 1973, a medical group during the spring, scientific groups during the summer, a group of elementary teachers again during the summer, and increased visits by Congressmen and Senators, as well as athletic teams, an amateur basketball team and a swimming and diving team."

This information was made available to Jack Kelly, Chairman of the National AAU Swimming Committee, the AAU Aquatic Administrator and Dr. Harold Henning, President of FINA.

Only when the U.S. State Department announced that they would respond to the Chinese invitation did the AAU make a response and that was to claim that the State Department's good will tour, which would be restricted to demonstrations and instructions, violated the FINA Rule 53.

Dr. Henning, President of FINA, who also is a member of the AAU Executive Committee, and a director on the U.S. Olympic Committee's Board of Directors, had direct communication with the AAU and advised them on the action the governing body of U.S. swimming should take.

A personal invitation to Dr. Henning to meet with Under Secretary of State, John Richardson, Jr., in May was refused by Dr. Henning.

After the invitation refused by Dr. Henning, a letter from the AAU was received by all of the tour members who would be going to China, stating, "It is unfortunate that the State Department neglected to observe protocol and bypassed the AAU in these negotiations since we have pointed out that FINA Rule 53 made the tour illegal unless the People's Republic of China either held or applied for membership in the International Federation."

The letter continued, "Your participation in this tour will subject you to such action as may be taken with our rules."

It is a pity that the AAU, reputed to be the strongest and most powerful body governing amateur sports in the United States, made no effort to legitimize this trip in the eyes of the union by advising FINA of the true nature of the trip and to recognize that the group sponsored by the State Department contained no AAU registered swimmers; that those characterized by the AAU as "press stewards" were fully accredited journalists, recognized by the wire services and whose duties in China would not be to report competitions (as the AAU defines the duties of a press steward) but to write and produce a television documentary, release pertinent news through the wire services relating to the tour and to write a documentary for publication; that the coaches were not on any coaching list of the AAU; and further, that the AAU made no effort to advise FINA that the group was not violating Rule 53 since they were not engaging in competition, but as private citizens of the United States, had the right of free travel for a good will mission to promote mutual friendship, international understanding and peace as representatives of their country, the United States.

The sponsorship of this group by the United States comes from the authority of the President and the Department to cooperate in cultural exchanges including exchanges in the sports field, and this is clearly defined in the Mutual Educational and Cultural Exchanges Act of 1961 as amended, which is a strongly stated purpose of the Congress to increase mutual understandings among peoples.

How well the group carried out their mission has been fully reported in the world press and by a letter received by each individual on their return to the United States from the Under Secretary of State in charge of Educational and Cultural Affairs, John Richardson, Jr. Secretary Richardson said, "From our point of view it was a matter of particular importance that this first exchange go well, and all indications are that it certainly did. I know that you personally established friendships and associations with coaches, swimmers, divers and sports federation officials during your three weeks in China. In addition, your reception by Madam Mao Tse-tung and other principal Chinese leaders demonstrated that your efforts had a significance extending beyond the field of swimming, materially contributing to the broader Sino-American understanding which is so important to world peace and stability. You can take pride in having been there helping make it happen."

This is how the AAU responded to the group's return from China. Each received a Xerox copy of a letter addressed to them, dated July 2, stating, "We cannot permit the violation of Rule 53 by a small few to jeopardize all other U.S. swimmers, have no intention of doing so and consequently will take disciplinary action necessary."

"To that end, the officers of the Union and National Registration Chairman concur in the decision that the registered athletes involved have automatically suspended themselves from further amateur aquatic competition indefinitely. And further, that those athletes, coaches and press stewards who participated in the tour be removed from the membership of all AAU committees, at all levels, and from membership on all committees of the U.S. Olympic Committee.

"A copy of this letter is being directed to the Chairman of Registration in your home association who is expected to take appropriate action in accordance with AAU rules. To this end you may be expected to be contacted by them soon."

Under what rule in the AAU 1973 Code could these athletes, coaches and journalists be suspended? There has been no meeting on this action by the AAU Board of Governors. The officers of the Union do not have the right of suspending.

To this publication's deadline, there has been no communication or action taken by the AAU Association of the parties involved.

Further, the officers of the AAU have no legal right under the AAU code to establish, define and enforce technical rules that are governing the sport competition itself and the sports governing body shall be the sole authority of the individual sports.

The AAU has stated that unless a penalty would be assessed, the U.S. right to compete in the World Championships at Belgrade would be in jeopardy. What a lot of baloney.

A precedence has been established. In November of 1972, a group of 25 Japanese swimmers, coaches and staff went to China not to demonstrate, but to *compete*. What was the penalty the Japan Amateur Swimming Federation imposed? Two retired swimmers were suspended plus two coaches. The balance of the Japanese team, the nucleus for their 1976 Olympic team, plus officials, and other Federation officials were not sanctioned or punished by as much as a one day suspension. Japan will compete in the World Championships.

