MR. JUSTICE STEVENS, with whom THE CHIEF JUSTICE, MR. JUSTICE STEWART, and MR. JUSTICE REHNQUIST join, concurring in the judgment in part and dissenting in part.

It is always important at the outset to focus precisely on the controversy before the Court. [Footnote 5/1] It is particularly important to do so in this case, because correct identification of the issues will determine whether it is necessary or appropriate to express any opinion about the legal status of any admissions program other than petitioner's.

I

This is not a class action. The controversy is between two specific litigants. Allan Bakke challenged petitioner's special admissions program, claiming that it denied him a place in medical school because of his race in violation of the Federal and California Constitutions and of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* The California Supreme Court upheld his challenge and ordered him admitted. If the Page 438 U. S. 409 state court was correct in its view that the University's special program was illegal, and that Bakke was therefore unlawfully excluded from the Medical School because of his race, we should affirm its judgment, regardless of our views about the legality of admissions programs that are not now before the Court.

The judgment as originally entered by the trial court contained four separate paragraphs, two of which are of critical importance. [Footnote 5/2] Paragraph 3 declared that the University's special admissions program violated the Fourteenth Amendment, the State Constitution, and Title VI. The trial court did not order the University to admit Bakke, because it concluded that Bakke had not shown that he would have been admitted if there had been no special program. Instead, in paragraph 2 of its judgment, it ordered the University to consider Bakke's application for admission without regard to his race or the race of any other applicant. The order did not include any broad Page 438 U. S. 410 prohibition against any use of race in the admissions process; its terms were clearly limited to the University's consideration of Bakke's application. [Footnote 5/3] Because the University has since been ordered to admit Bakke, paragraph 2 of the trial court's order no longer has any significance.

The California Supreme Court, in a holding that is not challenged, ruled that the trial court incorrectly placed the burden on Bakke of showing that he would have been admitted in the absence of discrimination. The University then conceded "that it [could] not meet the burden of proving that the special admissions program did not result in Mr. Bakke's failure to be admitted." [Footnote 5/4] Accordingly, the California Supreme Court directed the trial court to enter judgment ordering Bakke's admission. [Footnote 5/5] Since that order superseded paragraph Page 438 U. S. 411 2 of the trial court's judgment, there is no outstanding injunction forbidding any consideration of racial criteria in processing applications.

It is therefore perfectly clear that the question whether race can ever be used as a factor in an admissions decision is not an issue in this case, and that discussion of that issue is inappropriate. [Footnote 5/6]

II

Both petitioner and respondent have asked us to determine the legality of the University's special admissions program by reference to the Constitution. Our settled practice, however, is to avoid the decision of a constitutional issue if a case can be fairly decided on a statutory ground.

"If there is one doctrine more deeply rooted than any other in the process of constitutional adjudication, it is that we ought not to pass on questions of constitutionality . . . unless such adjudication is unavoidable."

Spector Motor Co. v. McLaughlin, 323 U. S. 101, 323 U. S. 105. [Footnote 5/7] The more important the issue, the more force Page 438 U. S. 412 there is to this doctrine. [Footnote 5/8] In this case, we are presented with a constitutional question of undoubted and unusual importance. Since, however, a dispositive statutory claim was raised at the very inception of this case, and squarely decided in the portion of the trial court judgment affirmed by the California Supreme Court, it is our plain duty to confront it. Only if petitioner should prevail on the statutory issue would it be necessary to decide whether the University's admissions program violated the Equal Protection Clause of the Fourteenth Amendment.

III

Section 601 of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. § 2000d, provides:

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

The University, through its special admissions policy, excluded Bakke from participation in its program of medical education because of his race. The University also acknowledges that it was, and still is, receiving federal financial assistance. [Footnote 5/9] The plain language of the statute therefore requires affirmance of the judgment below. A different result Page 438 U. S. 413 cannot be justified unless that language misstates the actual intent of the Congress that enacted the statute or the statute is not enforceable in a private action. Neither conclusion is warranted.

Title VI is an integral part of the far-reaching Civil Rights Act of 1964. No doubt, when this legislation was being debated, Congress was not directly concerned with the legality of "reverse discrimination" or "affirmative action" programs. Its attention was focused on the problem at hand, the "glaring . . . discrimination against Negroes which exists throughout our Nation," [Footnote 5/10] and, with respect to Title VI, the federal funding of segregated facilities. [Footnote 5/11] The genesis of the legislation, however, did not limit the breadth of the solution adopted. Just as Congress responded to the problem of employment discrimination by enacting a provision that protects all races, *see McDonald v. Santa Fe Trail Transp. Co.*, 427 U. S. 273, 427

U. S. 279, [Footnote 5/12] so, too, its answer to the problem of federal funding of segregated facilities stands as a broad prohibition against the exclusion of *any* individual from a federally funded program "on the ground of race." In the words of the House Report, Title VI stands for

