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THE EXPERIENCE OF THE CATHOLIC DIOCESE OF RICHMOND WITH ESEA TITLE I, APRIL 1965 -- DECEMBER 1976

by

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(ABSTRACT)

Title I of the Elementary and Secondary Education Act of 1965 was envisioned as a way to improve society by helping to equalize educational opportunities for economically and educationally deprived school children. The law provided for students in nonpublic schools to receive services commensurate with those received by their public school counterparts.

This dissertation describes and analyzes the implementation of Title I of ESEA and amendments, in the Catholic Diocese of Richmond, Virginia, from April 1965 through December 1976. The implementation of Title I in diocesan schools resulted in a conflict between church and state. An historical study in church-state relations, this study provides documentation of the conflict and a view of the issues, events and results. Positions of some officials of the Richmond diocese, the Virginia Department of Education, the U.S. Office of Education, and the U.S. Catholic Conference are presented.

Three chronological phases of Title I implementation between April 1965 and December 1976 are identified. Efforts of diocesan officials to secure Title I services for children in schools of the diocese varied

in concert with events and issues and the personalities of the leaders throughout the time frame. The study documents that the amounts of services parochial school children received were determined, to a large extent, by external factors not under the control of the Richmond diocesan staff. The issues involving the implementation of Title I (now Chapter I, ECIA) remain unresolved. The dissertation suggests the need for future study regarding the implementation of Title I for the period following December 1976. A number of general hypotheses about church and state relationships; about administrative processes in state, federal, and church bureaucracies; and about leadership emerged from the study. These generalizations are presented as empirical propositions.

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Special thanks is given to Sr. Lourdes Sheehan for her excellent record-keeping during her tenure as Richmond diocesan superintendent

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CHAPTER 1

Introduction to the Study

Otherwise known as the Elementary and Secondary Education Act of 1965, Public Law 89-10 was enacted on April 11, 1965.[1] The law had as its purpose "To strengthen and improve educational quality and educational opportunities in the Nation's elementary and secondary schools."[2]

Title I of the bill was designed to offer financial aid to local school districts across the country in the education of children of low-income families.[3] Although the U.S. Congress passed the law within four months, a record time considering the nature of the legislation,[4] it did conduct debates on the matter. During the debates, Congressman Hugh Carey (D. N.Y.), one of the legislation's supporters, stated his views of the intent of Title I:

> Basically, in Title I we seek to make available that quantity of support which will bring 5,200,000 children up to the level of educational excellence enjoyed by their fellow students.[5]

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[1]Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, 70 Stat. 27 (1966).

[2]Ibid.

[3]Ibid.

[4]Sidney W. Tiedt, The Role of The Federal Government In Education (New York: Oxford Univ. Press, 1966), p. 189.

[5]H.R. 2362, 89th Cong., 1st sess., III Cong. Rec. 5759.

Public school children were not to be the only ones scheduled to benefit from Title I. As a result of some compromises between public and private school interests,[6] the legislation made provision for the inclusion of nonpublic school children, the types and amounts of services which were

> to be consistent with the number of educationally deprived children in the district of the local educational agency who are enrolled in private elementary and secondary schools, [and] the local educational agency must make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television and mobile educational services and equipment) in which such children can participate.[7]

A further glance at the Congressional Record for March 24, 1965, reveals that the legislators were well aware that the actual implementation of Title I, in this case, might cause difficulties for a great number of states which had constitutional prohibitions against the provision of services to children attending church-related schools.[8] But, the majority of states were able to solve these constitutional difficulties. By 1975, only a handful were still having difficulties: Virginia, Missouri, Oklahoma, and Wisconsin.[9] And by 1977, only Virginia and Missouri remained with apparently no local

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[6]Philip Meranto, The Politics of Federal Aid to Education in 1965 (Syracuse: Syracuse Univ. Press, 1967), pp. 83-84.

[7]Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, Art. 205, 79 Stat. 31 (1966).

[8]H.R. 2362, 89th Cong., 1st sess., III Cong. Rec. 5744, 5757, 5758. [Statements of Congressman Goodell & Carey].

[9]Telephone interview with Richard E. Duffy, Representative for Federal Assistance, United States Catholic Conference, 7 March 1983. [Permission to quote.]

solution to their difficulties in providing services to non-public school children attending church-related schools.[10] The Virginia experience reached a climax on September 26, 1977, when the U.S. commissioner of education made the first of two decisions that the by-pass provisions of the Education Amendments of 1974 were to be implemented in order to provide services under Title I to parochial school children in Virginia. [Researcher's note: The bypass provision under the Education Amendments of 1974 allowed the U.S. commissioner of education to provide equitable Title I services to eligible nonpublic school children "[i]f a local educational agency [was] prohibited by law . . ."[11] from doing so, and "[i]f the Commissioner determine[d] that a local educational agency has substantially failed to provide . . . [for these services]."[12] The first by-pass involved the Norfolk, Richmond, Portsmouth, and Newport News local educational agencies in the Diocese of Richmond, and Alexandria, in the Arlington diocese.[13] A second by-pass decision was made on April 8, 1978, which by-passed

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[10]Ibid.

[11]Education Amendments of 1974, Pub. L. No. 93-380, Art. 141A (2)(3) 88 Stat. 497-98. [codified at 20 U.S.C. Art. 241e-1. (1976).]. [Note: the "bypass" provision was included in the Education Amendments of 1978, Pub. L. No. 95-561, Art. 130(a)(b) 92 Stat. 2171-73., codified at 20 U.S.C. Art. 2740, 1976, Supp III 1980, and is presently included in the Education Consolidation and Improvement Act of 1981, Pub. L. 97-35, Art. 557, 95 Stat. 466., codified at 20 U.S.C. Art. 3806, 1976, Supp V 1982.]

[12]Ibid.

[13]Dr. Ernest L. Boyer, Letter to Dr. W. E. Campbell, 26 September 1977, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

the Virginia local educational agencies of Arlington, Fairfax, and Prince William County in the Arlington diocese, and Chesapeake, Danville, Hampton, Henrico, James City-Williamsburg, Lynchburg, Roanoke, and Virginia Beach in the Richmond diocese.[14]

Statement of the Problem

This study is concerned with the implementation of Title I of the Elementary and Secondary Education Act of 1965, and amendments, with respect to the Catholic Diocese of Richmond, Virginia, from April 1965 through December 1976. The study is intended to describe the way the law was implemented in the diocese and to provide an analysis as to why the implementation occurred the way it did during the time frame.

Research Questions

The study addresses the following major questions:

1. How was ESEA Title I implemented in the Richmond diocese from April 1965 through December 1976?

2. Who were the major actors (individuals) involved in the implementation and what roles did they play?

3. What were the major events in the implementation of ESEA Title I in the Richmond diocese from April 1965 through December 1976?

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[14]Dr. Ernest L. Boyer, Letter to Dr. W. E. Campbell, 8 April 1978, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

4. What were the major issues in the conflict between church and state during this implementation?

5. Why did the implementation of ESEA Title I in the Richmond diocese take the form it did during the time frame? (Synthesis)

The study also addresses the following corollary questions:

1. What efforts were made by Richmond diocesan officials to secure services for children in schools of the diocese from 1965 through December 1976?

2. What efforts were made by the Virginia Department of Education officials to provide services for children of schools in the diocese from April 1965 through December 1976?

3. What actual services did parochial school children in the Richmond diocese receive under ESEA Title I from April 1965 through December 1976?

4. What were the major "influencing" factors which determined the course of events in the implementation of ESEA Title I in the Richmond diocese from April 1965 through December 1976?

5. Can certain of these "influencing" factors which determined the course of events in the implementation of ESEA Title I in the Richmond diocese from April 1965 through December 1976 be isolated?

Purpose of the Study

The purpose of this study is to provide a documented account of the experiences of the Catholic Diocese of Richmond, Virginia, with ESEA Title I from April 1965 through December 1976 in order to increase understanding and add to the field of knowledge on the general topic of church-state relations in Virginia.

The main significance of this study is that it presents a documented account of the events, issues, and actions with respect to the conflict between church and state in Virginia over the implementation of ESEA Title I preceding the year 1977. Kerlinger states that " . . . historical research, per se, has great value because it is necessary to know and understand educational accomplishments and trends of the past in order to gain perspective on present and future accomplishments.[15]

This study adds to previous work on the matter completed by a former staff member of the Richmond Diocesan School Office, Sr. Mary Fennell, whose term paper entitled "Elementary and Secondary Education Act of 1965, Title I and Bypass Legislation," was the only known "history" to be in existence prior to the completion of this study. Fennell's earlier work, written in 1979, does not cover the years 1965 through 1973, mentions only major highlights from 1974 through 1976, and tends to focus on 1977 -- the year when the church-state clash in Virginia became highly publicized.[16]

This work should be of interest to both public and private school administrators in Virginia because the by-pass concept yet remains a reality in the implementation of one federally targeted program (Chapter I) with respect to the participation of private school

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[15]Fred N. Kerlinger, Foundations of Behavioral Research 2nd. ed. (New York: Holt, Rinehart and Winston, 1973), p. 702.

[16]Sr. Mary Fennell, "Elementary and Secondary Education Act of 1965, Title I and Bypass Legislation" Term Paper. Norfolk: Old Dominion University, 1979. Copy located in Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

students. While the name "Title I" passed into legislative history on June 30, 1982, the provisions of the law (including the by-pass concept)[17] were carried over into Chapter I of the Education Consolidation and Improvement Act of 1981.

The study clarifies questions about the length of time involved in the clash between the Richmond Catholic Diocese and the state of Virginia over the Title I matter. If one reads the newspaper accounts on the subject during the summer of 1977, one is left with a feeling of uncertainty as to exactly how long the matter was an actual issue. The following quotations provide an example:

" . . . six year battle . . ."[18]
" . . . brewing since January 1976 . . ."[19]
" . . . for over ten years . . ."[20]
" . . . 11 year struggle . . ."[21]
" . . . flickering behind the scenes for months . . ."[22]

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[17]Education Consolidation and Improvement Act of 1981, Pub. L. No. 97-35, Art. 557 (a) 95 Stat. 466. codified at 20 U.S.C. Art. 3806 (b)(4) (A). 1976 (Supp V 1982). [Researcher's note: At the time this dissertation was completed Aguilar v. Felton 105 S.Ct. 3232 (1985) held that "on premises" Title I services (Chapter 1) were unconstitutional in the city of New York. The bypass issue was not addressed by this decision. The "on premises" methodology of the bypass mechanisim was affected negatively, however. See Chapter 5.]

[18]Anne Smith, "Va. Must Give U.S. Funds to Private Pupils," Virginian Pilot [Norfolk], 24 August 1977, p. 1, col. 1.

[19]Carole Roper, "State Schools Could Lose $50 Million in Aid," Richmond Times-Dispatch, 23 August 1977, p. 1, col. 4.

[20]Charles Mahon, Ed. "The Ol' Shuffle," The Catholic Virginian, 22 July 1977, p. 4.

[21]"US Moves To Halt Aid Denial," The Pilot [Boston, Mass.], 5 August 1977, p. 14, col. 1.

[22]Charles Cox, Ed. "50 Million Accords Signed," Richmond Times-Dispatch, 23 August 1977, p. 1, col. 4.

Overall, the study is envisioned as contributing to the general field of understanding of the implementation of Title I as it occurred in the Diocese of Richmond during the time frame.

Limitations

As suggested by the title, the study is limited to the experiences of the Richmond Catholic diocese within the time frame of April 1965 through December 1976. Nonsectarian private schools and sectarian schools of other religious denominations are excluded from the study.

In 1974, the Diocese of Arlington was created out of the northern section of the Diocese of Richmond. Consequently, in this study, the schools discussed in the period prior to the split include those which are no longer part of the Richmond diocese. [A map showing the geographic boundaries of the two dioceses is included in Appendix J.] The study, therefore, encompasses schools which were within the Richmond diocese both before and after the creation of the Arlington diocese. References to public school divisions follow a similar pattern. No references are made to public school divisions within the geographic boundaries of the Richmond Catholic diocese which did not have Catholic schools within the local divisions.

In any ex-post facto research, there are limitations regarding the conclusions. What happened is history; it cannot be replicated. Thus, while efforts can be made to reconstruct the events and actions taken with respect to those events, the study is subject to error associated with such reconstructions.

The time frame April 1965 through December 1976 includes the period prior to that which received large scale publicity regarding

the implementation of ESEA Title I in the Richmond Catholic diocese and is the period about which the least has been written in any documented fashion. The period begins with the passage of the Elementary and Secondary Education Act of 1965 and ends one year after the initial request by the Richmond Catholic diocese to the U.S. commissioner of education for implementation of the by-pass.[23] The selection of December 1976 as the cut-off point in the study of the Richmond diocese's experiences with ESEA Title I was chosen primarily because that point in time marked the end of one phase of the experience. Beginning with the year 1977, there was a definite shift into a new phase immediately preceding and including the granting of the by-pass by the U.S. commissioner of education. Because of research time considerations and the volume of information readily available regarding the Richmond diocese's experiences with Title I following December 1976, the study does not include the later period.

Definitions

Because there are a number of possibly confusing acronyms and abbreviations for some of the subjects and issues in this study, and because there may be some unfamiliar references to church agencies and institutions, the following list of definitions is included.

By-pass — provision under the Education Amendments of 1974 which allowed the U.S. commissioner of education to provide equitable

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[23]Richard E. Duffy, Letter to Dr. Edward Aguirre, 21 December 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

Title I services to eligible nonpublic school children "[i]f a local educational agency is prohibited by law . . ."[24] from doing so, and "[i]f the Commissioner determines that a local educational agency has substantially failed to provide . . .[for these services]."[25] The word by-pass occurs with different spellings in the literature. On most occasions, the word is spelled with a hyphen in the middle. In some circumstances the word is spelled "bypass" with quotation marks and no hyphenization. Unless quoting a direct source, the researcher has elected to use the the spelling of this word in this study with a hyphen and no quotation marks.

Chief State School Officer -- term frequently found in the literature of this study; refers to the state superintendent of public instruction. Sometimes abbreviated "CSSO".

Department of Schools -- in this study, the office unit in the central administrative structure of the Richmond Catholic diocese whose personnel (a) served as staff to the bishop of Richmond in all matters relating to education in the schools of the diocese, and (b) provided administrative and supervisory services to the Richmond

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[24]Education Amendments of 1974, Pub. L. No. 93-380, Art. 141A (2)(3) 88 Stat. 497-98. [codified at 20 U.S.C. Art. 241e-1. (1976).]. [Note: the "bypass" provision was included in the Education Amendments of 1978, Pub. L. No. 95-561, Art. 130(a)(b) 92 Stat. 2171-73., codified at 20 U.S.C. Art. 2740, 1976, Supp III 1980, and is presently included in the Education Consolidation and Improvement Act of 1981, Pub. L. 97-35, Art. 557, 95 Stat. 466., codified at 20 U.S.C. Art. 3806, 1976, Supp V 1982.]

[25]Ibid.

Catholic Diocesan Schools.[26] Between 1965 and 1972, the Department of Schools was known as the Department of Education.[27] References to this office unit are held as closely to the name within the proper historical context.

H.E.W. -- abbreviation for the former federal governmental agency known as the United States Department of Health, Education and Welfare. The researcher has elected to use the abbreviated form in the text of the study for all second and subsequent references to this agency, except when citing direct quotations.

L.E.A. -- abbreviation which signifies "local education agency." This term is synonymous with the following: local school division, local school district, and/or school district. The term is often seen as the acronym, "LEA". The plural form is often spelled in the literature as "LEAs." The study contains these predominantly accepted forms in all second and subsequent references, except when citing direct quotations.

O.C.E. -- abbreviation which refers to the Office of Christian Education, an office within the central administrative structure of the Richmond Catholic diocese which functioned between June 1972 and February 1981 as the umbrella organization of the combination of two other offices: the Department of Schools and the Department of Religious Education. In effect, these two offices, when functioning

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[26]Proclaiming Good News: Educational Policies of the Diocese of Richmond, Catholic Diocese of Richmond, Va., 1974, pp. 9-10.

[27]Telephone interview with Rev. J. Stephen O'Brien, former Superintendent of Schools, Catholic Diocese of Richmond, 17 May 1983. [Permission to quote.]

together as a single unit, became the Office of Christian Education.[28]

O.E. -- the U.S. Office of Education. Office within the U.S. Department of Health, Education and Welfare. For this study, and historically, the federal governmental office responsible for the implementation and administration of ESEA Title I. Within the literature, this office is often seen as "OE", "USOE", OE, or "U.S.O.E."

O.G.C. -- abbreviation referring to the U.S. Office of General Counsel. For this study, the main references to the Office of General Counsel, "OGC", are to that department within the U.S. Office of Education which served as legal counsel for that agency.

S.E.A. -- State Education Agency -- in this study, the most common reference is to the Virginia Department of Education.

Titles of Schools -- The titles of schools in this study will follow that which is most common in the literature although not necessarily that which is listed in any official directory such as the Directory, Diocese of Richmond. An example of what is meant is as follows: The title of St. Patrick School appears in the directory with no apostrophe, the school's title appears regularly as St. Patrick's School, with an apostrophe, in correspondence and other types of literature.

U.S.C.C. -- United States Catholic Conference -- organization headquartered in Washington, D.C., whose main functions are to offer advice, counsel, or otherwise assist dioceses and/or individuals within or associated with dioceses in legal, religious, educational, or other matters of concern as they pertain to those individuals or

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[28]Ibid.

agencies in particular or the United States Roman Catholic Church as a whole. The agency is an arm of the United States Catholic Bishops. Until the late 1960s, the agency was known as the National Catholic Welfare Council (N.C.W.C.).

Methodology

According to William Brickman, the writing of history involves the following five steps:

(1) the selection and determination of the research problem;
(2) the accumulation, classification and criticism of source materials;
(3) the consequent determination of facts;
(4) the formulation of tentative hypotheses to explain the facts;
(5) the synthesis and presentation of facts in a logically organized form.[29]

A. S. Eisenstadt states that the "most important single problem facing the student of history is causation, or the explaining why the events occurred."[30] While it was certain that the files of the agencies involved in this study (the Office of Catholic Schools of the Diocese of Richmond, the Virginia Department of Education, the United States Catholic Conference, the United States Office [Department] of Education, and affected Catholic schools and public school divisions) contained records, documents, letters, and other written forms of evidence, the researcher believed that the contents of these files alone would not relate the total picture as to why the events

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[29]William W. Brickman, Guide to Research in Educational History (New York: New York University Bookstore, 1949), p. 91.

[30]A. S. Eisenstadt, "The Nature and Uses of History," in his Vol. II, The Craft of American History (New York: Harper & Row, 1966), p. 5.

occurred. For this reason, the researcher planned to go beyond these sources of information and included personal interviews with those individuals (actors) who were most directly involved with the events in the study.

The initial selection of persons to be interviewed (see Appendix E) was based on preliminary research through the files of the Office of Catholic Schools of the Diocese of Richmond. Additional persons were selected as a result of the first interviews. Barbara Allen and William Lynwood Montell state that:

> . . . orally communicated history can supplement [italics in original] written records; second, it can supplement [italics in original] what has been documented in formal history, and third, it can provide information about the past that exists in no other form.[31]

Oral sources, as well as those which are written, must be subjected to tests of validity. In the case of oral information, these tests are:

> . . . internal tests, which evaluate the material in terms of its own self-consistency; and external tests, which compare and contrast oral information with written accounts and physical evidence.[32]

According to Allen and Montell, "among the basic questions the researcher should ask in analyzing oral historical sources is whether the information provided in a given text is logical."[33] A second

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[31]Barbara Allen and William Lynwood Montell, From Memory to History (Nashville: The American Association for State and Local History, 1981), p. 15.

[32]Ibid., p. 71.

[33]Ibid.

method for testing the internal validity of oral testimony which the researcher used in this study is through the " . . . collection of divergent accounts."[34]

> While nine separate narrations about the same incident cannot be accepted as accurate rendering of history, they can be placed side by side and analyzed to discern the basic common thread involved.[35]

Since the researcher planned to interview parties from both sides of the church-state issue, it was expected that the requirements for internal test of validity were likely to be met. The external test for the validity of oral information was accomplished through comparison of the testimony with the written documentation of the same events.[36] From the outset, it was envisioned that even if some of the oral testimony failed the external test of validity and thus was rendered unreliable as a recording of fact, such testimony was nevertheless valuable because "what people <u>believe</u> [italics in original] is often as important as what actually happened, for most people think, act and react in accordance with what they believed to be true."[37] Further, "we should be prepared to acknowledge that the view of the past as expressed in orally communicated history may conflict with that found in the formal records on which historians typically rely."[38]

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[34]Ibid., p. 79

[35]Ibid., pp. 76-77.

[36]Ibid., p. 85

[37]Ibid., p. 89.

[38]Ibid., p. 98.

The researcher has discovered a dearth of written information in the Title I files of the Office of Catholic Schools regarding the early experiences (1965 through 1971) of the diocese with the matter. The researcher mentioned this lack of written documentaton to a former staff member of the Office of Catholic Schools, Sr. Elaine McCarron, during a conversation on April 6, 1983. During this conversation, Sr. Elaine mentioned that " . . . there was a nun on staff with the diocese at the time whose duties included some type of responsibility in the Title I area."[39] As a result of this piece of information, the researcher hoped to fill in the gaps in both what happened, and later, why the events occurred the way they did for this early period.

For the written documents, the methods of external and internal criticism suggested by Brickman were employed:

> External criticism is a process which seeks to determine the genuineness of the documents, to answer the question: Is the source what it seems to be? It establishes why, where, when, how, and by whom the document was written. Internal criticism, on the other hand, undertakes to analyze the meaning of statements within the documents which have already been established as genuine and to determine their accuracy and trustworthiness.[40]

One of the factors contributing to the difficulty in writing history is the number of issues which may influence a given action

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[39]Conversation with Sr. Elaine McCarron, Minister of Religious Education, Holy Spirit Catholic Church, Virginia Beach, Virginia, 6 April 1983. [Permission to quote.]

[40]William W. Brickman, Guide to Research in Educational History (New York: New York University Bookstore, 1949), p. 91.

or occurrence.[41] The isolation of a single event can raise endless questions about the causes. It is for this reason that the study under consideration is limited to only those causes which are most apparent.

Another difficulty in writing history is that "it is necessary when considering any historical evidence to take account of the situation at the moment in time when the event it records happened, and also at the moment when it was recorded."[42] Once the problem of determining what happened has been discovered, a third problem emerges in that, when writing history, there are often multiple causes for events.[43]

A sample of internal and external criticism as used in the study can be illustrated with a document found within the files of the Office of Catholic Schools.

Sample of External Criticism

Document name -- "History of Title I Services To [sic] Parochial Schools in the City of Richmond"

When was it written? -- 19 August 1975.

Where was it written? -- Uncertain -- found in the files of the Office of Catholic Schools.

By whom was it written? -- No author -- written on Department of Schools stationary.

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[41]George F. Kennan, "The Experience of Writing History," in Vol. II, The Craft of American History, ed. A. S. Eisenstadt. (New York: Harper & Row, 1966), pp. 270-271.

[42]Ibid., p. 25.

[43]Ibid.

How was it written? -- Typewritten, possibly by secretary -- no identifying marks on the sheet (not an original -- photocopy).

Why was it written? -- No immediate reason is apparent until one looks at the date -- 19 August 1975 -- for a clue. Since people often respond to situations, it is likely that this was the case in this situation as well. Searching backwards through the files reveals that the Virginia attorney general had made a ruling on 21 July 1975 with respect to the participation of parochial school children in the state of Virginia in which he stated that " . . . neither the State Department of Education nor local educational agencies may provide direct [Title I aid]."[44] Thus, it seems possible that the document was written as some type of response to the attorney general's ruling. The likelihood for this dims, however, when one discovers another letter in the file, dated 28 August 1975. Dr. Robert V. Turner, special assistant for federal programs, wrote a letter to Sr. Lourdes Sheehan, superintendent of schools for the Catholic Diocese of Richmond, in which he indicated that he was enclosing a copy of a superintendent's memo [superintendent of public instruction] and the reply from the attorney general " . . . as related to direct services to students attending non-public schools."[45]

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[44]Andrew P. Miller, Letter to Dr. William H. Cochran, 21 July 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.) [See also: Opinions of the Attorney General and Report To The Governor of Virginia (Richmond: Commonwealth of Virginia, 1976), p. 317.]

[45]Dr. Robert V. Turner, Letter to Sr. Lourdes Sheehan, 28 August 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond.

In this case the researcher looked farther back in the files of the Office of Catholic Schools and formulated a more plausible explanation as to why the "history" document was written: An 8 July 1975 letter to Sr. Lourdes from Richard E. Duffy (representative for federal assistance, United States Catholic Conference) states that " . . . [you] should begin developing a factual record documenting and supporting the lack of services to your eligible children . . . ."[46] This same letter also recommends the selection of a school district " . . . where you have a high percentage of minority group educationally disadvantaged children who are not receiving Title I services or who may be receiving only minimal services but which are in no way comparable to the services obtained by the public school children in the same district."[47] While these statements by Duffy give a stronger indication as to why the document was written, the letter adds further evidence in his having mentioned that there was to have been a meeting scheduled for August 19th, coincidentally, the date the "history" was supposedly written.[48] By deduction, it appears likely that the document dated 19 August 1975 was composed for the meeting scheduled for that date. Further verification could be done, but since this is being presented as an example continuation of the process seems unnecessary.

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[46]Richard E. Duffy, Letter to Sr. Lourdes Sheehan, 8 July 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond.

[47]Ibid.

[48]Ibid.

Sample of Internal Criticism

Following the treatment of external criticism, it is necessary to subject the same document to a test of internal criticism. The document states that "Three schools in the City of Richmond -- St. Elizabeth, St. Patrick and Sacred Heart -- were designated in 1966 as Title I Schools since they were located in areas designated by the LOCAL EDUCATIONAL AGENCY [caps. in orig.] as in the public school Title I target areas."[49] Internal criticism would validate or call into question the validity of this information. It would be necessary to check other sources to determine if the information is, indeed, correct. For the example being discussed, other sources within the files of the Office of Catholic Schools could be used as a beginning. From there one could proceed to the files of the individual schools or to the State Department of Education. Corroborating evidence might also be found in the testimony of major actors at the time. Certainly the files of the Virginia Department of Education or the files of the Richmond Public Schools could be used to determine if the local educational agency had, in fact, designated the areas in question as target areas.

Assumptions

It was assumed that the persons on the tentative interview list would cooperate and allow the researcher to interview them. A second assumption was that the researcher would be allowed access

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[49]"History of Title I Services To Parochial Schools In The City of Richmond," 19 August 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Mimeographed.)

to the records of the agencies and institutions involved, and that both the records and the individuals would provide accurate data.

Hypotheses

Background

These hypotheses are stated in relation to major research question number five (Why did the implementation of ESEA Title I in the Richmond diocese take the form it did?) and corollary questions four (What were the major "influencing" factors which determined the course of events in the implementation of ESEA Title I in the Richmond diocese from April 1965 through December 1976?) and five (Can certain of these "influencing factors" be isolated as having had more influence?)

The hypotheses themselves were drawn from preliminary research that the researcher had conducted on the subject prior to initiating the complete study. They remained tentative through the initial stages because the researcher was uncertain regarding the complete facts surrounding the implementation of Title I in the Diocese of Richmond during the time frame under consideration.

Earlier studies indicated that there were four (4) parts to the administration of ESEA Title I: (a) HEW and USOE, (b) states, (c) school districts, and (d) schools.[50] A composite of these earlier studies is presented by Robert J. Goettel in an article entitled

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[50]Robert J. Goettel, "Federal Assistance to National Target Groups: The ESEA Tit[1]e I Experience," in The Federal Interest in Financing Education, ed. Michael Timpane. (Cambridge: Ballinger Pub. Co., 1978), pp. 182-183.

"Federal Assistance to National Target Groups" written in 1978.[51] Goettel says that these earlier studies, conducted mostly during the early to mid-1970's, show that "[o]ne of the striking aspects of the list of influencing factors [was] the number of factors over which a superordinate level of government [had] only marginal ability to either control or affect program implementation."[52] Goettel goes on to state that the original studies indicated that Title I was a failure from the original legislative intent and that many of the original purposes of the legislation were not carried out in the implementation phases.[53] There is also some evidence to show that by the mid-1970's " . . . USOE practices [had] contributed to [an] improved environment at the state level and that, in turn, state administrative practices . . . had a positive influence on school districts."[54]

One of the studies included in Goettel's review was one conducted by Edith K. Mosher and published in 1972. Mosher's work, entitled "The Politics of Federal Aid to Education in Virginia," was completed as part of a six (6) state comparative study at Syracuse University.[55] Mosher's study was not focused on the participation of private school children in ESEA Title I in Virginia. Nevertheless, her work is signi-

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[51]Ibid., p. 177.

[52]Ibid., p. 181.

[53]Ibid., p. 184

[54]Ibid., p. 185.

[55]Edith K. Mosher, "The Politics of Federal Aid to Education in Virginia," in Federal Aid to Education ed. Michael W. Kirst (Lexington: D.C. Heath, 1972), pp. 279-323.

ficant to the current study in what she did not find rather than what she did find in relation to private school students. While she said little or nothing about these students, it must be remembered that her focus was on the overall picture of federal programs in Virginia. She mentioned private school participation only as part of a section dealing with complaints to the USOE from interest groups. Of only two complaints received by the federal government (she did not indicate the year), one was from Tidewater area parents " . . . who enlisted the help of their state senator to enlarge the participation of such students in Title I projects."[56] (Mosher, however, did not indicate whatever happened as a result of this complaint.)

With federal programs, overall, Mosher found that the following factors influenced their implementation:

1) The heritage of traditionalism
2) Regionalism and race
3) Population growth and urbanization
4) The legacy of massive resistance
5) The changing politics and education in the 1960's
6) School desegregation in the 1960's
7) Educational issues in the 1970's
8) The Governor
9) The Legislature
10) The influence of interest groups
11) Local views of federal aid
12) The Virginia state department of education.[57]

Statement of Hypotheses

The following hypotheses were based on the preliminary research work conducted by the researcher:

I. The way Title I was implemented for parochial school children

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[56]Ibid., p. 308

[57]Ibid., pp. 289-305.

in the Diocese of Richmond was due to multiple factors centering around the separation of church and state.

II. Most of the multiple factors which influenced the implementation of ESEA Title I were beyond the ability of the Diocese of Richmond to control during the period April 1965 through December 1976, with two exceptions:

A. the amounts and types of efforts diocesan officials exerted in attempts to obtain ESEA Title I services for children, and

B. the degree of satisfaction which diocesan officials were willing or unwilling to express as far as the types of services which children in parochial schools were receiving under ESEA Title I.

III. That Richmond diocesan officials saw the issue of state aid in the period 1968 through 1971 as a greater issue than federal aid, relegating Title I services to a lesser priority during this time period -- thus influencing the amounts and types of efforts these officials made during this time frame.

IV. That Richmond diocesan officials were also concerned with other matters in addition to state and federal aid, especially during the period 1968 through 1972, which again relegated these topics to second degree priority. The issues and events of the closing of several Catholic schools, to be specific, influenced the amounts and types of efforts which the diocese exerted in these two areas.

V. That the following events, outside of diocesan influence, overrode the factors which the diocese was able to control:

A. the failure of the U.S. Congress to place a by-pass

provision in the original legislation;

B. the actions taken by the Virginia Constitutional Revision Committee to retain Section 141 of the old Virginia Constitution as the new (1971) Section 10, Article VIII, which basically prohibited state aid from being rendered to sectarian institutions;

C. the loss of early Title I services by 1973;

D. Wheeler v. Barrera, 417 U.S. 402 (1974);

E. passage of the Education Amendments of 1974;

F. the July 21, 1975, ruling by the attorney general which specifically prohibited the state educational agency and the local educational agencies from providing direct services to parochial school students under P.L. 93-380 (ESEA Title I, as amended, 1974).

Major Thesis

The implementation of ESEA Title I with respect to parochial school children in the Diocese of Richmond was controlled by factors external to the diocese's ability to influence or control until 1974. The passage of the Education Amendments of 1974 sufficiently altered the prospects for the success of these efforts to a degree that only then did the diocese develop a strategy for obtaining these services.

Organization of the Study

Chapter One contains the introduction, statement of significance, statement of the problem, research questions, statement of purpose, limitations, definitions, methodology, samples of external and internal criticism, assumptions, tentative hypotheses and major thesis statement.

Chapter Two provides description for the period April 1965

through June 1971. Included in this chapter is the narrative of ESEA Title I services for parochial school children in diocesan schools during the time frame and a description of diocesan efforts to increase the level of services. Special consideration is given to the diocesan efforts to alter the Virginia State Constitution from 1968 through November of 1970. Explanation is provided in this chapter on the influence of this factor in the clash between church and state as it affected the implementation of Title I.

Chapter Three includes the period July 1971 through December 1973 and describes the loss of early services, contains evidence as to why these services were curtailed, and describes diocesan efforts to regain them. Also described in this chapter are state reactions to diocesan efforts and a review of the State's position on the matter.

Chapter Four outlines the period January 1974 through December 1976 and describes the open clash which developed between the Diocese of Richmond and the Virginia Department of Education over the Title I issue during this time frame. Particular attention is paid to the emotions, strategies, actions, and events which dominated this period.

Chapter Five contains the analysis of the diocesan experience for the entire time frame, April 1965 through December 1976. Discussion of the research methodology, a review of the study, implications for the future, recommendations for further study and some general hypotheses derived from the conclusions of the study are presented within this chapter.

CHAPTER 2

The Early Years

APRIL 1965 -- JUNE 1971

Documented records show that the Diocese of Richmond was interested in the concept of public aid for parochial schools as early as 1959. A letter written by then Bishop John J. Russell on April 25, 1959, states his position at the time -- that he would oppose federal aid to schools if such aid made no provision for including " . . . non profit schools."[1] The earliest evidence of any concerted effort on the part of the Richmond diocese to discuss the question of federal aid to parochial schools occurred during a meeting which was held on April 14, 1962, three years and three days prior to passage of the ESEA legislation. According to the minutes of that meeting:

> Bishop Russell opened the meeting with a prayer, thanked all for coming and stated our purpose as being in connection with the Federal Aid to Education proposals now pending in the Congress of the United States. The questions: 'Are we going to get any of it?' and 'Is it necessary for the country?' remain to be answered and the Bishops of the United States have gone on record to the effect that if there is to be Federal aid to education, then justice requires the aid to be given to all children, irrespective of whether they attend public or non-public (parochial) schools.[2]

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[1]Bishop of Richmond, Letter to Most Reverend Karl J. Alter, D.D., 25 April 1959, Files of Bishop John J. Russell, Diocese of Richmond. (Copy.)

[2]Minutes of Meeting, Diocese of Richmond, 14 April 1962, Files of Bishop John J. Russell, Catholic Diocese of Richmond.

The minutes give an indication that a strategy of the greater Catholic Church at the time with respect to any type of federal aid was to seek and publish information about Catholic education, particularly among Catholics themselves:

> Bishop Russell pointed out the serious lack of knowledge about the Catholic educational system and advised that in all the Dioceses of the country, the Bishops, acting through the National Catholic Welfare Conference, are forming Steering Committees such as this to undertake the project of carrying out an informational program on the contributions of Catholic Education in America today.[3]

The plan for the Richmond diocese, apparently as part of the national venture, was as follows:

> Bishop Russell announced that Bishop Unterkoefler [Richmond Auxiliary Bishop] had already sent letters to all Pastors requesting that sermons on education subjects be held on four consecutive Sundays beginning May 13th to bring the word to the people in the various parishes. Pastors have further been asked to prepare cost surveys on running parish schools . . . so that the people can be told exactly how much the school program is costing Catholics and how much the community as a whole is indebted to us for the contribution we are making to the educational system here in Virginia as well as the nation.[4]

Mr. Nicholas Spinella, a Richmond attorney, addressed the group and stated that " . . . we must be able to create a positive public image regarding the role of Catholic education in American society."[5] This important meeting also reveals evidence that the people of the Diocese of Richmond were apathetic with respect to public aid to paro-

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[3]Ibid.

[4]Ibid.

[5]Ibid. Statement of Mr. Nicholas A. Spinella.

chial schools. Northern Virginia resident, Henry Damminger, stated " . . . that Catholic people seem to have no interest whatever in the subject. They do not care about it. Our job must be to enlighten our own people first."[6] At the conclusion of the meeting, it was announced that a public information kit had been developed for later distribution at the parish and deanery levels.[7] In a 1984 interview with the researcher, attorney Spinella stated that the program, according to his recollection, was part of a national exercise orchestrated out of Washington. The early effort was, according to Spinella, " . . . for aid to education at the federal level . . . and what little federal aid we ultimately got was through Title I . . . ."[8] In this same interview, Spinella explained the early view on federal aid:

> I was fully convinced, and I think the people who worked with me were also, that it was going to be the end of the Catholic school system - if we did not get it.[9]

Although it preceded the actual passage of the Title I legislation, the early effort by the Richmond diocese to provide information to Catholics in parishes was an initial step in a strategy to obtain federal funds for students attending Catholic schools. As the years passed, this exertion was to take different forms, mainly in response

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[6]Ibid. Statement of Henry A. Damminger.

[7]Diocese of Richmond, Public Information Program on Catholic Education, 27 April 1962, Robert Kline and Company, Richmond, Va. Files of Bishop John J. Russell, Catholic Diocese of Richmond. (Photostatic copy.)

[8]Interview with Nicholas A. Spinella, Esq., 28 December 1984, [Permission to quote.]

[9]Ibid.

to the events of the times.