The United States will send a team to Belgrade to compete in the World Championships. It is hardly conceivable that FINA would bar the U.S. team at Belgrade, for this is when the FINA Bureau would meet and have to act, especially after selling the television rights to the U.S. television for reputedly, \$50,000.

So who is the AAU trying to protect? Did the FINA president advise the Japanese to bar or suspend all the participants who were members of the Japan team?

And what action has FINA taken against other affiliated nations who have made unpublicized trips to China for competition? Or against the AAU when State Department Peace Corps members were sent to unaffiliated countries for the same purpose as the group sent to China?

Action will be taken by the group that went to China to squash the penalty for as private citizens, serving their country, they had every legal right to make the trip. The AAU and the FINA President who encouraged the AAU action must be held accountable for this illegal suspension.

FINA and their affiliate, the Amateur Athletic Union, both who profess to promote amateur swimming, and who have repeatedly screamed at any government interference with their activities, now have injected politics into the free movement of citizens of the United States who have tried only to serve their country by promoting friendship and to further the cause of world peace. How ironic that these two powerful governing bodies can place the question of loyalty to an organization (FINA/AAU) ahead of loyalty to one's country.

[From the Washington Post, Aug. 28, 1973]

CHINA SWIM TOUR OFFICIAL SUES AAU

(By George Solomon)

The editor of the magazine *Swimming World* has filed suit for an injunction against the Amateur Athletic Union, which recently suspended him, a coach and 10 swimmers and divers for participating in a government-sponsored tour of the People's Republic of China.

Albert Schoenfeld, the editor, filed suit in the California State Superior Court in Los Angeles seeking to prevent the AAU from expelling him from AAU and U.S. Olympic committees.

Schoenfeld, who served as press officer for the group during its trip to China, was suspended with divers Micki Kling and Bernice Wrightson and swimmers Frank Heckl, Brian Job, Mitch Ivey, Steve Power, Karin Moe, Lynn Vidali, Elle Daniel, Jane Barkman and coach Jane Gaughran.

The tour lasted from May 29 to June 23 and was seen by more than 60,000 Chinese, Schoenfeld said.

Schoenfeld's suit charged that his removal from membership on the various committees will cause him permanent and irreparable harm.

The defendants, besides the AAU, are the Southern Pacific Association of the AAU and the international ruling body of swimming, Federation Internationale de Natation Amateur (FINA).

A spokesman for the AAU said yesterday his organization was told by FINA that swimmers and divers under its aegis could not compete in the People's Republic of China because that country does not belong to the international group.

"FINA threatened to bar all members of the U.S. team from the world

swimming championships in Belgrade, Sept. 1-11, if we allowed our swimmers to participate in the 'Chim tour,' the AAU spokesman said.

However, Schoenfeld said the team did not compete against the Chinese. Rather, it held clinics and demonstrations and should not have been penalized.

[From Swimming World and Junior Swimmer, September 1973]

NATIONAL SWIMMING COMMITTEE REVERSES AAU STAND ON CHINA TRIP

At the recent AAU Long Course Swimming Championships in Louisville, a letter dated August 4, 1973, was distributed and printed in the official program addressed to all athletes registered in aquatic sports, their coaches, respective clubs and members of all aquatic committees at the local and national level. In essence, the letter signed by Dr. Harold W. Henning, AAU representative to FINA, said, "As your AAU representative to FINA, the world governing body of swimming, diving, water polo and synchronized swimming, it is my carefully considered opinion that the necessary action taken by the Amateur Athletic Union against the participants in an unauthorized tour to the Peoples' Republic of China, in violation of FINA rule 53, was in the best interests of aquatics in the United States, the International membership of the AAU in FINA and particularly in your interest as potential international competitors.

"Your National Officers and Executive Director, Ollan Cassell, have acted in a manner which, in my opinion, was certainly in the best interests of our American aquatic program."

At a hearing by the International Swimming Sub-Committee of the AAU Swimming Committee, it was brought out that none of the athletes that went to China were registered with the Amateur Athletic Union, and therefore the AAU had no jurisdiction over said athletes.

A telegram of May 30, 1973 from Assistant Secretary of State John Richardson put the case in its true perspective when he stated, "The Department of State does not seek to undermine the ability of FINA to regulate international competition in swimming. We have tried to avoid making it difficult for FINA and the AAU. In this instance the swimming team would appear to be beyond any reasonable regulation of international competition.

"Their tour will be organized not around competitive events, but will feature demonstrations, clinics, coaching and discussions of swimming and diving techniques.

"We do not think that this issue arises in this case, since no official competition is involved. We also cannot accept in principle that any organization has an absolute monopoly to prevent the free travel of private individuals on missions of good will, international understanding and peace."

It was felt to have been sufficient for the AAU to deny any responsibility for the trip, and FINA would therefore not have had any jurisdiction.

The AAU International Swimming Sub-Committee and the AAU Competitive Swimming Committee, both by unanimous vote, took this action.