"the general principle that *no person* . . . be excluded from participation . . . on the ground of race, color, or national origin under any program or activity receiving Federal financial assistance." H.R.Rep. No. 914, 88th Page 438 U. S. 414 Cong., 1st Sess, pt. l, p. 25 (1963) (emphasis added). This same broad view of Title VI and § 601 was echoed throughout the congressional debate and was stressed by every one of the major spokesmen for the Act. [Footnote 5/13]

Petitioner contends, however, that exclusion of applicants on the basis of race does not violate Title VI if the exclusion carries with it no racial stigma. No such qualification or limitation of § 601's categorical prohibition of "exclusion" is justified by the statute or its history. The language of the entire section is perfectly clear; the words that follow "excluded from" do not modify or qualify the explicit outlawing of any exclusion on the stated grounds.

The legislative history reinforces this reading. The only suggestion that § 601 would allow exclusion of nonminority applicants came from opponents of the legislation, and then only by way of a discussion of the meaning of the word "discrimination." [Footnote 5/14] The opponents feared that the term "discrimination" Page 438 U. S. 415 would be read as mandating racial quotas and "racially balanced" colleges and universities, and they pressed for a specific definition of the term in order to avoid this possibility. [Footnote 5/15] In response, the proponents of the legislation gave repeated assurances that the Act would be "colorblind" in its application. [Footnote 5/16] Senator Humphrey, the Senate floor manager for the Act, expressed this position as follows:

"[T]he word 'discrimination' has been used in many a court case. What it really means in the bill is a distinction in treatment . . . given to different individuals because of their different race, religion or national origin. . . ."

"The answer to this question [what was meant by 'discrimination'] is that if race is not a factor, we do not have to worry about discrimination because of race. . . . The Internal Revenue Code does not provide that colored people do not have to pay taxes, or that they can pay their taxes 6 months later than everyone else."

110 Cong.Rec. 5864 (1964).

"[I]f we started to treat Americans as Americans, not as fat ones, thin ones, short ones, tall ones, brown ones, green ones, yellow ones, or white ones, but as Americans. If we did that, we would not need to worry about discrimination." *Id.* at 5866. Page 438 U. S. 416

In giving answers such as these, it seems clear that the proponents of Title VI assumed that the Constitution itself required a colorblind standard on the part of government, [Footnote 5/17] but that does not mean that the legislation only codifies an existing constitutional prohibition. The statutory prohibition against discrimination in federally funded projects contained in § 601 is

more than a simple paraphrasing of what the Fifth or Fourteenth Amendment would require. The Act's proponents plainly considered Title VI consistent with their view of the Constitution, and they sought to provide an effective weapon to implement that view. [Footnote 5/18] As a distillation of what the supporters of the Act believed the Constitution demanded of State and Federal Governments, § 601 has independent force, with language and emphasis in addition to that found in the Constitution. [Footnote 5/19] Page 438 U. S. 417

As with other provisions of the Civil Rights Act, Congress' expression of it policy to end racial discrimination may independently proscribe conduct that the Constitution does not. [Footnote 5/20] However, we need not decide the congruence -- or lack of congruence -- of the controlling statute and the Constitution Page 438 U. S. 418 since the meaning of the Title VI ban on exclusion is crystal clear: race cannot be the basis of excluding anyone from participation in a federally funded program.

In short, nothing in the legislative history justifies the conclusion that the broad language of § 601 should not be given its natural meaning. We are dealing with a distinct statutory prohibition, enacted at a particular time with particular concerns in mind; neither its language nor any prior interpretation suggests that its place in the Civil Rights Act, won after long debate, is simply that of a constitutional appendage. [Footnote 5/21] In unmistakable terms, the Act prohibits the exclusion of individuals from federally funded programs because of their race. [Footnote 5/22] As succinctly phrased during the Senate debate, under Title VI, it is not "permissible to say *yes' to one person, but to say `no' to another person, only because of the color of his skin." [Footnote 5/23]*

Belatedly, however, petitioner argues that Title VI cannot be enforced by a private litigant. The claim is unpersuasive in the context of this case. Bakke requested injunctive and declaratory relief under Title VI; petitioner itself then joined Page 438 U. S. 419 issue on the question of the legality of its program under Title VI by asking for a declaratory judgment that it was in compliance with the statute. [Footnote 5/24] Its view during state court litigation was that a private cause of action does exist under Title VI. Because petitioner questions the availability of a private cause of action for the first time in this Court, the question is not properly before us. *See McGoldrick v. Companie Generale Transatlantique*, 309 U. S. 430, 309 U. S. 434. Even if it were, petitioner's original assumption is in accord with the federal courts' consistent interpretation of the Act. To date, the courts, including this Court, have unanimously concluded or assumed that a private action may be maintained under Title VI. [Footnote 5/25] The United States has taken the same position; in its *amicus curiae* brief directed to this specific issue, it concluded that such a remedy is clearly available, [Footnote 5/26] Page 438 U. S. 420 and Congress has repeatedly enacted legislation predicated on the assumption that Title VI may be enforced in a private action. [Footnote 5/27] The conclusion that an individual may maintain a private cause of action is amply supported in the legislative history of Title VI itself. [Footnote 5/28] In short, a fair consideration of Page 438 U. S. 421 petitioner's tardy attack on the propriety of Bakke's suit under Title VI requires that it be rejected.