Virginia Prepares to Implement the Law

Immediately following the passage of the ESEA legislation the State Department of Education began to take steps to implement the law. According to the minutes of the State Board of Education, the Virginia Department of Education " . . . presented a film covering the five Titles of the Elementary and Secondary School [sic] Act of 1965 . ."[10] on May 28, 1965, a little over a month after the legislation was enacted. These same minutes reveal that further discussion of the law was to occur " . . . at a subsequent meeting of the Board."[11] A month later, State School Superintendent Dr. Woodrow Wilkerson recommended that a position with the title Special Assistant to the Superintendent of Public Instruction be created " . . . to administer the program under the Elementary and Secondary School [sic] Act of 1965 and to serve in a general liason [sic] capacity with the U.S. Office of Education regarding all federally assisted programs."[12] Acting upon this recommendation, the Board approved and created the position. Mr. Alfred L. Wingo was named to begin in the position on the first

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[10]Commonwealth of Virginia, State Board of Education, Minutes, 28 May 1965, vol. 36, p. 36. State Board of Education Files, Office of Superintendent of Public Instruction, Richmond, Va. (Mimeographed.)

[11]Ibid.

[12]Commonwealth of Virginia, State Board of Education, Minutes, 29 June 1965, vol. 36, p. 43, State Board of Education Files, Office of Superintendent of Public Instruction, Richmond, Va. (Mimeographed.)

of July, 1965.[13]

One of the first formal steps which was necessary for Virginia to take with respect to the newly passed ESEA was to make application for funding. At the state board meeting on August 14, 1965, Mr. Wingo informed the members that it would be necessary for the board to make application for Title I funds in order to receive such funding.[14] At the October 22, 1965 board meeting, he " . . . reviewed, rather thoroughly . . ."[15] the entire Elementary and Secondary Education Act of 1965. It was also during the course of this same meeting that Dr. Wilkerson recommended the hiring " . . . of Mr. Robert Walker Sparks as Program Director under the Elementary and Secondary Education Act of 1965 . . . effective January 1, 1966."[16]

Recalling the events of those early times, Mr. Sparks stated, ". . . [when] Title I was first implemented in the Commonwealth of Virginia, in a cursory way, beginning in the fall of 1965 and then, in a big way, beginning January first, 1966, Virginia was in no way prepared to spend the 30 million dollar grant that we got for Title

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[13]Ibid.

[14]Commonwealth of Virginia, State Board of Education, Minutes, 14 August 1965, vol. 35, p. 55, State Board of Education Files, Office of Superintendent of Public Instruction, Richmond, Va. (Mimeographed.)

[15]Commonwealth of Virginia, State Board of Education, Minutes, 22 October 1965, vol. 36, p. 66, State Board of Education Files, Office of Superintendent of Public Instruction, Richmond, Va. (Mimeographed.)

[16]Ibid.

I."[17] As further indication of the lack of preparedness in the Virginia Department of Education with respect to ESEA Title I for the first year, the former Title I director stated:

> We had no staff, we had no trained teachers, we had no supervisors, we didn't have time to set up school districts. There were no regulations. There were no specifications on what to do. There was just the law. It said that this was to be done for the poor children of the United States, and each state was left floating around in limbo for at least two years before they first came out with the first regulations pertaining to Title I from HEW.[18]

Documentation supporting Mr. Sparks' contentions regarding early Title I problems in Virginia may be found in a July 1968 report from the Virginia Department of Education to the State Board of Education, as follows:

> Major Problems at LEA Level in Rank Order
> 1. Lack of specialists
> 2. Slow delivery time of educational materials
> 3. Lack of time
> 4. Lack of teachers
> 5. Lack of facilities[19]

From other records, however, any difficulties suggested by Mr. Sparks with regard to the implementation of ESEA Title I were apparently overcome within a short period of time. Kindergarten children, for example, participated in programs " . . . established more

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[17]Interview with Mr. Robert W. Sparks, IV., former State Title I Director, Commonwealth of Virginia, 5 November 1983. [Permission to quote.]

[18]Ibid.

[19]"Title I Activities[,] 1966 - 67 Regular Session[,] 1967 Summer School[,] Virginia Evaluation Summary Data," Minutes, State Board of Education, Commonwealth of Virginia, 19-20 July, 1968, p. 24.

or less on a crash basis to provide educational opportunities for disadvantaged children [from] 1965-66."[20] A chart which illustrates the administrative layout of ESEA was presented by the Virginia Department of Education to the State Board of Education in early 1967. (See Appendix K). From all of the ESEA titles, the chart offers the most detail regarding Title I, proffering evidence that the Virginia Department was increasing activities in this area quite rapidly. Additionally, a report presented by the department to the board on July 20, 1968, indicated that 130,658 children participated in the regular 1966-67 school session (577 were private school students) and 56,725 students participated in the 1967 summer session (355 were private school students).[21] While the report to the state school board did not categorize the private school students into sectarian or non-sectarian, it did list the following statistics for the participation of public and private school children in Title I programs:

112,626 - public school children
577 - private school children [22]

The report also cited comparisons between the participation of public and private school children in Virginia with that of the nation:

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[20]Minutes, State Board of Education, Commonwealth of Virginia, 3 May 1968, p. 31.

[21]Commonwealth of Virginia, State Board of Education, Minutes, "Title I Activities 1966-67 Regular Session[;] 1967 Summer School[;] Virginia[;] Evaluation Summary Data," 19-20 July 1968, vol. 38, p. 1, p. 61-a, State Board of Education Files, Office of Superintendent of Public Instruction, Richmond, Va. (Photostatic copy.)

[22]Ibid., p. 3.

Percent of Participants In Title I By Enrollment

	USA	VA.
Public	94.0%	98.0%
Non Public	5.0%	.7%
Not Enrolled	1.0%	1.3% [23]

Cited as sources for the compilation of the figures were:

> The Annual Statistical and Evaluation Reports of Title I program activities submitted by 123 Local Educational Agencies (LEA) in Virginia. The excellent quality of reports received indicates a high degree of accuracy.[24]

In fiscal year 1967, $22,702,438.08 was expended in Virginia at the local school division level for Title I.[25] The figures also indicate that $101.02 was expended per child for the same time period; $11,395,426.00 for public school children and $58,277.00 for the 577 private school children. The report did not reveal how many of those who responded to questions regarding areas of Title I within the report were from the Catholic Diocese of Richmond. The results indicated that 11.7% of private school respondents gave a poor rating with regard to attitude toward Title I projects.[26] Col. W. H. McCann, former supervisor in the Title I program, said that ". . . a questionnaire went out to the divisions, the LEAs . . . and they were to respond [as to] what they thought the attitude of the private schools was

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[23]Ibid., p. 26

[24]Ibid., p. 61.

[25]Ibid., p. 1.

[26]Ibid., p. 21.

. . ."[27] McCann added that he " . . .[did not] think any of them were sent out to the private schools, not in any questionnaires . . ." [28] and that it was " . . . all through the superintendents of schools involved . . . ."[29] According to Mr. Sparks' report to the Board of Education on July 20, 1968, there were three major questions being asked with regard to Title I (notably, none dealt with private school students):

1. What Does Title I Aim To Achieve? (caps. in orig.)

   It aims to meet the special education needs of educationally deprived children.

2. How Are Educationally Deprived Children Defined? (caps. in orig.)

   Those who fall below norms in educational achievement or who, without special help, will not progress with his peer group.

3. Is Title I General Aid To Education? (caps. in orig.)

   No. Title I funds are to be used for special programs for educationally deprived children. It has been long recognized that there is a correlation between economic deprivation and educational deprivation.[29]

Mr. Sparks further stated that "a comprehensive evaluation of each local project has shown beyond a doubt that much progress has been made in the educational achievement and outlook of the children enrolled

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[27]Interview with Col. W. H. McCann, former Title I Supervisor, Commonwealth of Virginia, 14 August 1984. [Permission to quote.]

[28]Ibid.

[29]Ibid.

[29]Board Minutes, Loc. cit., p. 60.

in Title I classes."[30]

The U.S. Department of Health, Education and Welfare reported its findings of the audit of the first two years of Title I operation to the Virginia Department of Education during the early winter of 1970. The results were reviewed and discussed at both the departmental level and state board levels. While the original report has not survived the passage of time, the record of a statement in the opening paragraph which notes HEW deficiencies, and the Virginia Department's response, has been preserved in the State Board of Education minutes of March 26, 1970, and May 28, 1970. The board minutes for the March meeting quote the following statement from the original HEW audit report:

> "'On the basis of tests performed during our review of the major aspects of the Title I program in the state of Virginia, it is our opinion that the State Agency administered the program in a generally satisfactory manner during fiscal years 1966 and 1967.'"[31]

The same board minutes say that the HEW report found problems in four areas with regard to approved expenditures during the Virginia Title I operation for 1966 and 1967:

> Approved expenditures were:
>
> 1. Not adequately justified as necessary for carrying out the approved project
> 2. Incurred after or near the completion date of the project
> 3. In excess of actual costs incurred

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[30]Ibid.

[31]Minutes, State Board of Education, Commonwealth of Virginia, 26 March 1970, p. 21.

4. Never actually expended for Title I purposes.[32]

The state Department of Education indicated that they " . . . did not take exception to the findings of the auditors . . . ."[33] The department responded to each of the deficiencies as reported in the State Board of Education Minutes of May 28, 1970. Each of the reported shortcomings was specific to individual cases with the potential total dollar refund amounting to $201,453.00.[34] This was minute in comparison to the total allocation of over 50 million dollars for Title I for those two years. In all cases, the state Department of Education either " . . . requested a waiver of . . . exception noted by the auditor . . ."[35] or noted that many of the problems discovered during the audit had been rectified.

In light of the Richmond diocese's experiences with ESEA Title I, it is interesting that the deficiencies do not include among them any reference to inadequate or inequitable treatment for eligible nonpublic school children. Without the original documentation being available, speculation remains as to whether the early auditors were aware of any difficulties for these children. Whatever the situation, the fact is that no evidence appears in the board minutes to suggest any inadequacies cited by the federal authorities.

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[32]Ibid.

[33]Ibid.

[34]Minutes, State Board of Education, Commonwealth of Virginia, 28 May 1970, pp. 52 - 53.

[35]Ibid.

Early Attitudes Toward Private School Children and Public Aid

The State Superintendent of Public Instruction, Dr. Woodrow Wilkerson, in a letter to the president of the St. James School Association in Falls Church, Virginia, made it quite clear that state law prohibited any public monies from being expended with respect to parochial school student transportation. Citing then Virginia law, Dr. Wilkerson stated:

> As a matter of information, Section 22-294.1 of the Virginia School Laws permits a local school board to provide transportation or funds in lieu thereof for children enrolled in and attending non-sectarian private schools. There is no provision in law for transporting parochial school children at public expense.[36]

Dr. Wilkerson gave the same response to the chairman of the Bus Transportation Committee of Our Lady of Good Counsel School, Vienna, Virginia on July 13, 1965.[37]

At the state school board meeting on August 22nd through August 24th, 1966, Dr. Wilkerson gave his view of the state Department of Education, citing the number of increases in staff positions mainly as a result of the implementation of the Elementary and Secondary

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[36]Dr. Woodrow Wilkerson, Letter to Mr. C. Richard Boehlert, President, St. James School Association, 13 June 1965, State Board of Education Files, Office of Superintendent of Public Instruction. (Copy.)

[37]Dr. Woodrow W. Wilkerson, Letter to Mrs. Maria Mader, 13 July 1965, State Board of Education Files, Office of Superintendent of Public Instruction, Richmond, Va. (Copy.)

Education Act.[38] He also mentioned the ever greater involvement of the Virginia Department of Education " . . . in light of the premium placed on high quality in education, concerted steps under way and those contemplated to accelerate the rate of progress in the public schools, and the Federal [sic] Government's [sic] expanded participation in public education."[39] A significant point in Dr. Wilkerson's presentation with regard to later developments with respect to ESEA Title I was his remark that " . . . a vigorous and alert Department, working within constitutional (emphasis added) and statutory provisions and State Board policies in close cooperation with local school authorities, is essential in keeping public education close to the people - a tradition which is the hallmark of education in our nation."[40]

The Diocese of Richmond and Early Title I Services

Researched records fail to indicate when and by what means officials of the Richmond Catholic Diocese were informed regarding the participation of eligible diocesan school children in ESEA Title I. That officials of the Department of Schools were informed, however, there remains little doubt. While there were very few early Title I services available to eligible students attending schools in the Diocese of Richmond, records for school year 1966 indicate that students

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[38]Commonwealth of Virginia, State Board of Education, Minutes, Statement of Dr. Woodrow Wilkerson, 22-24 August 1966, vol. 37, p. 62. State Board of Education Files, Office of Superintendent of Public Instruction, Richmond, Va. (Mimeographed.)

[39]Ibid.

[40]Ibid.

in at least some of the schools of the Richmond diocese did receive services. The manner, type, and extent of these services was to become a source of controversy at a later period of time, but for at least the first two years after the passage of the ESEA legislation, there is no evidence to indicate that officials in the central office of the Richmond diocese had any great dissatisfaction with the amount of services being received. (High officials of the Richmond diocese later explained that this was because they were happy to get any services at all.) Whatever the reason, stated or otherwise, the records do indicate a certain amount of satisfaction with the services rendered, including "dual enrollment."[41]

In a letter to Dr. Sam Duker, associate professor of education at Brooklyn College of the City University of New York, the superintendent of schools for the Richmond diocese at the time, Msgr. Richard J. Burke, stated that " . . . we are still interested in shared time and have made some effort to extend it. Nothing concrete has yet been accomplished."[42] In 1966 "three schools of [the] Catholic diocese were designated as Title I schools since they were located in areas designated by the LOCAL EDUCATIONAL AGENCY (caps. in orig.) as in the public school Title I target areas . . . St. Elizabeth, St. Patrick,

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[41]Rt. Rev. Msgr. Richard J. Burke, Letter to Dr. Sam Duker, 29 August 1966, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[42]Ibid.

and Sacred Heart"[43]; each of these schools had the services of a speech therapist and, beginning in 1967, the services of four-hour per week nurses.[44]

During the month of December 1967, the staff of the Department of Schools had a meeting with the mother provincials of the religious orders of nuns which were involved in staffing schools in the Richmond diocese.[45] One of the many suggestions which surfaced during this meeting was " . . .that the Office of Education give more help in the area of what is available from federal funds . . ." [46]. Msgr. Burke responded to this suggestion by stating that ". . . names of coordinators are enclosed for reference. Where no coordinator is present, each principal should contact the public school superintendent to find out what is being done under Titles I and II. If they are not receiving similar aid, questions should be asked locally and the Diocesan Office of Education should be contacted."[47] The same memorandum listed Sister Mary Thomasine as director of the Poverty Program, Reverend Carl F. Zeterburg, Sister Marita, Sister Barbara, and Reverend

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[43]Sr. Elaine McCarron, "Facts Regarding Title I And Efforts Of Staff, Diocese of Richmond, Department Of Schools," (Memorandum), 7 October 1976, Office of Catholic Schools, Diocese of Richmond. (Mimeographed.)

[44]Ibid.

[45]Rt. Rev. Msgr. Richard J. Burke, Letter to All Mother Provincials, 4 January 1968, Diocesan School Board Files, Office of Catholic Schools, Diocese of Richmond. (Mimeographed.)

[46]Ibid.

[47]Ibid.

Thomas J. Caroluzza all as coordinators for federal funds.[48]

On November 19, 1968, Mr. Dan H. Nix, coordinator of Title I for the City of Richmond, wrote to Sister Suzanne, principal of Sacred Heart Elementary and Junior High School in Richmond, and stated:

> Any student who meets the requirements for the particular service who attends school in the target area is eligible for participation. However, the city schools can accept no responsibility for a nonresident of the city.[49]

Nix prefaced his letter by revealing that he was responding to an inquiry made by Sr. Suzanne with regard to participation in Title I by private school students. Thus, the City of Richmond Title I officials had indicated to the Sacred Heart School principal that the only requirement for participation for Title I was the attendance within a target zone. Nix went on further, however, to state that " . . .to qualify for remedial reading instruction, pupils must have average or near average ability and be severely retarded in reading skills."[50]

A piece of correspondence from Msgr. Burke, dated 20 December 1968, is a second indicator of some frustration regarding Title I services. The letter was addressed to Mr. Alfred Wingo, director of federal programs, Virginia Department of Education and, in part, states:

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[48]Ibid.

[49]Dan H. Nix, Letter to Sister Suzanne, O.B., Principal, Sacred Heart Elementary and Junior High School, 19 November 1968, Title I Files, Sacred Heart/St. Augustine School, Richmond, Va.

[50]Ibid.

> . . . it has also come to my attention that Title I programs, budget, etc. have been set-up without some prior consultation with us about our needs. I have in mind in particular St. Patrick's School on East Grace Street in the Church Hill area. It would appear that it is something of an after-thought to include us in whatever is left over.[51]

While Msgr. Burke appeared to have a certain amount of concern for Title I programs at St. Patrick's School (as evidenced by his letter to Mr. Wingo) the Reverend Carl F. Zeterburg of northern Virginia in 1967 indicated that students at St. Joseph's, St. Rita's, and St. Mary's in Alexandria were receiving some Title I services.[52] Zeterburg raised a question regarding the physical location of the Title I services, apparently being rendered to the Catholic school students in these three schools by their attendance at local public schools in the area:

> We must pursue the question for the next school year of whether or not the people employed under this program should not be coming into our schools and dealing with our students on the same basis as they will be doing with public school children.[53]

The memorandum written by Rev. Zeterburg stated the following allocations for the three schools for the second semester of the 1967-68 school year:

a- Field Trips $1000 - our share ($200) is to

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[51]Rt. Rev. Msgr. Richard J. Burke, Letter to Mr. Alfred Wingo, 20 December 1968, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[52]Rev. Carl F. Zeterburg, "Memorandum to Pastors, Principals, PTA Presidents", 27 March 1967, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Mimeographed.)

[53]Ibid.

> go to St. Joseph's. b- Purchase of musical instruments $3475 - we will have the use of 18 or 20 instruments for a program in St. Joseph's. c- Printed materials $13,595 - St. Joseph's to receive $500 worth. d- In service [sic] workshops - we can send six teachers (two from each school is suggested but we can vary this - it will be up to the principals to determine this)[.] e- St. Mary's and St. Rita's will receive $7 worth of materials for each economically deprived child reported.[54]

On February 21, 1969, Msgr. Burke wrote a letter to Mr. Al Wingo in which he outlined the results of a meeting that the staff of the Department of Schools had with the staff of the Virginia Department of Education regarding " . . . the problems we saw in the implementation of Titles I, II, and III of ESEA of 1965."[55] This letter confirmed the appearance that certain areas in northern Virginia were " . . . bright spots . . . ."[56] Msgr. Burke also expressed hope for Title I programs for a number of Richmond diocesan schools:

> I am enclosing along with this information a listing of the schools of the diocese where Title I programs may well be very helpful. NORTHERN VIRGINIA AREA: St. Joseph's School, Alexandria, Va. RICHMOND AREA: Van de Vyver School[,] St. Elizabeth's School [,] Sacred Heart School, South Richmond[,] St. Patrick's School[.] NEWPORT NEWS: St. Vincent's School[.] NORFOLK: St. Mary's School[.][57]

In an accompanying memorandum, Msgr. Burke noted the following

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[54]Ibid., p. 2.

[55]Rt. Rev. Msgr. Richard J. Burke, Letter to Mr. Alfred Wingo, 21 February 1969, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[56]Ibid.

[57]Ibid.

points with regard to participation by Richmond diocesan school children in ESEA Title I:

> NORFOLK: 1. Cut back on teacher aides for schools in target areas[.] 4. No consultation with principals about needs for the coming year in the target areas; e.g. grade [great] need for a speech therapist.
> PORTSMOUTH: 2. A few children are attending [the] Diagnostic Reading Center and good cooperation with schools in follow-ups prevail[.] VIRGINIA BEACH: . . . Nothing for us under Title I . . . [.] CHESAPEAKE: Same as Virginia Beach. HAMPTON: Excellent cooperation with our schools. NORTHERN VIRGINIA: participated in by St. Joseph's, Alexandria. Programs have been satisfactorily and well carried out. RICHMOND AREA: Our schools in the target area are participating in Title I projects, however, it would be helpful for us to know the extent of possible participation when the school year begins. This information came to us only after we sought it out in November of this year. It would also be helpful if we knew the materials and funds available to us under the reading program of Title I. Such information is known by some of our Title I schools but not all.[58]

Six months later, Reverend Virgil Funk, the Richmond diocese's Office of Social Development regional director, wrote a letter to Sister Suzanne's successor, Sr. Kathleen Kelly. Funk outlined the same requirements for participation of students in the Title I program and indicated that referral for particular services in remedial reading, medical care and guidance should be made to identified personnel in the Richmond City Schools.[59] Funk indicated that the public school

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[58]Rt. Rev. Msgr. Richard J. Burke, Memorandum to Mr. Wingo, "Points Taken up at Meeting With Mr. Wingo and his Staff," 24 February 1969, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[59]Rev. Virgil C. Funk, Letter to Sr. Kathleen Kelly, 4 November 1969, Title I Files, Sacred Heart/St. Augustine School, Richmond, Va. (Copy.)

officials " . . . were enthusiastic about the Catholic participation . . . ."[60] A year later, however, Sister Elaine McCarron, in a letter to the principals of St. Elizabeth's School, Sacred Heart School, and St. Patrick's School, indicated that the schools were unsuccessful in " . . . obtaining help due to demands by public schools."[61] Sr. Elaine, as the Reverend Funk did the year before, indicated that inquiries regarding the programs and the participation of the private schools addressed, should be directed to specific individuals within the Richmond Public School System.

The Reverend J. Stephen O'Brien became superintendent of schools for the Richmond diocese in June of 1969. Fr. O'Brien, during an interview with the researcher, recalled that much of the early service the children in the Richmond parochial schools received was in the area of health care. O'Brien's opinion was that the Virginia Department of Education was unaware of the services being offered because " . . . they would have gone bananas if they had known that a nurse, for example, was coming into a Catholic school."[62]

Diocesan Attempts to Revise a Portion of the State Constitution

There is some evidence that Richmond diocesan officials viewed

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[60]Ibid.

[61]Sr. Elaine McCarron, Letter to Sister Martha Mary Whelan, St. Elizabeth's School, Sister Kathleen Kelly, Sacred Heart School, Sister Laura O'Connor, St. Patrick's School, 9 October 1970, Title I Files, Sacred Heart/St. Augustine School, Richmond, Va. (Mimeographed.)

[62]Interview with Rev. J. Stephen O'Brien, 5 April 1984. [Permission to quote.]

"state aid" and "federal aid" as synonymous terms. Beginning around 1968, there was a call for a constitutional convention for the purpose of reviewing and revising the Virginia Constitution. One of the items which became of great concern to the Diocese of Richmond was Article 141 of the Virginia code which basically forbade the issuance of any state funds to sectarian institutions. While this issue was not a direct tie-in to the Richmond diocese's experience with Title I, it became an extremely important focal point for later events. The Richmond diocese, both officially and unofficially, placed a great deal of effort into the attempt to remove Article 141 of the Virginia code. Almost from the beginning of the endeavor to change the state constitution in 1968, the diocese and its quasi-legal organizations were making a strong effort. The diocesan attorney, Nicholas A. Spinella, confirmed the fact that much time was spent in the aim, stating " . . . yes, a lot of effort during those years went into that. A lot of time . . . ."[63] And, writing at the time Msgr. Burke indicated that " . . . committees of our lawyers spoke at four out of five meetings urging the deletion of the prohibition against aid to sectarian schools in the present constitution."[64] Beyond appearances at committee and subcommittee hearings, the diocese " . . . entertained at luncheons and dinners members of the legislature in an effort to

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[63]Interview with Nicholas A. Spinella, Esq., 28 December 1984. [Permission to quote.]

[64]Rt. Rev. Msgr. Richard J. Burke, Letter to Mr. John F. Reiher, Department of Education, Diocese of Wilmington, 19 March 1969, Diocesan School Board Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

get across our point of view."[65] Msgr. Burke expressed the purpose by stating that "[o]ur desire is in the beginning to delete the prohibition against aid to sectarian schools in order that we might meet with the legislators in future times to discuss needs and auxiliary services."[66] Recalling those times during the interview, attorney Spinella stated, " . . . we really traveled the whole diocese . . . including northern Virginia . . . we really went all over the place talking about aid to education . . . ."[67] Bishop John J. Russell found the matter of such an urgent nature that he wrote a letter to the pastors of the diocese on January 15, 1969, and informed them that although the Commission on Constitutional Revision had basically concluded its task and had recommended the continuance of Article 141 it, (the report) " . . . is a recommendation only, since the actual power to make changes in the Constitution lies with the General Assembly in special session."[68] Nor did the Bishop stop there; he also recommended that " . . . you [the pastors] . . . encourage these men [referring to those who served on the Diocesan Committee for the Revision of the Constitution] in their efforts to inform our parents in this matter."[69] In a press release on January 19, 1969, only a few days

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[65]Ibid.

[66]Ibid.

[67]Spinella, Op. cit.

[68]Bishop John J. Russell, Letter to pastors, 15 January 1969, Diocesan School Board Files, Office of Catholic Schools, Diocese of Richmond. (Mimeographed.)

[69]Ibid.

after Bishop Russell's letter to the pastors, the Diocesan School Board made its position with regard to the revision of Article 141 quite clear:

> The failure of the Virginia Commission on Constitutional Revision to recommend that sectarian elementary and secondary school students be eligible for some form of state aid is a disappointment. If left to stand, it would perpetuate indefinitely an unfair, discriminatory public policy against thousands of Virginia's children. It might well mean the death of a large segment of the non-public school system which is contributing to the healthy diversity of education found so praiseworthy by the Commission. The Commission's logic in this matter is, to say the least, puzzling. On the one hand, the Commission had no qualms in recommending that state aid be made available to sectarian colleges and universities. The logic of the Commission says these institutions are educating one-third of the students enrolled in higher education in the state, thereby relieving the Commonwealth's taxpayers of a great burden. But what of the thousands of students similarly situated in sectarian elementary and secondary schools, of whom 35,054 are in Catholic schools alone? Are they of absolutely no interest to the state, despite the fact that they, too, are relieving the taxpayer of a financial burden amounting to 17 million dollars per year in operating costs alone. There is no religious issue involved in this matter. It is simply and plainly a matter of equity and justice. Virginians should not be misled into believing that the furnishing of aid to students--not to schools--must necessarily divide our people along religious lines. Aid to sectarian colleges and universities proposed by the Commission differs from aid to sectarian elementary and secondary schools only in the age of the students. Fortunately, the Commission does not have the last word on this question; two sessions of the Legislature, and ultimately, the people of Virginia themselves, will make that final judgement. Patrons and friends of education must appeal to the sense of fairness among the lawmakers and all Virginians to rectify this injustice which menaces the very existence of a large and vital arm of Virginia's educational

system.[70]

The very next day, Mr. Charles Brower, director of the Office of Lay Activities of the Richmond diocese and a member of the Diocesan Constitutional Revision Committee, wrote to his fellow committee members and stated that " . . . we are re-doubling our efforts in encouraging all parishioners to contact their general assembly representatives with the request that they (the legislators) give every consideration to deleting the word 'Nonsectarian' from Old Section 141, New Section 10, of the Virginia State Constitution." [71]

Numerous newspaper articles appeared in The Catholic Virginian throughout the winter and spring months of 1969 as the battle between the majority who favored retention of Article 141 and the minority who opposed it continued. Not all Virginia legislators favored the extension of Article 141. Once again, The Catholic Virginian reported that " . . . several Virginia legislators have come out in favor of some form of aid to private sectarian schools in the revised Constitution."[72] Governor Mills Godwin and Attorney General Robert Y. Button were very much in favor of retention of the particular section.[73]

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[70]Diocesan School Board, "Press Release," 19 January 1969, Diocesan School Board Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[71]Charles M. Brower, Letter to Committee Member, 20 January 1969, Diocesan School Board Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[72]"Some Legislators Favor Aid for Sectarian Schools," The Catholic Virginian, 21 March 1969, p. 1, col. 1.

[73]"Assembly Urged To Retain Same School Aid Ban," The Catholic Virginian, 28 March 1969, p. 1, col. 1.

In a rather surprising vote, however, the Virginia General Assembly, on March 28, 1969, removed the word "non-sectarian" from a portion of a bill which, in essence, offered aid to handicapped children in all schools, regardless of whether they were public, private, sectarian, or non-sectarian.[74]

In northern Virginia, a group of parents representing the Federation of Catholic Parent-Teacher Organizations of Northern Virginia was agitating the diocese through the Diocesan School Board " . . . to consider court action to obtain 'certain benefits' denied by the Commonwealth of Virginia to children attending parochial schools."[75]

The United States Catholic Conference, in the meantime, was sponsoring workshops on federal programs with respect to nonpublic schools.[76] There is no indication as to whether anyone from the Richmond diocese attended the eight-day workshop held at Catholic University in Washington, D.C.

In a "Memorandum For Record" (caps. in orig.) written by Mr. Charles Brower, Office of Lay Activities for the Diocese of Richmond, it was revealed that the diocese spent a total of $2,697.26 on " . . . direct and indirect support to the Committee for Revision to Article

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[74]"Va. Assembly Votes Aid To (sic) Handicapped Even In (sic) Sectarian Schools," The Catholic Virginian, 4 April 1969, p. 1, col. 1.

[75]Resolution of Federation of Catholic Parent-Teacher Organizations of Northern Virginia, 13 May 1969, Superintendent's File, Office of Catholic Schools, Diocese of Richmond. (Copy.) [See also: "PTO Asks Court Action on 'Benefits'," The Catholic Virginian, 23 May 1969, p. 1, col. 4.]

[76]"USCC Workshop on Federal Programs Aids Non-Public School Administrators," The Catholic Virginian, 18 July 1969, p. 2, col. 1.

141 . . . not includ[ing] salaries of the Executive Secretary or the office secretary . . . ."[77] As of April 1969, roughly half-way through the drive to revise the state constitution, over forty-five talks had been given to various groups throughout Virginia by diocesan supporters.[78] In addition to the talks, ". . . 32,000 pieces of paper [were used]. . . [and] 118,500 copies . . . of pamphlets . . . were distributed at all masses throughout the Diocese in February [1969]."[79]

The potential impact on public schools in the closing of Catholic schools in the Diocese of Richmond is illustrated by the correspondence between Mr. Ray E. Reid, division superintendent of the Arlington County Public Schools, and Bishop Russell. Reid, in his letter of March 11, 1969, expressed concerns over supposed earlier remarks made by the bishop. The Arlington County superintendent stated that he had heard Russell as having said that ' . . . our parochial school system is in jeopardy and perhaps all of our parochial schools may, through necessity, be closed . . . .'[80] Bishop Russell's response refers to the state aid question:

If citizens who choose to enroll their children

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[77]Charles M. Brower, Memorandum for Record, Approximate Cost of Support to the Committee for Revision to Section 141 of the Virginia State Constitution., 18 April 1969, Superintendent's File, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[78]Charles M. Brower, Memorandum For Record, Statistical Data on Material used for Constitutional Revision effort. 18 April 1969, Superintendent's File, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[79]Ibid.

[80]Mr. Ray E. Reid, Letter to Bishop John J. Russell, 11 March 1969, Files of Bishop John J. Russell, Catholic Diocese of Richmond.

> in private, parochial school[s] will not soon receive some financial assistance, it is a question of how long the schools can be maintained. Several are being closed at the present time because of the great expense in meeting the salaries and other costs comparable to the public school system. We are in hopes that the revised Constitution of the State of Virginia leave the possibility of some tax funds being given to the parents who choose parochial schools for their children. The issue of church and state does not enter into it. We are not asking for tax funds for any religion. Our schools comply with state regulations and there is an injustice in the citizens not receiving some help.[81]

So, in keeping with his other public stands on the matter, the threat of closure of Catholic schools for a lack of public funding was being circulated here by the bishop. Mr. Reid was not satisfied with the Bishop's response. He wrote yet again on April 28, 1969:

> Am I correct in assuming that you anticipate no changes in your school system in Arlington County which would affect our enrollments for the year 1969-70? You should know that we have proceeded on this basis in the development of our fiscal plans for that year."[82]

The bishop's response to the second of Mr. Reid's letters stated that " . . . we anticipate no particular changes in our school system in Arlington County which will effect [sic] your enrollment for the year 1969-70."[83] The letter repeated the bishop's concerns regarding state aid:

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[81]Bishop John J. Russell, Letter to Mr. Ray E. Reid, 19 March 1969, Files of Bishop John J. Russell, Catholic Diocese of Richmond.

[82]Ray E. Reid, Division Superintendent, Arlington County, Letter to The Most Reverend John J. Russell, 28 April 1969, Files of Bishop John J. Russell, Catholic Diocese of Richmond.

[83]Bishop John J. Russell, Letter to Mr. Ray E. Reid, 30 April 1969, Files, Bishop John J. Russell, Catholic Diocese of Richmond. (Copy.)

> I am afraid, however, that if we do not soon get some assistance for the parents of the children in our Parochial schools that there will be some of these schools closing. However, there is nothing definite in that regard for the coming September.[84]

In May of 1969, the Diocesan School Board voted to begin " . . . an exhaustive study of the schools in the Diocese of Richmond . . . ."[85] "The study is being made in light of the lack of financial resources plaguing Catholic schools not only in the Richmond diocese but all over the United States, rising costs and the decreasing number of religious personnel available . . . . The board pledged continued efforts to obtain some form of state aid for students in Catholic schools."[86] An indication of the seriousness with which diocesan officials appeared to make of the situation lies in the fact that they had more than casual contact with one of the national church-state specialists. A letter from Pennsylvania attorney, William B. Ball, to Mr. Nicholas A. Spinella, made the recommendation that the Diocese of Richmond consider a " . . . test litigation . . ." regarding Virginia law on public aid to parochial schools.[87] Although a law suit was not filed, it is presumed that the costs, estimated at under "$100,000"

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[84]Ibid.

[85]"Diocese To [sic] Make Study of Schools," The Catholic Virginian, 16 May 1969, p. 1, col. 1.

[86]Ibid.

[87]Mr. William B. Ball, Letter to Mr. Nicholas A. Spinella, 25 September 1969, Files of former Bishop John J. Russell, Catholic Diocese of Richmond. (Copy.)

were a factor.[88] Mr. Ball was later " . . . employed as a consultant to the diocese regarding the possibility of the litigation for State or Federal aid."[89] (Researcher's note: In a letter to the researcher, William B. Ball indicated that he was involved in the following rather significant church-state cases: Lemon v. Kurtzman, 403 U.S. 602 (1971); Lemon v. Kurtzman, 411 U.S. 192 (1973); Lemon v. Sloan, 413 U.S. 825 (1973); Wisconsin v. Yoder, 406 U.S. 205 (1972); Meek v. Pittenger, 421 U.S. 349 (1975).[90])

The minutes of the Diocesan School Board for November 12, 1969, indicated some opposition from another religious group regarding changing Article VIII, Section 10, of the Virginia Code: " . . . the Baptist churches of Virginia are against the new text because it allows aid to parochial schools in principle."[91]

The Catholic Virginian of January 30, 1970, had Bishop John J. Russell, in his "Bishop's Letter" stating:

> when the Virginia Commission on Constitutional Revision held public hearings in 1968, members of this diocese were among the many who urged the Commission to consider the contribution made to the common good by nonpublic schools, to consider as well the ever-increasing demands on educational institutions, and to propose constitutional amendments so as to make possible public aid to children attending nonpublic

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[88]Ibid.

[89]Minutes, Diocesan School Board, 3 November 1970, Files of Bishop John J. Russell, Catholic Diocese of Richmond. (Copy.)

[90]William B. Ball, Letter, 17 January 1985, Personal files of researcher.

[91]Minutes, Diocesan School Board, 12 November 1969, p. 5, Files of Bishop John J. Russell, Catholic Diocese of Richmond. (Copy.)

schools.[92]

Bishop Russell continued by stating that " . . . it is a matter of justice. In a majority of the States in this country, public aid of one sort or another is being granted to children attending nonpublic schools, including church-related schools. This has nothing to do with the so-called 'separation of church and state.'"[93] In another newspaper account, Thomas C. Lawler, chairman of the Committee on State Aid to Education, was quoted as saying " . . . that if Virginia voters are given a revision containing the present 'discredited' section limiting state aid, 'it is our conviction that many would seriously question their present support' for the entire constitution."[94]

Two reasons for the Diocese of Richmond showing an interest in receiving public funding emerged during this early period: an expressed need for justice for parochial school children (as outlined in Bishop Russell's letter) and a belief that public funding would address and alleviate the financial straits occurring in a number of parochial schools in the diocese at the time. Fr. O'Brien reminded the researcher during an interview in the spring of 1984 that the diocese, during the late 1960's, was not really talking about federal aid as such:

> there was no federal aid from our point of view. It was all state aid because the money

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[92]"Bishop's Letter, On Education," The Catholic Virginian, 30 January 1970, p. 3, col. 1.

[93]Ibid.

[94]"Backlash Vote Seen On [sic] School Aid Issue," The Catholic Virginian, 27 February 1970, p. 1, col. 1.

> was funneled through the state and it became state money. That [is] what Wingo and Sparks kept telling us: 'This is state money. This is not federal money. Once we get it, it's state money.'[95]

By February of 1970, however, the drive to remove Article 141 from the Virginia Constitution (Article VIII, Section 10 in the new constitution) appeared to be a lost cause. The Committee on State Aid to Education on February 23, 1970, issued a statement condemning the failure of the legislature to change Article VIII, Section 10 of the Virginia Constitution:

> Unless the action of these two committees [Senate and House Privileges and Elections Committees] is reversed, the Virginia electorate will be deprived of a chance to vote on the issue, and to this extent, the committees' votes can hardly be viewed as other than undemocratic.[96]

The Catholic Virginian stated that "the House of Delegates Privileges and Elections Committee passed by indefinitely a proposed constitutional revision that would have permitted such aid to handicapped children."[97] Nor was this all that was said by diocesan officials. In a Richmond Newsleader Special Report on February 26, 1970, Fr. O'Brien expressed fears that "some Catholic schools may be forced to close or become

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[95]Interview with Rev. J. Stephen O'Brien, former Superintendent of Schools, Catholic Diocese of Richmond, 5 April 1984, [Permission to quote.]