A letter, sent by hand through John B. Kelly, Jr., Chairman of AAU Swimming to the FINA Bureau meeting in session at Belgrade stated, "The International Swimming Committee and the Competitive Swimming Committee of the Amateur Athletic Union of the United States have reviewed the diplomatic governmental activities culminating in the recent non-sanctioned visit of *unregistered and retired* swimmers and divers to the People's Republic of China. This visit was made at the official request of, and under the official direction of the United States Department of State, in a gesture of international good will through youth and sport. It is felt that the sanctions imposed against the members of this group by the AAU at the direction of the FINA Bureau are unwarranted.

"It is further felt that the provisions of the FINA Rule 53, and of the Singapore Interpretation, are unnecessarily restrictive and offer no relief from unavoidable diplomatic and governmental pressures that might arise.

"It is therefore urgently requested that the FINA Bureau focus it's attention on immediate revisions to Rule 53 that will preclude future embarrassment to member countries, and that the AAU be directed by the FINA Bureau to void all punitive actions taken in the China matter."

The AAU Swimming Committees also directed the AAU Board of Governors at their Annual Convention in Yellowstone to rescind any punitive actions taken by the AAU Executive Director and the AAU officers and to make said decision retroactive to the date of the punitive actions.

The letter distributed by the AAU over Dr. Henning's signature was intended to support his opinion.

The swimming people made it most clear that they unanimously did not support the contention that those involved had violated any AAU or FINA rule and should not have received any punitive action.

It should be noted that at the Louisville meeting of the AAU Competitive Swimming Committee, Chairman John B. Kelly stated that when he was president of the AAU, he had initiated action for athletic exchanges between the Peoples' Republic of China and the United States, A.S.

HAROLD RUBINS, INC., BEVERLY HILLS, CALIF., ATTORNEY FOR PLAINTIFF

Superior Court of the State of California for the County of Los Angeles

No. C-64711

ALBERT SCHOENFIELD, PLAINTIFF

v.

THE SOUTHERN PACIFIC ASSOCIATION OF THE AMATEUR ATHLETIC UNION OF THE UNITED STATES, A CORPORATION, THE AMATEUR ATHLETIC UNION OF THE UNITED STATES, INC., A CORPORATION, FEDERATION INTERNATIONALE DE NATATION AMATEUR, AN ASSOCIATION, AND DOE ONE THROUGH DOE FIVE INCLUSIVE, DEFENDANTS

AMENDED AND SUPPLEMENTARY COMPLAINT

Plaintiff alleges:

I

That on February 22, 1973, Dr. Henry Kissinger, acting on behalf of the Government of the United States, negotiated an agreement with the Government of the People's Republic of China whereby the All China Sports Federation of the People's Republic of China invited the United States of America to send a swimming team to the People's Republic of China during the month of June, 1973.

II

Said agreement was negotiated pursuant to the Mutual Educational and Cultural Exchange Act of 1961 as amended, Title 22 U.S. Code Annotated, Sections 2451-2459.

III

The stated purpose of said Mutual Educational and Cultural Exchange Act is to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange; to strengthen the ties which unite the people of the United States with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations, and the contributions being made toward a peaceful and more fruitful life for people throughout the world; to promote international cooperation for educational and cultural advancement; and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.

IV

In and by said Mutual Educational and Cultural Exchange Act, the president is authorized, when he considers that it would strengthen international cooperative relations, to provide by contract or otherwise for tours in countries abroad by creative and performing artists and athletes from the United States, individually and in groups, representing any field of the arts, sports, or any other form of cultural attainment.

V

At all times mentioned herein, the defendant the Southern Pacific Association of the Amateur Athletic Union of the United States has been a corporation duly organized and existing under the laws of the State of California and with its principal office in Los Angeles County, California.

VI

At all times mentioned herein, the defendant the Amateur Athletic Union of the United States, Inc., has been and is a corporation and as such has engaged in business in the State of California.

VII

At all times mentioned herein, the defendant Federation Internationale De Natation Amateur (hereafter "FINA") has been an association.

VIII

At all times mentioned herein, plaintiff has been and is now a resident of Los Angeles County, California; for the past eight years the plaintiff has been a member of the Executive Committee of the defendant Amateur Athletic Union of the United States, Inc.; for the past fifteen years plaintiff has been a member of the Executive Swimming Committee of the defendant the Southern Pacific Association of the Amateur Athletic Union of the United States and he has been a member of the Board of Directors of said Association for the last thirteen years; for the past ten years plaintiff has been a member of the Standing Sport Committee for Swimming of the National Swimming Committee of the defendant Amateur Athletic Union of the United States, Inc.

IX

At all times mentioned herein, the defendant FINA has been an association, the members of which are the national bodies governing swimming, diving, water polo and synchronized swimming of various countries throughout the world. The national body governing swimming, diving, water polo and synchronized swimming of the People's Republic of China is not a member of FINA.

X

The defendant Amateur Athletic Union of the United States, Inc., is the United States member of FINA.