[96]Public Release, Committee on State Aid to Education, 23 February 1970, Files of Bishop John J. Russell, Catholic Diocese of Richmond. (Photostatic copy.)

[97]"State Aid to Non-Public Schools Appears Dead Issue," The Catholic Virginian, 20 February 1970, p. 3, col. 1.

private within five years unless some state aid is provided . . . ."[98] The diocesan superintendent was also quoted as saying that "'. . . we feel the legislature has an obligation to support all educational systems in the state . . . . Its [sic] not a matter of separation of church and state but a backing of education in general."[99] In the same report, Thomas Lawler, chairman of the Diocesan Committee on State Aid to Education, urged that " . . . Virginia . . . bring her constitution in line with those of other states."[100]

The Diocesan School Board sent a letter to the president thanking him for a public statement he had made giving recognition to non-public schools. Fr. O'Brien wrote "We are very happy that the budget report for '71 will increase the amounts given to Title II and Title III projects in which parochial schools of the Richmond diocese share."[101] Neither the letter nor the newspaper article mentioned anything about Title I, further evidence that it was not an issue at that time. In April, two letters under the signature of Bishop John J. Russell were made public. One was in the form of an open letter in the Catholic Virginian giving support for Catholic schools and citing staffing and financial problems which many of the schools

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[98]Janis Fraser, "Catholic Schools Endangered: Diocesan Official," Richmond Newsleader, 26 February 1970, col. 1, p. 15.

[99]Ibid.

[100]Ibid.

[101]"School Board Thanks Nixon for Message on Education Reform," The Catholic Virginian, 27 March 1970, p. 4, col. 1.

were facing.[102] The second letter, dated March 31, 1970, was addressed to parishioners and was to be read by pastors from the pulpit on Sunday, April 5th. The April 2nd letter in the Catholic Virginian reminded the readership of the bishop's letter to the Virginia General Assembly the previous January.

Perhaps more than anywhere in the Richmond diocese, the northern Virginia constituents appeared to be the last to concede defeat on the issue of the revision of Article VIII of the Virginia Constitution. In May of 1970, they were still agitating the Diocesan School Board in the form of its "Diocesan Committee on State Aid to Education" to :

> (1) review Article VIII (Education) of the proposed new Constitution and determine its effects on Catholic education in this Diocese; and (2) present for the consideration of this Federation and others in the Diocese a unified position and course of action as to whether the education aspects of the proposed new Constitution should be favored or rejected by the electorate.[103]

The school board did finally make a public statement on the subject which appeared in The Sunday Star on September 27, 1970:

> 'From the start of the present drive for constitutional revision,' . . . 'members of this diocese have urged that the constitutional sections on education be brought up to date and purged of certain discriminatory provisions. Time and time again we have pointed out that in a majority of states . . . public aid of one sort or another is being granted to children in private schools, including church-related schools, and that on this issue at least, Virginia is definitely

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[102]Bishop John J. Russell, "In Support of Schools," The Catholic Virginian, 3 April 1970, p.1, col. 1.

[103]"N. Va. Federation Asks Review of New Constitution," 15 May 1970, The Catholic Virginian, p. 10, col. 1.

out of tune with the times.'[104]

Regarding Title I services, "at the beginning of the 1970 [1970-71] school year, the Richmond public schools informed [the] Department of Schools that they did not have enough speech therapists to continue to serve the Catholic schools."[105]

While the parochial schools were being informed that speech therapy would not be a reality for the 1970-71 school year, proposals were being made on the diocesan level with regard to possible litigation. Pennsylvania attorney William Ball, consulted the previous year, wrote to Mr. Spinella on September 4th and outlined several possible areas in which litigation might be considered. Among the areas which William Ball outlined was " . . . litigation with respect to ESEA . . ."[106] [emphasis in original]. With regard to ESEA Title I, Ball requested " . . . the details . . . ."[107] He asked whether the denials within ESEA were of large enough scope to justify legal action, and recommended that " . . . you . . . give serious consideration to instituting a Barrera type action in federal court . . . ."[108]

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[104]"Catholics Charge Bias in Virginia Charter Revision," The Sunday Star, Washington, D.C., 27 September 1970.

[105]Sr. Elaine McCarron, "Facts Regarding Title I And Efforts Of [sic] Staff, Diocese Of [sic] Richmond, Department of Schools," (Memorandum), 6 October 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[106]Mr. William B. Ball, Letter to Nicholas A. Spinella, Esq. 4 September 1970, Files of Bishop John J. Russell, Catholic Diocese of Richmond. (Copy.)

[107]Ibid.

[108]Ibid.

(Researcher's note: There were several Barrera cases during the early 1970's, all extensions of the initial case filed on " . . . April 6, 1970[,] in the United States District Court for the Western District of Missouri against Hubert Wheeler (then) Commissioner of Education of the State of Missouri . . . ."[109] Given the time frame, it is likely that Ball was writing in reference to the initial case filed " . . . by parents of nonpublic school students who alleged that state officials were not properly distributing federal funds received under federal statutes . . . ."[110] The case, dismissed by Judge William R. Collinson " . . . on August 31, 1970 . . ."[111] eventually reached the Supreme Court as Wheeler v. Barrera, 417 U.S. 402 (1974). At the time Ball wrote to Spinella, the district court's decision was only 5 days old. It would be conjecture to offer a reason why Ball made the suggestion that Spinella consider similar action. History has, however, shown that the case did continue.) Moreover, Ball also suggested a step in the menu which was to be followed prior to the instituting of any action " . . . such as getting proof of refusal to furnish benefits . . . ."[112] Ball, a national figure who was involved in many of the cases regarding education and the church/state question, also made the comment that a favorable outcome of

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[109]Barrera v. Wheeler, 441 F. 2d. 705 (1971)

[110]Ibid.

[111]Ibid. 796.

[112]Ball, Op. Cit.

such litigation " . . . will not save your schools."[113] This remark lends support to the impression that federal aid was being viewed as a saving mechanism with regard to the financing of Catholic schools in the Diocese of Richmond. Ball also added that " . . . if, at some future date, the Church gets organized to the point of being willing to push for a substantial expansion of ESEA, then to have gotten a favorable decision would have been worth the effort."[114] Ball then proceeded to outline the possibilities of litigation in other areas dealing with education, from busing of private school children to vocational education programs. While none was part of the consideration of action as far as ESEA was concerned, the letter does reveal the thinking of not only the diocesan leadership, but that of others in Catholic circles at the time. Charles Brower, diocesan director of lay activities, after having received a copy of Ball's letter to Spinella, replied to Ball with regard to Title I by saying " . . . [I] have heard nothing more on the Title I ESEA problem. Ed D'Allessio has just been made Director of the programs there in Washington so he has been 'busy' and Fr. O'Brien has been unable to get <u>any</u> [emphasis in original] response. But, [I] will keep working on it and let you know when we have anything to pass on."[115] This gives a little evidence of some frustration on the part of at least one diocesan official

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[113]Ibid.

[114]Ibid.

[115]Charles M. Brower, Letter to William B. Ball, 2 October 1970, Files of researcher. Original in files of William B. Ball, Ball & Skelly, Harrisburg, Pa. (Copy.)

regarding getting information from the United States Catholic Conference on ESEA Title I at that time.

In a statement issued in early October of 1970, the Diocesan School Board said:

> . . . voters should weigh many factors in deciding how to vote on the Constitution, but that in the interest of 'enabling individuals to cast informed votes, the Board feels it would be remiss if it did not at this time reiterate publicly its disappointment and dissatisfaction with the text of the proposed Constitution's Article VII [VIII] on "Education"'. [sic][116]

On October 26, 1970, the Richmond Times Dispatch reported that "a poll of Virginia legislators by the Catholic Diocese of Richmond shows that it is unlikely that the State Constitution will be revised in the foreseeable future to permit state aid to church schools."[117] According to the article, the Committee for the Revision of the State Constitution conducted a poll which revealed that " . . . only about 14 per cent of the legislators . . . would support a revision move in the 1971 session of the General Assembly . . . about 30 per cent said they were opposed to the state aid change."[118]

During discussion with the researcher, Thomas Lawler (former chairman of the Diocesan Committee on State Aid to Education) concurred that the lack of political power among Virginia Catholics at the time

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[116]"Diocesan Groups Speak Out on Revised Constitution," The Catholic Virginian, 2 October 1970, p. 3, col. 1.

[117]"State Aid Unlikely, Catholic Poll Shows," Richmond Times-Dispatch, 26 October 1970.

[118]Ibid.

was a factor in the failure to attain the goal of altering the State Constitution. According to Lawler, it " . . . was a factor. It certainly was a real factor."[119]

School Closings Within the Diocese

Msgr. Burke stated in a letter to Rev. Shaun McCarty at Fr. Judge Seminary in Monroe, Virginia, that "we are having quite a time trying to plan a statement for Catholic education. The problem of State aid and the need of closing schools, etc., pose quite a difficulty in formulating any statement that carries the message at this time."[120]

With the close of school year 1970, there were those in the official circles of the diocese who were concerned about the outlook for the fall enrollment. Diocesan enrollment figures had been on a steady decline for the previous five years. Asked during an interview in 1984, Fr. O'Brien explained that declining enrollment was an issue which took much energy. Moreover, the declining enrollment resulted in the closure of several schools. In June of 1970, the school superintendent was quoted as saying:

> In 1965-66 there were 70 elementary schools in the diocese, 22 secondary schools. Currently there are 65 elementary schools and 21 secondary schools, a decrease of 5 elementary and one secondary.[121]

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[119]Interview with Thomas Comerford Lawler. 23 March 1985. [Permission to quote.]

[120]Rt. Rev. Msgr. Richard J. Burke, Letter to Rev. Shaun McCarty, Father Judge Seminary, 1 April 1969, Diocesan School Board Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[121]Jane S. Gerring, "Schools, What's the Fall Outlook," The Catholic Virginian, 19 June 1969, p. 4, col. 4.

In the same article, O'Brien expressed the belief and hope that the federal government would be giving financial assistance not only to public schools but to private schools as well.[122] Diocesan elementary enrollment figures for the 5-year period from 1964-65 through 1969-70 showed a steady decline, from a peak in 1964-65 of 32,538 through a 26% decline as of the 1969-70 school year with 23,999 pupils in attendance at Catholic elementary schools in the diocese.[123] High school enrollment for the same time period showed an 11.3% increase, from 5,726 in 1964-65 to 6,016 in 1969-70.[124]

Further discussion regarding the viability of Catholic schools within certain locations of the diocese was brought to the forefront of the consciousness of Richmond diocesan officials in the fall of 1970 with a call by representatives of the Diocesan Social Development Committee for the Richmond Diocesan School Board to conduct a study whose purpose was to ascertain "(a) the continuing priorities of the Catholic school system, [and] (b) [the] means for maintaining Catholic schools for the poor parishes of the diocese."[125]

While the preparations were being made for the study of the

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[122]Ibid.

[123]Ibid.

[124]"Enrollment in Catholic Schools in the Diocese of Richmond," Department of Schools, Catholic Diocese of Richmond, 10 November 1970, p. 4, Files of Bishop John J. Russell, Catholic Diocese of Richmond. (Photostatic copy.)

[125]Jane S. Gerring, "Committee to Study Priorities, Means for Maintaining Schools," The Catholic Virginian, 2 October 1970, p. 1, col. 2.

entire school system, the Diocesan School Board was considering the possibility of either requesting or using Title I money as one source for the funding of construction at St. Elizabeth's School in Richmond in order to consolidate St. Patrick's School and St. Elizabeth's.[126] Nothing came of this plan, however.

The problems of school closings, the failure to get the Virginia Constitution changed, and the lack of success on the part of diocesan officials to make headway with state Title I officials all combined to produce a reluctance on the part of the diocese to spend further time seeking Title I funding in 1971. Fr. O'Brien, in an interview during the spring of 1984, admitted that the lack of success with Title I during the early phase relegated it to a side issue. Mr. Spinella, during his interview, offered the following comment:

> We had to regroup a little bit. I think that the realization was beginning to dawn on everyone that the parents that really wanted to send their children to Catholic schools were going to make the rather severe sacrifices that [were] necessary with tuition and what not.[127]

Of the problems facing the Catholic Diocese of Richmond, the fact that federal funding in ESEA was coupled with state funding loomed as the major obstacle for eligible Richmond diocesan children receiving equitable Title I services as the first period of the experience came to a close. The effort to alter the state constitution having failed,

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[126]Diocesan School Board, Report of the Evaluation and Priorities Committee, 3 November 1970, Files of Bishop John J. Russell, Catholic Diocese of Richmond. (Copy.)

[127]Interview with Nicholas A. Spinella, Esq., 28 December 1984, [Permission to quote.]

the picture did not seem very hopeful.[128] Writing at the time, Superintendent O'Brien gave a dismal projection:

> As far as the Commonwealth of Virginia is concerned, there is little possibility in the near future of any state funds being given to private education. Unfortunately, the future prospects of receiving federal aid in substantial amounts look dim.[129]

Summary

The concern for public funding for Richmond diocesan school students can be traced back to 1962, when diocesan leaders developed a plan for educating targeted populations as to the virtues of Catholic schools. Catholic parents, parishioners, public officials, and the general public were among those to receive information in the form of lectures, printed material, advertising and presentations. The plan was seen as a way to gain support for Catholic schools, needed for obtaining any type of public aid. In one respect, public aid was viewed as a saving mechanism for financially ailing schools. The plan was implemented nearly three years prior to the passage of the ESEA legislation.

Following the passage of the ESEA legislation in April of 1965, Virginia was ill-prepared to implement the Title I program because of the timing and lack of guidelines. Mr. Alfred Wingo was appointed

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[128]Interview with Rev. J. Stephen O'Brien, former Superintendent of Schools, Catholic Diocese of Richmond, 5 April 1984. [Permission to quote.]

[129]"A Statement On The Future Role Of The Catholic School In The Teaching Mission Of The Church," Reverend J. Stephen O'Brien, 12 January 1971, p. 10, Files of Bishop John J. Russell, Catholic Diocese of Richmond.

by the State Board of Education to be Special Assistant to the Superintendent with responsibilities for all federal programs in 1965. He was joined by Mr. Robert W. Sparks, IV, appointed Title I coordinator in January of 1966. The operating program was soon established and the early unpreparedness quickly overcome; eligible students egan receiving Title I services during school year 1966-67. Children in a few Richmond diocesan schools (mainly in the Richmond and Alexandria LEAs) were among those who began receiving Title I services during school year 1966-67.

Contrary to earlier belief, Catholic school officials expressed only minor dissatisfaction with the early levels of participation. This was soon to change. By school year 1968-69, the Superintendent of Schools for the Richmond diocese expressed concern over the numbers of children participating among his schools and the dearth of planning involvement by Catholic school authorities with respect to Title I.

The year 1968 marked the beginning of an unsuccessful three-year attempt to remove a prohibitive clause on state funding for sectarian schools in the Virginia State Constitution. The diocese, along with the Diocesan School Board and affiliated groups, focused much attention on the alteration effort. During this effort, the question of federal funding, including Title I, became intermingled with the question of state funding. Federal funds entering the state treasury were interpreted to be state funds. As state funds, federal funds could not be expended for sectarian schools, as defined in the Virginia Constitution.

Other issues tended to make the quest for altering the State

Constitution central to the thinking of diocesan officials at the time. Smaller school enrollments, fewer sisters teaching in the schools, and increased costs of operation all contributed to the urgency of the effort. Bishop Russell was noticeably involved in the plan, evidenced by the many proclamations and public statements made by him during this period. Litigation over Title I was given consideration albeit only briefly. The idea was considered too costly, the results questionable.

Title I services to eligible Catholic school students in the Richmond diocese languished and began to diminish toward the end of the early years. Coupled with the defeat on the Constitutional matter, the question of any type of public funding for Catholic school students appeared rather grim in 1971.

CHAPTER 3

A Time of Uncertainty

July 1971 -- December 1973

Between July 1971 and December 1973, a transition took place with respect to Title I and the Richmond diocesan schools. The early Title I aid which at least some students had received in a handful of these schools came to a halt. At the same time, changes occurred in the personnel makeup of both the Catholic diocese and the Virginia Department of Education. Some of the major characters shifted in each, setting the stage for the rather tense situations which arose later in the Title I experience for parochial schools in Virginia. The focus on Title I was unclear at the beginning of the time frame, mainly due to the gloomy prospects the Catholic contingent had respecting any changing of the State Constitution. The focus on Title I became even hazier as other issues occupied the minds and attention of Richmond diocesan officials. The lack of a specific focus or even a belief in federal funding played a part, as did apathy on the part of diocesan officials. The period ended, however, with hopes that some assistance might be on the horizon. This hope stemmed from proposed by-pass legislation which would eliminate the state as a factor in the Title I funding question.

Early Lack of Interest In Title I

Sister Lourdes Sheehan, R.S.M., became secondary supervisor

for the Diocese of Richmond beginning in July, 1971.[1] She was introduced at the September 29, 1971, school board meeting by Fr. O'Brien, who stated that her work was to assess the needs of the secondary schools of the diocese.[2] At this same meeting, O'Brien also announced that enrollment figures for the 1971-72 school year were lower than the previous year, from 27,847 to 26,669 . . . a decrease of 1,178, " . . . a significant drop in the rate of decrease over the last four years . . . ."[3] He further explained that the loss of enrollments was due to " . . . population shifts . . . and the present economic situation in the country."[4] Although not mentioned at the September 1971 board meeting, but certainly a factor in the closure of schools over a two year period from 1968-70, there was a 13% decline in the number of sisters teaching in the diocesan elementary schools.[5]

Decreased student enrollment was not the only concern in the fall of 1971, the issue of the state constitution revision reached its peak in November. On Friday, November 26, 1971, as reported in the Richmond Times-Dispatch, Bishop Russell made public his sentiments

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[1]Catholic Diocese of Richmond, Bureau of Information, News Release, 19 April 1972.

[2]"Summary of the Minutes of the Diocesan School Board Meeting - September 29, 1971", Files of Bishop John J. Russell, Catholic Diocese of Richmond, p. 1.

[3]Ibid.

[4]Ibid.

[5]"A Statement on the Future Role of the Catholic School in the Teaching Mission of the Church," Reverend J. Stephen O'Brien, 12 January 1971, p. 4. Files of Bishop John J. Russell, Catholic Diocese of Richmond.

over the failure to revise the Virginia Constitution:

> The Bishop of the Roman Catholic Diocese of Richmond said yesterday that the state should stop treating Catholics as 'second-class citizens with regard to schools.' The Most Rev. John J. Russell in a letter addressed to Virginia Catholics, said parochial schools save the state more than $17 million each year. 'The figure of $17 million is a conservative figure,' Russell said in a statement issued in connection with the letter. The figure, he said, is based on the per pupil cost of operation of public schools in Virginia. . . . If Catholic schools did not exist, he said, their students would add more than 26,000 pupils to the public school systems in the state. Those students, he said, would have to be paid for by tax money. Despite this contribution, Russell said, Catholics are being treated like second-class citizens as far as their schools are concerned. Russell said he applauded President Nixon's 'promise to work for the continuance of nonpublic education,' and said public tax money should be allocated in such a way that parents [are] 'genuinely free to select schools for their children according to their religious beliefs.' Although all of the parish-supported Catholic schools in the Richmond diocese are accredited by the state and are subject to the same educational standards as public schools, Russell said, <u>they receive no public funds outside of small amounts made available by the federal government under the Elementary and Secondary School Education Act</u>. [emphasis added] Russell said the diocese intends to keep its schools open 'to the extent of its abilities, 'but noted that spiraling costs have forced closure of 16 schools in the past three years.[6]

Disappointed by the failure of the effort to remove the prohibitions from the Virginia Constitution, diocesan authorities paid little attention to any type of public funding during the remainder of the 1971-72 school year. Moreover, other issues surfaced during the 1971-72 school year which drew attention away from Title I. One of the most controversial occurred at the beginning of the school year. Questions

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[6]"Bishop Russell Scores State Over Catholic School Status," <u>Richmond Times-Dispatch</u>, 26 November 1971.

raised, and resolutions passed by the Diocesan School Board at a special August 1971 meeting regarding the nature, type, and quality of religious education in the schools of the Richmond diocese created a sense of uneasiness as well as a shift in focus from public funding. The introduction of the Benziger elementary guidance program by the diocese in the fall of the school year, and to " . . . become mandatory in September, 1972 . . ." was anticipated to create anxieties among some parents.[7] That the anticipation of controversy was correct is evidenced by a January 19, 1972, report in The Evening Star (Washington, D.C.) which stated that the " . . . 5th grade textbook came under criticism at a meeting in St. Mary's Catholic School in Alexandria . . . ."[8]

Disagreement over diocesan school-board-proposed pay scales created further shifting in attention away from Title I during the winter of 1972. The spotlight on Title I was further diminished. School year 1971-72 ended dismally with school closures continuing to remain a priority in the minds of diocesan officials, as they announced on May 25, 1972, the closing of schools in Alexandria and Waynesboro.[9]

Although there were other issues which drew the attention of diocesan and interested Catholic school advocates, by the beginning

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[7]Rev. J. Stephen O'Brien, Letter to Principals, 4 August 1971, Department of Education, Diocese of Richmond, Files of Bishop John J. Russell, Catholic Diocese of Richmond.

[8]"Sex in Textbook Assailed," Lynn Dunson, 19 January 1972, The Evening Star, Washington, D. C., p. b-3.

[9]Catholic Diocese of Richmond, Bureau of Information, News Release, 25 May 1972.

of the 1972-73 school year, the diocese once again began to express an interest in receiving Title I funds. In actuality, during the previous three years, the Richmond diocese did not place " . . . much focus on Title I."[10] Even after Sr. Lourdes became superintendent, Fr. O'Brien stated that " . . . I didn't go to any [meetings] at the state department because I was convinced that many of the people at the state department were 'stone-walling' on this issue because of religion . . . ."[11] He mentioned that it was his belief at the time that the situation " . . . really portrayed Virginia's anti-Catholic bias . . . ."[12]

In summary, the period from June 1971 through 1973 was one of transition. At the beginning of this time frame, officials in the Richmond Diocese placed less emphasis on public funding, including Title I, for parochial schools under their jurisdiction. Part of the reason was in response to the failure to alter the state constitution. The closing of schools and controversy over the introduction of the guidance program simply demanded the attention of the diocesan officials. Priorities in school year 1971-72 did not include Title I. There were other factors which surfaced during that year, however, which had an impact on the Title I experience of the diocese. These factors resulted in a re-emergence of the desire to act on obtaining Title I services for eligible parochial school students by the beginning

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[10]Interview with Rev. J. Stephen O'Brien, 5 April 1984. [Permission to quote.]

[11]Ibid.

[12]Ibid.

of the 1973-74 school year.

The Virginia Department of Education Also Makes a Personnel Change

Occurring almost simultaneously with personnel changes within the hierarchy of the Richmond Catholic Diocese's school office was a personnel change at the Virginia Department of Education. Mr. Alfred L. Wingo retired as special assistant for federal programs and Dr. Robert V. Turner was hired as his replacement.[13] In an interview during the summer of 1984, Dr. Turner said that it was his belief that " . . . these [parochial school] children were the children of people who had paid taxes to the federal government and if this federal money was, by any reasonable interpretation of the law, supposed to flow in some extent to them, then they ought to have it."[14] But, according to Turner, there " . . . was always this bug-a-boo of church and state . . . [separation of]." Recalling those times, Dr. Turner also expressed the opinion that the Diocese of Richmond did not expend very much effort at the time of his initial arrival upon the state department scene. He added that he often, later, encouraged Sr. Lourdes in her efforts though he knew that the state constitutional prohibition was an obstacle.

Title I Services: Communications and Problems

In 1972, the Henrico County School Division sent a letter to

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[13]Interview with Dr. Robert V. Turner, former Special Assistant for Federal Programs, Virginia Department of Education, Commonwealth of Virginia, 6 July 1984. [Permission to quote.]

[14]Ibid.

the diocesan superintendent which invited him and other representatives of the diocese and parents of eligible children to attend a Title I funded preprimary program. The Henrico program offered transportation for participating children, regardless of school attended.[15] (Transportation was a point which was to become a major factor in the decision to grant a by-pass to certain LEAs.) There was no evidence that Fr. O'Brien or any staff member of the Department of Schools ever responded to this invitation. By September of that year, St. Patrick's School, St. Elizabeth's School, and Sacred Heart School, all in Richmond, lost the services of the once-a-week Title I reading teachers they had during the previous two school years. According to a memorandum found in the records of the Department of Schools, dated August 19, 1975, the Department, on an unspecified date in November of 1972, received a phone call from a physical education teacher " . . . who offered swimming lessons to Title I children in Sacred Heart School. Due to transportation problems, the children could not take advantage of these lessons."[16] Reading teacher services were briefly resumed in January of 1973 and ended in June of that year after the Department of Schools " . . . was told by Mrs. Joan Mim[m]s, Title I Coordinator for the Richmond Public Schools, that the Reading [sic] teacher service

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[15]Anne B. Taliaferro, Letter to Rev. J. Stephen O'Brien, 3 May 1972, Title I Files, Office of Catholic Schools, Diocese of Richmond.

[16]History of Title I Services to Parochial Schools in the City of Richmond, 19 August 1975, Department of Schools, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Mimeographed.)

would no longer be available . . . ."[17] Mrs. Mimms reportedly " . . . was told by someone at the State Department - not named - that Richmond Public School personnel could no longer work on Catholic school premises."[18] During an interview with the researcher, Sr. Lourdes Sheehan was asked if she recalled any particulars surrounding the elimination of these services:

> . . . as I recall, somebody at the state department questioned the legality of the City of Richmond providing on-site Title I services in Catholic schools and the person with whom we were dealing became gun-shy, I suspect. And, as a matter of fact, it may have been more than just being gun-shy. I think the person was told that the services had to cease. But I was never able to trace the origin of that statement, but the whole question of legality, or the constitutionality, I guess, is a better way to put it."[19]

When asked by the researcher, Mr. Robert W. Sparks, former Title I Director for the Virginia Department of Education, admitted that he, acting on orders ". . . from above", was the one who directed the Richmond public school authorities to stop the practice of sending public school personnel onto the premises of the parochial schools in question.[20] Another former member of the state Title I staff,

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[17]Sr. Elaine McCarron, "Facts Regarding Title I and Efforts of Staff, Diocese of Richmond, Department of Schools," (Memorandum), 7 October 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Mimeographed.)

[18]Ibid.

[19]Interview with Sr. Lourdes Sheehan, former Superintendent of Schools, Catholic Diocese of Richmond, 30 March 1984. [Permission to quote.]

[20]Interview with Mr. Robert W. Sparks IV, former Title I Director, Virginia Department of Education, Commonwealth of Virginia, 5 November 1983, [Permission to quote.]

Col. W. H. McCann, in a subsequent interview with the researcher, agreed with Mr. Sparks' information when asked if he recalled the incident. Col. McCann stated that "I think that [is] when somebody high up told us we had to, [that] we were violating certain [state] regulations . . . ."[21]

On the other hand, verification of Mr. Sparks' comments regarding Title I violations appeared in a May 22, 1975, memorandum from Richard E. Duffy, U.S. Catholic Conference education representative, to Richmond diocesan officials:

> Mr. Sparks, State ESEA Title I Coordinator, put all of us on notice that he would continue to approve Title I applications from local educational [agencies] regardless of whether or not they provided services to eligible nonpublic school children. [That] he received his orders from higher authority and, until he was told differently, he would continue what he was doing regardless of whether he was in violation of the Federal Statute.[22]

A certain amount of sarcasm began to creep into the correspondence of the time as evidenced by a memorandum dated September 28, 1972, from Sr. Elaine McCarron to the principals of three Richmond Catholic schools when she stated " . . . enclosed please find a brochure explaining the Title I programs available in the city this year. As usual, [emphasis added] I do not believe too much is relevant to

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[21]Interview with Col. W. H. McCann, former Title I Supervisor, Virginia Department of Education, Commonwealth of Virginia, 14 August 1984. [Permission to quote.]

[22]Richard E. Duffy, Memorandum to Sr. Lourdes, Rev. J. Stephen O'Brien, Sr. M. Eduard, Sr. M. Alberta, 22 May 1975. Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

your school."[23] Another citation which illustrates that diocesan officials felt the Title I issue was a justice issue appears in McCarron's memorandum when she stated that "the City of Richmond has approximately two and a half million dollars in Title I money. Since our children are citizens and eligible for some of this money[,] I know you will do everything possible to see what you can do for them."[24] This memorandum also provides one piece of evidence that the diocesan office was not prepared for questions on Title I when McCarron referred the three principals to " . . . call the Director listed on the brochure if you are not clear about how you can participate."[25]

Perhaps the most crucial point in the memorandum deals with a hint at later events when she states (referring to the need for the principals to identify eligible children and send lists to the Richmond Public Schools) that " . . . it is very important to send such a list because without it we are not cooperating and cannot complain when asked for our opinion by federal authorities."[26] The researcher was unable to discover any evidence that schools in the Richmond diocese or Richmond diocesan personnel had been approached by federal officials with regard to Title I prior to this time, however.

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[23]Sister Elaine Mccarron, Director of Elementary Education, Memorandum to Principals - St. Patrick, St. Elizabeth, Sacred Heart, 28 September 1972, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[24]Ibid.

[25]Ibid.

[26]Ibid.

Another issue surfaced in the late summer and early fall of 1972 that drew further attention of diocesan officials away from Title I: a proposal by the Richmond City Council to place a service charge on tax-exempt properties, including churches. During a 1985 interview, Mr. Charles M. Brower, former head of the Richmond Diocesan Office of Lay Activities, said that he felt that this particular issue " . . . didn't help what the Department of Schools was trying to do with the state."[27] This is a further noteworthy illustration of the aspect that diocesan attention through the months of August, September, and October of 1972 was focused on a separate, local, yet distinctive church-state issue; that at least in the eyes of one former diocesan official, the issue had a negative impact on whatever negotiations were being conducted by the Department of Schools respecting Title I. Numerous letters, including a petition signed by the PTA Presidents of the nine Richmond Catholic schools, exist in the records of Bishop Russell which provide evidence of the concern of the Richmond Catholic school community regarding the matter. Many of the letters were sent by the Bishop himself. While the matter was of great concern for slightly less than three months, resolution was reached on November 13th when the Richmond City Council voted to exclude church-related property from the service charge.[28] Letters from parents and from PTA presidents, it is interesting to note, were not found among the

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[27]Interview with Mr. Charles Brower, 30 April 1985. [Permission to quote.]

[28]Charles M. Brower, Memorandum to Bishop John J. Russell, 10 November 1972, Files of Bishop John J. Russell, Catholic Diocese of Richmond.

Title I files of the Office of Catholic Schools. The issue was apparently not of great concern to parents of eligible nonpublic school students in the Richmond diocese.

At nearly the same time the issue of the Richmond service charge on tax-exempt properties was being resolved, another national issue surfaced which drew further attention away from Title I. The beginnings of the tuition-tax credit effort on the national level even drew attention from Bishop Russell. Numerous letters and copies of letters from that time circulated between him and the Virginia congressional delegation.

On June 1, 1973, Mrs. Joan T. Mimms, coordinator of Title I, Richmond Public Schools, wrote a letter to Sister Elaine McCarron which described the summer program to be offered by the Richmond Public Schools and expressed the invitation " . . . to review our summer school proposal."[29] No evidence has been found which would indicate whether the invitation was accepted by Sr. Elaine, although another letter from Mrs. Mimms and dated nearly a year and a half later (November 27, 1974) indicates that the Department of Schools was very much interested in Title I services in Richmond.[30]

August 1973 -- The Title I Issue Intensifies

An important piece of correspondence from Richard E. Duffy, then assistant director of governmental programs at the United States

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[29]Joan T. Mimms, Letter to Sr. Elaine McCarron, 1 June 1973, Title I Files, Office of Catholic Schools, Diocese of Richmond.

[30]Joan T. Mimms, Letter to Sister Elaine McCarron, 27 November 1974, Title I Files, Office of Catholic Schools, Diocese of Richmond.

Catholic Conference, went to Charles E. Brower (government programs coordinator at the Richmond diocese). This letter is the first available documentation regarding the interest from the United States Catholic Conference in the Title I situation in Virginia. Duffy informed Brower of the manner in which he had become aware of the Virginia situation:

> It has come to my attention through a friend at the U. S. Office of Education that Virginia is one State which merely provides token participation of eligible nonpublic school children in ESEA Title I compensatory education programs. The law requires that local educational agencies are to provide Title I services to eligible non-public school children which are comparable in scope, quality and opportunity to participate as public school children.[31]

When questioned during an interview as to the identity of the "friend" mentioned in the letter, Duffy revealed that he had two friends in the U.S. Office of Education at the time, Joseph Vopelak and Dwight Crum; Duffy could not recall which of these two gentlemen it was.[32] (Researcher's note: Mr. Vopelak died in the spring of 1982, prior to the beginning of work on this project. When asked by the researcher, Dwight Crum did not indicate knowledge of the matter during an interview in July of 1984.)

Duffy's letter of August 21, 1973 also mentions to Brower that " . . . the eighth U. S. District Court of Appeals . . . ruled that the State of Missouri was in violation of Federal law by not providing

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[31]Richard E. Duffy, Letter to Charles Brower, 21 August 1973, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Mimeographed.)

[32]Interview with Richard E. Duffy, 10 July 1984. [Permission to quote].

Title I services to eligible children in nonpublic schools on an equitable basis."[33] Drawing a parallel between the Missouri situation and Virginia, Duffy encouraged Brower by stating " . . . you may wish to inform the Virginia State Education Department that they are apparently in violation of the Federal Statute in not seeing to it that the local education agencies in the state are providing equitable participation for eligible nonpublic school children in Title I programs."[34] The tone of the letter is one of request and encouragement as Duffy goes on to state that he believed " . . . that John [Robert] Sparks, State Title I Coordinator, sent a memorandum to all local educational agencies encouraging them to be a little more diligent in providing Title I service to nonpublic schools, but specifically prohibiting them from delivering the service to eligible children on nonpublic school premises."[35] (Researcher's note: The memorandum referred to in Duffy's letter, one of the few which survive from the era, was apparently no. 6767. See Appendix M.) A final point is made by Duffy's statement that if the lack of services on nonpublic school premises is a reality, " . . . this makes for inequitability of service, [and] its [sic] wrong."[36] Asked why he, Brower, was the one to receive correspondence from the United States Catholic Conference with respect to Title I (seemingly business for the Department of

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[33]Ibid.

[34]Ibid.

[35]Ibid.

[36]Ibid.

Schools), the former diocesan official responded by stating (in reference to Duffy):

> Because if he talked to anybody on the staff, if they didn't want to fiddle with it, they'd say, 'Well, why don't you write to Charlie Brower.' Because, I don't mind admitting it, I did a lot of nitty-gritty stuff for the diocese because nobody else wanted to dirty their hands. I spent a lot of time doing stuff like that. And I was conversing with the Catholic Conference on the Pro-Life bit . . . for 2 or 3 years . . . .[37]

Charles Brower, a month after receiving Duffy's correspondence, wrote a memorandum to Fr. O'Brien, Sr. Lourdes and Sr. Elaine in which he mentioned the enclosure of Duffy's letter and his having sent a copy to diocesan attorney Nick Spinella. An indication of uncertainty on the part of Brower is revealed by his statement in reference to the Duffy letter " . . . but I do feel that it [is] of interest and might be worth looking into?"[38] Brower seemingly left the matter in the hands of the Department of Schools by saying that " . . . [he] felt that you [Department of Schools] have contacts that could determine whether or not there is a problem."[39]

Mr. Nicholas Spinella, diocesan attorney, replied to Brower's letter on 26 September 1973, remarking that:

> It would certainly appear to me that we should have a meeting with Sister Lourdes and Father O'Brien, and perhaps Bishop Sullivan, and determine a course of

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[37]Interview with Charles M. Brower, 30 April 1985. [Permission to quote.]

[38]Charles M. Brower, Memorandum to Reverend J. Stephen O'Brien, Sister Lourdes Sheehan, Sister Elaine McCarron, 20 September 1973, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[39]Ibid.

> action against the State Department of Education in this matter, since we now have ammunition which would appear to me to be very persuasive in convincing the State Department of Education to correct their inequitable treatment of non-public school pupils in regard to Title I money. Accordingly, I would suggest that you coordinate such a meeting in the near future.[40]

Recalling matters during his interview in 1985, Brower stated that Sr. Lourdes was very interested in the matter of Title I but hat he didn't believe this to be true of Fr. O'Brien: "I don't think he was as gung-ho . . . about Title I as Lourdes was."[41]

The U.S. Department of Health, Education, and Welfare Issues a Publication

The U. S. Department of Health, Education, and Welfare, in 1973, issued a publication on Title I. The Foreword of the book, entitled Title I ESEA: How It Works, indicates that it was designed as an informational document " . . . for parents and parent advisory councils."[42] The participation of nonpublic school children is discussed in detail. A copy was found among the Title I files in the Office of Catholic Schools. Whether the booklet was read by Richmond diocesan officials is uncertain. Since the booklet was in the Title I files, it appears reasonable that it was reviewed, but there is no certainty

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[40]Nicholas A. Spinella, Letter to Mr. Charles M. Brower, 26 September 1973, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[41]Interview with Charles M. Brower, 30 April 1985. [Permission to quote.]