XI

FINA has promulgated rules relating to swimming, diving, water polo and synchronized swimming in the countries whose national bodies governing said sports are members of FINA. Included among said rules is Rule 53, which provides as follows:

"The swimmer of an affiliated country shall not compete against a swimmer of a non-affiliated country in which there is or was a body governing swimming, provided that swimmers of affiliated countries may, with the permission of the FINA Hon. Secretary, engage in competitions with swimmers of such countries where no National Swimming Federations or similar controlling bodies exist on the understanding that such organizations will apply for affiliation when formed.

"No affiliated country shall be permitted to compete against and/or with swimmers of a country formerly affiliated to or currently under suspension by the FINA.

"No affiliated countries shall allow any foreign swimmer to compete, or give exhibitions in its territory with its affiliated organizations or swimmers, unless he previously presents the corresponding travel permit from its national federation. This includes the FISU Games. Any affiliated body that does not comply with the above rule shall be sanctioned with the suspension of its rights for a minimum of three months and a maximum of two years, according to the decision of the FINA Bureau or Congress."

XII

In June of 1973, pursuant to the aforementioned agreement with Dr. Henry Kissinger, the United States of America sent a team of swimmers and coaches to the People's Republic of China to perform swimming exhibitions. The plaintiff was appointed by the State Department of the United States to be Press Steward for said swimming team and accompanied said swimming team in the Republic of China.

XIII

Said swimming team appeared and gave exhibitions in the Republic of China during the month of June, 1973, and plaintiff accompanied said team as its Press Steward.

XIV

During the aforesaid exhibitions, no swimmer of the United States competed against and/or with a swimmer of the People's Republic of China nor against and/or with swimmers of any other country. The appearance of said United States swimming team in the People's Republic of China did not constitute or involve the allowance of any foreign swimmer to compete or give exhibitions in the United States.

XV

None of the acts performed by any of the members of the swimming team of the United States in the People's Republic of China were in violation of the said FINA Rule 53; notwithstanding said fact, Dr. Harold W. Henning, president of FINA, has publicly stated that the acts of said United States swimming team in the Republic of China would constitute and have in fact constituted a violation of said FINA Rule 53, and as a result thereof, FINA has informed the defendant Amateur Athletic Union of the United States, Inc., that unless it takes punitive action against the plaintiff herein that FINA will cause the membership of the defendant Amateur Athletic Union of the United States, Inc., in FINA to be terminated to the end that swimmers, divers, and water poloists of the United States will not be permitted to compete in international amateur contests with athletes of countries who are members of FINA.

XVI

As a result of the foregoing, the defendant Amateur Athletic Union of the United States, Inc., advised the plaintiff that it intended to cause him to be removed from the membership of all Amateur Athletic Union committees at all levels and from membership on all committees of the United States Olympic Committee.

XVII

Plaintiff's position as a member of the aforementioned committees is one of unique value to him which cannot be adequately expressed in terms of dollars, and if plaintiff was removed or suspended from the membership of all Amateur Athletic Union committees at all levels and from membership on all committees of the United States Olympic Committee, he will have suffered permanent and irreparable harm and damage which cannot be compensated for in damages; among other things, said removal and/or suspension would seriously affect the ability of plaintiff to be appointed or elected to Amateur Athletic Union committees and from membership on committees of the United States Olympic Committee in the future.

XVIII

Defendant Amateur Athletic Union of the United States, Inc., directed a letter to the defendant Southern Pacific Association of the Amateur Athletic Union of the United States instructing said association in substance to remove the plaintiff from all Amateur Athletic Union committees at all levels; thereafter said Southern Pacific Association advised plaintiff in substance of its intention to hold a hearing in accordance with the foregoing for the purpose of determining whether or not the removal of plaintiff from said committees was justified and would be effected. Said hearing occurred on September 27, 1973, and was con-

ducted in accordance with the rules of the Southern Pacific Association as well as the Amateur Athletic Union of the United States, Inc., and plaintiff appeared at said hearing and gave evidence at said time and was accompanied by and represented by legal counsel. At the termination of said hearing, plaintiff was advised in substance that he would be informed of the decision which was reached as a result of said hearing.

XIX

No decision was ever made by the Southern Pacific Association and, in fact, subsequently and after October 12, 1973, advised plaintiff that it would not render any decision.

XX

On August 6, 1973, without giving notice to plaintiff and without affording plaintiff the opportunity of having a hearing and presenting evidence and hearing the evidence against him, the Amateur Athletic Union of the United States, Inc., held a purported meeting by a telephone conference call, at which time it purported to remove plaintiff from all Amateur Athletic Union committees as well as from all positions on the United States Olympic committee for an indefinite period. Said action was in violation of the rules and regulations of the defendant Amateur Athletic Union of the United States, Inc., and in violation of the rights of plaintiff in that it did not give plaintiff an opportunity to be heard nor an opportunity to hear the evidence presented against him nor an opportunity to participate in any hearing conducted for the purpose of removing him from any of said committees.