[42]U. S. Department of Health, Education, and Welfare, Title I ESEA: How It Works, DHEW Publication No. (OE) 73-07104. U.S. Government Printing Office, Washington: 1973. Foreword.

that this was the case. Regarding nonpublic school children and their participation in Title I programs, notation is made to the fact that, for public schools:

> . . . it is not enough to say that enrollment in title [sic]I programs is 'open' to nonpublic school children or that provisions are being made to include nonpublic school children. A school district must spell out in its application exactly how these children will receive title [sic] I services. Some of the most common methods used are:
>
> 1. Dual enrollment. Under this method the nonpublic school children attend public schools part time to take part in special projects or activities.
>
> 2. Shared services. In this method the public school system shares its title I staff and/or equipment with title [sic] I children attending desegregated nonpublic schools. A public school teacher or special personnel, e.g, speech therapist or guidance counselor, may work with children in the nonpublic school.
>
> 3. Mobile services. The school district may use a mobile unit, equipped with special materials and personnel, to provide title [sic] I services to public and nonpublic school children. In this way, the public school employees are not teaching on private school property.[43]

This publication goes on to also state that Congress mandated that " . . . beginning July 1, 1972, a school district which could not prove it was offering comparable services could not get title [sic] I money."[44]

Although it remains unclarified as to how or when the information was obtained by the Richmond Diocesan Department of Schools, a photostatic copy of what appears to be a page from the 1973-74 ESEA Title I application was found within the Title I files. This page gives the following information with respect to nonpublic school participation

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[43]Ibid., p. 16.

[44]Ibid., p. 9

in Title I:

54. Were private school administrators and teachers invited to review your Title I program?
Yes, private school administrators were invited to review the Richmond City ESEA Title I program. A letter to document their invitation is on file in the Title I office.

55. What Title I instructional activities will be provided for eligible private school children in target schools?
Reading instructional activities and in-service training for teacher aides will be made available to all qualifying private schools in the Richmond City School Division.[45]

While the City of Richmond was responding favorably within the framework of these questions, the U.S. Office of Education officials, beginning with 1972, were having doubts about Virginia's compliance with assurances on services being provided to nonpublic school children.[46] Another handbook, "Title I, ESEA, Participation of Private School Children," was given to the Virginia state education agency and Virginia officials " . . . attended a number of conferences and meetings, conducted by OE staff, where the law and regulations pertaining to this requirement were explained and discussed."[47]

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[45]Richmond City Public Schools, "ESEA Title I Program, 1973-74, To Meet The Special Educational Needs of Educationally Deprived Children," n.p., n.d., Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[46]Robert R. Wheeler, Memorandum: Participation of Eligible Private School Children in ESEA, Title I, in Virginia -- Briefing to Commissioner of Education, 6 January 1977, Title I Files, Dwight R. Crum, Office of Nonpublic Education, U.S. Department of Education, Washington, D.C. (Photostatic copy.)

[47]Robert R. Wheeler Memorandum: Participation of Eligible Private School Children in ESEA, Title I, in Virginia -- BRIEFING to Commissioner of Education, 1 January 1977, Title I Files, Dwight R. Crum, Office of Nonpublic Education, U.S. Department of Education, Washington, D.C. (Photostatic copy.)

Services Received by Children in the Richmond Diocese, 1973-74.

A number of citations appear among the records of the Richmond diocese which illustrate and confirm the notion that diocesan officials were gearing up their concern and subsequent quest for Title I services for eligible parochial school students during school year 1973-74. Sister Alberta Gillen, Department of Schools supervisor in northern Virginia in 1973, wrote a memorandum to Sister Elaine in which she indicated the status of the Title I program in that area:

> . . . three schools in Arlington County are in [a] Target 1 Area and are entitled to funds for academically deprived students. St. Charles, St. Agnes and St. Coletta qualify.
> Each school submits [a] form and [an] area of deficiency for children who qualify. St. Charles list[s] 36 children for whom English is a second language. They receive $40 per student for [each] academic area or [a] total of $1440. Funds are handled as Title II funds by submitting invoices for materials ordered.
> St. Agnes lists 20 children deficient in reading and math. Since this is two academic areas[,] they receive $80 per student--total $1600. They use Holt, Rinehart, Winston [r]eading [m]aterials and Addison Wesley [m]ath [m]aterials. They order ancillary materials also, which they could not afford otherwise.
> St. Coletta lists 16 children deficient in reading -math. They do not designate special education but just academically deficient according to Mr. Gutter's instructions. Their total is $1280.
> The grand total for these three Arlington County Schools is $4320.
> In addition[,] all of our schools in Arlington County[--] St. Agnes, St. Ann[,] St. Charles[,] St. Thomas More[,] St. Coletta[,] [and] Marymount [--] are eligible and receiving swimming instructions for four weeks on [a] daily basis each semester for [a] % [percentage] of students. Instructions are held in three geographical areas. These lessons are given to both elementary and secondary students

each year.[48]

On the same day, Sr. Elaine wrote to the principals of three Richmond parochial schools and indicated that diocesan officials and their attorney would " . . . be meeting soon with state officials to see if we can get more services, e.g., the reading teacher we had last year. We will keep you informed as to the outcome."[49] The same memorandum gives further indication that the Department of Schools was rekindling its interest in Title I as Sr. Elaine mentioned that she " . . .[had] St. Patrick's list of Title I children, but need[ed] Sacred Heart's and St. Elizabeth's lists."[50] No evidence has been discovered which would indicate why these two schools were late in responding to Sr. Elaine's earlier request. Attached to Sr. Elaine's memorandum was a copy of a September 13, 1973, Richmond Times-Dispatch article, "a new opportunity for elementary & middle school Students In Richmond", [sic] which describes possibilities for children in public and private schools with respect to ESEA Title I.[51]

Sixteen days later, Sister Mary Fennell, director of elementary education in the tidewater area of Virginia, wrote a letter to Mrs.

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[48]Sr. Alberta Gillen, Memorandum to Sister Elaine McCarron, 15 October 1973. Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[49]Sister Elaine McCarron, Memorandum to Sister Laura O'Connor, Sister Marie Germaine, Sister Kathleen Kelly, 15 October 1973, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Mimeographed).

[50]Ibid.

[51]"a new opportunity for elementary & middle school Students In Richmond," [sic] Richmond Times-Dispatch, 13 September 1973, p. d-2.

Florence Rosen in the Special Projects Office of the Norfolk Public Schools. Sister Fennell's letter requested that information be sent to Sr. Lourdes Sheehan on the Title I programs being offered to parochial schools through the Norfolk Public Schools and how children in the parochial schools could participate.[52] Similar letters were purportedly sent to Mrs. Hunt in the Newport News Public Schools, the director of Title I programs in the Hampton Public Schools, a Miss Joy Wainright in the Virginia Beach City Public Schools, and to Mr. A. C. Hinton in the Portsmouth Public Schools.[53] No documentation has been found regarding whether Mrs. Rosen received the letter or, if she did, what her response might have been. The response by Joy Wainright to Sr. Lourdes has been preserved however. Her letter gave none of the information requested by Sr. Fennell and referred Sr. Lourdes " . . . to Mr. C. L. Conyers, Title I Supervisor, State Department of Education, Richmond."[54] The letter indicates that copies were sent to Sr. Fennell and Mr. Conyers; no explanation was offered. Speculation could take one of two forms: a) Ms. Wainright did not have the information and made reference to the person she thought best equipped to make a response or b) she was being cautious dealing in an area with which she was unfamiliar. Given all other evidence,

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[52]Sister Mary Fennell, Letter to Mrs. Florence L. Rosen, 1 November 1973, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[53]Sister Mary Fennell, Attachment to Copy of Letter sent to Mrs. Florence Rosen, 1 November 1973, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[54]M. Joy Wainright, Letter to Sr. Lourdes Sheehan, 5 November 1973, Title I Files, Office of Catholic Schools, Diocese of Richmond.

it is most likely the former.

On November 7, 1973, Sr. Mary Fennell sent a memorandum to Sister Lourdes which indicated the extent of Title I Programs in the Norfolk LEA. [A copy of this memorandum is listed as Appendix F]. This is further documentation that diocesan officials were slowly beginning to gear up their efforts to obtain additional services for children attending parochial schools of the Richmond diocese.

Notably absent during the period from July 1971 through December 1973 is anything in any of the files reviewed in the Diocese of Richmond from parents of school children attending diocesan schools. Unlike the many letters from parents to diocesan authorities addressing the other issues of the time, the absence of correspondence on the Title I issue surfaces the question of just how interested were the parents of the children who would have benefited from Title I services. Moreover, a review of the diocesan school board minutes for the period reveals a similar dearth of reference to Title I. The only reference in the board minutes to federal funding during the entire time frame occurred at the January 19, 1972, meeting:

> The Board was advised of the current status of the possibility of Federal Aid for Catholic schools. Fr. O'Brien also told the Board that the Catholic Schools had received funds from a Special Project Title II grant totaling $6,837.[55]

The Title I issue, as far as the Catholic side was concerned, appears to have been a central office thrust from the Department of

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[55]Minutes of the Diocesan School Board Meeting, 19 January 1972, Files of Bishop John J. Russell, Catholic Diocese of Richmond. (Photostatic copy.)

Schools of the Richmond Diocese with little visible support from parents of eligible students.

Summary

The beginning of the 1971 through 1973 period was marked by the failure of the Catholic effort to alter the state constitution. Had the effort been successful, state and then federal funding would have accrued to eligible students in Richmond diocesan parochial schools. Faced with this failure and the emergence of other issues, Richmond diocesan officials turned their attention away from the question of public funding in any shape, including ESEA Title I. Beginning with changes in the makeup of personnel at both the Virginia Department of Education and at the Richmond diocese's central school office, the question of Title I resurfaced as an issue. Title I services reached a low point during this time frame. Nearly all came to a halt by the end of the 1972-73 school year. The United States Catholic Conference took notice of the Virginia circumstance, encouragement was offered by the possibility of congressional relief in the form of a by-pass, and the diocese began to seek information regarding the number of students actually receiving Title I services. Parents did not seem to play much of a role with respect to the beginning of the new phase of efforts.

CHAPTER 4

From Frustration to Near Resolution

January 1974 -- December 1976

The year 1974 was a crucial year with respect to Title I services for parochial school children in the Diocese of Richmond. The conclusion of Wheeler v. Barrera, 417, U.S. 402 (1974) and the passage of the Education Amendments of 1974, P.L. 93-380, were significant factors which had influence on events which were to come later. The number of children who received Title I services declined during the period.

The decline in participation among nonpublic school children can be partially attributed to the policy of the Diocese of Richmond which held that any Title I services offered by the public schools which were not on the premises of the Catholic schools were to be refused. This stance resulted in the concept and principle of "dual enrollment" becoming a significant factor in determining the level of participation by Richmond parochial school students in Title I.

According to the State Performance Report for Title I for the period fall 1974 through summer of 1975, 665 nonpublic school children and 107,746 public school children received services under ESEA Title I.[1] In 1976, a year later, 100,215 public school children and 101

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[1]State Summary of ESEA Title I Programs, Fall 1974 Through Summer 1975, Commonwealth of Virginia, State Department of Education, n.a., n.d., n.p. United States Department of Education, Office of Carolyn Horner, Washington, D.C. (Photostatic copy.)

nonpublic school children were receiving Title I services.[2] By 1977 there were 96,749 public school children and 35 nonpublic school children enrolled in Title I services.[3] With "dual enrollment" as an unacceptable means for receiving Title I services, and with diocesan officials demanding "on-site" services, the stage was set for the final confrontation between state and diocesan officials.

The years 1974 through 1976 were extremely significant from the standpoint that finally, after years of dialogue and discussion, the issues of exactly what the diocese was demanding and what the Commonwealth of Virginia was prepared to offer as far as Title I services were concerned became clear. By the end of this time frame, the Richmond Catholic Diocese was petitioning the U.S. commissioner of education for implementation of the by-pass mechanism of the Educational Amendments of 1974.[4]

Invitations and Frustrations

One of the very first events which occurred with respect to ESEA Title I and the Richmond diocese during calendar year 1974 was the receipt in the Department of Schools of a January 10th letter

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[2]State Performance Report for ESEA Title I, Commonwealth of Virginia, 1976. State Department of Education. (Photostatic copy. Original in Office of Carolyn Horner, U.S. Department of Education, Washington, D.C.)

[3]State Performance Report for ESEA Title I, Commonwealth of Virginia, 1977. State Department of Education. (Photostatic copy. Original in office of Carolyn Horner, U.S. Department of Education, Washington, D.C.)

[4]Sr. Lourdes Sheehan, Letter to Terrell Bell, 12 January 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

from Mrs. Joan Mimms, coordinator of Title I for the Richmond Public Schools. The letter began with the greeting, "Again we welcome you and your staff to encourage student participation from your schools in [t]he ESEA Title I Program, Richmond Public Schools."[5] Encouragement to attend and be part of " . . . workshops designed for Title I staff . . ."[6] was but a continuation of the regular invitations sent out by the City of Richmond Public Schools staff. (Researcher's note: One of the workshops, ironically, was scheduled at a religious facility, Eastminster Church, in Richmond.[7])

Sr. Rosemarie Bryant, a member of the religious order Daughters of Charity, sent her recollections of a meeting which she claimed was held at "City Hall" regarding ESEA Title I. The recollection, in the form of a three-page, typed memorandum was discovered among the Title I documents in the Office of Catholic Schools. A sample of the attitude regarding Title I services by at least this one teacher in a Catholic school at the time is preserved in her memorandum:

> Naturally, the discussion centered around the effectiveness of the different programs in operation and the advantages of Title I money in operation to serve the needs of the disadvantaged child, especially in the area of Reading. During the discussion period I commented on the excellent use of the funds as shown in the form of: personnel, materials, equipment, visuals, and the facilities provided to meet these students' needs in the Reading area. My question to the group concerned some real and immediate needs

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[5]Joan T. Mimms, Letter to Sr. Elaine McCarron, 10 January 1974, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[6]Ibid.

[7]Ibid.

> for the students at St. Patrick's who are just as needy and some few cases, more so, especially, in the Reading and Fine Arts area. A[s] a teacher i[n] a Catholic School with Title I benefits, I want to know what services can you offer me? How can I share in these unique benefits presented to me tonight? And, in so doing, better meet the needs, the individual needs, of our students.[8] [emphasis added.]

Sr. Rosemarie also indicated that " . . . from all appearances, the members were most sympathetic with our immediate needs and the apparent predicament we face as a so-called 'Title I School'."[9] According to Sr. Rosemarie, Mrs. Joan Mimms " . . . also remarked '. . . You realize funds have been cut and I am really sorry that the one service of Reading assistance which you had last year has been taken away from you this school year -- September 1973 - June 1974. We will not be allowed to service you with personnel in your school. Please note that you are permitted to make arrangements to borrow some of the reading materials from the Centers.'"[10] The outcome of the meeting did provide a little satisfaction for Sr. Rosemarie, at least in the cases of some students who had some reading difficulties. She described Mrs. Cowan, a reading specialist at Chimbarazo Elementary School at the time, as having " . . . very kindly tested . . ." the students in question, but that " . . . at present, the testing is the extent of her service for these students."[11]

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[8]Sr. Rose Marie Bryant, Memorandum on Title I Advisory Meeting, January 1974, Title I Files, Office of Catholic Schools, Diocese of Richmond. p. 1. (Photostatic copy.)

[9]Ibid. p. 2.

[10]Ibid.

[11]Ibid. p. 3.

Writing in a memorandum on January 23, 1974, Sr. Elaine McCarron offered "some reflections" on Title I at that time. McCarron explained to Charlie Brower, Nicholas Spinella, Sr. Lourdes, and Fr. O'Brien that "in Norfolk, Sister Mary Fennell is a member of the Title I Advisory Council."[12] The McCarron memorandum also revealed some of her feelings:

> A most current complaint is that in January of 1973 the principals of the three Title I schools in Richmond and Sister Elaine were called to the Title I Office at City Hall and told that we would have a reading teacher from the middle of January to spend one day a week in the three Title I schools. This teacher did a very fine job and remained in the school until June. In September of 1973 we were told by Mrs. Mimms that this service would no longer be available since she was told by someone at the State Department, not named, [Robert W. Sparks, as per Chapter 3] that Richmond Public School Personnel could no longer work on Catholic school premises. Previous to this, three years ago we had speech therapists in all three Title I schools. They were removed when speech therapists became scarce. There was also in the past a reading teacher at St. Patrick's who was also removed. Recently the Richmond Newspapers stated that the Richmond Public School System had hired forty additional reading teachers paid by Title I funds. There are also, in many of the schools, teacher aides who are paid completely from Title I funds. These have never been available to our school system. We have had consistent nursing services through Title I.[13]

The memorandum is a clear indication of the frustration of one diocesan staff member in relation to Title I.

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[12]Sr. Elaine McCarron, Memorandum Regarding Title I Participation - Some Reflections, 23 January 1974, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[13]Ibid.

Diocesan Action on Title I Moves to a New Phase

There is no specific date cited in January 1974, but according to a memorandum contained in the Title I files of the Office of Catholic Schools, there was a " . . . meeting of Fr. O'Brien, Sr. Elaine, C. Brower, [and] Sr. Lourdes with Nick Spinella to discuss implications of proposed revisions of ESEA legislation, especially Title I. [The] advice of Mr. Spinella was to urge Congressmen to support the amendment of Congressman Quie which provides a nonpublic school by-pass provision in Title I of H.R. 69 and to wait until the new amendments became law before pressuring the State Education Agency into complying with the law."[14] Spinella, interviewed by the researcher in 1984, explained the reasoning for his advice as follows:

> Well, the reason I did that was because I felt that we were wasting our time with the state, that the state was never going to accommodate our wishes voluntarily. Politically, because of the church/state amendment or church/state posture of Virginia and the fact that our constitution has a stronger separation of church and state clause than even the federal constitution, that the political climate here is such that we were never going to have enough muscle, politically, to do it without litigation. So that the only alternative we've ever had with the state of Virginia was to sue. And, the prospects for winning were not good. So, when the Quie Amendment came up, I said, 'Well, this will force the state and give you a by-pass. It gives you a way to go. And it was better to wait and get that passed and support that and, as ultimately happened, forced the state, through the federal government, through congressional legislation, the Quie Amendment, to use the by-pass.[15]

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[14]"Beginning The By-Pass," memorandum, n.d., n.a., Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[15]Interview with Nicholas A. Spinella, Esq., 28 December 1984, [Permission to quote.]

Advice and information regarding the Elementary and Secondary Education Act of 1974 in the form of a memorandum from the United States Catholic Conference to State Catholic Conference directors was found among the files of the Office of Catholic Schools. Attached to the memorandum was another, also from the United States Catholic Conference, but from the Division of Elementary and Secondary Education. The presence of this memorandum, supportive of the document addressed to State Catholic Conference directors, explained how the first appeared in the files of the Office of Catholic Schools. Dated March 12, 1974, the first document presents what the U.S. Catholic Conference viewed as " . . . the most important provisions of the bill . . . ."[16] With respect to nonpublic schools, the memorandum cited the following areas:

> Title I contains a new by-pass provision which provides the U.S. Commissioner of Education with the authority to implement an administrative remedy in a situation where a state or local education agency is either prevented by law or for any reason has substantially failed to provide services to eligible nonpublic school children.
> The new consolidation title contains a section providing secular, nonideological services, equipment and materials for the benefit of children attending nonpublic schools.[17]

The Robinson memorandum also expressed the posture taken by the U.S. Catholic Conference at the time with respect to the Title

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[16]James L. Robinson, Memorandum to State Catholic Conference Directors, 12 March 1974, Office of Government Liaison, United States Catholic Conference, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[17]Ibid., p. 2.

I amendments:

> We feel that both the nonpublic school provision in Title I and in the consolidation title are adequate to ensure equitable treatment of the children enrolled in nonpublic schools. We are continuing to express our strong opposition to any anti-busing language being added to this legislation. Consistent with our previous positions, we do not intend to get involved in the issue of the Title I formula because it does not directly affect our participation. [emphasis in original.][18]

Perhaps the most significant remark in the advisory letter was the very strongly placed advisement that:

> YOU SHOULD NOTE THAT THE PUBLIC SCHOOL ESTABLISHMENT IS GOING TO MAKE AN ATTEMPT TO KILL THE TITLE I BY-PASS PROVISION. AT THIS TIME, WE FEEL WE NEED YOUR HELP TO DEFEAT THIS EFFORT. CONSEQUENTLY, WE ARE REQUESTING THAT YOU CONTACT YOUR CONGRESSIONAL DELEGATION AS SOON AS POSSIBLE ASKING THEIR SUPPORT TO RETAIN THIS PROVISION IN THE BILL. [emphasis and caps. in original][19]

The specific suggestion was made that when contacting the appropriate congressmen, they were to be " . . . request[ed] . . . [to] support the amendment of Congressman Quie . . . a nonpublic school by-pass provision in Title I of H.R. 69."[20] As far as the Diocese of Richmond was concerned, this request, coupled with the earlier recommendation of attorney Spinella, resulted in letters being sent by Sr. Lourdes Sheehan to three members of the Virginia congressional delegation -- House Representative David E. Satterfield, III, and Senators William Lloyd Scott and Harry F. Byrd, Jr. Dated March 14, 1974, each of these letters gave an identical message in requesting

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[18]Ibid.

[19]Ibid.

[20]Ibid., p. 4.

" . . . support . . . [for] the amendment of Congressman Quie which provides a nonpublic school by-pass provision in Title I of H.R. 69."[21] Within a week, all three of the Virginia legislators responded to Sr. Lourdes' letter. All, in essence, thanked her for her interest and promised to study the matter. None, however, made any commitment to vote in favor of H.R. 69. (Researcher's note: The records discovered in the Office of Catholic Schools did not contain evidence that Sr. Lourdes had any correspondence with any other Virginia legislator. The fact that she chose to write to Congressman David Satterfield is indication that Richmond was on her mind. Satterfield represented that district.)

On March 27, 1974, the United States House of Representatives as a full body began consideration of H.R. 69. They were joined by the United States Senate on May 20th in deliberations on the Education Amendments of 1974 in the form of Senate Bill 1539. The Senate did pass the House version of H.R. 69 on July 24th, followed by House passage on July 31. The newly passed legislation, containing a by-pass provision, became P. L. 93-380. It was the by-pass provision which later caused the friction between the state and the Catholic Diocese of Richmond to increase to very high levels.

Interpretations Regarding the Meaning of the By-Pass

Understanding the Title I situation as it occurred in Virginia necessitates having knowledge not only of the Title I law regarding

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[21]Sister Lourdes Sheehan, Letter to The Honorable Harry F. Byrd, Jr., 14 March 1974, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.) [Note identical letters for The Honorable David E. Satterfield, III, and William Lloyd Scott.]

the participation of nonpublic school children, but also of how federal officials viewed and interpreted that law - since they were charged with the responsibility of enforcement. That federal officials found it necessary to determine the exact meaning of the newly enacted by-pass provision of P.L. 93-380 was found among the internal memorandums within the U.S. Department of Education. T. H. Bell, U.S. commissioner of education, in a memorandum to the executive deputy commissioner, deputy commissioners, and regional commissioners, asked that they become familiarized with the tenets of the by-pass provision of the new law:

> . . . there is a stronger mandate in HR 69 for nonpublic school participation. I believe we need to start now with the kind of diligence necessary to carry out the spirit of the act concerning equitable nonpublic school participation. I ask that you become personally acquainted with these statutory provisions so that our regulations will fully reflect Congressional intent.[22]

Commissioner Bell appointed Mr. Dwight Crum " . . . to review all draft regulations and to be helpful . . . in arranging nonpublic school officials to meet with you for their input . . . ."[23] There is, in this memorandum, the suggestion that the U.S. Office of Education had encountered difficulties with nonpublic school participation in prior years but that the future was to bring change:

> Please emphasize to your program managers

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[22]T. H. Bell, Memorandum: Nonpublic Participation in HR 69, to Executive Deputy Commissioner, Deputy Commissioners, Regional Commissioners, 28 August 1974, Title I Files, Mr. Dwight R. Crum, Office of Non-Public Education, U.S. Department of Education, Washington, D.C. (Photostatic copy.)

[23]Ibid.

> that they have a responsibility to study and know the legislative history of their programs regarding nonpublic school participation. We need to get the problems of the past behind us and work closely with responsible spokesmen for the nonpublic elementary and secondary schools in the development of our plans and our regulations. We must let them know that we welcome and need their input.[24]

Following on the heels of the U.S. commissioner's letter was a letter written by Dwight R. Crum, coordinator for nonpublic educational services, on September 6, 1974, and addressed to Robert R. Wheeler, deputy commissioner for school systems. This letter discussed the legislative intent with respect to the participation of nonpublic school children in Title I.[25] Specifically mentioned were House Report No. 93-805, February 21, 1974, and Senate Report No. 93-380, March 29, 1974. Copies of these reports accompanied Crum's letter to Wheeler. Crum quoted extensively from the reports and explained that the Title I legislation, from the beginning, did have a legal remedy in cases where nonpublic school children were not receiving equitable services in states where state law prohibited such services -- the withholding of funds — and that the by-pass gave the U.S. commissioner of education an additional means of serving these children.[26] A key point is noted, that the by-pass mechanism was to be placed into operation " . . . only in situations where it is absolutely necessary to

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[24]Ibid.

[25]Dwight R. Crum, Letter to Robert R. Wheeler, 6 September 1974, Title I Files, Dwight R. Crum, Office of Nonpublic Education, U.S. Department of Education. (Photostatic copy.)

[26]Ibid.

assure such participation."[27] Appropriate, in retrospect, to the Virginia situation, Crum recommended that further information regarding " . . . Congressional intent be sought relative to the bypass where legal restrictions apply."[28] Illustrative of the newness of the by-pass provision and the uncertainty regarding implementation, Crum concluded his memo with a question as to whether a locality's Title I application could be given approval before the by-pass was invoked.

In early December 1975, officials within the U.S. Office of Education met to discuss the questions of methodologies in applying Title I services to nonpublic school children. The Virginia Title I situation was discussed, as were other items. Specifically, it was noted that " . . . the Title I staff feels it is necessary to also apply the significant failure category to Virginia."[29] This remark was in relation to then noted failures within the Oklahoma Title I program. During the meetings, the question of "dual enrollment" came up for discussion with the conclusion that " . . . Title I in effect rejected 'dual enrollment' as a viable alternative to 'on premises.'" Crum further reminded his colleagues in U.S.O.E. that " . . . an early study for Title I, a position by the National Advisory Committee for Disadvantaged Children, a U.S. Catholic Conference stand for 'on premises' and other factors considered this [dual enrollment]

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[27]Ibid.

[28]Ibid.

[29]Dwight R. Crum, Letter to Dr. Robert Weatherford and Mr. Richard Hayes, 10 December 1975, Title I Files, Dwight R. Crum, Office of Non-Public Education, U.S. Department of Education, Washington, D.C. (Photostatic copy.)

alternative defective."[30]

In May of 1974, a letter was sent from E. H. Cooper, the director of school systems for the U.S. Department of Health, Education and Welfare to Sister Lourdes which requested her presence at a conference in Philadelphia. The conference was designed " . . . to foster better understanding and increase communications . . . regarding . . . the role and relationship of public school systems with non-public schools . . . ."[31] An unsigned memorandum to Sr. Lourdes on the 29th of May informed her that Dr. Turner had called and indicated that he had talked to a number of persons who felt that she should attend the June 5th and 6th regional meeting in Philadelphia regarding federal aid to education.[32] Reviewing this memorandum, it is interesting to note that Dr. Turner was evidently hopeful that Lourdes would go to the meeting and that she would " . . . post him on what goes on."[33] This is evidence that there was trust and a working relationship between Sr. Lourdes and Dr. Turner. Sr. Lourdes did not attend the meeting in Philadelphia, indicating in a letter to E. H. Cooper that there was not much reason to do so in light of the fact that the Virginia issues were proving difficult to resolve on the local level,

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[30]Ibid.

[31]E. H. Cooper, Letter to Sr. Lourdes Sheehan, 3 May 1974, Title I Files, Office of Catholic Schools, Diocese of Richmond.

[32]Unsigned memorandum to Sr. Lourdes Sheehan, 29 May 1974, Title I Files, Office of Catholic Schools, Diocese of Richmond.

[33]Ibid.

that it would be " . . . foolish . . ."[34] to therefore go to a national meeting. She stated that she continued her belief " . . . that eligible students in non-public schools are not . . . receiving the opportunity to participate in federally funded programs."[35] A few days after the scheduled conference, however, a letter from Sr. Lourdes to Nick Spinella requested information as to his " . . . progress, if any, . . . on . . . [the] investigation of our participation in various Title I [p]rograms."[36]

In an interview with the researcher, Dr. Turner recalled that he encouraged Sr. Lourdes in what she was attempting with Title I. He said that " . . . there was a recognition on both sides, that this was something that ought to be followed and ought to be worked at."[37] Turner also stated ". . . but underlying the work of her office and of mine in the State department was always this bug-a-boo of church and state . . . ."[38] That Sr. Lourdes and Dr. Turner had a working relationship was confirmed in writing by Sr. Lourdes at the time when he had sent her a copy of a publication in December of 1974 entitled Handbook for Private School Administrators. Lourdes, in thanking

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[34]Sr. Lourdes Sheehan, Letter to E. H. Cooper, 13 June 1974, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[35]Ibid.

[36]Ibid.

[37]Interview with Dr. Robert V. Turner, former Special Assistant for Federal Programs, Virginia State Department of Education. 6 July 1984.

[38]Ibid.

Dr. Turner, wrote:

> I appreciate your thoughtfulness and have found the information extremely helpful. Please know that I would welcome any information which you can supply which would increase the effectiveness of our working together.[39]

Explanations and Further Invitations

While much of the Richmond diocesan effort during the 1974 through 1976 phase focused on the Richmond LEA, other school divisions were also given some attention. In the Portsmouth and Lynchburg LEAs, principals of diocesan elementary schools queried the public schools with regard to Title I information. From the correspondence left behind, the efforts in these LEAs were as unsuccessful as in the Richmond LEA, perhaps more so. The tone of a letter sent by Sr. Claire Angermaier, principal of Holy Cross School in Lynchburg, to Sr. Lourdes is reflective of the difficulties experienced in that location:

> The Title I Coordinator for the Lynchburg Public School District is Mr. Melhaff. I talked to him yesterday about the norms for determining eligbility. He siad [sic] their funds are quite limited and cover only children in Grades one through three who have reading problems. Any child who lives in the city and who has scored below 54 on the readiness test is eligible for the Distar Program. If any of our children qualified they would have to be taken daily to one of three public schools where the program is offered. I hope this is sufficient information for your purpose. If I can be of further assistance, please let me know . . . .[40]

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[39]Sr. Lourdes Sheehan, Letter to Dr. Robert V. Turner, 18 December 1974, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[40]Sr. Claire Angermaier, Letter to Sr. Lourdes, 11 September 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond.

It is also interesting to note that the letter appeared to be a response to a request from Sr. Lourdes for information on Title I: " . . . I hope this is sufficient information for your purpose. If I can be of further assistance, please let me know . . . ."[41] The suggestion is that Title I services were not easily obtainable. The implication is that very little was accomplished during this time frame in the Lynchburg LEA with respect to Holy Cross School and Title I. Further substantiating the notion that the diocesan superintendent had requested information on ESEA Title I from the Catholic schools is a letter by the principal of the Portsmouth Catholic Elementary School, Sr. Elizabeth Ann, to Sr Lourdes which was written on September 16, 1975:

> The information you requested relative to Title I in the City of Portsmouth is as follows:
> Coordinator -- Garfield Shafer, Jr.
> Screening Instruments -- Math -- SRA Achievement Series
> Language Arts SRA Achievement Series
> In preparation for 1975-1976 the information on the income level of our families was not used. However, as I understand from Mr. Shafer, if our children are educationally disadvantaged and in the attendance area of the designated target schools, they qualify for help. To date, Sister, I have met with Mr. Shafer both here and at the Title I office to determine how the children of Portsmouth Catholic Elementary may receive help. Mr. Shafer has given me the Passport: Positive Approach to Supplementary and Supportive Program Opportunities for Reinforcement Teaching for Portsmouth for 1975-1976. This document contains considerable information concerning the entire program. Our children could possibly receive help this year but I would like to talk with you further about this.[42]

The Richmond Public Schools, continuing in the 1975-1976 school

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[41]Ibid.

[42]Sr. Elizabeth Ann, Letter to Sr. Lourdes, 16 September 1975 Title I Files, Office of Catholic Schools, Diocese of Richmond.

year, invited Richmond diocesan staff persons to attend various Title I workshops. Whether invited or not, the presence of these documents among the Title I files of the Catholic diocese appears to indicate that diocesan officials were aware of what was going on with respect to the City of Richmond's Title I program. A specific invitation to a mathematics workshop was extended on November 20, 1975.[43] As with most of the other invitations, however, it is not clear whether diocesan officials accepted. While there is no evidence that Sr. Elaine attended, there is documentation which suggests that she did at least send a copy of the notice to the principals of the Richmond Catholic parochial schools, as noted on a copy of the invitation.[44]

HEW Reviews the Virginia Title I Program Plan

The U.S. Office of Education, in correspondence dated June 11, 1974, and addressed to Virginia Title I Coordinator Robert W. Sparks, revealed concerns with respect to participation of nonpublic school children in the 1973-74 school year. (Catholic school children were not singled out for attention in the letter.) Of particular interest, however, are the following remarks:

> The State Attorney General's ruling that public school personnel cannot provide services on nonpublic school premises continues to restrict Title I services to such eligible children to times, places, and programs tailored and provided for public school participants. With less than 200 such eligible children participating from approximately 12 nonpublic

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[43]Lois E. Townes, Letter to Sr. Elaine McCarron, 20 November 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond.

[44]Ibid.

> schools within the State, it continues to be the responsibility of the State and is again recommended that the state search out and assure that appropriate Title I services are provided by LEA's to eligible educationally deprived children enrolled in nonpublic schools at times and places that will provide for them a genuine and comparable opportunity to participate in the programs in accordance with Section 141 (a)(2) of the Act and 116.19(a),(b), and (c) of the Title I Regulations. [emphasis added.][45]

The U.S. Office of Education sent a team to Virginia from May 5 through 7, 1975, for the purpose of reviewing the state program of Title I. On August 13, 1975, the team's findings and recommendations were submitted to the State Superintendent of Public Instruction.[46] According to the report, nonpublic school officials were among those interviewed as part of the methodology for obtaining information. Of the two LEAs visited, Portsmouth and Mecklenburg County, the reported findings related to the former are of interest in as much as the Diocese of Richmond had an elementary school located in that LEA -- Portsmouth Catholic Elementary School:

> The review team found Portsmouth and Mecklenburg County to be in compliance with Title I require-

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[45]Richard L. Fairley, Director, Division of Education for the Disadvantaged, Letter to Robert W. Sparks, 11 June 1974. [Photostatic copy in personal files of researcher. Secured from U.S. Department of Education.]

[46]John H. Rodriguez, Letter to Dr. W. E. Campbell, 13 August 1975, Files, U. S. Department of Education, Division of Compensatory Education.

ments relating to nonpublic school participation.[47]

The U.S. Office of Education's review team's findings in the Portsmouth LEA may be interpreted in two possible ways: either they found that "compliance" meant that nonpublic school children were receiving Title I services or that the LEA was following the requirements regarding notification of the availability of Title I services to nonpublic school children, and that nonpublic school officials were involved in the planning of Title I services. Since the public school records are unavailable, it appears that a definitive answer is not to be found. While this is an obstacle, the fact remains that the U.S. Office of Education was satisfied, according to their report, that the Portsmouth LEA was giving services to nonpublic school children, including those in the Portsmouth Catholic Elementary School. Unfortunately, no definition survives which would explain compliance as viewed by the review team. With regard to nonpublic schools as a general category, the report states that:

> The staff [of the State Department of Education] has provided additional assistance to local agencies by convening five mini conferences on the topic throughout the State during the fall of 1974 to inform the staff of school divisions of the provisions relating to private schools as contained in P.L. 93-380.[48]

More relevant to the Richmond diocese and its efforts with Title I

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[47]William T. Bryant, Kenneth Frye, A Report To Virginia State Department of Education, Findings and Recommendations of an Annual Review of Title I, ESEA, Program May 5-9, 1975, U.S. Office of Education, Division of Education for the Disadvantaged, Midwestern Operations Section. Files, U.S. Department of Education, Office of Compensatory Programs, Washington, D.C. (Photostatic copy.)

[48]Ibid.

was the review team's commentary regarding the state's ability to provide services on nonpublic school premises:

> The review team was advised that a letter would be sent to the Superintendent of Public Instruction from a member of the staff setting forth the requirements of Title I as they refer to the participation of children enrolled in nonpublic schools and their relation to the oral opinion rendered several years ago by the State Attorney General that State school personnel cannot, within the State Constitution, provide services on nonpublic premises.[49]

(Researcher's note: No other documentation was discovered with respect to the " . . . oral opinion . . ." remark made in the 1975 review team report. As recalled from Chapter 3, however, the Richmond City Public Schools at the close of the 1972 -- 1973 school year, had withdrawn Title I service personnel from the parochial schools there on the advice of "higher" authority. While Mr. Robert Sparks indicated during interview that he was that authority, it will be recalled [see Chapter 3] that he insisted that he was operating under authority from above. However, the remark in the review team's report suggests that an earlier oral viewpoint had been obtained from the Virginia attorney general.)