XXI

On October 12, 1973, the defendant Amateur Athletic Union of the United States, Inc., purported to terminate said suspension of the plaintiff, but it did not, and as of this date has not, agreed that plaintiff was not properly suspended by it.

XXII

An actual controversy exists between plaintiff and the defendant Amateur Athletic Union of the United States, Inc., which is as follows:

A. Plaintiff contends that he is not in violation of any of the rules of FINA and that therefore he could not be suspended for purported violation of the rules which were not, in fact, violated:

B. Plaintiff further contends that before he could be properly suspended from any of said committees, it was incumbent upon the defendant to give the plaintiff an opportunity to be heard, to hear the evidence presented against him, and to present evidence on his behalf as well as appear with legal counsel, and that by reason of the fact that no such hearing ever occurred, said suspension was a nullity and that as a matter of law the plaintiff was never suspended from any of said committees;

C. Defendant Amateur Athletic Union of the United States, Inc., on the other hand contends that such suspension was lawful and effective and that plaintiff was in fact lawfully suspended from all of said committees for the period from August 6, 1973, until October 12, 1973, and that said suspensions were legally effective for all purposes and will therefore remain on the record of the plaintiff with all amateur swimming bodies, both in the United States and in other countries of the world.

Wherefore, plaintiff prays judgment against defendant Amateur Athletic Union of the United States, Inc., as follows:

1. For a declaration of plaintiff's rights against the defendant Amateur Athletic Union of the United States, Inc., and that in and by said declaration the Court declare that the plaintiff was never lawfully suspended from any of the committees of the Amateur Athletic Union of the United States, Inc., nor of any committee of the United States Olympic Committee;

2. For costs of suit incurred herein; and

3. For such other and further relief as the Court deems just.

Dated: April 27, 1974.

IRVING RUBINS,
Attorney for Plaintiff.

DAVID A. MATLIN, LOS ANGELES, CALIF., ATTORNEY FOR DEFENDANT, AMATEUR ATHLETIC UNION OF THE UNITED STATES, INC., A CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES

No. C 64711

ALBERT SCHOENFIELD, PLAINTIFF,

v.

THE SOUTHERN PACIFIC ASSOCIATION OF THE AMATEUR ATHLETIC UNION OF THE UNITED STATES, A CORPORATION, ET AL., DEFENDANTS

ANSWER TO AMENDED AND SUPPLEMENTARY COMPLAINT

Comes now, the Defendant, Amateur Athletic Union of the United States, Inc., a corporation, hereinafter referred to as the "AAU", for itself only and for answer to Plaintiff's Amended and Supplementary Complaint on file herein, admits, denies and alleges as follows:

I

That for the sake of brevity, the Co-Defendant, The Southern Pacific Association of the Amateur Athletic Union of the United States, a corporation, will be hereinafter referred to as either the SPA or Association, and the Co-Defendant, Federation Internationale De Natation Amateur, an association, will hereinafter be referred to as FINA.

II

In answer to Paragraphs I, II, III and IV of Plaintiff's Complaint, this answering Defendant has no information or belief sufficient to enable it to answer the allegations of said Paragraphs I, II, III and IV, and basing its answer upon such lack of information and belief, denies generally and specifically each and all of the allegations contained in said Paragraphs I, II, III and IV.

III

Admits the allegations of Paragraph V.

IV

In answer to Paragraph VI, this answering Defendant admits that it is a New York not-for-profit corporation, headquartered in the City of Indianapolis, State of Indiana and qualified to do business in the State of Indiana, but denies that it has engaged in business in the State of California.

V

In answer to Paragraph VII, this answering Defendant admits that FINA has been and still is an association and at all times mentioned in Plaintiff's Complaint there were 102 nations affiliated with FINA.

VI

Admits the allegations of Paragraphs VII, IX and X.

VII

Admits the allegations of Paragraph XI of Plaintiff's Complaint and, in this connection, alleges that the FINA Bureau, which is the Executive Committee of FINA, and conducts and enforces the affairs of FINA pursuant to its rules and regulations, including the interpretation and enforcing of the rules of FINA, did at a regularly scheduled Bureau meeting held in Singapore on November 17, 18 and 19, 1971, unanimously agree that the Rule 53, set out in Plaintiff's Paragraph XI, prohibited any kind of relationship between an affil-

ated (with FINA) and a nonaffiliated nation; that as set forth in Plaintiff's Paragraph X of Plaintiff's Complaint, this answering Defendant is the United States member of FINA; that as set forth in Paragraph IX of Plaintiff's Complaint, the National body governing swimming, diving, water polo and synchronized swimming of the People's Republic of China is not a member of FINA; that the United States is an affiliate nation with FINA and the People's Republic of China is a nonaffiliated nation.

VIII

In answer to Paragraph XII, this answering Defendant denies, generally and specifically, each and all of the allegations contained in said Paragraph XII, except that this answering Defendant admits that a team of swimmers and coaches and other personnel did go to the People's Republic of China to perform swimming exhibitions and clinics in June, 1973, and that the Plaintiff did accompany said swimming team in its visit to the People's Republic of China as one of the officials for said team.