The report further stated that " . . . the degree of participation of eligible nonpublic school children was not available for [f]iscal [y]ear 1975, however, from discussions with State staff, local school division officials, and a review of a few Title I approved projects it was evident that the participation of such children receiving comparable Title I services continues [emphasis added] to be very low

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[49]Ibid.

in the state . . . ."[50] Of special note was the review team's recommendation: "The review team believes a current written ruling by the State Attorney General would be helpful to school division officials as to whether the agencies have such an option for the provision of comparable Title I services to eligible children enrolled in nonpublic schools in accordance with Section 141(a) (2) of the Act and CFR Sections 116.19(a),(b), and (c)."[51] This recommendation by the review team, viewed in retrospect, appeared to be in opposition to the team's earlier remarks concerning the compliance with respect to the Portsmouth LEA.

The Virginia Superintendent of Public Instruction Retires

Dr. Woodrow Wilkerson retired as Superintendent of Public Instruction on April 1, 1975, as the State Board of Education minutes indicate, " . . . after serving as State Superintendent of Public Instruction for almost fifteen years, longer than any of the thirteen persons who preceded him in the position . . . ."[52] During a brief contact with the former state superintendent, he informed the researcher that his recollections of Title I matters were necessarily vague because of the time elapsed. He said that this was so because he recalled having left detailed and day to day operations of Title I matters to several supervisors including Robert Sparks, ESEA Title I coordinator, following Mr. Wingo's retirement in 1972, and to both Mr. Sparks

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[50]Ibid.

[51]Ibid.

[52]Minutes, State Board of Education, Commonwealth of Virginia, 23 May 1975, p. 87.

and Mr. Wingo prior to that time.[53] Surviving records confirm that Dr. Wilkerson had little contact with respect to the Richmond diocesan Title I experience.

Meetings, Memorandums, and a Request of the Attorney General

A meeting between Richmond diocesan officials, representatives from the Virginia State Department of Education, and Richard Duffy (U.S. Catholic Conference representative) on May 13, 1975, was a major event in the experience of the Richmond diocese with Title I. This meeting was held to determine the nature of Title I services that the Virginia Department of Education was willing and/or able to offer respecting eligible parochial school children in the Richmond Catholic Diocese. The meeting was entered into by Catholic officials who believed that the only alternative to receiving equitable services for eligible students would be to request the implementation of a Title I by-pass.[54] Richard Duffy explained in a 1984 interview that a preliminary meeting was held at the Richmond diocesan offices prior to the May 13 meeting at the Virginia Department of Education. During this preliminary meeting he said that he did not "coach" Sr. Lourdes on what she should or should not say to the state department officials, but that the preliminary meeting was only to determine the groundrules as to who was going to be the spokesperson for the diocese. Duffy recalled that " . . . Lourdes and Steve O'Brien were the spokespersons

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[53]Telephone interview with Dr. Woodrow Wilkerson, 18 August 1984. [Permission to quote.]

[54]Interview with Richard E. Duffy, 10 July 1984. [Permission to quote.]

for the Diocese. I was just sitting there as a consultant."[55] Duffy explained that he had previously written to Lourdes that " . . . the by-pass was there, it was a weapon which they could use to obtain services for their kids."[56] (Researcher's note: Richard Duffy could not recall the date of the correspondence referred to and thus, could not produce the documentation.)

Duffy recalled that the meeting at the Virginia Department of Education on May 13, 1975, revealed that Mr. Sparks " . . . was going to continue the status quo, which was no participation for private school kids."[57] Duffy added, " . . . we then said that we will go seek a by-pass. And, he said 'fine, go seek a by-pass. But you're not getting any services until you win your by-pass.'"[58]

That at least the representatives from the U.S. Office of Education were thinking about obtaining a ruling from the Virginia attorney general regarding the constitutionality of Virginia offering eligible parochial school students Title I services as required under the ESEA law has already been cited. Following their May 13, 1975, meeting with Virginia Department of Education representatives, officials in the Richmond diocese also desired to have an opinion from the attorney general, as evidenced by a letter written by Sr. Lourdes to Dr. Turner on May 16, 1975:

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[55]Ibid.

[56]Ibid.

[57]Ibid.

[58]Ibid.

> After a very frank and honest discussion, my specific request to Mr. Wiley [Wildy] is that your office communicate with me within thirty days the result of a request that the State Attorney General certify that the Commonwealth of Virginia is prohibited by its constitution from providing comparable services to nonpublic school students. Although I am certain that Mr. Wiley [Wildy] has communicated the seriousness of this request to you, I want to reiterate my position. I intend to pursue this request until the participation of nonpublic school children in the Commonwealth of Virginia in appropriate federally funded programs is comparable to the services being provided for children in the public schools.[59]

The tone of this letter is authoritative. The superintendent made her intentions very clear. A May 22 memorandum from Richard E. Duffy, U.S. Catholic Conference education representative, to diocesan officials recapped the events of a May 13 meeting with Virginia Education Department personnel and officials of the Richmond and Arlington dioceses. (Researcher's note: The Richmond diocese was split as of June 1974. Out of the former northern Virginia section was created the Diocese of Arlington.) In this memorandum, Duffy stated that the officials of the two dioceses agreed to " . . . await the response from the Virginia State Attorney General on the issue of requesting a waiver . . ."[60] [from the ESEA law requirement that the state education agency must provide comparable Title I services to eligible nonpublic school children.] The diocesan strategy was revealed in the

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[59]Sr. Lourdes Sheehan, Letter to Dr. Robert V. Turner, 16 May 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[60]Richard E. Duffy, Memorandum to Sr. Lourdes, Rev. J. Stephen O'Brien, Sr. M. Eduard, Sr. M. Alberta, 22 May 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

Duffy May 22 memorandum. The diocese would do two things: (a) wait until the attorney general could make a ruling prior to seeking a by-pass and, (b) concentrate on the Title I matter before pursuing Title III.[61] From this, it was suggested that diocesan officials were experiencing difficulties with other federally funded programs as well. In conjunction with the HEW review team's comments during their visitation May 5-7, 1975, and in apparent response to the request from Sr. Lourdes, then Acting Superintendent of Public Instruction, Dr. William H. Cochran sent a letter dated May 28, 1975, to Virginia Attorney General Andrew P. Miller. In his letter, Cochran asked the attorney general " . . . in light of the provisions of Section 406 (a) of P.L. 93-380, whether the state may furnish direct services, e.g., providing teachers and other services . . . to students attending private schools, sectarian and non-sectarian."[62]

The Influence of Meek v. Pittenger, 421 U.S. 349 (1975) on the Virginia Title I Case

On May 15, 1975, the U.S. Supreme Court, in Meek v. Pittenger, 421 U.S. 349 (1975) struck down as unconstitutional two Pennsylvania laws which gave aid to private school students. Significant to the Virginia case, as was later evidenced by the actions of Richard Duffy at the United States Catholic Conference, was the section of Meek which dealt with "on-site" services. As reported in a statement by

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[61]Ibid.

[62]Dr. William H. Cochran, Letter to Andrew P. Miller, 28 May 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

the United States Catholic Conference on May 30, 1975, no longer would the program associated with the Pennsylvania law in which " . . . services were given by state employees to nonpublic pupils in their schools . . ."[63] be allowed. Having had an opportunity to study the Meek ruling, Richard Duffy, at the United States Catholic Conference, stated that he believed some of the tenets might indeed apply in the Virginia situation. Accordingly, on July 8, 1975, he sent a communique to Sr. Lourdes which, upon examination, reveals fears from the U.S. Catholic Conference level regarding the then still impending Attorney General's ruling:

> I suggest that you do not continue to 'push' the Attorney General for an opinion regarding the State's ability to provide services to eligible private school children. At this juncture we feel that the Attorney General may interpret the recent Supreme Court decision of May 19, in the Meek v. Pittenger case against us. So we would prefer having no opinion from the Attorney General at all. We will assume that there are no prohibitions barring the State Education Agency or its local educational agencies from providing comparable services to eligible children in private schools.[64]

Invited to comment on this correspondence during a 1984 interview, Duffy stated that the U.S.C.C. was of the opinion that the Meek decision was a real threat to all of Title I services received by parochial school children all over the country. He offered the explanation that since Meek had struck down on-premises services, U.S.C.C. felt

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[63]Office of General Counsel, United States Catholic Conference, Statement, 30 May 1975, Washington, D.C.

[64]Richard E. Duffy, Letter to Sr. Lourdes, 8 July 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond.

that Title I services would similarly be threatened, since " . . . 90 percent of the states delivered services on premises. So, our Office of General Counsel and the U.S.C.C. Department of Education . . . developed the ten [items] to document substantial failure of the state to provide eligible private school students Title I services [in order] to go ahead with a by-pass . . . ."[65]

At the time, Duffy outlined further strategy for Sr. Lourdes and suggested that she begin to compile documented evidence regarding the lack of services for eligible children in Richmond diocesan schools. He went further and recommended the selection of a school district " . . . where you have a high percentage of minority group educationally disadvantaged children who are not receiving Title I services or who may be receiving only minimal services but which are in no way comparable to the services obtained by the public school children in the same district."[66] He added that " . . . if you have a well developed and documented factual record of lack of comparable services, then your position is extremely strong when requesting the U.S. Commissioner of Education to invoke the 'bypass'."[67] The U.S. C.C. position with respect to parochial school participation in ESEA programs following the Meek decision was that (a) they were uncertain as to the effects of the ruling, (b) that guidelines which they had published be followed, and (c) that they were concerned with " . . .

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[65]Interview with Richard E. Duffy, 10 July 1984. [Permission to quote.]

[66]Duffy, Letter to Sr. Lourdes, Op. cit.

[67]Ibid.

unnecessary court challenges."[68]

While the researcher was unable to secure a copy of the Original Guidelines published by the United States Catholic Conference, a copy of the Revised Guidelines was discovered. A review of the detailed instructions in this memorandum lends support to the possibility that they were the source for Duffy's recommendations to Sr. Lourdes:

> Develop a detailed factual record of the nature of the assistance under ESEA and the recipient of the aid. Record the following:
> a. Nature of assistance under Title I and Title IV
> b. Method of providing the aid
> 1) reason for this method of assistance
> 2) religious background of teachers under public school control if information is readily available.
> c. Types of students assisted
> 1) number of minority students
> 2) age and religion of students
> 3) economic status of children being helped
> 4) educational deficiency (progress which has been made)
> d. Length of time program has been in operation
> e. Comparability with aid for public school students
> f. Adverse effects of curtailment or change of educational assistance.[69]

That Sr. Lourdes followed up on the U.S.C.C. recommendations during the fall of 1975 has already been documented in the cases of the Lynchburg and Portsmouth Catholic schools.

The Attorney General Makes a Ruling

On July 21, 1975, Virginia Attorney General Andrew P. Miller

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[68]Edward R. D'Alessio and Richard Duffy, Memorandum: "USCC Revised ESEA Guidelines for the Post-Meek Era," 25 November 1975, United States Catholic Conference, Washington, D.C.

[69]Ibid.

replied to Dr. Cochran's letter of May 28th and issued an opinion on Title I services as applicable to non-public schools in Virginia. In essence, the ruling declared that Title I services could not be applied to children on-site at the private school.[70] Miller stated that " . . . the federal funds, upon receipt by the State, would become State funds and are subject to the limitations imposed by the General Assembly or the Constitution of Virginia."[71] He explained that " . . . a State department may not assume functions forbidden under Virginia statutory or constitutional law merely because those functions are funded with federal monies."[72] Quoted is the section of the Virginia code which Richmond diocesan officials, the diocesan school board, and the separate parents' group had unsuccessfully fought -- Article VIII, Section 10:

> Article VIII, Section 10, of the Constitution of Virginia (1971), forbids the appropriation of public funds to any school or institution of learning not owned or exclusively controlled by the State or a political subdivision, except that, subject to such limitations as may be imposed by the General Assembly, the General Assembly and local governing bodies may appropriate funds for educational purposes which may be expended in furtherance of elementary, secondary, collegiate or graduate education in public and nonsectarian private schools and institutions of learning. This section narrowly circumscribes aid to nonpublic education. In the absence of legislative authority for aid to private schools of the type envisaged by the

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[70]Andrew P. Miller, Letter to Dr. William H. Cochran, 21 July 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[71]Ibid.

[72]Ibid.

> federal statute, neither the State Department of Education nor local educational agencies may provide direct aid.[73]

According to the ruling, while the state might be prohibited from rendering direct Title I aid to nonpublic schools, especially to schools of the sectarian variety, the state was eligible to request and " . . . accept funds under Public Law 93-380."[74] An alternative in the form of dual or double enrollment was suggested as a possible means of offering services to eligible nonpublic school children -- at the public school site.[75] It is of passing note that Miller did not mention the Meek ruling while issuing his opinion.

The Richmond diocesan officials became aware of the Attorney General's ruling when Dr. Robert Turner wrote to Sr. Lourdes on August 28, 1975. It was at this time that he enclosed copies of Dr. Cochran's May 28 letter to the attorney general, Mr. Miller's reply and Superintendent's Memo. No. 7589.[76] The memorandum, addressed to division superintendents by Dr. Cochran was for informational purposes and included the crucial correspondence with the attorney general. In this way, the local public school authorities were made aware of the state level action. The deputy superintendent did suggest that the superintendents confer with their attorneys regarding questions on

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[73]Ibid.

[74]Ibid.

[75]Ibid.

[76]Dr. Robert V. Turner, Letter to Sr. Lourdes Sheehan, 28 August 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond. [Photostatic copy.] See also: Title I Files, Virginia, U.S. Catholic Conference, Washington, D.C.

the matter which might surface locally.[77] It is not known how many superintendents accepted the advice.

Sr. Lourdes Explains her Strategy

Sr. Elaine McCarron, during an interview with the researcher, suggested that she and Fr. O'Brien were not " . . . encouraged by Sr. Lourdes' efforts on Title I."[78] When the comment was mentioned to her, along with the question as to whether she felt they ever tried to discourage her, Sr. Lourdes responded as follows:

> Part of what motivated me, I think, was the fact that I believed then, and I believe now, that eligible Catholic school children were being deprived of services which they both had a right to and needed because of some block at the state level. And the fact that I believed that there was serious injustice at stake convinced me that it was an issue that was worth going after. I knew I was right because . . . I was familiar with the legislation and I was familiar with the handbook regarding the inclusion of children in Catholic schools. And, I was attending national meetings when all these other superintendents were talking about all the services that they were getting under Title I [emphasis added.] So I didn't . . . I wasn't willing to accept the fact that just because Virginia had this constitutional prohibition against public monies going for sectarian schools, that we shouldn't pursue it, particularly because the federal government had included the bypass, simply, to cover cases

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[77]Supts. Memo. No. 7589, 1 August 1975, Commonwealth of Virginia, State Department of Education, Richmond, Virginia. Title I Files, Office of Catholic Schools. (Photostatic copy.) [See Also: Title I Files, Virginia, Department of Education, U.S. Catholic Conference, Washington, D.C., See Also: Title I Files, Office of NonPublic Education, U.S. Department of Education.]

[78]Interview with Sr. Elaine McCarron, 15 February 1984. [Permission to quote.]

like this.[79]

Sr. Lourdes explained her strategy as being motivated by " . . . the fact that we had children who were eligible and were not getting services, and when I started looking at the numbers involved, thinking about all the years that Catholic school children had been denied services, I decided it was an issue worth fighting."[80] She further explained the comments of Sr. Elaine:

> You know, they [O'Brien and McCarron] had both been in the office long before I had gotten there and they had gone through the machinations of the State Department [of Education] where Catholic school children would be included in the services, and every time there would be a cut in services, our children would be the first ones to be cut out. So, they didn't have a very hopeful position because they had seen what had happened previously -- where we'd look like we'd get services and then we wouldn't get services . . . . I wouldn't say that they discouraged me. It was that they were much more realistic, initially, and said to me 'you know, you're going to spend a lot of time and it's not going to get you anywhere. And my position was that I thought it would get me somewhere on behalf of all those children . . . .[81]

On September 12, Sr. Lourdes wrote to Dr. W.E. Campbell, newly appointed Superintendent of Public Instruction, and thanked him for agreeing to meet with her to discuss " . . . the participation of nonpublic school children in Title I projects in the State of

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[79]Interview with Sr. Lourdes Sheehan, 30 March 1984. [Permission to quote.]

[80]Ibid.

[81]Ibid.

Virginia."[82] She also brought the superintendent up to date with a reminder of what took place in regard to the request for the attorney general's ruling and stated that she was " . . . interested in plans to provide comparable services for eligible students in Catholic Schools . . . in the City of Richmond, the City of Norfolk, and the City of Portsmouth."[83]

A View From the United States Office of Education

Mr. Dwight Crum, senior policy advisor to the executive assistant in the United States Department of Education, explained in an interview the ESEA difficulties from his perspective as they related to private schools, particularly the parochial schools. Mr. Crum, who worked with the Title I programs from late 1971, stated that the compromise reached in Congress during the passage of the original ESEA legislation was designed to " . . . serve all teachers and children."[84] He stated that " . . . there was a Blaine Amendment in about 44 states which prevented state funds from going to religious entities and most state attorney generals ruled that their federal elementary and secondary education funds could pass through to the LEAs without being construed as state and public funds and they therefore did not have the state constitutional problems with church related schools."[85] However,

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[82]Sr. Lourdes Sheehan, Letter to Dr. W. E. Campbell, 12 September 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond.

[83]Ibid.

[84]Interview with Mr. Dwight Crum, 13 August 1984. [Permission to quote.]

[85]Ibid.

he did add that " . . . in some states like Missouri, Virginia, Nebraska and Wisconsin, they had problems for many years in that they would get various rulings but the upshot of it was that primarily, once our treasury gets it, it becomes state funds, and that's it."[86] As an example of how the by-pass mechanism first worked in another federal program (not Title I), Crum explained that " . . . in one state, all they (private schools) got was someone's salary for $10,000 a year. And, it was just a very, very minimal kind of effort to satisfy the private school community."[87] In Title I at the time, according to Crum, there were a number of states which did, however, work out their problems with the private school community. In others, however, this was not the case. In these, "Congress would hear . . . that we're really not serving these kids equitably in one of the most important programs in some states, and that's Title I."[88]

Crum pointed out that in these states services were being offered to nonpublic school children both " . . . after school hours and requiring [them] to go to the public school premises . . . ." The federal government's position, Crum explained, centered on the problem of enforcing the federal law, on the one hand, and, simultaneously, having to be faced with the problem of who had the responsibility for education, in general, in the first place:

> from the federal government's side, there is a problem that you don't want the heavy hand of the federal gov-

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[86]Ibid.

[87]Ibid.

[88]Ibid.

> ernment jumping into education, because education is not a federal power, its a state power, with the powers reserved to the state and the people. So, there has been this very touchy area of federal control of education, and thats a "buzz" word that sets people going like crazy.[89]

Inaccurate Data, a Problem for U.S.O.E.

One of the problems the U.S. Office of Education had at the time, according to Crum, was they did not " . . . have . . . accurate data on the participation of private school children in our programs."[90] An example of this in the Virginia case and thus supportive of Crum's contention was the Virginia State Summary [o]f ESEA Title I Programs, Fall 1974 Through Summer 1975. The information contained within this report is not the same as compared with information gathered by the staff of the Richmond diocese. The former report listed 77,525 school age children enrolled in nonpublic schools, none from low income areas.[91] At the same time, the Diocese of Richmond operated schools located within the boundaries of cities in the same areas designated as Title I "target" areas. The situation in the City of Richmond is cited here. On November 13, 1975, Sr. Elaine McCarron sent a letter to Mrs. Joan Mimms at the Richmond Public Schools:

> Enclosed please find the lists of students identified as Title I children attending Catholic Schools in the City of Richmond. All these children are residents of the City of Richmond. It is my understanding that the

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[89]Ibid.

[90]Ibid.

[91]State Summary of Esea Title I Programs, Fall 1974 Through Summer 1975, Virginia, Office of Ms. Carolyn Horner, U.S. Department of Education. (Photostatic copy.)

> public school to which these children might attend for help in Reading and Mathematics will contact the Catholic [s]chool the child attends and arrangements will be made.[92]

The following is a compilation of enrollment data which accompanied Sr. Elaine's letter. This shows the numbers of children, by race, who were eligible for participation in the Title I services offered by the City of Richmond public schools:

School Name	Number of Participating Pupils by Race					
	B	W	O	Total	Subject Area	Grade Level
St. Benedict	1	13	0	14	Reading and Mathematics	3 -- 5
St. Patrick	17	0	0	17	Reading and Mathematics	1 -- 4
	0	2	0	2	Reading only	3
St. Elizabeth	22	6	0	28	Reading and Mathematics	1 -- 7
	N/A	N/A	N/A	4	Mathematics only	1 -- 7
	N/A	N/A	N/A	6	Reading only	1 -- 7
Sacred Heart	1	19	5	25	N/A	1 -- 8
St. Paul's	1	1	0	2	Mathematics only	1 -- 8
	1	17	0	18	Reading only	1 -- 8
Reading only	1	19	0	26		
Math only	1	1	0	6		
Reading & Math	40	19	0	59		
N/A	1	19	5	25		

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[92]Sr. Elaine McCarron, Letter to Mrs. Joan Mim[m]s, 13 November 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

	Pupils by Race				
	B	W	O		
Totals	43	58	5	116	[93]

While not 100 per cent accurate, it is reasonably certain that these data appear to indicate that one hundred sixteen (116), or 17.4 percent, of the six hundred sixty-five (665) nonpublic school children who received Title I services in approximately the same time frame were parochial school children in the five Richmond-area Catholic schools.

By the end of the 1975-1976 school year, the total number of nonpublic school children listed as having received Title I services in Virginia had fallen to one hundred one (101).[94] This decline reflected the difficulties between the Richmond diocese and the Virginia Department of Education.

Crum Explains U.S.O.E.'s Problem With Virginia Title I

Crum went on to mention that during the 1974-1975 time period he had correspondence from Richard Duffy, United States Catholic Conference, which discussed the matter of the Virginia situation. Crum recalled that he contacted Robert Sparks, the Virginia Title I director regarding the Richmond diocesan situation, that Mr. Sparks indicated that " . . . until a Commissioner of Education told him to do other

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[93]E.S.E.A. Title I Roster -- 1975-1976, (Educationally Disadvantaged), File Reports, 13 November 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copies.)

[94]File Report, Section B, Number of Children Who Participated In Title I Programs (Virginia), 1976, U.S. Department of Education, Office of Carolyn Horner, n.p.

than what he was doing, he would not do it."[95] Crum stated that the situation was fairly difficult during 1976 because the State of Virginia made no effort to provide equitable services to private school children. He recalled the scenario:

> The General Counsel here, met . . . with [the] elementary and secondary people . . . . I was involved . . . . [as a listener] more than anything else. [They said that] . . . there had to be an effort made to see if [the children] could . . . [be served in] some way. You can't just go ahead and "by-pass". . . . [W]hat slowed it down [in Virginia] . . . in '76 . . . I guess, to be perfectly fair, as I said earlier, [was] the State Department of Education of Virginia's own reaction . . . . [There was] this letter from Dr. Campbell, without any explanation, saying ' . . . go ahead and "by-pass."[96]

Crum expressed his belief that there had been very little negotiation by and between the Virginia Department of Education, the U.S. commissioner of education, and the private school authorities.

Invitations, Request for By-pass, Response and Inconsistency

On at least the local level in Richmond itself, there were numerous references regarding invitations to Richmond diocesan personnel as well as local diocesan school officials and points of information concerning meetings and inservice activities which were conducted by the city of Richmond public school system. In October of 1976, the coordinator of Title I reading, Mrs. Helen W. Wallace sent Sr.

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[95]Interview with Mr. Dwight Crum, 13 August 1984. [Permission to quote.]

[96]Ibid.

Elaine McCarron a 1976-1977 schedule of Title I reading workshops, including agenda items for each meeting. The accompanying note was checked " . . . for your information."[97] The very date (January 12, 1976) on which Sr. Lourdes Sheehan wrote a letter to Terrell Bell, U.S. Commissioner of Education, asking that he " . . . enact the 'bypass' provided by law regarding Title I in the State of Virginia . . .",[98] officials of the Richmond Public Schools sent out a communique to local school authorities and others regarding a workshop on human relations scheduled for later that month.[99] This communique, in turn, was sent by Sr. Elaine to the Richmond area principals marked "for your information."[100]

February 13, 1976 marked the date on which T. H. Bell, U.S. commissioner of education, responded to Sr. Lourdes letter of January 12. Bell apologized for the delay in response and promised to review the matter " . . . very carefully . . . before any determination . . .

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[97]Helen W. Wallace, Note to Sr. Elaine McCarron, 13 October 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond.

[98]Sr. Lourdes Sheehan, Letter to Dr. Terrell Bell, 12 January 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[99]H. B. Pinkney, Russell M. Busch, Joan T. Mimms, Lucy B. Jones, Memorandum on Human Relations Workshop, to Area Directors, Curriculum Specialists, Title I Paraprofessionals, 12 January 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond.

[100]Ibid.

as to whether or not "bypass" is necessary . . . ."[101] Sr. Lourdes maintained contact with the U.S. Catholic Conference and sent Richard Duffy a copy of Commissioner Bell's letter. This she did on February 18, 1976, and included the comment to Duffy that she was gathering the data he had previously requested with regard to building a case to be used by the officials of HEW if necessary.[102]

Seemingly inconsistent with the occurrences surrounding Title I, in that matters had reached the request-for-by-pass stage, were the activities taking place at the State Board of Education meeting on March 26, 1976. At this forum, Sr. Lourdes' name was presented to the board as a possible member of the Title IV Advisory Board.[103] While inconsistent, this does further provide evidence of a good working relationship between Sr. Lourdes and Dr. Turner, and that at least he appeared to be positive regarding the participation of parochial school students in ESEA.

On April 13, 1976, Sr. Kathleen Kelly, principal at Sacred Heart School in Richmond requested reading materials " . . . through Title I . . ."[104] from Mrs. Helen Wallace of the Richmond Public

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[101]T. H. Bell, Letter to Sr. Lourdes Sheehan, 13 February 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond.

[102]Sr. Lourdes Sheehan, Letter to Richard Duffy, 18 February 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

[103]Minutes, State Board of Education, Commonwealth of Virginia, 26 March 1976, p. 34.

[104]Sr. Kathleen Kelly, Letter to Mrs. Helen Wallace, 13 April 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

Schools. There is no indication that any action was taken on the request.

Dr. Turner requested board approval of the 1976-1977 Title I Plan for Virginia during the April 23, 1976, board meeting; the board gave the approval.[105] Also dealing with Title I, the State Board of Education was informed by the Superintendent of Public Instruction, Dr. Campbell, that Virginia was scheduled to repay $403,000 to HEW " . . . as the result of different interpretations of guidelines by HEW officials and State and local school officials."[106] (Researcher's note: The misinterpretations did not deal with nonpublic school participation in Title I.)

Accused of "Inertia," U.S.O.E. Takes Action

Occurring almost simultaneously with the events at the State Board of Education, on April 19 Richard Duffy wrote a scathing letter to then U.S. Deputy Commissioner of Education, Robert R. Wheeler, in which Duffy accused the U.S. Office of Education of " . . . inertia, foot dragging, and plain inactivity . . in acting on complaints received by the Office on bypass requests . . . ."[107] This letter noted that Sr. Lourdes in Virginia was the first nonpublic school superintendent

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[105]Minutes, State Board of Education, Commonwealth of Virginia, 23 April 1976, p. 50.

[106]Minutes, State Board of Education, Commonwealth of Virginia, 28 May 1976, p. 67.

[107]Richard E. Duffy, Letter to Robert R. Wheeler, 19 April 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.) [See also: Copy on file, Title I Files, U.S. Catholic Conference, Washington, D.C.]

to request the Title I by-pass, preceding Oklahoma, Missouri, and Wisconsin by a month. Duffy's letter further alleged that " . . . since the inception of the Title I program, the nonpublic school children in the states of Virginia and Oklahoma have not received any services under Title I."[108] Duffy demanded to know what OE had done with regard to the by-pass requests subsequent to interim responses made by the U.S. commissioner. No documentation survives regarding a response, if any, that Wheeler might have made to Duffy's letter. However, Wheeler wrote to Sr. Lourdes on April 23, 1976, and requested that she submit a copy of the Virginia attorney general's July 21, 1975, ruling:

> Under the State's annual program plan, the Virginia State educational agency has assured us that it can comply with the provisions of Title I of the Act and the regulations thereunder. However, I note that your letter mentions a ruling of State Attorney [General] Miller which may be in conflict with those assurances. Would you please provide me with a copy of that ruling if it prohibits the provision of Title I services to educationally deprived children enrolled in private schools.[109]

Wheeler explained that the implementation of a by-pass was not something that could be automatically granted, that certain procedural matters would have to be clarified and ascertained, the first and foremost of these being the determination that the state of Virginia was unable to comply with the federal law because of state statutory prohibitions or simply that they had " . . . substantially failed

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[108]Ibid.

[109]Robert R. Wheeler, Letter to Sr. Lourdes Sheehan, 23 April 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond.

to provide such services."[110] The Wheeler letter concluded with a request that Sr. Lourdes assist OE in the matter by submitting information:

> a. a list of the local educational agencies (LEAs) against which you are directing your complaint;
> b. an indication as to the basis of your complaint for each LEA, i.e. the manner and type of services provided to nonpublic school children compared with public school children; and,
> c. the number of private school children who are educationally deprived according to the criteria used by the LEA if such criteria are available to you, and the number of such children being offered equitable services.[111]

Wheeler also sent a letter to W. E. Campbell, Virginia superintendent of public instruction, on the same date. In this correspondence, he informed Dr. Campbell of Sr. Lourdes' complaint regarding Title I; in addition, he reminded the CSSO that there had been " . . . certain problems with regard to the provision of genuine opportunities for the participation of eligible nonpublic school children in Title I programs on a basis comparable to that provided to eligible public school children . . ."[112] In retrospect, the Wheeler correspondence of April 23, 1976, to Dr. Campbell was extremely significant in the Title I experience in Virginia for three reasons: (a) it outlined the nature of the difficulties U.S.O.E. had with the Virginia Title

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[110]Ibid.

[111]Ibid.

[112]Robert R. Wheeler, Letter to Dr. W. E. Campbell, 23 April 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

I program regarding the participation of eligible nonpublic school children; (b) it indicated that information which would be necessary to determine the exact nature of he situation; and (c) it provided a citation of the possible consequences to the Virginia Title I program for failure to comply with the request. The letter was the first available written documentation which detailed, from the federal viewpoint, the exact nature of the wrongs of the Virginia Title I program as related to the participation of eligible nonpublic school children in the ESEA program. With respect to information the state had to submit to OE were the following:

a. the number of educationally deprived children residing in project areas who attend private and public schools respectively, and the numbers of participants from each type of school participating in Title I projects;
b. a description of how persons knowledgeable of the needs of private school children were consulted in the planning and implementation of the projects;
c. the methods used to select eligible private and public school students and how their needs were assessed; and
d. the nature and type of services actually provided to public and private school students with special attention given to the time, location, and frequency of these services. Also, please indicate the amount of Title I funds spent per private and public school child.[113]

Wheeler gave a thirty day deadline on the submission of the requested information.

Sr. Lourdes Explains to O.E.

Sr. Lourdes responded to Wheeler's letter on May 21, 1976. In this letter she indicated that she was concerned about all eligible

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[113]Ibid.

educationally deprived children attending schools of the Richmond diocese but that she was " . . . particularly interested in the City of Richmond and the City of Norfolk."[114] According to the letter, Lourdes believed that Richmond and Norfolk were to have focus because, in her words:

> Both of these LEAs are responsible for a large number of educationally deprived children. These are the areas in which the Catholic schools enroll the highest concentration of these students.[115]

Within the classification of major events, as documented, the May 21, 1976, letter to Wheeler was significant because the exact nature of the complaint of the Richmond diocese with these two LEAs was succinctly summarized by the superintendent: "The basis of my complaint for each LEA is that nonpublic school personnel are not involved in the planning, programming, or implementing of services provided for educationally disadvantaged children."[116] She also indicated that she was not able to provide him with any information regarding eligibility requirements because of the lack of involvement with the public school authorities, but added:

> . . . for example, each year the City of Richmond requests that we send the Title I Coordinator the names and addresses of educationally deprived children enrolled in Catholic schools in the area . . . . Once this information has been sent to the Title I Coordinator[,] I am not sure what happens . . . . What I know is that we are given

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[114]Sr. Lourdes Sheehan, Letter to Robert R. Wheeler, 21 May 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[115]Ibid.

[116]Ibid.

> a list of Title I programs in the City of Richmond and told that if individual, eligible, Catholic school students wish to participate, we can try to get them to a local public school center.[117]

Lourdes also indicated her perception that " . . . this hardly seems comparable to me."[118]

U.S.C.C. Keeps on the Pressure

June 16, 1976, marked the passage of another significant event in the strategy of the U.S.C.C. to keep pressure on the U.S.O.E. to do something about the Virginia and Oklahoma situations. This date found Richard Duffy communicating to Robert Wheeler at OE with the demand to know what he had done with respect to the complaints of the diocesan school superintendents. He also wanted to know whether approval of the 1976-1977 Title I plans were going to be withheld " . . . while the issue of equitable participation of eligible nonpublic school children is in doubt."[119] Recalling the writing of this letter during a 1984 interview, Duffy chuckled and said, "I accused him [Wheeler] of dragging his feet . . . . You can see, this was the time where we were urging the two states . . . to start taking some action . . . . Nothing was happening . . . . The Department [U.S. Office] of Education knew that our kids in Virginia . . . weren't

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[117]Ibid.

[118]Ibid.

[119]Richard E. Duffy, Letter to Robert R. Wheeler, 16 June 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond.

being served."[120] Asked by the researcher if he had seen any copies of the Program Review Team reports completed annually by representatives of OE regarding the state's Title I Program, Duffy said that he had not. He did state, however, that he had spoken to a member of the Title I office but was unable to recall the name of the person.[121] Asked by the researcher if, in retrospect, he thought the June 16th letter had any effect on moving the U.S. Office of Education to greater speed, Duffy replied, "No, it did not because we didn't get the by-pass until the following year . . . . All it did was add to the record, and a lot of paper."[122]

The Virginia Department of Education Compiles a List

Writing on the same date that Duffy corresponded with Wheeler, Virginia Title I Director Robert Sparks, sent a list of eligible non-public school students to Dr. W. E. Campbell. This list revealed that a number of LEAs had "unknown" numbers of eligible educationally deprived nonpublic school students:

A. Eligible non-public school children in LEAs where no Title I activities are funded:

Cities:	Alexandria	160
	Danville	20
	Hampton	80
	Lynchburg	unknown
	Newport News	unknown
	Petersburg	unknown
	Portsmouth	unknown
	Staunton	unknown

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[120]Interview with Richard E. Duffy, 10 July 1984. [Permission to quote.]

[121]Ibid.

[122]Ibid.

	Suffolk	376
	Virginia Beach	unknown
	Waynesboro	3
	Winchester	unknown
Counties:	Accomack	100
	Albemarle	60
	Amelia	unknown
	Amherst	unknown
	Arlington	228
	Bedford	294
	Brunswick	200
	Buchanan	unknown
	Chesterfield	unknown
	Fairfax	unknown
	Fauquier	unknown
	Frederick	64
	Goochland	10
	Greene	43
	Halifax	unknown
	Hanover	unknown
	Henrico	unknown
	Loudoun	unknown
	Lunenburg	170
	Prince William	unknown
	Roanoke	12
	Southampton	unknown
	Surry	35
	Sussex	unknown
	Westmoreland	unknown
	Wythe	11
	ESTIMATED TOTALS	3,500

B. Counties and Cities where certain eligible non-public school children are enrolled in Title I activities:

Cities:	Bristol	3	
	Fredericksburg	5	
	Norfolk	16	
	Richmond	3	
Counties:	Isle of Wight	2	
	Lancaster	2	123

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[123]Robert W. Sparks, Memorandum to Dr. W. E. Campbell, 16 June 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond.

(Researcher's note: Part A of the report, containing the total number of nonpublic school children who were listed as being eligible for services, makes no mention of students in the Richmond LEA. This is contrary to the reports which were submitted to the Catholic diocese. The number reported to the diocese was 116.[124] Although part B of the Title I director's report indicates that 3 eligible nonpublic school students were enrolled in Title I activities in the city of Richmond, it is presumed that these students were from other nonpublic schools since this number does not correspond with the reports submitted by the Richmond parochial schools.) This illustration of differences in data gives substantiation to Dwight Crum's remark that a problem faced by OE at the time was the lack of accurate data for (a) the number of children who were eligible to be served, and (b) the number of these children who were actually receiving services. Irrespective of data differences, the Title I director's report was the official word at that juncture. That was the report which was submitted to Robert R. Wheeler at OE by Dr. Campbell on June 22, 1976.

Dr. Campbell Writes a Controversial Letter

The Campbell letter to Wheeler was one which stirred the emotions of Richard Duffy at U.S.C.C. and the officials at the Richmond diocese. The correspondence eventually drew comment from OE. The June 22 letter was a focal point of many later discussions, memorandums, and letters. The last two sentences proved to be particularly volatile. Because

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[124]E.S.E.A. Title I Roster -- 1975-1976, (Educationally Disadvantaged), File Reports, 13 November 1975, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copies.)

of its significance in the Title I experience of the Richmond diocese, the letter is presented here in its entirety:

> Acknowledgement is made of your April 30 and June 8 letters regarding information relative to the participation of eligible nonpublic school children in Title I programs in Virginia. You requested this information because Sr. Lourdes Sheehan had written Commissioner Terrell Bell on January 12, 1976, requesting a "bypass" regarding Title I funds in the Commonwealth of Virginia. Enclosed is a copy of the questionnaire sent by Mr. Robert W. Sparks, Director, Title I, to each local school division. A summary of the results is also enclosed. It is obvious from the summary that Sister Sheehan is correct when she states that the 'experience of the Catholic school students and personnel has been one of extremely limited participation.' Under the very strict Constitution of Virginia participation of parochial children must necessarily remain limited. Consequently, I recommend that you grant the bypass to the Catholic Diocese. [Emphasis added.] [125]

The U.S.C.C. Response

A month after Campbell sent his letter to Dr. Wheeler, Richard Duffy, on July 22, 1976, wrote to U.S. Commissioner of Education Terrell Bell. Duffy reminded Bell of all that had transpired with regard to the Title I programs and the nonpublic school involvement in them since Sr. Lourdes' January 12, 1976, letter. Duffy was clearly unhappy with Dr. Campbell's June letter:

> Mr. [Dr.] Campbell's reply reflects a cavalier attitude towards years of unjust and inequitable treatment of eligible nonpublic school children. There is not even a hint of any desire to explore the possibilities of servicing nonpublic school children which may be within the legal parameters

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[125]Dr. W. E. Campbell, Letter to Robert R. Wheeler, 22 June 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

> of the State Constitution. He apparently dismisses his responsibility towards all of the children within the State. Mr. [Dr.] Campbell's response is totally unacceptable because he lacks the authority to interpret what is or what is not in this regard permissible under the framework of the Virginia State Constitution. Mr. [Dr.] Campbell could suggest that the Virginia State Attorney General refrain from signing the assurances required by your office testifying to the ability of the State Education Agency to provide Title I services to nonpublic school children . . . . The Title I problem in the State of Virginia is far from being resolved and it is now July 22. I would like to know what effort has been made to resolve this problem since Mr. [Dr.] Campbell's June 22, reply? Even more important, I would like to know whether you intend to withhold approval of the ESEA Title I State Program application for school year 1976-77 which has recently been submitted by the State of Virginia while this issue of equitable participation of eligible nonpublic school children is in doubt.[126]

During a 1984 interview, Duffy was asked whether his consistent referral to "Mr." Campbell in his letter to Bell was intentional or whether it was a typist's error. He explained that there was no intent behind the spelling, that he did not know that it was "Dr." Campbell. He added that he did, however, recall being very angry in writing the letter to Bell. He provided a rationale for having written as follows:

> It was the responsibility of the state to provide services to private school kids under Title I. Campbell gave me the impression, at the time, that . . . he wasn't aware that he had this responsibility. He wasn't going to do anything about it. He never sat down with our officials to explore ways of well . . . . 'You're being shortchanged. Let's look

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[126]Richard E. Duffy, Letter to Terrell H. Bell, 22 July 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

> and see if there are ways we can improve your participation.' He never did that. He never made any overtures to our folks to sit down: 'Ok, let's discuss this issue.' It was, 'Oh, I agree with Sparks, they've been short-changed. There's nothing we can do about it. So, Bell, you do it.' Just throwing his responsibility over to the Department of Education.[127]

Duffy did not recall receiving a response to his letter from the U.S. commissioner nor was any documentation discovered in any of the files researched at the U.S.C.C., the Virginia Department of Education, the U.S. Department of Education, or the Richmond diocese.

O.E. Reacts and Interprets the By-pass

Robert Wheeler wrote to W. E. Campbell on August 9, 1976, in response to Campbell's letter of June 22. This correspondence provided the Virginia CSSO with the OE interpretation of congressional intent as far as the by-pass legislation was concerned. Wheeler pointed out that the implementation of a by-pass was not to be taken lightly, that according to the Senate Report on the Education Amendments of 1974, " . . . a 'by-pass' should only be invoked when 'absolutely necessary' to assure equitable participation."[128] The deputy for school systems also explained in the letter to Dr. Campbell that " . . . our experience has shown that a 'by-pass' is a very costly and complex solution to the problem of participation of nonpublic school

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[127]Interview with Richard E. Duffy, 10 July 1984. [Permission to quote.]

[128]Robert Wheeler, Letter to W. E. Campbell, 9 August, 1976. [Photostatic copy.] Title I Files, Office of Catholic Schools, Diocese of Richmond.

children in Federal programs."[129] Key in this correspondence was the statement of intent that OE was planning to follow congressional " . . . guidance . . ." with respect to the implementation of any by-pass in Virginia.[130] Wheeler also pointed out that (a) he was unsure as to the exact basis for Dr. Campbell's request for the implementation of a Virginia by-pass, (b) in any event, OE did not then have sufficient information on which to base a decision, and (c) that Dr. Campbell should provide OE with more data on the numbers of nonpublic school children who were receiving Title I services during the 1975-76 school year.[131]

A significant statement, perhaps the only surviving actual documentation, was made by Wheeler in this letter regarding past (prior to 1976) participation of Virginia nonpublic school children in Title I:

> The statute provides for invoking the "by-pass" when a local education agency (LEA) is prohibited by law from providing equitable services to eligible nonpublic school children or when an LEA has substantially failed to provide such services. It is unclear at this time whether you are recommending a "by-pass" based on a legal prohibition, particularly in light of the assurances you have provided as part of your Annual Title I Program Plans, or whether you are basing your request on the substantial failure of the LEAs in Virginia to provide equitable services.[132]

Wheeler stated that no by-pass would be implemented in Virginia until

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[129]Ibid.

[130]Ibid.

[131]Ibid.

[132]Ibid.

" . . . all other solutions have been exhausted."[133] Existing records did not contain any response that Dr. Campbell may have made to Dr. Wheeler's letter of August 9, 1976. However, some type of response must have occurred as noted in correspondence from Dwight Crum to Richard Duffy on August 26, 1976:

> It is my understanding from Mr. Dick Hays' office that CSSO Campbell has now determined that negotiations should proceed to see if the problem can be resolved by means other than bypass. That matter is now in process. I hope this information is helpful.[134]

Diocesan Actions Following the Campbell Correspondence

Sr. Lourdes, in the meantime, received encouragement from Richard Duffy on August 18th. He sent her copies of relevant correspondence between his office and OE, and between OE and the Virginia Department of Education. Duffy informed Sr. Lourdes that OE had planned for an early September meeting at the Virginia Department of Education and that it was quite likely that she would be invited.[135] (Researcher's note: Files studied at the relevant locations in the State Department of Education, the Office of Catholic Schools, the Education Depart-

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[133]Ibid.

[134]Dwight R. Crum, Director of Nonpublic Educational Services, Immediate Office of the Commissioner, U.S. Office of Education, Letter to Richard Duffy, 26 August 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.) [See Also: original -- Title I Files, Richard Duffy, Department of Education, United States Catholic Conference, Washington, D.C.]

[135]Richard Duffy, Letter to Sr. Lourdes Sheehan, 18 August 1976. [Photostatic copy.]

ment of the United States Catholic Conference, the Title I Office and the Office of Nonpublic Education at the United States Department of Education contained no evidence that a meeting attended by representatives of OE ever took place in September of 1976.) Notes from a meeting which did take place on September 10, 1976, mentioned only attendance by officials of the Richmond diocese and representatives of the Virginia Department of Education. An excerpt from notes taken at and following the meeting, from the Catholic view, may provide an idea of the atmosphere at the time:

> The purpose of this meeting from Dr. Campbell's viewpoint seemed to have been to reach an understanding with Sister Lourdes regarding the State of Virginia's providing comparable services under Title I legislation. Although Dr. Campbell has not had very much experience in dealing with Title I legislation, he seemed to be open and willing to explore whatever possibilities are within the limit of the State Constitution in providing comparable services . . . It was obvious to Sister Lourdes and Father O'Brien that there is confusion among the gentlemen at the State Department as to what is and what is not allowed under the Virginia Constitution regarding Title I benefits to nonpublic school students. However, it was also obvious that the heat is on these gentlemen from the Office of Education and at least at this time, they seem willing to figure out a way to avoid the Federal Government sending somebody down to investigate the allegation that Title I services are not being provided . . . . After going through a brief summary of the state of affairs, Sister Lourdes indicated that what the Diocese is interested in is comparable services and requested that any proposal from the State be put in writing to her so that both the State and the Diocese can consult their legal advisors regarding this matter.[136]

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[136]Notes From Meeting Regarding Title I Bypass, n.a., n.d, Title I Files, Office of Catholic Schools, Diocese of Richmond.

At the September 10th meeting, Sr. Lourdes allegedly asked the state department representatives " . . . whether or not comparable services could be interpreted to mean that the money allocated per eligible Title I public school students could also be allocated to pay for private transportation of nonpublic school students for Title I services."[137] The supposed response from Dr. Campbell and later agreed to by Sr. Lourdes was that this method was not the best method of providing comparable Title I services.[138] Remaining records do not contain any evidence regarding the feelings, statements, or opinions of Virginia Department of Education officials.

Sr. Lourdes did write to Dr. Campbell on the 14th of September for the purpose of summarizing the results of the September 10th meeting:

> It is my understanding that you have instructed your Title I Coordinator and his staff to investigate how comparable services can be provided to nonpublic school students within the limits of the Virginia Constitution. These proposals are to be communicated to me in writing at which time both you and I will have the opportunity to consult with our legal advisors. In the meantime, you will note that I am forwarding a copy of this letter to Mr. Dick W. Haye [sic] of the United States Office of Education for his file . . . .[139]

The letter gives some indication of the assertiveness of the Catholic school superintendent regarding the Title I matter at that time.

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[137]Ibid.

[138]Ibid.

[139]Sr. Lourdes Sheehan, Letter to Dr. W. E. Campbell, 14 September 1976. Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

Although Sr. Lourdes also referred, in the same letter, to a meeting which was to have been held on September 16th at her office, between her and Mr. Sparks and a Mr. Kennedy from the Virginia Department of Education, no surviving record exists regarding whether such a meeting ever took place.[140]

The Virginia CSSO Seeks Clarification

On September 29, 1976, Superintendent of Public Instruction Dr. W. E. Campbell wrote to the Virginia attorney general and requested clarification of the earlier (July 21, 1975) ruling regarding P.L. 93-380:

> Our implementation of these programs needs to conform to the requirements of the federal legislation, [sic] and the Constitution of Virginia, in accordance with your opinion as stated above. The following is submitted as a general course of action for your review and comment as a means of further clarification:
> Although specific needs will vary between the schools, in general the following areas would be made accessible to non-public elementary and secondary students attending non-profit private institutions:
> 1. Educational materials and equipment.
> 2. In-service training of teachers.
> 3. Guidance and testing services for eligible children.
>
> In general, public school teachers could not provide services on the property of the private schools. Title to and accounting for all equipment and material purchased with Federal funds must remain with the school division.[141]

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[140]Ibid.

[141]Dr. W. E. Campbell, Letter to Honorable Andrew P. Miller, 29 September 1976, Title I Files, U.S. Office of Compensatory Education, U.S. Department of Education. (Photostatic copy.)

In other words, the superintendent of public instruction asked the Virginia attorney general to approve a course of action which would spell out in fairly concrete terms exactly what it was that the Virginia Department of Education and its LEAs could and could not do regarding Title I services to nonpublic school children. Posterity, unfortunately, has not been the beneficiary of any written documentation on what response might have been given by the attorney general. However, Robert R. Wheeler, deputy commissioner for elementary and secondary education, did write to Dr. Campbell on November 10, 1976. Wheeler's letter leaves the impression that OE believed that accord had been accomplished between and among the dissenting parties. In Wheeler's words " . . . certain agreements had been reached with Sister Lourdes Sheehan, Superintendent of Schools, Office of Christian Education, Diocese of Richmond, that are certainly satisfactory resolutions to the problem of equitable participation of nonpublic school students."[142] This was not the case. Dr. Campbell wrote to Robert Wheeler on December 3, 1976, and informed the deputy commissioner for elementary and secondary education that the situation had reached a point where " . . . it may be beyond my control."[143] The Virginia CSSO supported his remarks by informing Wheeler that the attorneys in the Virginia attorney general's office had expanded the reasoning for objecting

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[142]Robert R. Wheeler, Letter to Dr. W. E. Campbell, 17 November 1976, Title I Files, U.S. Office of Non-Public Education, U.S. Department of Education. (Photostatic copy.)

[143]Dr. W. E. Campbell, Letter to Robert R. Wheeler, 3 December 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

to offering Title I services to sectarian school students in Virginia on the basis of the United States Constitution and the just concluded cases of Meek v. Pittenger and Wheeler v. Barrera. Campbell added that " . . . after much study the attorneys have concluded that the services and/or materials which we can provide the parochial schools are greatly limited by Section 10 of the Constitution of Virginia.[144] The Virginia CSSO also informed Wheeler that he had no idea as to what Sr. Lourdes' " . . . reaction will be to the situation . . . .[145] (Researcher's note: Campbell's letter was significant in the Richmond diocese's experiences following December, 1976. Excerpts were contained within a Memorandum to Deputy Commissioner, "Summary Chronology Regarding Title I Services to Nonpublic School Children in Virginia," 27 July 1977. This memorandum was discovered among the files of Dwight R. Crum at the U.S. Department of Education.)

On December 10, 1976, Dr. Turner gave a report to the state board on Title I in partial response to an earlier board request [See State Board of Education Minutes, 30 - 31 October, 1975, p. 172] that all federal programs be reviewed by the board. Though this was nearly twelve months after Sr. Lourdes Sheehan had first written to the U.S. commissioner of education in requesting a by-pass of the Virginia Title I program, and negotiations had been taking place over the previous several months with officials of the Catholic diocese, there is no written mention of these difficulties in Dr. Turner's report.

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[144]Ibid.

[145]Ibid.

The report does not contain any breakdown of the types of participants, just an approximation of the total number of participants: 120,000 students.[146] [See Appendix L for a retype of the report.] The first written evidence in the State Board of Education minutes which illuminated the trouble within the Virginia Title I with respect to the nonpublic school question did not occur until July of 1977:

> Dr. Campbell reported that for more than a year he has been corresponding with the Office of Education concerning Title I funding. He has received from Commissioner Boyer a letter stating the Annual Program Plan for Title I for Fiscal Year 1978 cannot be approved unless he is provided with a satisfactory response to requests made in letters of April 30, June 8, and August 9, 1976, and March 10, 1977.[147]

During board discussion, it was revealed that Dr. Campbell sent correspondence to the U.S. Office of Education " . . . providing an explanation and further clarification regarding each letter mentioned in Dr. Boyer's letter."[148]

Sr. Lourdes Makes a Second By-pass Request

On December 10, 1976, the very same day that the State Board of Education was meeting, Sr. Lourdes wrote a second request to U.S. Commissioner of Education Dr. Edward Aguirre for implementation of the by-pass provisions of P.L. 93-380. She sent a copy to Dr. Campbell:

> On January 12, 1976[,] I wrote to Dr. T. H. Bell,

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[146]Appendix E, Title I (Report), Minutes, State Board of Education, Commonwealth of Virginia, 10 December 1976, n.p.

[147]Minutes, State Board of Education, Commonwealth of Virginia, 22 July 1977, p. 85.

[148]Ibid., p. 86.

> then United States Commissioner of Education, requesting the implementation of the "Bypass" Provision of Title I of the Elementary and Secondary Education Act[,] as amended[,] in the state of Virginia. On February 13, 1976, I received acknowledgement of that request from Dr. Bell and the assurance that he would consider very carefully the concerns expressed in my letter before any determination is made as to whether or not "Bypass" is necessary and should be implemented in Virginia. In the meantime, I have met personally with representatives of the State Department of Education and I understand that State Department officials have met with the Office of Education. On Monday, December 6, 1976[,] I met again with Dr. W. E. Campbell, State Superintendent of Public Instruction and several of his staff members. It was clearly obvious to all of us that Section 10 of the State Constitution prohibits public monies from being used in nonpublic schools in the State of Virginia. Therefore, I am requesting that you take steps immediately to reactivate my request for the "Bypass" of Title I funds . . . .[149]

Duffy Makes a Summarization

Sr. Lourdes' letter to Dr. Aguirre was not the only one he was to receive concerning the Diocese of Richmond Title I situation. At nearly the close of the calendar year, Richard Duffy wrote a very lengthy letter to the new U.S. commissioner of education. Duffy related, in sometimes emotional language, a summary of action in the Virginia situation. He charged the U.S. Office of Education with failure to enforce the tenets of the original ESEA legislation, as well as the updated versions for the previous eight years. Some excerpts from

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[149]Sr. Lourdes Sheehan, Letter to Dr. Edward Aguirre, 10 December 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

Duffy's words offer an indication of the state of affairs at the close of the period:

> The State Education Agency in Virginia has approved year after year applications from local educational agencies which fail to provide for the participation of nonpublic school children -- let alone provide for equitable participation . . . . Federal Education Officials blind their eyes and plug up their ears when it comes to justly administering the law -- they neither want to see how nonpublic school children are unjustly treated, nor do they wish to hear the cries for justice from nonpublic school officials . . . .[150]

OE Gets Ready for Action

That federal representatives were sufficiently concerned about the Virginia situation is evidenced by the fact that they held a meeting on January 1, 1977, to discuss the issue:

> Lack of action by the Virginia Department of Education in taking the necessary steps to comply with the provisions of the statute and the regulations regarding the participation of eligible private school children in programs funded under Title I of the Elementary and Secondary Education Act.[151]

During this meeting it was revealed that " . . . despite repeated requests, the SEA . . . failed to supply OE with the information needed to clarify the . . . situation and to make preliminary estimates re-

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[150]Richard E. Duffy, Letter to Honorable Edward Aguirre, 21 December 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

[151]Robert R. Wheeler, Memorandum: Participation of Eligible Private School Children in ESEA, Title I, in Virginia -- BRIEFING, To: Commissioner of Education, 6 January 1977, Title I Files, Mr. Dwight R. Crum, Office of NonPublic Education, U.S. Department of Education. (Photostatic copy.)

garding the need for and possible scope of a by-pass."[152] The stage was set for the final battle between the U.S. Office of Education, the Virginia Department of Education, and the Diocese of Richmond over Title I services.

Summary

The final phase of the study of ESEA Title I as related to the Richmond Catholic Diocese began with evidence that hope, in the form of legislative relief, was forthcoming. Accordingly, Richmond diocesan officials began a study of the proposed by-pass amendment offered by Congressman Quie. The significance of the by-pass legislation was such that this factor, alone, was the key to the eventual successful implementation of equitable services for eligible Richmond diocesan parochial school students. Sr. Lourdes Sheehan emerged as the actor who persisted in requesting Title I services for the children. She was aided tremendously in her efforts through the assistance of Richard Duffy at the U.S. Catholic Conference. Duffy provided follow-up on the many pieces of correspondence with the U.S. Office of Education. As also evidenced by the record, Duffy, moreover, wrote to OE on many occasions with very pointed letters requesting action from them.

The Virginia Department of Education officials maintained the position that federal funds were state funds and, thus, could not be forwarded to Catholic schools or their eligible students. The

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[152]Ibid.

matter of how this applied to Title I was clarified by the ruling of Attorney General Andrew P. Miller in 1975 that the Virginia Constitution forbade aid to sectarian schools, that the federal law, as prescribed, could not be implemented in the state of Virginia.

The time frame 1974 through December of 1976 included (a) misunderstanding between officials of the U.S. Office of Education and the Virginia Department of Education over the necessity of implementing a by-pass in Virginia (b) question by the U.S. Office of Education over Virginia's ability to administer Title I to nonpublic school children, and, (c) deep controversy over the location of services for nonpublic school children. The questions of "comparability" and "equitablility" surfaced as major items of contention between the opposing factions. The state maintained that constitutional prohibitions prevented "on-site" services to nonpublic school students while the officials of the Richmond diocese insisted that "dual enrollment" and attendance at the public schools by nonpublic school children for the purposes of receiving ESEA Title I services were "inequitable." Distance between the public schools and the nonpublic schools seemed to be a major factor in the diocesan argument for "on-site" services.

The period ended with clouded feelings and an undetermined state of affairs, the issues unresolved.

CHAPTER 5

Discussion, Synthesis, and Implications

This chapter contains a discussion of the research methodology used in this study. Some of the difficulties experienced by the researcher in trying to locate source documents as well as a report on the major findings are included. A review of the major events, major actors, and issues is presented. The corollary questions are also discussed. A synthesis for the entire time frame is provided, some recommendations for the future are stated, and a number of general hypotheses derived from the conclusions of the study are presented.

Discussion of Research Methodology

One of the several assumptions the researcher was under when he began the work for this study was that the agencies which were involved in the history of the matter would allow access to the pertinent records. This was proved to be a false assumption because the records, in many cases, were no longer in existence. The Virginia Department of Education consistently maintained that records from the time frame under consideration were no longer being maintained and that these records, if they did exist, were in "some" warehouse, but that most of them were destroyed.[1] Similar difficulties were

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[1]Mr. Barry Morris, Department of Education, Commonwealth of Virginia, Letter to researcher, 27 March 1984, personal files of researcher.

encountered at the United States Department of Education. Here, also, the five year rule with respect to the maintenance of Title I documents was cited time and time again as being the reason records were no longer being kept.

Suggested as documents which might be of interest by Mr. Robert W. Sparks were the Program Review Team Reports completed on an annual basis by the U.S. Department of Education. Of particular concern were the Program Review Team Reports for Virginia for the years 1965 through 1976. While the reports for the years 1974 through 1976 were located, the failure to secure access to those for the years 1965 through 1973 proved to be a disappointment. While a few of those who were contacted by the researcher gave indication of their awareness of Program Review Team Reports, none except Mr. Sparks could recall having ever seen them.

At a point after the research had begun, one federal official indicated that there was, he believed, some warehouse, not the National Archives, where some of the documents were located; he had no idea, however, as to the location of this mysterious warehouse. Another official, at a later point, informed the researcher that it was believed that the documents might, indeed, be in a warehouse but that they were inaccessible unless the code release numbers (formally called "accession numbers") were located. Several months of waiting ensued, the necessary numbers were not located. Federal officials did, however, open up their own personal files and records for the researcher. Copies of materials which would have otherwise been unavailable were thus made accessible. Another interesting aspect of the research

developed at the United States Department of Education when the researcher received the interpretation that certain "in-process" documents in the possession of the U.S. department were not public information; only copies of final documents were accessible. The rationale offered was that exceptions exist within the Freedom of Information Act which give the federal government license to retain certain documents in the public interest. Included in this classification, according to a U.S. Department of Education official, were any which were not final or were in the process of becoming finalized in the mechanism of becoming official policy. For researchers, the difficulty with this interpretation should be obvious; it is unknown how or what processes certain documents were subjected to prior to finalization. Why, for instance, were certain paragraphs stricken, added to or amended? This type of information was lost. The implications for future historical research into education may be affected with this type of posture. At least this type of information ought to be made known to historical researchers into educational topics. Beware the five year rule, the policies of the current administration with respect to the release of information, and the interpretation of the Freedom of Information Act. These were obstacles in this work.

There were others as well. The passage of time causes all of us to erase some of the events from our memories. In our mobile society, people move often. This became evident very early in the search for the interviewees. Some of the interviewees are retired and were "off on vacation," the researcher had to wait until they returned. A few did not respond to inquiry. This was the exception

rather than the rule, however. Getting the subjects to relax and freely give information was one obstacle which was met and, for the most part, overcome by offering reassurances that this was to be a scholarly work and not a witch hunt. Initial one-time interviews did not suffice; re-interviews were often necessary. Because of the sensitivity of the issues, the researcher found it best to review tapes and transcripts of interviews prior to finalizing a given individual's statements. Admittedly, some statements were stricken from transcripts by the interviewees because of fears of possible repercussions to themselves personally. In these cases, as well, the items were few.

Once the front-line approach to obtaining information seemed to be reaching stumbling blocks, a secondary methodology was necessary. Not finding information at the Virginia Department of Education level, it became necessary to send questionnaires to all of the LEAs and parochial schools. Success was similarly sparse at this level [See Appendix G, H, and I]. Many of the LEAs also claimed that they had no information because the five-year rule applied. In the case of the Catholic schools there was simply nothing in the files, no specific reasons given.

A great deal of the research material for this dissertation did come from the files of the Catholic Diocese of Richmond. The files of former Bishop John J. Russell proved extremely helpful in trying to tie together pieces of information alluded to in other files. The former bishop's files provided a background setting in a larger scope than the files of the other diocesan offices. The bishop's

files provided the opportunity to look at the thinking of the very leadership of the diocese, an important aspect whenever research in the Catholic Church is being considered. Fr. William L. Pitt, chancellor of the diocese at the time of interview, provided the researcher information that the correspondence of Bishop Russell was generally his own work, that the bishop usually did not have his material "ghost-written."[2] This factor was important in determining the accuracy of the position of the former church leader and the validity of his correspondence from the technical standpoint. The files of Bishop Russell were discovered quite by accident. They were being reviewed by another official of the Richmond diocese prior to being "thinned" and "reduced", terms for being prepared to be "discarded." This type of elimination will provide future researchers of the diocese much more difficulty, resulting in the need for greater dependence upon alternate sources of information.

Yet another difficulty arose with respect to minutes of the State Board of Education. Initial research on state board minutes was conducted among the files of the superintendent of public instruction. In more than one instance, appendices to the board minutes were not filed together with the minutes. Instead, citations were given that one could "see Appendix A of Permanent Minutes". Later review of the "permanent minutes" located at the Virginia State Library in Richmond resulted in what amounted to a circular reference: "Appendix A not filed with Minutes because of difficulties in binding, see Appen-

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[2]Interview with Rev. William L. Pitt, 15 January 1985. [Permission to quote.]

dix A in Superintendent's File, State Department of Education." The result was that these sources could not be found. Specifically among those not to be found was the Approval of Title I, ESEA Annual Program for 1975-76. Listed as Appendix C in the State Board of Education minutes of 23-25 July 1975, the plan was not found in the permanent minutes. The implication for future historical research using State Board of Education records is obvious -- the material may not be there.

With regard to the interviews which were conducted, it was often the case that the researcher had at his disposal the original records and documents. It proved necessary to provide access to these for the persons being interviewed. This did result in the delay of the process of investigative research to some extent. Also, since many of the persons who were questioned were major actors through the majority of the time frame covered in the study, memories were not always clear as to what happened when. Moreover, a great deal of the major action as far as success with obtaining services for eligible Richmond parochial school children occurred <u>after</u> the time frame. These actors were more prone to slip into explanations of those occurrences rather than in the time frame of the study. It proved to be necessary to very carefully guide the questions presented to the interviewees as a result. Often this was accomplished by presenting specific documents and, through careful questioning, evoking responses pertaining to the hard, solid evidence within these. Feelings, or thoughts of feelings, were more readily explored. These tended to have a longer lasting effect on the participants. Anger, frustration, irony, sadness were among the repertoire of expression

discovered by the researcher.

Another frustration encountered with the research of the documents was references to sources in the State Board of Education minutes which were listed only as reports to the board. For at least a few of the years researched, references to the Annual ESEA Title I Program having been discussed and passed by the board were recurrent. Few of the reports (those cited within the text of the dissertation) and none of the Annual Program Reports survive. Of those which do, two excerpts were provided by the U.S. Department of Education. Moreover, it was not always clear that the Title I Program always received state board approval. While in many cases approval of the board for Title I programs has been documented, the reports themselves were unavailable. Dr. W. E. Campbell mentioned at a board meeting in October of 1975 that not all federal programs had been reviewed by board members. While it is unlikely that the Title I programs of prior years met Dr. Campbell's definition, this is not unalterably clear.

The investigation of the authenticity of documents of the U.S. Department of Education revealed the manner in which letters and memoranda are originated. An interview with Mr. Ken Terrell at the Office of Non-Public Education, U.S. Department of Education, was particularly enlightening. The questions which prompted the response were as follows:

> Would you describe how a letter originates, one that bears the commissioner of education's signature? He doesn't write the letter, does he?

Mr. Terrell responded with:

> Of course not. It would obviously depend on

> what the topic is, where the letter would actually originate. Say it's a matter of dealing with the by-pass, if its a technical, legal issue that's involved, that will originate in the Office of General Counsel. Obviously there are other offices in the department that [would have] a direct interest in what the contents of that letter would be. In the case of Chapter I by-pass, obviously it would be the Office of Elementary and Secondary Education and it would be our office. And, in situations like that, we always had an opportunity to review the letter before it actually goes up for the Secretary's signature. Now, of course, there would be sometimes when we would generate a letter. The way we would do that, if it's for the secretary's signature, we must put an 'Action Memorandum' covering the proposed letter for the secretary to review, which tells him what the letter is about, why we think it's needed. And, we also have to communicate, in that memo, what other offices we've contacted and what their comments were. Therefore, if he sees that an office should have been contacted and we were negligent in [not] doing so, then he can return it to us for a more complete review by the other offices in the department."[3]

The researcher asked Mr. Terrell if there are rules and regulations which govern the described actions. He stated:

> Well, it's largely, at least partially, [determined] by the practice of the agency. However, the Executive Secretariat does put out guidance for all offices, for example, [on] the way to format memorandums . . . . We do have particular ways they're supposed to be set up. So there is some guidance. But, partially it would be by agency practice. For example, there is nothing out there that says [that the] elementary and secondary [office] would have to consult with us before they send a letter up for the secretary's signature. They do that, basically, because of the role that our offices have developed over the years, cooperating

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[3]Interview with Ken Terrell, Assistant to the Executive Assistant, Office of Private Education, U.S. Department of Education, 13 August 1984. [Permission to quote.]

with one another.[4]

Having a working knowledge of this information was important with respect to a number of documents from the federal level which were simply signed with a hand stamp and not an actual signature.

The selection of which documents researched would be used in the narration of what happened was based on the concept that significant events were those which seemingly had an influence on still later events. Decisions on the documents could not be made until a considerable amount of research and review had been conducted. By studying the many parts, the whole began to emerge. While the Richmond diocesan experience was unique in that the concept of separation of church and state was at that time and is today very strong, the Title I experience did not occur in total isolation from events occurring elsewhere. The influences of major court cases, for example, had an impact. Meek v. Pittenger was one which influenced the manner in which the U.S.C.C. perceived services might be rendered in Virginia. Moreover, it did have some influence on the manner and methods used by the Richmond diocese in gathering supportive documentation during the latter half of 1975 and throughout 1976. Of greater consequence was Wheeler v. Barrera: (a) it was a Missouri case where the state law was very similar to the Virginia restrictive Constitution and, (b) the U.S. Office of Education officials applied the findings to the Virginia situation with regard to "comparable" services. The central

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[4]Telephone interview with Ken Terrell, Assistant to the Executive Assistant, Office of Non-public Education, U.S. Department of Education, 30 July 1985. [Permission to quote.]

theme in Wheeler was the " . . . the scope of the State's duty to insure that a program submitted by a local agency under Title I provides 'comparable' services for eligible private school children."[5] The court decided that:

> Under the Act, [Elementary and Secondary Education Act] respondents are entitled to comparable services, and they are, therefore, entitled to relief. As we have stated repeatedly herein, they are not entitled to any particular form of service, and it is the role of the state and local agencies, and not of the federal courts, at least at this stage, to formulate a suitable plan.[6]

The real significance of Wheeler v. Barrera in the Virginia case did not occur until U.S. Commissioner of Education Ernest L. Boyer cited it in his September 26, 1977 letter to W. E. Campbell regarding site visitations which had been made earlier in the year by an OE team. Boyer ordered five LEAs by-passed, stating, as partial reasoning:

> I realize that the available options for the participation of private school children in Title I programs in Virginia may be limited by State legal requirements. . . . However, State legal restrictions cannot justify or excuse the failure to provide equitable Title I services for eligible private school children (See Barrera v. Wheeler, [Wheeler v. Barrera] 417 U.S. 4[0]2 (1974)).[7]

One of the largest influences on the course of events in Virginia after 1974 was the inclusion of the by-pass provision in the updating

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[5]Wheeler v. Barrera, 417 U.S. 402 (1974)

[6]Ibid.

[7]Ernest L. Boyer, Letter to W. E. Campbell, 26 September 1977, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

of the ESEA law, P.L. 93-380. This gave the Richmond diocesan officials the opportunity to openly seek Title I services with the hope that they would be forthcoming in a comparable manner. In researching the documents, therefore, it was important to be aware of what "outside" influences were focusing to help shape the Virginia situation. Because of the uniqueness of the Virginia situation, however, these were not many in number.

In the interviews, some of what was related by the persons being interviewed was not useful because other documentation could not support some of the statements being made, and, in some cases, conflicting testimony and contradictory evidence were available. While this did not make certain of these statements untruthful, it did require that the researcher complete a thorough study and have knowledge and understanding of the subject matter from written evidence.

Findings and the Research Questions

The study attempted to address five major questions:

1. How was ESEA Title I implemented in the Richmond diocese from April 1965 through December 1976?

2. Who were the major actors (individuals) involved in the implementation and what roles did they play?

3. What were the major events in the implementation of ESEA Title I in the Richmond diocese from April 1965 through December 1976?

4. What were the major issues in the conflict between church and state during this implementation?

5. Why did the implementation of ESEA Title I in the Richmond diocese take the form it did during the time frame? (Synthesis)

The study also aimed to address the following corollary questions:

1. What efforts were made by the Richmond diocesan officials to secure services for children in parochial schools of the diocese from 1965 through December 1976?

2. What efforts were made by the Virginia Department of Education officials to provide services for children of parochial schools of the diocese from April 1965 through December 1976?

3. What actual services did parochial school children in the Richmond diocese receive under ESEA Title I from April 1965 through December 1976?

4. What were the major "influencing" factors which determined the course of events in the implementation of ESEA Title I in the Richmond diocese from April 1965 through December 1976?

5. Can certain of these "influencing" factors which determined the course of events in the implementation of ESEA Title I in the Richmond diocese from April 1965 through December 1976 be isolated as having had the most influence?

Summarizing the Questions — Responses

Implementation Stages

There were several stages in the implementation of ESEA Title I as it affected eligible school children in the schools of the Richmond

diocese. This is contrary to earlier beliefs that there was but one "implementation." The first stage saw eligible children who attended a few diocesan schools in at least the Richmond LEA and the Alexandria LEA receive some Title I services, mainly in the form of remedial reading, some remedial math, and some speech therapy. The numbers of these children were, however, few in relation to their public school counterparts. This is a fact borne out by the statistical evidence provided by the Virginia Department of Education. Throughout the study, the actual numbers of private school eligible participants was a difficult item to isolate because of the lack of information and dearth of surviving records. From an analysis of the available data (school years 1967-68, 1968-69, and 1974-75) it was determined that less than 1 percent (.0061) of the eligible children who received ESEA Title I services were from the nonpublic sector.[8] That there were other LEAs which had private school children participating in programs was further evidenced by the record of correspondence between the then Superintendent of Catholic Schools, Msgr. Richard Burke and Mr. Al Wingo in February of 1969. Title I services to eligible children attending schools of the Richmond diocese saw a steady decline beginning in 1970 and concluding with almost complete lack of participation by 1973. Not to be underestimated as a cause for the decline was the impact of the actions taken by the state legislature and general

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[8]"Title I in Action, Evaluation Summary Data," State Department of Education, Richmond, 1967-68, 1968-69, and 1974-75. (Annual publications.) [Researcher's note: These publications used from files of Col. W. H. McCann, former Title I Supervisor, Commonwealth of Virginia.]

public in a vote during 1971 which retained the constitutional prohibition on the provision of public funding of sectarian schools.

The third and final phase of the implementation of ESEA Title I with respect to the Richmond diocese began in the winter of 1974 when diocesan officials began planning toward reviving services. During the period 1974 through 1976, in any case, few diocesan school children received Title I services. A fourth phase began in September of 1977 when the U.S. commissioner of education granted the by-pass in several Virginia LEAs. Children in these began to receive services in the summer of 1978. This phase, while not part of the present study, is mentioned in the hope that future research might be undertaken in this area.

The Major Actors

The major actors (individuals) involved in the implementation and the roles each played have been identified in the narration of the events of the Richmond diocese's experiences in Chapters Two through Four. Summary, here, may provide some clarification. From the State of Virginia, the major identifiable actors (there may have been others who acted behind the scenes but whose actions were not readily discernible) were the following:

Mr. Alfred Wingo was the first Special Assistant to the Superintendent of Public Instruction for the Virginia Department of Education. He was instrumental in setting up many of the programs required as part of the ESEA legislation, including Title I. The Title I program as related to the Richmond diocese saw Mr. Wingo having had at least contact with the diocesan officials over the nature, amounts, and

types of services involving nonpublic school students. That this was the case is evidenced by the occasions of meetings which were held between Richmond diocesan officials and him. Not clear, however, was the exact influence Mr. Wingo may have had with respect to the implementation or interpretation of the ESEA legislation with regard to the Virginia constitutional prohibitions. It will be remembered that Title I services suffered the severe declines in participation among eligible diocesan school children near Mr. Wingo's retirement in 1971.

No study of Title I in Virginia would be complete without reference to the first Title I Director, Mr. Robert Walker Sparks, IV. Mr. Sparks assumed the position at nearly the outset of the implementation of the ESEA program. He was heavily involved in not only the program as it related to the public schools but was also instrumental in the experience of the Richmond diocese. As the official spokesman of Title I from the Virginia Department of Education, he was responsible for its implementation throughout the major portion of the time period which was the focus of this study. That Mr. Sparks was an important actor in the Richmond diocese's experience was cited several times in the narrative. Others recognized his role. Catholic officials recounted his stance on the issues innumerable times, as evidenced in correspondence and in interviews. Perhaps Mr. Sparks greatest contribution was in his insistence that the Virginia position regarding the servicing of sectarian school children in Title I (on-site services were prohibited) would not change unless he were ordered to do so. His insistence on maintaining the position created much furor and

concern among the Catholic officials. As discussed in Chapter Three and mentioned again in Chapter Four, it was his action which led to the eventual withdrawal of on-site services for children in diocesan schools in the Richmond LEA. He mentioned to the researcher in two separate interviews that he was acting on orders from above. His former assistant, Col. McCann, lent support in agreement during interview.