IX

In answer to Paragraph XIII, this answering Defendant admits that said swimming team appeared and gave exhibitions and clinics in the People's Republic of China during the month of June, 1973 and that the Plaintiff accompanied said team as one of the officials thereof.

X

That this answering Defendant has no information or belief sufficient to enable it to answer the allegations of Paragraph XIV and basing its answer upon such lack of information and belief, denies generally and specifically each and all of the allegations contained in said Paragraph XIV.

XI

In answer to Paragraph XV, this answering Defendant denies that none of the acts performed by any of the members of the swimming team of the United States in the People's Republic of China were in violation of the said FINA Rule 53; this answering Defendant admits that the current President of FINA, Dr. Harold W. Henning, did publicly state that the acts of the United States swimming team in the People's Republic of China would constitute and did, in fact, constitute a violation of said FINA Rule 53 and that FINA did inform this answering Defendant that unless it took a punitive action against all of the members of the said swimming team, including the Plaintiff, that FINA would cause the membership of this answering Defendant in FINA to be suspended for a period of not less than 3 months nor more than 2 years, so that swimmers, divers and water poloists of the United States would not be permitted to compete in the International amateur contests with athletes of countries who are members of FINA during said period of suspension.

XII

In answer to Paragraph XVI, this answering Defendant admits that in order to prevent such suspension and to enable swimmers, divers and water poloists of the United States to continue to compete in International amateur contests with athletes of countries who are members of FINA, that it would take disciplinary action against the Plaintiff and other members of the said swimming team and intended to cause the Plaintiff to be removed from membership on all AAU committees at all levels and from membership on all committees of the United States Olympic Committee and by letter dated July 2, 1973, sent to and received by the Plaintiff, set out this intention; that a copy of said letter of July 2, 1973, marked Exhibit "A" is attached hereto and made a part of this Paragraph XII as though set out in full herein.

XIII

Denies generally and specifically each and all of the allegations contained in Paragraph XVII and, in particular, denies that such removal or suspension would seriously affect the ability of Plaintiff to be appointed or elected to AAU committees and from membership on committees on the United States Olympic Committee in the future and, in this connection, this answering Defendant al-

leges that at this time, the Plaintiff is a member of various AAU committees, both on the SPA level and on the National AAU level, and is a member of a committee of the United States Olympic Committee.

XIV

Admits the allegations of Paragraph XVIII and, in this connection, alleges that the aforementioned letter of July 2, 1973, attached hereto and marked Exhibit "A" is a letter referred to in said Paragraph XVIII.

XV

This answering Defendant has no information or belief sufficient to enable it to answer the allegations of Paragraph XIX and, basing its answer upon such lack of information and belief, denies generally and specifically, each and all of the allegations contained in Paragraph XIX.

XVI

Denies generally and specifically each and all of the allegations contained in Paragraph XX, except this answering Defendant admits that on August 6, 1973, after a conference telephone call with all of the National officers of this answering Defendant, it was necessary for this answering Defendant to remove the leaders of the China swim trip from all National AAU Committees, as well as from positions on Olympic Committees, for an indefinite period in order to protect the International eligibility of American swimmers, divers, water poloists and synchronized swimmers, but that the National officers realized their action had to be approved by the National Board of Governors at the Convention in West Yellowstone, Montana, October 7-13, 1973, and that each of the National Sports Chairmen concerned, as well as the United States Olympic Committee, were to be advised that such action was being taken pending approval of the National AAU delegates in Convention during the first week of October (1973). That a copy of a letter dated August 6, 1973 from the National AAU Executive Director to the National AAU Secretary setting out the aforementioned action on the part of the National officers is attached hereto, marked Exhibit "B", and made a part of this Paragraph as though set out in full herein.

XVII

Denies generally and specifically each and all of the allegations contained in Paragraph XXI, except this answering Defendant admits that on October 12, 1973, its Board of Governors terminated all suspensions, if any, against any of the individuals who comprised or accompanied the swim team to the People's Republic of China on June, 1973.

XVIII

Denies generally and specifically each and all of the allegations contained in Paragraph XVIII, except this answering Defendant admits that the Plaintiff contends he was not in violation of any of the rules of FINA and that this answering Defendant contends that any suspension of the Plaintiff was lawful and effective and, in particular, this answering Defendant alleges that the Plaintiff did contravene FINA's Rule 53 and that if this answering Defendant had not suspended said Plaintiff, subject to approval by the National AAU Board of Governors, that American swimmers, divers, water poloists and synchronized swimmers would have been unable to compete in International competition for a period of not less than 3 months nor more than 2 years.

For a second, further affirmative and separate defense, this answering defendant alleges, as follows:

I

That FINA, in its Official Bulletin No. 38, dated April, 1972, carried the statement, as follows:

"A letter had been received from the Japanese Swimming Federation pertaining to clarification of Rule 53.