From the record, both written and from the testimony of others, Dr. Robert V. Turner appeared to act as a moderating influence on the Richmond diocesan experience with Title I. While certainly not opposing the official Virginia position, Dr. Turner did appear to desire that there be cooperation between the church and state on the matter. His actions regarding the appointment of Sr. Lourdes to the Title III Advisory Board, his several notes to her which provided information on not only Title I but other federal programs which might affect diocesan school students, his invitations for her to attend meetings to discuss appropriate items of mutual concern, and his expressed opinion that Title I services should be made available to nonpublic school students, all attest to his position of mediation. Sr. Lourdes, on the opposing side, specifically mentioned during an interview with the researcher that Dr. Turner would be a good person to talk to regarding the position of the Virginia Department of Education.

As a major actor from the Virginia Department of Education,

Dr. William H. Cochran stands out because of the role he played in the matter of the decision of the attorney general regarding the interpretation of Virginia law related to the Title I legislation. It was Dr. Cochran, as acting superintendent of public instruction during the interim between Dr. Woodrow Wilkerson and Dr. W. E. Campbell, who requested the ruling from then Attorney General Andrew Miller. It would be unfair to offer conjecture that Dr. Cochran was merely the person at the time who had to take the action. Rather, the research indicates that Dr. Cochran was desirous of finding a solution to the Title I question. He therefore acted on this basis.

Former Attorney General Andrew Miller, without question, was a significant player in the experience of the Richmond diocese with ESEA Title I. This importance stems from his ruling on July 21, 1975, that Virginia law prohibited public funds from being expended in sectarian schools without regard to the origin of the funds. This ruling set the stage for the eventual issuance of the by-pass by the U.S. commissioner of education in September of 1977. Nearly the entire last two years of the conflict between church and state revolved around the 1975 ruling by Mr. Miller.

Dr. W. E. Campbell was a major actor from the Virginia Department of Education during the time from his having written to OE on June 22, 1976, that Virginia could not sustain the offering of Title I services to nonpublic school children in Richmond diocesan schools. Sr. Lourdes, looking at matters from the opposing side, stated during an interview with the researcher that she did not fault Dr. Campbell's actions during the conflict because she felt that they were based

on his reliance on his staff for input, that the complexities and expanse of responsibilities of a state superintendent in the public sector were extensive and that it was natural that he should depend on staff for input. Sr. Lourdes' comment not withstanding, Dr. Campbell's actions did serve to heighten tensions during the last year of the study. His actions were expressed mainly in the form of written communications.

Dr. Woodrow Wilkerson, as superintendent of public instruction during the majority of the time frame certainly must be considered as being one of the important actors, although the significance of any specific acts of the former CSSO in relation to the experience of the Richmond diocese with Title I was not as readily documented. The researcher's investigation of the Title I information available at the Virginia Department of Education failed to yield any unassailable literature which would have clarified and specifically outlined the role of Dr. Wilkerson in the actions of the subject matter. It was the state superintendent, however, who was ultimately responsible for the necessary assurances and "sign-offs" required on each Annual Title I application submitted to the U.S. Office of Education by the Virginia Department of Education.

Sr. Lourdes Sheehan, as superintendent of schools for the Diocese of Richmond from 1972 through the end of the time frame, was a significant character in the diocese's experience with Title I. Sr. Lourdes acted as the prime mover in especially the last three years -- 1974, 1975, and 1976. As has been cited in the narrative, Sr. Lourdes' main contribution was her persistence that not only should eligible

Richmond diocesan children receive Title I services, but that those services should be equitable by her definition. Further evidence of the strong position taken by Sr. Lourdes was the following statement made by her to the researcher during a 1984 interview:

> So, when you ask me what motivated me, part of what motivated me was a real strong suspicion that I had that at both the state level and at the U.S. Office of Education level, the whole theory was -- if we delay long enough, we'll wear her out and she'll just quit . . . this effort. And, the more I realized that, the stronger I became in my conviction that there wasn't any way that I was going to stop, again, because we had so many children who were eligible and for whom we weren't getting any services.[9]

Others have attributed the headway gained in the Title I matter to Sr. Lourdes as well. Her immediate predecessor, Fr. O'Brien, stated that he believed that the Richmond diocese's experience with ESEA Title I was significantly altered through Sr. Lourdes' position:

> You could certainly say that the Diocese of Richmond got the "by-pass" several years earlier than it would have if Lourdes hadn't been there. To the very end, to the day she got it, I thought she was wasting her time. And I kept saying that. But she didn't listen to me. Fortunately.[10]

Dr. Robert Turner also verified the significance of Sr. Lourdes as an important actor with the Richmond diocese in the matter:

> We're going back ten years and more . . . more than ten years and we're relying on memory only . . . but as I say, she was . . . admirably cautious to begin with, but once she decided that this was right and that this is what ought to be done and she had a chance, I think she was quite tenacious -- which was

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[9]Interview with Sr. Lourdes Sheehan, 30 March 1984. [Permission to quote.]

[10]Interview with Rev. J. Stephen O'Brien, 5 April 1984. [Permission to quote.]

fine.[11]

As a matter of record, nearly all of the persons contacted by the researcher for interviews for the study indicated the significance of Sr. Lourdes during the 1972 through 1976 period.

Sr. Lourdes' immediate predecessor, Fr. J. Stephen O'Brien, was a major actor from the Richmond diocese's standpoint. It was under his superintendency that Sr. Lourdes was hired as a secondary school supervisor. Fr. O'Brien conceded that Title I was not much of an issue during his superintendency, that the failures of efforts on Title I and the failure of the effort to alter the state constitution wore the matter rather thin. The diocesan effort to change Article VIII, Section 10, of the Virginia Constitution occupied much of the time as far as the attempt to secure public funding was concerned -- at least from 1968 through November of 1971. Certainly, this effort occupied as much of Fr. O'Brien's focus as did other matters which soon began to supercede the public funding issue.

Msgr. Richard Burke, the first Richmond diocesan school superintendent to be involved with ESEA Title I, was an important figure during the early period following the implementation of the law. If anything, Msgr. Burke expressed an interest in both the levels and types of services eligible diocesan children had received. Thus, the first concerns regarding the equitability of Title I services for these children came from Msgr. Burke.

Sr. Elaine McCarron played a lesser but nonetheless significant

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[11]Interview with Dr. Robert V. Turner, 6 July 1984. [Permission to quote.]

role in that she was the diocesan staff person, in many instances, in direct communication with the school principals regarding the local implementation aspects of the Title I law. Nearly from the beginning of her tenure with the central diocesan office, Sr. Elaine acted as a consultant to the superintendent (first Fr. O'Brien and then Sr. Lourdes) on Title I matters. The evidence of this was illustrated by the numerous memoranda and letters sent out under her signature to the principals, especially on those occasions when Title I changes, additions, or program announcements were promulgated by the LEAs.

Mr. Nicholas A. Spinella, while not officially a member of the Richmond diocesan staff, was a major actor in the Title I experience. Mr. Spinella's involvement with public funding for parochial schools and students in the Richmond diocese extended from the pre-Title I days through the activities associated with the last stage of the quest for a solution to the Richmond diocese's difficulties with Title I. As diocesan attorney, he provided legal advice to the officials in the Department of Schools regarding the potentials for legal recourse on public funding for diocesan schools. As a member of the Committee to Revise the Constitution, he served as an active advocate for the changing of Article VIII, Section 10, of the Virginia code. He spoke publicly on numerous occasions throughout the three year period from 1968 to 1971 in opposition of the move to retain the portion of the law which prohibited diocesan school children from receiving state funds.

Charles Brower is listed as a major actor from the Richmond diocese because of his key involvement in the Title I experience during

the Constitutional change question. Perhaps his most significant contribution was the role he played during the contact with the U.S.C.C. in 1973. It will be remembered that it was to his attention that Richard Duffy at the U.S.C.C. addressed the letter of August 21, 1973 which marked the first phase of the last section of the Title I experience for the Richmond diocese.

Bishop John J. Russell must be considered as a major actor in the Richmond diocese's experiences, not as a day to day person involved in the Title I question, but as a supporter of Catholic schools in the greater picture of federal aid to diocesan schools. His major role was that of being supportive of the efforts of the Department of Schools' in not only Title I but also in the constitutional revision attempt. His many public pronouncements during the period from 1968 through 1971 must have offered encouragement to the persons involved. As a major actor, Bishop Russell's successor, Bishop Walter F. Sullivan was less publicly visible on the question of federal aid to diocesan schools. Succeeding to head the Catholic Diocese of Richmond in 1974, an immediate and more difficult question for Bishop Sullivan was the split of the diocese in the creation of the Arlington diocese. During a 1984 interview, Sr. Lourdes stated of Bishop Sullivan:

> And the other thing that was very encouraging to me was Bishop Sullivan, whom I kept involved all along and who was personally . . . encouraging. . . . Bishop Sullivan said to me, 'I agree with you and we will do whatever needs to be done in order to get services for eligible children.'[12]

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[12]Interview with Sr. Lourdes Sheehan, 30 March 1984. [Permission to quote.]

Richard Duffy, government programs coordinator for the U.S.C.C.'s education department, was a major actor during the last phase of the Richmond diocese's experience. He wrote numerous letters to O.E. officials regarding the Virginia Title I experience. Many of these letters requested action on the Virginia situation. Duffy acted as an encouragement and reminder to OE that diocesan school children needed service. Duffy stated to the researcher during a 1984 interview that he did not believe his letters had very much impact on OE officials. The fact remains, however, that many of these letters appeared to encourage action on the part of these officials.

The major actors from the U.S. Office of Education were more difficult to identify, partially because of the seeming reluctance on the part of federal officials to discuss the Title I difficulty and partially for the reason that few records were available to assist in the identification process. Significant but unidentified major actors from OE were the members of the annual review teams which studied and reviewed Virginia's annual Title I program reports and applications. These individuals would have been important to identify if only to determine their thoughts and feelings regarding the Virginia Title I program as it applied to nonpublic school students. Despite this obstacle, at least a few key federal officials were identifiable. Among these was Mr. Dwight Crum, who served as coordinator for Nonpublic Educational Services from 1971 through the conclusion of the time frame of the study. (Researcher's note: Dwight Crum, retired in 1985 as senior advisor to the executive assistant for nonpublic schools in the U.S. Department of Education.) Crum was an important figure

in the Richmond diocesan experience because of his position as a person who could, and did, furnish information to the Catholic sector regarding the requirements of the Title I law and because of his work with the interpretation of congressional intent with special regard to the by-pass provision of the 1974 Educational Amendments, P.L. 93-380.

Another federal official who was a major figure in the Richmond diocese's experience with ESEA Title I was Commissioner of Education Terrell H. Bell. (Bell also served as secretary of education from 1981 through 1984.) He was the person who was in the top education slot when Sr. Lourdes wrote the initial request for the by-pass.

As evidenced from the amount of correspondence which was generated from the Catholic sector to his attention, Robert R. Wheeler was particularly important. It appeared that, as deputy to the commissioner of education, he was the "action" person with respect to the Richmond diocese's difficulties with Title I. Thus, while Dr. Bell was the "top" man, Wheeler was the person who implemented some of the decisions or made recommendations in the Virginia situation. Evidence of his significance was his role during 1976 when he informed Dr. Campbell of the seriousness of the situation and that Virginia might be in violation of the federal law. Robert Wheeler also provided information to Sr. Lourdes on what was required by the U.S. Office of Education in order to investigate her complaints regarding the implementation for the diocesan school children in Virginia.

There were other federal officials involved in the Virginia Title I matter during the mid-1970's. Most of these, however, were not identifiable through the research because they are no longer with

the agency and could not be located. Questioning of those remaining officials revealed little useful information. The absence of records further compounded the difficulty. With the evidence available, and from the actions which occurred, these unknown others did not play a very visible role. Fr. O'Brien, superintendent of schools for the Richmond diocese from 1968 through 1971, stated " . . . we called the Office of Education, we talked to guys . . . . See, they came around and investigated every once in awhile. They sent some guy down. I wouldn't even see a guy, one time, when he came down . . . I don't remember his name . . . ."[13]

The Major Events

The major events in the implementation of ESEA Title I in the Richmond diocese from April 1965 through December 1976 were those which resulted in some type of movement which occurred with respect to the Title I issue; i.e., events which caused something to happen. These events were either positive or negative in nature and moved the issues from the status-quo.

Given the posture of the Richmond diocese to be favorably disposed toward receiving federal funding for diocesan school students, the first significant event which occurred with respect to the diocese's experience with ESEA Title I was the appointment in 1965 of Mr. Alfred Wingo as federal programs director for Virginia and Mr. Robert W. Sparks, IV, as Title I coordinator. These appointments were significant because Mr. Wingo and Mr. Sparks guided the Virginia Title I program

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[13]O'Brien, Op. cit.

throughout its early implementation. Moreover, Mr. Sparks was the Virginia Title I coordinator for the entire time frame of the study. These appointments were, therefore, significant in that they had bearing on what occurred with respect to interpretations of the law both for public school students as well as for private school students in Virginia. The inclusion of these first two events is not to suggest that the Richmond diocese's experiences would have been different had two other individuals been appointed to these positions. That would be conjecture, not part of the study. These events are included for the reason that later events did often center around the actions or non-actions of the individuals in the office of federal programs director and Title I coordinator. The same could be said with respect to the appointment of any individual with authority in the Richmond Catholic diocesan structure. While probably considered an important overall occurrence in any event, the appointment of Sr. Lourdes Sheehan to school superintendent in the Richmond diocese was extremely significant in the Title I issue. As has already been illustrated, even her predecessor indicated that her tenacity was a crucial factor in the Title I experience. The description provided by Fr. O'Brien suggested that she was alone in the Department of Schools in desiring to pursue the Title I matter.[14] While her importance can not be diminished, her appointment was not the lone factor which played a significant role in the Richmond diocesan experience.

Perhaps key to the entire period from the summer of 1974 through

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[14]Ibid.

December 1976 was the passage of the Elementary and Secondary Amendments of 1974. Public Law 93-380 contained the by-pass language which made it possible for Catholic school proponents in Virginia to entertain reasonable possibilities respecting opportunity to pursue "equitable" Title I services for eligible diocesan school students. That this was an extremely important event was not difficult to ascertain while conducting the research for this study. Persons from all three sectors -- the federal, the state, and the diocese -- agreed that the passage of the by-pass legislation was the factor which determined the course of events for the last two and one-half years. Consistent throughout the interviews were references to "before" and "after" the by-pass. The study illustrates through documentation that there was a change in course following the passage of the 1974 legislation. Prior to this time, the Richmond diocese's experiences were primarily negative although limited services on an off-and-on basis had been implemented in a few areas from the beginning of school year 1966-67. What followed was a more positive tenor, although services were virtually nonexistent by December 1976.

Specifically related to the Title I issue, and thus significant, was the matter of the failed attempt to alter Article VIII, Section 10, of the state constitution. As has been cited, the effort was significant in that it displaced any focus the diocese may have had with respect to Title I from 1968 through 1972. "There was no federal aid from our point of view."[15] This was the way Fr. O'Brien phrased

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[15]Ibid.

it. With the focus on the state constitutional matters, Title I was not a high priority from the view of the diocesan officials.

The May 28, 1975 letter from Dr. William S. Cochran, then acting superintendent of public instruction, to Virginia's Attorney General Andrew P. Miller was a significant event. It provided the impetus for the attorney general's July 21, 1975, ruling that Virginia could not comply with the federal mandate, that federal funds became state funds once received, and that state funds could not be distributed to sectarian schools. The attorney general's ruling became the basis for a crucial portion of diocesan strategy to request a by-pass from the U.S. commissioner of education.

Sister Lourdes' January 12, 1976, letter to Dr. Terrell H. Bell was a major event because it marked the first official action taken by the Richmond diocese to request a by-pass. Prior to this time, there was only talk of asking for a by-pass as a recourse to then existing conditions. Once the letter was sent, an entirely different set of circumstances was set in motion. O.E. intervened on record for the first time and began the investigation of her Title I complaint.

The Issues

As far as issues were concerned, all difficulties which surfaced during the entire time frame centered around the question as to whether the state, in the form of the Virginia Department of Education, was able to expend public funds for the sectarian schools of the Diocese of Richmond. The issue surfaced in the strict interpretation of Article VIII, Section 10, of the Virginia Constitution (1971), first by the officials of the Virginia Department of Education and later, in an

unalterable fashion, by the attorney general. Even prior to the 1971 revision of the Virginia state Constitution, the officials of the Virginia Department of Education gave strict interpretation to the earlier version of the code. The strict interpretation imposed by the attorney general in 1975 gave final authority to the earlier actions of the Virginia Department of Education that public school employees could not render Title I services on the premises of the schools of the Richmond diocese. Another issue which surfaced in the conflict between church and state was the matter of "equitability" of Title I services between nonpublic and public school students. The Department of Schools of the Richmond diocese insisted that "equitable" services were those which were offered by the public school on the diocesan school premises. Sr. Lourdes summarized this issue and explained how it was related to yet another: . . . then we got into another whole discussion about transportation. The State was very willing to have our children go to public schools to receive Title I services, but they were unwilling to even consider providing any kind of transportation. Well, my point was -- you can hardly call that equitable services if you can't get the children from the Catholic school to the public school to participate in the services.[16]

Action taken by Sr. Lourdes in the form of writing to Dr. Robert Wheeler on May 21, 1976, was a major event. The letter was written in response to an earlier request to provide OE with specific information regarding her January complaint. The May 21, 1976, correspondence marked the first time the Richmond diocese categorically stated the

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[16]Interview with Sr. Lourdes Sheehan, 30 March 1984. [Permission to quote.]

exact nature of its complaint against the Richmond and Norfolk LEAs and provided information that indicated nonpublic school personnel were not involved in the "planning, programming, or implementing of services provided for educationally disadvantaged children."[17] The letter written by Dr. W. E. Campbell on June 22, 1976, added to the tension of the disagreement between the state and diocese. Moreover, this letter fueled a response from Richard Duffy to OE. OE, in turn, wrote to Dr. Campbell. At issue was whether the Virginia Department of Education was permitted to consign its responsibility for providing services to nonpublic school children in the state to the federal government — in essence, the reality of by-pass operation. Dr. Campbell's letter provided the first written evidence that the Catholic diocese had been essentially correct in its charge that few eligible children had received services during school year 1975-76.

A final issue raised but, to date, never fully clarified was the matter of the responsibility of the U.S. Office of Education in the enforcement of the original ESEA legislation and subsequent amendments which pertained to the participation of nonpublic school students in Virginia. The study has clarified a portion of the matter by providing documentation that OE was cognizant and, indeed, aware of difficulties in Virginia as early as 1973. Documentation has been provided which illustrates that OE did ask the Virginia Department of Education for clarification on nonpublic school participation in 1976 and that

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[17]Sr. Lourdes Sheehan, Letter to Robert R. Wheeler, 21 May 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Photostatic copy.)

there was concern about the Virginia Title I program for 1974. This issue found the Catholic authorities at odds with both the state and the federal governments.

Synthesis

While certain questions remain open because of some of the difficulties experienced while doing the research, the major problems were addressed. The questions which deal with what happened show that the Richmond diocese experienced difficulties in the implementation of ESEA Title I pertaining to eligible Catholic school students nearly from the start. Yet, while this has been documented, it also has been shown that the dissatisfaction with what was being received at an early time was not expressed to any great degree until approximately 1969. The issue of altering the state constitution played a major role in focusing attention away from the Title I issue as did other issues of the time: (a) the loss of religious personnel from the schools which necessitated several closings, (b) the loss of enrollment for a variety of reasons, (c) the cloudiness which surrounded the concept of federal vs. state funding (which was which?), (d) the relative powerlessness of the Catholic populace in general to have a true and real impact on the Virginia legislature. It has been shown that Title I did not re-emerge as an issue of pursuit until the aftermath of the failure of the state constitutional revision effort had an opportunity to clear people's minds.

The relative size of the Richmond diocesan staff certainly had a role in the matter. In 1966, for example, the only person on

staff for the Department of Schools was the superintendent himself. The size of the staff did grow in the late 1960s and early 1970s, providing more time with which to focus on Title I.

The record shows the attention and, moreover, the persistence of Sr. Lourdes Sheehan as a significant factor in the Title I matter. As has been documented, her persistent and at times pushing nature played a role in executing the mandates of the by-pass in at least getting action. Attorney Spinella, as indicated earlier, has stated on more than one occasion that the Virginia Constitution's restrictive clauses and the strict interpretation of those clauses by the Virginia attorney general had major impact on the implementation of Title I.

The U.S. Office of Education's early role in the Virginia Title I implementation is less clear due to the dearth of documentation. Clarity does emerge, however, after the year 1972, as the evidence shows that they were aware of the lack of Title I services being offered to eligible Virginia private school students. Robert R. Wheeler, in the only surviving documentation discovered by the researcher, made reference to both time frames:

> Since the implementation of programs funded under Title I, ESEA, in [f]iscal [y]ear 1966, serious problems have existed in Virginia regarding the provision of services to eligible private school children. Office of Education program review teams annually have made determinations since 1972 that the Virginia SEA has been deficient in fulfilling the assurances of the Commissioner of Education in regards to this aspect of the administration

of Title I.[18]

Evidence has been provided which also illustrates that representatives of the U.S. Department of Education were uncertain as to exactly how to proceed with implementing the revised sections of the 1974 ESEA law (P.L. 93--380) which offered the by-pass as a solution in Virginia.

The major issue which recurred throughout the entire time frame, but particularly crucial during the last 2 years covered by this study, was the matter of "on-site" versus "dual enrollment" (services at the public school.) History has shown that Richmond diocesan officials insisted that eligible diocesan school students were to receive their services "on-site", as the public school students were receiving Title I services. Another thread which seemed to run throughout the period from at least 1973 through 1976 was the issue of "comparability." Many of the documents produced by all sides, especially during the last two years, dealt with whether the services rendered to parochial school students in the Richmond diocese were "comparable" or "equitable" with those received by their public school counterparts.

At the time, it was held by at least one official that eligible students in the Richmond diocesan schools had not been receiving Title I services. Indicated in Chapter Four of this study as evidence of this feeling was a letter written by Richard Duffy on April 19, 1976. This letter noted that Sr. Lourdes in Virginia was the first nonpublic

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[18]Robert R. Wheeler, Memorandum: Participation of Eligible Private School Children in ESEA, Title I, in Virginia -- BRIEFING, To: Commissioner of Education, 6 January 1977, Title I Files, Mr. Dwight R. Crum, Office of NonPublic Education, U.S. Department of Education. (Photostatic copy.)

school superintendent to request the Title I by-pass, preceding Oklahoma, Missouri, and Wisconsin by a month. Duffy's letter further alleged that " . . . since the inception of the Title I program, the nonpublic school children in the states of Virginia and Oklahoma have not received any services under Title I."[19]

Perceptions of reality vs. actual reality played interesting roles in both the historical occurrences and during the time frame in which the research was conducted. As has been illustrated, the notion that nonpublic school children " . . . had not received any Title I services . . ." prior to 1976 was not actual reality. The research showed that Title I services had been offered and received by some though admittedly few, eligible Title I children in the Richmond diocese as early as 1966. The comment that eligible children did not receive Title I services from 1966 through 1976 is incorrect. A reasonably accurate statement that some eligible nonpublic school children attending schools within the Richmond diocese from 1966 through December 1976 did receive Title I services has been illustrated by this study. However, except for school year 1975-76 in this study, no clear evidence is available to indicate the numbers of eligible diocesan school children who did not receive services. As Allen and Montell indicate in their publication on oral history, however, "what people believe [italics in original] is often as important as what actually happened, for most people think, act and react in accordance

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[19]Ibid.

with what they believed to be true."[20] This study's research indicated the beliefs and perceptions of the major actors' reality conformed to the position, outlook, and stance they were trying to expostulate.

The Virginia Department of Education's lack of information regarding the private school participation of children in ESEA Title I programs in the year 1976 as evidenced by Title I Director Robert Sparks' report to the superintendent in June of 1976 is an indication that the participation of nonpublic school children was not a priority within the program. Mentioned earlier in the section on Methodology was the fact some documents were not obtainable. While this was an obstacle, it is unclear whether these would have provided additional information which would have any substantial effect on the sum and substance of this study. Evidence toward the unliklihood that this would be the case is the example provided by Title I Director Robert Sparks' report to Dr. Campbell on June 16, 1976.[21] The data appeared, even at that time, to be sparse.

The Corollary Questions

The study addressed the corollary questions within the narrative in Chapters Two through Four. A summary is provided here, however.

The efforts of Richmond diocesan officials to secure services for children in parochial schools of the diocese from April 1965 through

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[20]Barbara Allen and William Lynwood Montell, From Memory to History (Nashville: The American Association for State and Local History, 1981), p. 15.

[21]Robert W. Sparks, Memorandum to Dr. W. E. Campbell, 16 June 1976, Title I Files, Office of Catholic Schools, Diocese of Richmond. (Copy.)

December of 1976 varied in concert with events and issues as well as personality of the leaders throughout the time frame. A disclaimer is listed for the time frame for the first year of the study because it remains unknown as to what applications were made by Richmond diocesan officials. Subsequent to this time, however, work ranged from the attempt to alter the state constitution during the time frame from 1968 through and including 1971 to few thoughts and efforts given during the period following the alteration failure to a rekindling of the venture beginning in 1973 to a rather assertive endeavor from 1974 through the conclusion of 1976. Efforts included the gathering of data to illustrate the position that the Catholic diocese was trying to actuate — that students were not receiving equitable services. Veiled are any citations regarding the participation of the Catholic school principals in the matter, although evidence has been presented which confirms at least a cursory involvement of the principals on an infrequent basis. Legal recourse was considered as a possibility. This surfaced once during the time of the state constitutional issue, and was referred to in a hint in the December 10, 1976, letter by Sr. Lourdes to Dr. Campbell.

The question as to the efforts made by Virginia Department of Education officials to provide services to children of parochial schools of the diocese from April 1965 through December 1976 remains a clouded issue, mainly because of the lack of surviving documentation. However, according to the former Title I Director Robert W. Sparks, little was done in the way of the provision of services to children of parochial schools in Virginia from 1966 through at least 1975:

> We amended the application [Virginia Annual Title I Application] two or three times, as the law was amended, and it strikes me that sometime around 1972-73 that the Title I application was amended in Virginia to include a small overview of what they would recommend that we do for non-public schools in the Commonwealth under the law. But, to my personal knowledge, nothing was ever done . . . . The . . . [visiting] teams came every year. And every year, to my personal knowledge, they asked us about what we were doing for the non-public school children throughout the width and breadth of the Commonwealth . . . . They asked not only the Title I officials, also the high state officials, the state superintendent of public instruction and others, what we were doing for the non-public schools and we would always say 'Nothing', and ninety percent of the time, they would write us up as a violation of the law for at least until 1974-75 . . . . Did this from 1966, 67, 68, 69, 70, 71, 72, 73, 74 . . . .[22]

While the testimony of the former Title I Director has not been totally confirmed nor denied, the memorandum sent by Sparks to Superintendent Campbell on June 16, 1976, does lend support to his remarks. It remains certain, however, that at least in the Richmond LEA, Title I officials did provide information on programs in which nonpublic school children might participate. It has also been documented that public school officials in Norfolk, Portsmouth, and Lynchburg offered information on their programs. For objectivity and completeness, it must be stated that the researcher was unable to obtain documentation regarding what efforts may or may not have been made by other public school officials regarding Title I services to diocesan school students in Virginia. The few surviving records on the scope

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[22]Interview with Mr. Robert Sparks, IV. 5 November 1983. [Permission to quote.]

of actual services received by a few eligible parochial school children in the Richmond diocese show that the nature and type differed according to the LEA in which the eligible diocesan school child was located. The actual services received by a few eligible parochial school children in the Richmond LEA during part of the time frame included speech therapy (1966 through 1970), school visits by a nurse (circa. 1968 through 1972), remedial reading and remedial mathematics. As has been illustrated, at least a few children (exact numbers unavailable) attending parochial schools in the Alexandria LEA received Title I services in the form of field trips, and funds for musical instruments during school year 1967-68. Teachers were also included in the Title I inservice activities of that LEA. Msgr. Richard Burke summarized the diocesan participation of school year 1968-69 in the letter to Mr. Wingo on February 21, 1969. The superintendent noted that some few students in the Portsmouth LEA allegedly attended the Diagnostic Center. Unfortunately, Msgr. Burke did not provide specifics on the numbers of students and the types of services these children received. According to the diocesan superintendent, Catholic parochial school students in Virginia Beach and Chesapeake received no services. Not mentioned were the Newport News, Roanoke, Lynchburg, Petersburg, Danville, Chesterfield, and Henrico LEAs. Children in the Richmond LEA lost their once-per-week remedial reading teacher by September 1972. For inexplicable reasons, the services were reintroduced for a brief time in January of 1973; they ended in June of 1973 because of the question of public school teachers being on the premises of church schools. In the fall of 1973, eligible children in three diocesan

schools located in the Arlington LEA received services in an indirect fashion -- through the allocation of funds, rather than personnel. The areas for which funds were provided ranged from English materials (for 36 students who had English as a second language) to reading and mathematics materials. Swimming instruction was also offered to eligible students in the Arlington LEA. Appendix F provides information on the level of Title I services received by eligible diocesan children in the Norfolk LEA during school year 1973-74.

Little else has been unveiled with regard to any other Title I services which eligible children in diocesan schools might have received during the time frame. Since the study did not include children from other private schools and most of the available data did not provide a breakdown between Richmond diocesan school students and other nonpublic school students, the percentage of nonpublic school children who were from the schools of the Richmond diocese is unknown. [See Appendix A, B, and C]. The exception is for school year 1976-77. An OE review team conducted an investigation into four LEAs where the Richmond diocese had schools. The team's report is one of the few surviving documents from the time. An excerpt from the review team's findings are presented in Appendix D.

Certain major events can be isolated as having had the most influence on the experience of the Richmond diocese with ESEA Title I from April 1965 through December of 1976. The isolated events are those which, by their presence, had controlling characteristics. The existence of the following factors controlled the experience of the Richmond diocese with ESEA Title I from April 1965 through December

of 1976:

1. the strong tradition of separation of church and state in Virginia;

2. the characterization, in this case, of the separation of church and state as exemplified by Article 141 of the Virginia Constitution in effect through November 1971 and by Article VIII, Section 10, of the revised Virginia Constitution;

3. the interpretation of the Virginia Constitution by officials in the Virginia Department of Education and, later (1975), reinforced by the strict interpretation by the Virginia attorney general;

4. the Education Amendments of P.L. 93-380 which contained the by-pass provision;

5. the assertive position and action taken by Sr. Lourdes Sheehan following the passage of P.L. 93-380.

Numerous citations have been provided in the narrative as to the significance of each of the factors listed. As stated in chapter 1, one of the weaknesses of a historical study is that the conditions can not be replicated: what happened remains as fact, the variables can not be controlled.[23]

Summary -- The Major Thesis Revisited

At the outset of the study, the researcher stated that the implementation of ESEA Title I with respect to parochial school children in the Diocese of Richmond was controlled by factors external to the

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[23]Fred N. Kerlinger, Foundations of Behavioral Research 2nd. ed. (New York: Holt, Rinehart and Winston, 1973), p. 390.

diocese's ability to influence or control until 1974. Also stated was that the passage of the Education Amendments of 1974 sufficiently altered the prospects for the success of these efforts to a degree that only then did the diocese develop a strategy for obtaining these services. The completed research indicated that the thesis was only partially correct. The plan of the diocese in 1962 illustrates that there was an early "strategy" for obtaining federal aid. While this is not exactly the same as the statement regarding a "strategy for obtaining Title I services," it must be given consideration. The ill-fated attempt to alter the state constitution was also a "strategy" to obtain federal funding.

History has shown that the prospects for the success of efforts to receive Title I services did increase significantly following the passage of the Education Amendments of 1974. The areas which the diocese had the greatest ability to control or influence were the amounts and types of efforts exerted by diocesan staff toward obtaining services and in the willingness to compromise on issues. The issue the diocesan leadership had the ability to control was the question of accepting or not accepting the matter of "dual enrollment" vs. demanding and maintaining a non-negotiable position for "equitable" services. The definition of "equitable" adhered to by the Richmond diocese was "on-site." This study has cited the efforts of Sr. Lourdes Sheehan in illustrating that she provided the type of leadership which was eventually to prove successful in obtaining Title I services for eligible Richmond diocesan school children at that time.

Implications For the Future

The U.S. Supreme Court issued a ruling on July 1, 1985, which affected Chapter I programs all over the U.S. In Aguilar v. Felton, 105 S.Ct. 3232 (1985) the court held that the Title I program administered by the City of New York was unconstitutional, in violation of the Establishment Clause of the U.S. constitution.[24] (Note: The court, in deciding Felton, mentioned that Wheeler v. Barrera did not address the Establishment question and therefore was of no guide:

> In Wheeler v. Barrera, 417 U.S. 402, S.Ct. 2274, 41 L.Ed.2d 159 (1974), we addressed the question whether this provision requires the assignment of publicly employed teachers to provide instruction during regular school hours in parochial schools. We held that Title I mandated that private school students receive services comparable to, but not identical to, the Title I services received by public school students. . . . Therefore, the statute would permit, but not require, that on-site services be provided in the parochial schools. In reaching this conclusion as a matter of statutory interpretation, we explicitly noted that 'we intimate no view as to the Establishment Clause effect of any particular program . . . . Wheeler thus provides no authority for the constitutionality of the program before us today.[25])

Thus, while Wheeler did not address the Establishment issue, Felton did " . . . through the excessive entanglement of church and state in the administration of those benefits."[26] Actually preceding the Felton decision was a case which also has direct bearing on the by-pass

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[24]Aguilar v. Felton, 105 S. Ct. 3232 (1985)

[25]Ibid.

[26]Ibid.

-- Wamble v. Bell, 598 F.Supp 1356 (1984). In this case in the western district of Missouri, "[t]he District Court, Stevens J., held that: (1) "bypass provision" of the Act [Elementary and Secondary Education Act of 1965] did not, on its face, violate the establishment clause, but (2) the program, as administered on premises of Missouri's parochial schools during school day, violated religious neutrality and entanglement principles of the clause."[27] It is uncertain as to how far the Wamble case would be applicable to the Virginia situation, but because of the overriding jurisdiction of Felton, conjecture is unnecessary.

Currently, there is no clear method of implementing the decision of the court -- that "on-site" Chapter I services to students in religiously affiliated schools is not an acceptable means of providing these services. With the by-pass in operation in Virginia, however, it is likely and, indeed, occurring that public and private school authorities across the United States are searching the methodologies and mechanisms associated with the by-pass as a means of fulfilling the tenets of the Chapter I law and, at the same time, avoiding the prohibitions of Felton. The present work covers only the period from the beginning of the ESEA legislation through 1976. With the current situation, it would appear likely that the experiences since 1976 would be of interest to both private and public school administrators to demonstrate and illustrate the experiences of the by-pass operation. While providing services "on-site" is out of the realm of possibility as the result of the Felton decision, the experiences of the provision of services under the by-pass might prove to be illuminating.

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[27]Wamble v. Bell, 598 F.Supp. 1356 (1984)

One disadvantage of doing further study of the operations of the by-pass at this juncture is that there has not been much passage of time, many issues remain very current and consequently, very "sensitive." Further research into this subject might prove to be more difficult than dealing with issues that are further removed in time. Because of the 5-year rule on the governmental retention of documents, this is admittedly a paradox. Perhaps a solution and a final suggestion to researchers would be for them to try to gather documents before the 5-year rule intervenes and then to wait an arbitrary amount of time before commencing further work. This remains a problem.

General Hypotheses Derived From the Conclusions of the Study

A number of generalizations about church and state relationships; about administrative processes in state, federal, and church bureaucracies; and about leadership emerged from the study. These generalizations are presented as empirical propositions.

The following propositions regarding conflicts between church and state emerged from this study:

1) In situations where the church's participation in federal funding is voluntary, the level of participation is dependent upon the goals, beliefs, and dispositions of the church leaders.

Some leaders are more persistent than others, their threshold for tolerating frustration is higher, and their self-concepts (wills) are stronger. These leaders focus their attention on goals and forge ahead despite formidable odds, and they are more likely to accomplish their goals. In this study, Sr. Lourdes continued the pursuit of

the Title I issue despite the fact that there was little experience on which to base a stance of persistence; previous pursuit of the matter had yielded little aid. Fr. O'Brien even indicated that he thought she was wasting her time. Without Sr. Lourdes' persistence, tolerance of frustration, and will, funding of Title I programs in the diocese probably would have been delayed even longer.

2) During situations of conflict between church and state over federal funding, it is likely that both sides may look to the court system for interpretations which support their positions.

As early as 1969, the diocese of Richmond considered bringing legal action against the state of Virginia to require the state to provide equitable services to children in parochial schools. No litigation ensued. Later, the United States Catholic Conference was fearful that the Virginia attorney general's ruling might apply the prohibitions of Meek v. Pittenger 421 U.S. 349 (1975) regarding on-site services. In 1975 the Virginia Department of Education requested the attorney general to provide an interpretation of what services the Virginia constitution would allow the state to provide to parochial schools.

3) Given that there is another law providing funding for special purposes, whether or not parochial schools participate may be determined by factors that have nothing to do with that law.