The President clarified Rule 53, emphasizing that no kind of relationship could exist between an affiliated and a non-affiliated nation. In certain circumstances, special permission to participate in events could be given to a country

who was in the process of taking steps necessary to become a FINA member and during the period where no meetings of the Bureau are held. The Bureau unanimously agreed with the clarification."

II

That this answering Defendant is informed and believes, and upon such information and belief alleges that a copy of said FINA Official Bulletin No. 38 was read by the Plaintiff soon after its publication in April, 1972.

For a third, further affirmative and separate defense, this answering defendant alleges, as follows:

I

That prior to participating in the said June, 1973 trip to the People's Republic of China, the Plaintiff was fully and completely aware of the fact that the participation of a swimming team from the United States of America in the presentation of swimming exhibitions and clinics and similar activities in the People's Republic of China would be a violation of the said Rule 53 of FINA and that such trip, if it were made, and such activities were entered into unless those persons participating in such trip and activities were suspended from membership in committees of the AAU on all levels, that the AAU would be suspended by FINA from International competition for a minimum period of 3 months and a maximum period of 2 years and that during such suspension the swimmers, divers, water poloists and synchronized swimmers of the United States of America would not be permitted to compete in International competition with memberships of FINA in those sports.

II

That Plaintiff was also aware prior to departure for the said June, 1973 trip to the People's Republic of China that the first World's Swimming Championships had been set to be held in Belgrade, Yugoslavia in August and September of 1973 and that if said trip were taken, as aforementioned, and the AAU was suspended from FINA, as aforementioned, that the United States of America's swimmers would not be permitted in the first World's Swimming Championships.

III

That prior to the departure by Plaintiff and the other members of the swimming team to the People's Republic of China in June, 1973, the Plaintiff and the other members of the said swimming team signed a notice dated March 8, 1973 from Dr. Harold W. Hemling, President of FINA, which notice is attached hereto, marked Exhibit "C" and made a part of this Paragraph III as though set out in full herein.

That said letter contains the statements, as follows:

(A) "That no kind of relationship under our rules could exist between an affiliated and non-affiliated nation."

(B) "We have read the interpretation of Rule 53."

IV

That on July 31, 1973, Dr. Paul B. Hauch, the Honorary Secretary of FINA, sent a telegram to this answering Defendant, a copy of which telegram is attached hereto, marked Exhibit "D" and made a part of this Paragraph IV as though set out in full herein.

V

Pursuant to the said telegram from Dr. Paul B. Hauch, Honorary Secretary of FINA, the National officers of this answering Defendant decided to take emergency action in reference to the said trip by the said swim team to the People's Republic of China and the action decided upon was to remove the personnel of the swim team from National AAU committees, but with such action to be approved by the National Board of Governors of the AAU at the annual AAU Convention to be held October 8, 1973 through October 13, 1973 in West Yellowstone, Montana.

VI

That the Board of Governors of this answering Defendant is the governing body for this answering Defendant (AAU').

VII

At the annual AAU Convention held in West Yellowstone, Montana the Board of Governors, at a session held on October 12, 1973, did terminate the suspension or contemplated suspension or intended suspension of the Plaintiff effective as of that day and the Plaintiff has been and still is a member of the National AAU' committees and of SPA committees and of United States Olympic committees.

Wherefore, this answering Defendant prays judgment against the Plaintiff as follows:

(1) That Plaintiff take nothing by reason of his Amended and Supplementary Complaint.

(2) For costs of suit incurred herein.

(3) For such other and further relief as the Court may deem just and proper in the premises.

Dated: July 19, 1974.

DAVID A. MATLIN,

Attorney for Amateur Athletic Union of the United States, Inc.

VERIFICATION

STATE OF CALIFORNIA,
County of Los Angeles, ss:

I am the attorney for the Defendant, Amateur Athletic Union of the United States, Inc., a corporation, in the above entitled action; I have read the foregoing Answer to Amended and Supplementary Complaint and I am informed and believe the matters therein to be true, and on that ground, I allege that the matters stated therein are true.

I make this verification for the reason that all of the elected officers of said Defendant are absent from Los Angeles County, in which I have my office.

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

Executed on July 19, 1974 at Los Angeles, California.

DAVID A. MATLIN,

AMATEUR ATHLETIC UNION OF THE UNITED STATES, INC.,
Indianapolis, Ind., July 2, 1973.

Under date of May 23, 1973 we directed to you a certified letter, return receipt requested, calling attention to the fact that you, as a registered amateur would be subject to disciplinary action should you elect to participate in the proposed State Department tour to the Peoples Republic of China for the purpose of exhibiting and/or participating in clinics in the field of aquatics.

Attached to your letter was also a copy of a communication dated May 16, 1973 from the undersigned to Dr. Harold W. Henning, President of FINA, which stated in paragraph two that as the United States member of FINA the Amateur Athletic Union recognized that the State Department tour was in violation of FINA Rule #53, that we could not and would not sanction it and that we would be honor bound to comply with the Rule and act accordingly.