During the time frame, many issues unrelated to the Title I issue drew the attention of diocesan officials to such an extent that Title I was set aside from time to time. In the late 60's, and early 70's, enrollments were declining and Catholic schools were being closed,

the sex education issue received attention, the efforts to revise Article VIII, Section 10 of the state constitution required much energy, and the threat to the tax-free status of church property in the city of Richmond required time. These and other issues averted attention from procuring Title I funds for on-site education of students in parochial schools.

4) On questions of church and state relations involving private schools, the U.S. Department of Education will often side with the private school interests against the state.

On more than one occasion, as documented in this study, the U.S. Department (Office) of Education sided with the Richmond diocese against the Virginia Department of Education on the Title I matter, citing the requirements of the ESEA Law.

Because federal law involving educational issues is often broad in scope and designed to serve children in all states, the legislation is often written with a more liberal bent than laws found in individual states. When these laws are written, the U.S. Department of Education often plays an enforcement role against individual states when questions of compliance arise. In this study, the United States Department of Education found itself in a policing role against the state of Virginia on the implementation of ESEA Title I for children in the Richmond diocesan schools. While documentation regarding early enforcement was not available, the later stages did provide some evidence. USOE officials wrote to state officials and questioned them regarding the lack of participation of parochial school children in Title I services, they investigated compliance with the law; they threatened

withholding federal funds, and, finally, they issued the bypass.

The next set of propositions is concerned with administration and administrative processes within the state department of education and the Catholic church:

1) In their drive to be efficient, organizations establish rules and regulations that produce undesirable side-effects.

This study appears to verify the observations of others with regard to both functions and dysfunctions in bureaucratic organizations. As an example, bureaucracies often establish deadlines for the provision of information or the delivery of reports. Merton quotes Julian L. Woodward on a condition called "deadline neurosis."

> . . . since bureaucracies are organized for action, questions are often asked of intellectuals (in them) for which they have no immediate answer. Or, this may invite the 'deadline neurosis'; problems may be raised which . . . [are] . . . impossible to solve within the allotted time. [28]

In the current study, it will be recalled that on more than one occasion, the U.S. Office of Education asked the Virginia Department of Education for information " . . . within 30 days." On those same occasions, the Virginia Department of Education exceeded the 30 day time frame. The response was impossible to give within the allotted time. This seems to be a typical response to unreasonable time frames.

Throughout the study, it appeared that USOE took a great deal of time in responding to events and questions from Richard Duffy of the United States Catholic Conference. Duffy, on more than one occasion

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[28]Robert K. Merton, Social Theory and Structure, New York: The Free Press, 1968 ed., p. 249.

in 1975 and again in 1976, accused USOE of " . . . footdragging . . . ."

2) Governmental agencies and the Catholic church use different administrative processes in decision-making.

The state department of education was heavily dependent upon binding internal bureaucratic functions as illustrated by consultation with the attorney general. The U.S. Office of Education, also, was very heavily dependent upon internal bureaucratic operational procedures based upon legalities and the legal positions prescribed by the ESEA legislation. That USOE was very much into legal procedures can be evidenced throughout the study. One citation is presented here. In a letter to Dr. Campbell on August 9, 1976, Robert Wheeler stated that no by-pass would be implemented in Virginia until " . . . all other solutions have been exhausted." In that case, Wheeler was following the mandate of the ESEA legislation that the bypass could not be implemented until all other answers had been explored. In comparison to both the state department of education and USOE, the administrative processes of the Catholic Church (Richmond diocese) involved more nonbinding consultation as evidenced by the communications the diocese had with the United States Catholic Conference. Continuing with this vein of analysis, legal opinions sought from lawyers by the diocesan authorities were advisory and not binding.

3) A state department of education is likely to rely on laws, rules, and regulations, and not act in an opposite way.

This sensitivity to the law was illustrated by actions of both Sparks and Campbell. Title I Director Robert W. Sparks stated several times that he could not allow Title I services to be offered on

parochial school sites. He said that he was dependent upon " . . . higher authority." State School Superintendent W. E. Campbell referred questions of service to the attorney general for resolution.

4) Specialization in a state bureaucracy may hamstring the implementation of federal law.

Bureaucracies circumscribe the activities of incumbents of offices. Prescriptions tell them what they can do and proscriptions limit their authority. In this study, Title I Director Robert Sparks was not able to implement the federal law in Virginia because of his lack of authority to take action beyond the level of his specialization. As an employee of the state, Sparks was authorized to implement ESEA within state constitutional restrictions. When there was doubt about serving Catholic students, Sparks said that he was unable to provide the services because his position did not authorize him to override the the state law.

The next set of propositions suggests the need for further study in the area of personality of leaders with regard to frustrating circumstances:

1) The length of time a leader is on the job may be a determining factor in how much effort is expended on an issue fraught with frustration; the less time on the job, the greater the effort an individual will exert. Given the same set of circumstances, the responses of leaders will be different.

Fr. O'Brien, who had dealt with the federal funding issue for several years became frustrated and lost interest in giving further attention to procuring public funds, felt that Sr. Lourdes was " . . .

wasting her time" when she decided to pursue the matter. Sr. Lourdes had not had the frustrating experiences of Fr. O'Brien and approached the task with a fresh outlook when she succeeded O'Brien as superintendent. She was willing to devote her energy to the continued pursuit of such funding. One of the circumstances which gave her hope was the passage of the Education Amendments of 1974 which included the bypass. Fr. O'Brien did not have this support.

2) The relationships between leaders of bureaucracies with differing goals contribute to the understanding and possible resolution of conflicts between those bureaucracies.

When Dr. Robert Turner became special assistant to the superintendent of public instruction, a positive relationship appeared to grow between Dr. Turner and Sr. Lourdes though the two were on opposite ends of the issue of public funding for parochial schools. Dr. Turner understood the Catholic position, though it was in conflict with the state law. He provided Sr. Lourdes with information, supported her appointment to the Title IV advisory board, invited her to attend conferences on Title I, and was generally supportive of her efforts. While the conflict was not resolved, because of this relationship, the understanding of what each side stood for was clarified.

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APPENDIX A

STATISTICS ON TITLE I/CHAPTER I
FUNDING, STUDENTS SERVED, AND PERSONNEL
FROM 1965 TO THE PRESENT
(REGULAR PROGRAM IN VIRGINIA)

APPENDIX A

TITLE I/CHAPTER I FROM 1965 FOR VIRGINIA LOCAL EDUCATIONAL AGENCIES

WINTER PROGRAM						
Year	Funding	Students	Teachers	Teacher Aides	Other Staff	Total Staff
1982-83	56,514,815	83,389	1,405	1,498	430	3,333
1981-82	55,978,717	88,821	1,486	1,716	531	3,733
1980-81	57,436,684	104,157	1,715	2,441	726	4,882
1979-80	62,142,258	111,781	1,760	2,630	641	5,031
1978-79	55,365,046	105,706	1,762	2.484	862	5,108
1977-78	45,153,043	100,323	1,612	2,313	731	4,656
1976-77	**39,979,387**	**95,603**	**1,447**	**2,222**	**764**	**4,433**
1975-76	**37,066,971**	**94,498**	**1,505**	**2,271**	**753**	**4,529**
1974-75	**35,346,213**	**90,091**	**1,259**	**2,088**	**1,030**	**4,377**
1973-74	**31,522,692**	**108,125**	**1,101**	**2,183**	**953**	**4,237**
1972-73	**35,266,849**	**112,947**	**1,394**	**2,621**	**1,005**	**5,020**
1971-72	**33,803,541**	**113,754**	**1,349**	**2,553**	**938**	**4,840**
1970-71	**34,181,909**	**101,353**	**1,112**	**2,127**	**893**	**4,132**
1969-70	**30,013,222**	**111,807**	**1,038**	**1,992**	**348**	**3,378**
1968-69	**25,355,733**	**140,034**	**1,286**	**1,926**	**851**	**4,063**
1967-68	**27,888,969**	**136,573**	**1,164**	**1,935**	**885**	**3,984**
1966-67	**22,702,438**	**130,658**	**1,268**	**1,891**	**859**	**4,018**
1965-66	**20,831,580**	**116,788**	**N O T**	**A V A I L A B L E**		
TOTAL	706,550,337	1,946,408	23,663	36,891	13,200	73,754

SOURCE: "Chapter 1 In Action, Virginia Evaluation Summary, 1979-83," Virginia Department of Education, Richmond, Va. July 1984, p. 4.

APPENDIX B

STATISTICS ON TITLE I/CHAPTER I
FUNDING, STUDENTS SERVED, AND PERSONNEL
FROM 1965 TO THE PRESENT
(SUMMER PROGRAM IN VIRGINIA)

APPENDIX B

TITLE I/CHAPTER I FROM 1965 FOR VIRGINIA LOCAL EDUCATIONAL AGENCIES

SUMMER PROGRAM						
Year	Funding	Students	Teachers	Teacher Aides	Other Staff	Total Staff
1982-83	56,514,815	83,389	1,405	1,498	430	3,333
1981-82	55,978,717	88,821	1,486	1,716		
1980-81	57,436,684					
1979-80	62,142,528					
1978-79	55,365,046					
1977-78	45,153,043					
1976-77	39,979,387					
1975-76	**37,066,971**					
1974-75	**35,346,213**					
1973-74	**31,522,692**					
1972-73	**35,266,849**					
1971-72	**33,803,541**					
1970-71	**34,181,909**					
1969-70	**30,013,222**					
1968-69	**25.355.733**					
1967-68	**27,888,969**					
1966-67	**22,702,438**					
1965-66	**20,831,580**					

SOURCE: "Chapter 1 In Action, Virginia Evaluation Summary, 1979-83," Virginia Department of Education, Richmond, Va. July 1984, p. 4.

APPENDIX C

CHART SHOWING THE NUMBERS OF CHILDREN WHO PARTICIPATED IN TITLE I PROGRAMS IN VIRGINIA (REGULAR SESSION) 1966-67 through 1976-77

A note of explanation about Appendix C: Items shown as "Not Listed" are categorized in this fashion because the reports from which the data were taken did not include private school children. Items shown as "Not Available" are so categorized because the reports for the particular year were not among surviving documents.

APPENDIX C

NUMBER OF CHILDREN WHO PARTICIPATED IN TITLE I PROGRAMS

IN VIRGINIA

(REGULAR SESSION)

1966-67 through 1976-77

School Year	Public School Children	Private School Children
1966-67	NOT AVAILABLE	NOT AVAILABLE
1967-68	135,741	832
1968-69	140,034	745
1969-70	111,807	NOT LISTED
1970-71	101,353	NOT LISTED
1971-72	113,754	NOT LISTED
1972-73	NOT AVAILABLE	NOT AVAILABLE
1973-74	NOT AVAILABLE	NOT AVAILABLE
1974-75	90,091	665
1975-76	NOT AVAILABLE	NOT AVAILABLE
1976-77	NOT AVAILABLE	NOT AVAILABLE
T O T A L S	692,780	2,242

SOURCE: "Title I in Action, Evaluation Summary Data," State Department of Education, Richmond, 1967 -- 1977. (Annual Publications)

APPENDIX D

CHART SHOWING THE NUMBERS OF PUBLIC AND PRIVATE SCHOOL CHILDREN WHO PARTICIPATED IN THE 1976-77 ESEA TITLE I PROGRAMS IN FOUR LOCAL EDUCATIONAL AGENCIES IN VIRGINIA

Source: Report on the Investigation of the Participation of Private School Children in Title I Programs for Fiscal Year 1977 in Richmond, Newport News, Norfolk, Portsmouth and Alexandria, Virginia, 18-21 and 28 July 1977, "Attachment 1", Joseph Vopelak and Charles Dell, 24 August 1977, Division of Education for the Disadvantaged, Bureau of Elementary and Secondary, U.S. Office of Education. Title I Files, Office of Catholic Schools, Diocese of Richmond. [See also: Title I Files, Office of Compensatory Education, U.S. Department of Education, Washington, D.C.]

Note: Appendix D is an excerpt from the original document which included the city of Alexandria, part of the Arlington diocese.

APPENDIX D

NUMBER OF PUBLIC AND PRIVATE SCHOOL CHILDREN WHO PARTICIPATED IN THE 1976-77 ESEA TITLE I PROGRAMS IN FOUR LOCAL LOCAL EDUCATIONAL AGENCIES IN VIRGINIA

LEAs --->	Newport News	Norfolk	Portsmouth	Richmond
LEA Public School Enrollment	32,782	46,456	22,186	37,111
LEA Private School Enrollment	1,931	13,924	1,524	NA
Ed. Deprived (Pub. Stud.) in target area	3,854	8,159[3]	4,625	3,529[4]
Ed. Deprived (Priv. Stud.) in target area	22[1]	533[1]	64[1]	542[1]
Public School[2] Title I Participants	1,308	4,621	3,718	5,500
Priv. School Title I Participants	1	17	6	15
Total Approved Budget	$1,031,809	$3,046,611	$886,453	$2,633,435

1 Catholic Diocese of Richmond figures - grades 1 - 12.
2 Regular school year program figures.
3 Includes all children performing below 50th percentile in 22 target schools. Program covers only Pre K to 4.
4 Number of students performing below 50th percentile in target schools, grades 2, 3 and 4.

Source: See Appendix D Title Page.

Appendix D

(Continued)

NUMBER OF PUBLIC AND PRIVATE SCHOOL CHILDREN WHO PARTICIPATED IN THE 1976-77 ESEA TITLE I PROGRAMS IN FOUR LOCAL LOCAL EDUCATIONAL AGENCIES IN VIRGINIA

LEAs --->	Newport News	Norfolk	Portsmouth	Richmond
Priv. School Title I Participants	1[a]	17[b]	6[c]	15[d]

a -- Summer school participant
b -- All summer school participants
c -- Participants in summer reading program
d -- All summer school participants

Sources: a -- Ibid., "Attachment 3."

b -- Ibid., "Attachment 4."

c -- Ibid., "Attachment 5."

d -- Ibid., "Attachment 2."

APPENDIX E

LIST OF INTERVIEWEES

AND SAMPLE LETTERS

APPENDIX E

LIST OF INTERVIEWEES

Name and Vantage Point	On Initial List		Type of Contact*			
	Yes	No	L	P	I	D
Mr. William B. Ball, Esq. U.S.C.C., Diocese of Richmond		X	X			
Ms. Alice Baum National Advisory Council, Title I		X	X	X	X	
Rt. Rev. Msgr. Richard J. Burke Diocese of Richmond	X			X		
Mr. Charles M. Brower Diocese of Richmond		X	X	X	X	
Dr. William H. Cochran Virginia Department of Education	X					X
Mr. Charles L. Conyers Virginia Department of Education	X		X		X	
Mr. Dwight Crum U.S. Department of Education		X	X	X	X	
Mr. Richard Duffy U.S. Catholic Conference	X		X	X	X	
Dr. Mel Engelhardt U.S. Department of Education		X				X
Mr. Fred Headley Virginia Department of Education		X			X	
Mr. Thomas C. Lawler Diocese of Richmond	X		X	X	X	
Col. W. H. McCann Virginia Department of Education		X	X	X	X	
Sister Elaine McCarron, SCN Diocese of Richmond	X		X	X	X	

* Type of contact code:

L = Letter; P = Phone; I = Interview; D = Discussion (informal)

Appendix E

(Continued)

Name and Vantage Point	On Initial List		Type of Contact*			
	Yes	No	L	P	I	D
Rev. J. Stephen O'Brien Diocese of Richmond	X		X	X	X	X
Rev. William L. Pitt Diocese of Richmond		X	X		X	
Sr. Lourdes Sheehan, R.S.M. Diocese of Richmond	X		X	X	X	X
Mr. Robert W. Sparks, IV. Virginia Department of Education	X		X	X	X	X
Mr. Nicholas A. Spinella, Esq. Diocese of Richmond	X		X	X	X	
Dr. John Staehle U.S. Department of Education		X	X			X
Mr. Kenneth Terrell U.S. Department of Education		X		X	X	
Dr. Robert V. Turner Virginia Department of Education	X		X	X	X	X
Dr. Woodrow W. Wilkerson Virginia Department of Education		X	X	X		

* Type of contact code:

L = Letter; P = Phone; I = Interview; D = Discussion (informal)

Appendix E

(Continued)

SAMPLE LETTERS TO INTERVIEWEES

Explanation

Because the researcher is personally and professionally acquainted with some of the individuals who interviewed, letters which requested the interviews had to take this fact into consideration. The letters which follow, therefore, are categorized into the following classes:

A. Interviewee who is personally and professionally acquainted with the researcher.

B. Interviewee who is neither personally nor professionally acquainted with the researcher.

C. Interviewee who is professionally acquainted with the researcher.

Appendix E

(Continued)

A. Interviewee who is personally and professionally acquainted with the researcher.

Sample Letter

Sr. Lourdes Sheehan

January 9, 1984

Dear Sr. Lourdes:

As you know, I am working on my doctorate in educational administration at Virginia Polytechnic Institute and State University and have selected the following for my dissertation topic:

"The Experience of the Catholic Diocese of Richmond with ESEA Title I, April 1965 - December 1976"

Since your involvement in this subject is well documented, I'd like to have an interview with you. My specific questions will center around the following:

1. You were quoted in The Catholic Virginian on July 22, 1977, as saying that you didn't fault Dr. Campbell in what happened but that you thought that " . . . the problem lies elsewhere in the government."

What did you mean by this comment?

2. Title I did not seem to be a major issue until 1974, shortly before the by-pass legislation was passed by the 93rd Congress. Was this legislation the main reason action seemed to pick up after this time?

Naturally, any information beyond these questions would be extremely helpful and appreciated, but I thought that this would give some focus to an interview. I will be calling you in about a week or so to see when it would be convenient to set up a date.

Sincerely,

Rich Fenchak

Appendix E

(Continued)

B. Interviewee who is neither personally nor professionally acquainted with the researcher.

Sample Letter

Rt. Rev. Msgr. Richard J. Burke
Our Lady of Lourdes Church
830 S. 23rd Street
Arlington, Virginia 22202

March 27, 1984

Dear Msgr. Burke:

I am a student at Virginia Polytechnic Institute and State University, studying toward my doctorate in educational administration. I have selected for my dissertation the topic: "The Experience of the Catholic Diocese of Richmond with ESEA Title I, April 1965 - December 1976." It is my understanding that you were the superintendent of schools for the Richmond diocese during part of the period I am studying. I am wondering if you would allow me to interview you.

The specific questions I am interested in are as follows:

What was the nature of early diocesan efforts to secure Title I services?

Did the diocese have a plan for securing services during the time when you were superintendent?

Were you satisfied with the services being received under the program while you were superintendent?

Any consideration you can give to these questions will be greatly appreciated. I will be calling you in about a week to see when it would be convenient to set up a date for an interview.

Sincerely,

Richard J. Fenchak

Appendix E

(Continued)

C. Interviewee who is professionally acquainted with the researcher.

Sample Letter

Dr. Robert V. Turner
Richmond, Virginia

April 3, 1984

Dear Dr. Turner:

If you will recall, it was some time ago that I mentioned to you that I was planning to write my dissertation in relation to the experience of the Catholic Diocese of Richmond with ESEA Title I. Well, I would like you to know that I have now reached the point of interviewing persons who were either knowledgeable about the events or were directly involved in them.

My dissertation title is as follows: "The Experience of the Catholic Diocese of Richmond with ESEA Title I, April 1965 - December 1976.

I am interested in interviewing you since you served in the State Department of Education as Special Assistant for Federal Programs during part of the time frame my dissertation covers. Since I have been unable to obtain a phone number for you, I would appreciate hearing from you.

To help focus an interview, I am listing some questions which you may want to think about:

What efforts were made by the State Department of Education to provide Title I services to children in the parochial schools of the Diocese of Richmond?

Who were the persons involved in these efforts?

When did Richmond diocesan officials first approach the State Department of Education with requests for services?

These are only preliminary questions and I realize that you might wish to go beyond them to describe your feelings and/or those of others who may have been involved. That would be fine. In any event, I would very much like to have an opportunity to get together and chat about the Richmond diocese's experiences with Title I.

Sincerely,

Richard J. Fenchak

APPENDIX F

MEMORANDUM FROM SISTER MARY FENNELL TO SISTER LOURDES, SUPERINTENDENT, REGARDING TITLE I PROGRAM - TIDEWATER AREA SCHOOLS (NORFOLK)

NOVEMBER 7, 1973

APPENDIX F

DEPARTMENT OF SCHOOLS/OFFICE OF CHRISTIAN EDUCATION & FORMATION
TIDEWATER OFFICE DIOCESE OF RICHMOND
6401 Granby Street Norfolk, Virginia 23505 Tel. 423-3452

November 7, 1973

TO: Sister Lourdes, Superintendent
FROM: Sister Mary Fennell
RE: Title I Program - Tidewater Area Schools (Norfolk)

BLESSED SACRAMENT SCHOOL, NORFOLK

Eligible students listed (25)
Two public schools contacted and visited: James Madison School and James Monroe School
Blessed Sacrament students participating in some programs at the present time; some equipment being used also.

SACRED HEART SCHOOL, NORFOLK - No report

CHRIST THE KING SCHOOL

Eligible students listed and reported to Title I Office, Norfolk Public Schools. Awaiting further action or information about steps to be taken.

HOLY TRINITY SCHOOL

List of eligible students being made
Further action will be taken in the near future

ST. PIUS X SCHOOL

1 student requires help and is not eligible, however, contact has been made with IDP Center, Norfolk and an application for services will be sent to St. Pius School.

ST. MARY ACADEMY, NORFOLK

No transportation available, therefore, students are not able to participate in Title I Programs.

APPENDIX G

DISSERTATION QUESTIONNAIRE RESULTS

APPENDIX G

DISSERTATION QUESTIONNAIRE RESULTS

I. Number of questionnaires sent and returned:

Questionnaire Addressees	Number Sent	Number Returned	Percent Returned
Diocese of Richmond	24	18	75.0%
Diocese of Arlington	30	16	53.3%
Public School Divisions	14	8	57.1%
Totals	68	42	61.8%

II. Respondents having/not having Title I records from 1965 - 1976:

Have Records on Title I For 1965 - 1976?	Yes	Percent	No	Percent
Diocese of Richmond	3	16.7%	15	83.3%
Diocese of Arlington	1	6.2%	15	93.8%
Public School Divisions	2	25.0%	6	75.0%
Totals	6	14.3%	36	85.7%

APPENDIX H

SAMPLE LETTER TO MRS. ELVA W. HUNT REGARDING OBTAINING INFORMATION ON TITLE I RECORDS, APRIL 1965 - DECEMBER 1976

APPENDIX H

1511 Americana Drive
Richmond, Virginia 23228
(804) 266-6006

Mrs. Elva W. Hunt
Director
Chapter I Federal Programs
Newport News Public Schools
P.O. Box 6130
Newport News, Virginia 23606

August 3, 1984

Dear Mrs. Hunt:

I am a doctoral candidate at Virginia Polytechnic Institute & State University and am at mid-dissertation on the topic: "The Experience of the Catholic Diocese of Richmond with ESEA Title I, April 1965 - December 1976."

The reason I am writing to you is to inquire as to whether you have any records in your files which cover ESEA Title I for the years 1965 through 1976. While my particular interest is in the numbers of children served both from the public and private school sector in Title I programs and the amounts of Title I funds expended during those years, any other information regarding the programs themselves would be also helpful. Finally, if such information is available, would you please advise regarding the accessibility of such documents.

In any event, I would deeply appreciate your response in completing the enclosed form and returning it to me in the self-addressed stamped envelope.

I thank you, in advance, for your cooperation and assistance.

I am,

Sincerely,

Richard J. Fenchak

APPENDIX I

SAMPLE QUESTIONNAIRE REQUESTING INFORMATION ON TITLE I

Note: Sample shown is of one sent to northern Virginia public school divisions. The northern Virginia geographic area was part of the Richmond diocese until June, 1974. Catholic schools of the Arlington diocese also received the same questionnaire. Virginia public school divisions not affected by the creation of the Arlington diocese and schools of the Richmond diocese which remained part of the diocese received questionnaires for the period April 1965 -- December 1976.

APPENDIX I

Please complete and return as soon as possible to:

Richard J. Fenchak
1511 Americana Dr.
Richmond, Virginia 23228
(804) 266-6006)

Thank you for your cooperation.

Name of School _____

Name of Person Completing Form _____

Date: _____

Dear Mr. Fenchak:

A. Please be advised that we have checked our school files for Title I information as per your recent request and:

(Please check one)

1. _____ have been able to locate information for the time period April 1965 through June 1974.

2. _____ found no information on Title I for the time period April 1965 through June 1974.

B. (If you checked # 1 above - please indicate the level of accessibility of such information).

_____

_____

C. Comments:

_____

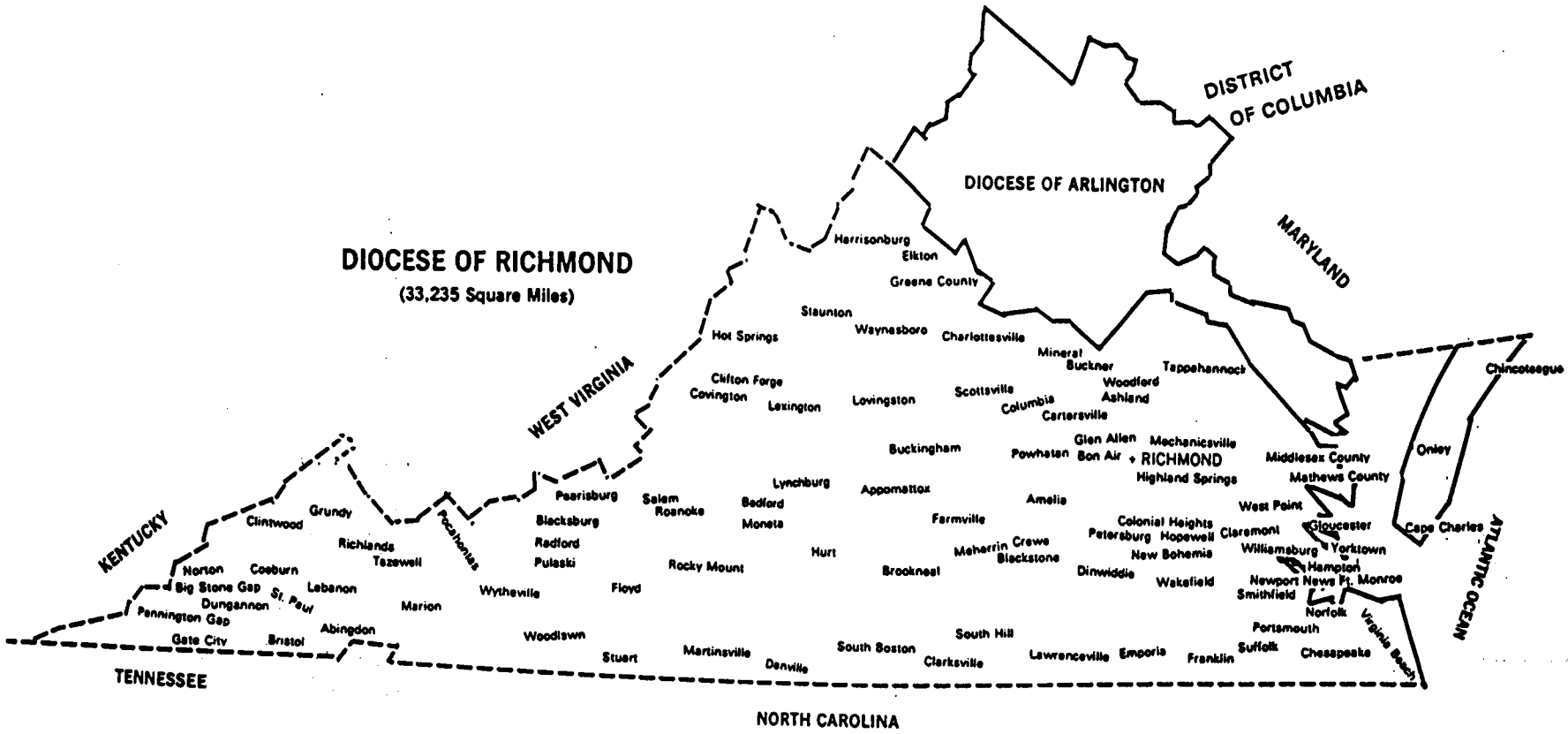
_____

_____

APPENDIX J

MAP SHOWING CATHOLIC DIOCESE OF RICHMOND

APPENDIX J



Source: 1986 Directory[,] Diocese of Richmond, pp. 52-53. Reprinted with permission.

APPENDIX K

VIRGINIA ORGANIZATIONAL CHART

FOR THE ADMINISTRATION OF PUBLIC LAW 89-10,

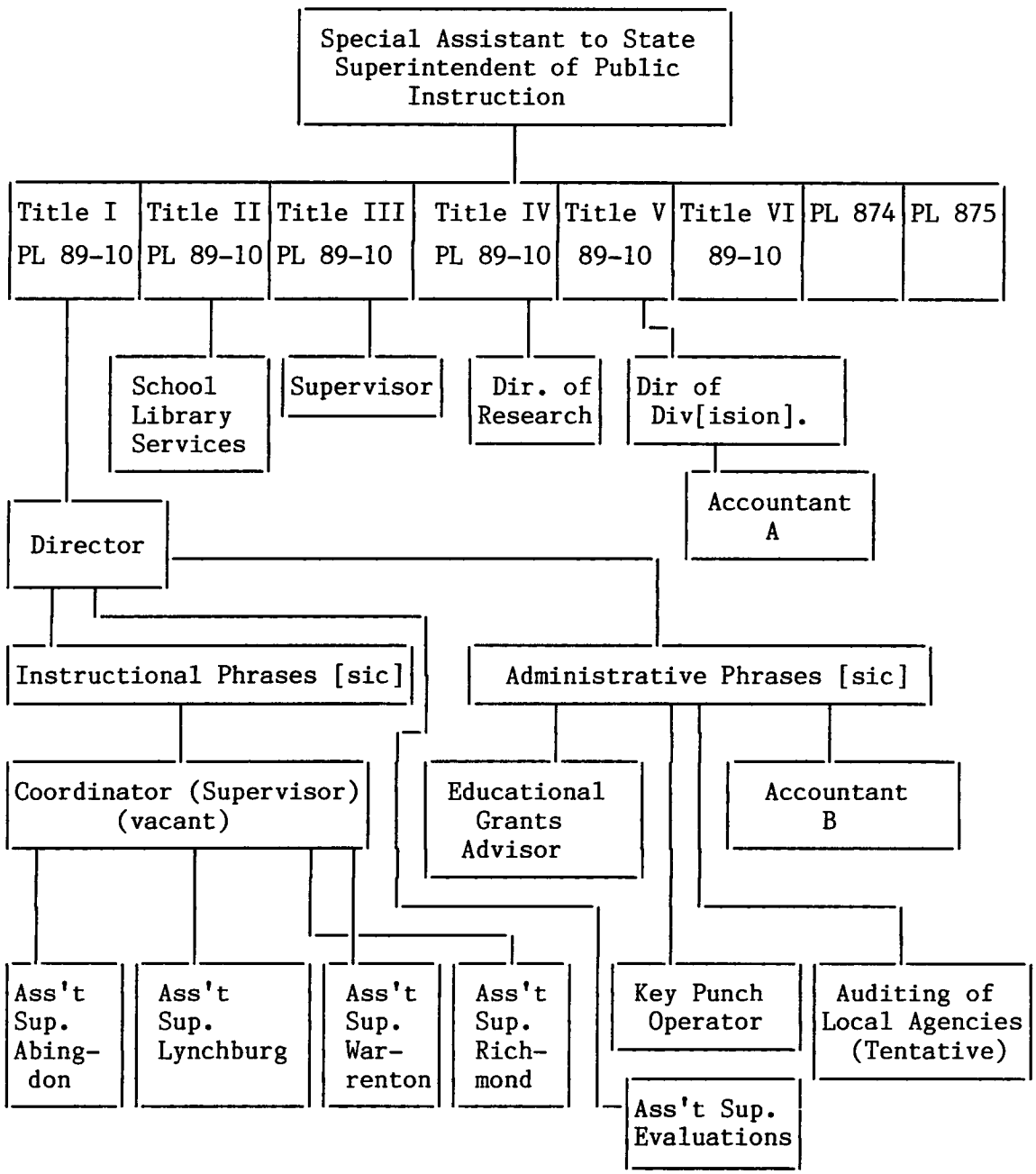
AS AMENDED IN 874 AND 875

APPENDIX K

VIRGINIA ORGANIZATIONAL CHART

FOR THE ADMINISTRATION OF PUBLIC LAWS [sic] 89-10,

AS AMENDED IN 874 AND 875



SOURCE: Minutes, State Board of Education, Permanent Files, Virginia State Library, Jan. 1967 -- Dec. 1967, Vol. 38.

APPENDIX L

STATE DEPARTMENT OF EDUCATION

TITLE I PROGRAM REPORT -- DECEMBER 10, 1976

APPENDIX L

STATE DEPARTMENT OF EDUCATION

TITLE I PROGRAM REPORT -- DECEMBER 10, 1976

(Re-typed from copy of Appendix E of Minutes, State Board of Education, Commonwealth of Virginia, 10 December 1976, located in files of Superintendent of Public Instruction)

I. PROGRAM DESCRIPTION

A. Basic Goal

To expand and improve educational programs to meet the needs educationally disadvantaged children in low-income areas.

B. Target

Children from low-income areas (target areas) who are educationally deprived are eligible for Title I instruction. Emphasis is placed upon children at the lower elementary level.

C. Structure of the Program

1. Robert W. Sparks, Director of Title I, is responsible for administering the program at the state level.

2. For purposes of administration, Virginia is divided into six geographical areas and Title I programs are supervised by an assistant supervisor in each area. Each has his office and residence in or adjacent to his assigned area. In addition, there is a supervisor of migrant programs, a supervisor of evaluation, and a state director who is responsible to the assistant superintendent of instruction.

3. The Title I state staff members do not work in other programs. The staff consists of nine professionals.

D. Measurement

1. All Title I programs use the Management by Objective procedure. The objectives or goals established at the beginning of the program are measured by use of Criterion Referenced or Norm Referenced Tests depending upon the

specific objectives.

Appendix L

(Continued)

2. Each program application must include an evaluation plan which prescribes the test to be used and frequency of testing. Formal testing occurs at the beginning and end of the program to determine the progress made. Formative testing takes place throughout the program in terms of weekly monitoring reports and skill mastery tests.

3. The test results are reported in an evaluation report required for each program. The results are used at the division level to identify strengths and weaknesses and for guidance in planning the next year's program.

   The results are used at state level to prepare the state Title I Annual Report, submitted to the U.S. Office of Education. Data is consolidated for dissemination to divisions and to help improve management of the state program.

II. ALLOCATION OF FUNDS

A. 1. LEAs were allocated $39,979,387 for Title I programs for fiscal year 1977.

2. One hundred and forty LEA's were allocated funds. All but two have Title I programs. They are Henrico County and Falls Church City.

B. 1. Other funds allocated to the State are as follows:

Handicapped Children (313)	$2,318,117.00
Delinquent Juveniles	$ 549,688.00
Juveniles in Adult Correctional Institutes	$ 398,257.00
Migrant	$ 728,917.00
Administration	$ 440,244.00

III. BUDGET BREAKDOWN

All funds except the State Adminstration funds, $440,244.00 are obligated and spent at the local level based upon program application submitted to and approved by the state.

IV. INSTRUCTIONAL COST

A. The number of students benefitting from Title I instruction

is approximately 120,000.

Appendix L

(Continued)

B. Approximately 18,000,000 hours of instruction is given a year to Title I students (estimated).

C. Cost per pupil hour $2.23.

D. Approximate expenditure per pupil is $333.16.

V. REQUIREMENTS FOR FUNDING

A. State Plan is required.

B. LEAs are required to submit application.

APPENDIX M

MEMORANDUM FROM WILLIAM H. COCHRAN, S. P. JOHNSON, ROBERT V. TURNER, AND ROBERT W. SPARKS TO DIVISION SUPERINTENDENTS REGARDING PARTICIPATION OF ELIGIBLE PRIVATE SCHOOL CHILDREN IN TITLE I INSTRUCTIONAL ACTIVITIES

August 7, 1973

APPENDIX M

COMMONWEALTH OF VIRGINIA
STATE BOARD OF EDUCATION
Richmond, Virginia 23216

SUPTS. MEMO. NO. 6767
August 7, 1973

TO: Division Superintendents
FROM: William H. Cochran, Assistant Superintendent for Administration and Finance
S. P. Johnson, Jr., Assistant Superintendent for Instruction
Robert V. Turner, Special Assistant for Federal Programs and Relations
Robert W. Sparks, Director, Title I

SUBJECT: Participation of Eligible Private School Children in Title I Instructional Activities

Enclosed herewith is the handbook for state and local school officials to be used in implementing that part of P.L. 89-10 pertaining to eligible private school children participating in Title I instructional activities.

Your attention is directed to the following provisions of the law and the regulations:

I. Title I applications for 1973-74 cannot be finally approved by the State until the necessary steps have been taken to assure compliance as outlined in the "Handbook", page 1, paragraph 3.

II. Follow the suggested procedures on Pages 15 through 17.

III. Submit the necessary documentation to the State with your Title I application or, as additional information (Revised Section H of the Program Descripton) if your application has already been prepared and sent forward for final approval.

Parents of children enrolled in private schools should be contacted by letter and/or announcement in a local newspaper. Title I instructional activities in target schools must be made available to eligible private school children who elect to participate. If requested, the loan of Title I equipment to eligible private schools is still permissible. Please contact your area supervisor or the State Title I office if you need technical assistance.

C/J/S/T/c
Enclosure

Source: Title I Files. Office of Catholic Schools, Diocese of Richmond. Retyped from copy.

The vita has been removed from the scanned document