Our membership in FINA is the important issue. Our failure to comply would place the AAU/USA in a position jeopardizing its membership in FINA and conceivably impair our right to participate in the forthcoming World Championships in Belgrade, our future participation in the Pan American and Olympic Games and in fact, any international exchanges in aquatics.

It should also be made clear to you that the State Department declined to consider our request, by wire, to postpone the tour to a later date to permit the matter to be brought before the FINA Bureau in the hope of working out plans to regularize the exchange.

We cannot permit the violation of Rule #53 by a small few to jeopardize all other US swimmers, have no intention of doing so and consequently will take disciplinary action necessary.

To that end, the officers of the Union and National Registration Chairman concur in the decision that the registered athletes involved have automatically suspended themselves from further amateur aquatic competition indefinitely. And further, that those athletes, coaches and press stewards who participated in the tour be removed from the membership of all AAU committees, at all levels, and from membership on all committees of the US Olympic Committee.

A copy of this letter is being directed to the Chairman of Registration in your home association who is expected to take appropriate action in accordance with AAU Rules. To this end you may be expected to be contacted by them soon.

We trust you will understand that the membership of the Amateur Athletic Union as the governing body must be protected and that the action by this office is in the interest of all aquatics under our jurisdiction and that the action taken against you is not in retaliation but is a sincere desire to protect the international status of our membership in FINA and our thousands of registered amateurs.

Cordially,

OLLAN C. CASSELL, *Executive Director.*

Enclosure (copies of previous letters).

AMATEUR ATHLETIC UNION OF THE UNITED STATES, INC.,

Indianapolis, Ind., August 6, 1973.

Mr. RICHARD E. HARKINS,
Kansas City, Mo.

DEAR RICH: In a conference telephone call, the National Officers decided to take emergency action regarding the "China swim trip." This action was taken as a result of a telegram from the Honorary Secretary of FINA, Dr. Paul Hauch, in which he indicates "if no definitive action is taken by the AAU, the FINA bureau will have no recourse other than to revoke the membership of AAU from all rights in FINA for a minimum of three months to a maximum of two years." This is in accordance with FINA rule 53.

The action decided upon was the removal of the leaders of the China swim trip from all national AAU committees as well as from positions on Olympic committees for an indefinite period. You, therefore, are requested to so notify the national Olympic committees and our own national sports committee chairman concerned.

The Officers realize their action must be approved by the national Board of Governors at the convention in West Yellowstone, and each of the national sports chairmen concerned, as well as the United States Olympic Committee, should be advised this action is being taken pending approval of our delegates in convention during the first week of October.

The specific individuals concerned are James Gaughran, Al Schoenfeld, and Jane Barkman. From the National Headquarters we investigated each athlete's registration who made the trip and found only one to be currently registered—Brian Job. Thus our Pacific Association has notified Mr. Job of an indefinite suspension from AAU and international competition.

We have notified Dr. Hauch of the action taken by AAU and expect it will avoid any reprisals by the FINA bureau at their meetings at the time of the World Championships in Belgrade against AAU or any American athletes.

Best regards,

OLLAN C. CASSELL, *Executive Director.*

FEDERATION INTERNATIONALE DE NATATION AMATEUR,

March 6, 1973.

To: Affiliate members of F.I.N.A.; bureau members; and technical committee members.

From: Dr. Harold W. Henning, president.

Subject: Interpretation of rule 53.

There has been much comment lately regarding invitations to non-affiliated members as it concerns swimmers, divers, water polos, and synchronized swimmers in our sport. In confirming and clarifying further Rule 53 in the General Rules which was discussed thoroughly by the Bureau in its Singapore meeting in 1971 and reaffirmed by the Congress in Munich, the following conclusions were confirmed:

1. That no kind of relationship under our rules could exist between an affiliated and non-affiliated nation. In certain circumstances, special permission to participate in advance could be given to a country who is in the process of taking steps to become a F.I.N.A. member and during the period where no meetings of the Bureau are held.

2. That the exchange of coaches and technical know how with non-affiliated member countries is not permissible.

3. The holding of good will meets and training together with non-affiliated countries is not permissible with the above interpretation.

4. The F.I.N.A. has gone on record in the past and it is stated emphatically here again that membership in the F.I.N.A. is open to any and all bodies who will observe our statutes and rules as laid down in the F.I.N.A. Handbook.

5. All such applicants are welcome into our organization. However, the F.I.N.A. can only take such action when a formal application is received from anyone who desires such membership under Article 5 of our constitution.

6. It would indeed be very gratifying to hear that any of our former members as well as new members affiliate to the F.I.N.A. and thus participate in the First World Championships which will be held in Belgrade this coming summer.

We have read the interpretation of Rule 63.

Lynn M. Vidall ; Karen Moe ; Jane Barkman ; Cpt. Micki King ; Mitch Ivoy ; G. Job ; Steve Power ; Frank Heckle ; Bernie Wrightson ; Ingrid Daland ; James Gaughran ; Al Schoonfield ; Faye Schoonfield.



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