The University's special admissions program violated Title VI of the Civil Rights Act of 1964 by excluding Bakke from the Medical School because of his race. It is therefore our duty to affirm the judgment ordering Bakke admitted to the University.

Accordingly, I concur in the Court's judgment insofar as it affirms the judgment of the Supreme Court of California. To the extent that it purports to do anything else, I respectfully dissent.

[Footnote 5/1]

Four Members of the Court have undertaken to announce the legal and constitutional effect of this Court's judgment. *See* opinion of JUSTICES BRENNAN, WHITE, MARSHALL, and BLACKMUN, *ante* at 438 U. S. 324-325. It is hardly necessary to state that only a majority can speak for the Court or determine what is the "central meaning" of any judgment of the Court.

[Footnote 5/2]

The judgment first entered by the trial court read, in its entirety, as follows:

"IT IS HEREBY ORDERED, ADJUDGED AND DECREED:"

"1. Defendant, the Regents of the University of California, have judgment against plaintiff, Allan Bakke, denying the mandatory injunction requested by plaintiff ordering his admission to the University of California at Davis Medical School;"

"2. That plaintiff is entitled to have his application for admission to the medical school considered without regard to his race or the race of any other applicant, and defendants are hereby restrained and enjoined from considering plaintiff's race or the race of any other applicant in passing upon his application for admission;"

"3. Cross-defendant Allan Bakke have judgment against cross-complaint, the Regents of the University of California, declaring that the special admissions program at the University of California at Davis Medical School violates the Fourteenth Amendment to the United States Constitution, Article 1, Section 21 of the California Constitution, and the Federal Civil Rights Act [42 U.S.C. § 2000d];"

"4. That plaintiff have and recover his court costs incurred herein in the sum of $217.35."

App. to Pet. for Cert. 120a.

[Footnote 5/3]

In paragraph 2, the trial court ordered that "plaintiff [Bakke] is entitled to have his application for admission to the medical school considered without regard to his race or the race of any other applicant, and defendants are hereby restrained and enjoined from considering plaintiff's race or the race of any other applicant in passing upon *his* application for admission."

See n. 2, *supra*, (emphasis added). The only way in which this order can be broadly read as prohibiting any use of race in the admissions process, apart from Bakke's application, is if the final "his" refers to "any other applicant." But the consistent use of the pronoun throughout the

paragraph to refer to Bakke makes such a reading entirely unpersuasive, as does the failure of the trial court to suggest that it was issuing relief to applicants who were not parties to the suit.

[Footnote 5/4]

Appendix B to Application for Stay A19-A20.

[Footnote 5/5]

18 Cal.3d 34, 64, 553 P.2d 1152, 1172 (1976). The judgment of the Supreme Court of the State of California affirms only paragraph 3 of the trial court's judgment. The Supreme Court's judgment reads as follows:

"IT IS ORDERED, ADJUDGED, AND DECREED by the Court that the judgment of the Superior Court[,] County of Yolo[,] in the above-entitled cause, is hereby affirmed insofar as it determines that the special admission program is invalid; the judgment is reversed insofar as it denies Bakke an injunction ordering that he be admitted to the University, and the trial court is directed to enter judgment ordering Bakke to be admitted. 'Bakke shall recover his costs on these appeals.'"

[Footnote 5/6]

"This Court . . . reviews judgments, not statements in opinions." *Black v. Cutter Laboratories,* 351 U. S. 292, 351 U. S. 297.

[Footnote 5/7]

"From *Hayburn's Case,* 2 Dall. 409, to *Alma Motor Co. v. Timken-Detroit Axle Co.* [, 329 U. S. 129,] and the *Hatch Act case \[United Public Workers v. Mitchell,* 330 U. S. 75,] decided this term, this Court has followed a policy of strict necessity in disposing of constitutional issues. The earliest exemplifications, too well known for repeating the history here, arose in the Court's refusal to render advisory opinions and in applications of the related jurisdictional policy drawn from the case and controversy limitation. U.S.Const., Art. III. . . ."

"The policy, however, has not been limited to jurisdictional determinations. For, in addition,"

"the Court [has] developed, for its own governance in the cases confessedly within its jurisdiction, a series of rules under which it has avoided passing upon a large part of all the constitutional questions pressed upon it for decision."

"Thus, as those rules were listed in support of the statement quoted, constitutional issues affecting legislation will not be determined in friendly, nonadversary proceedings; in advance of the necessity of deciding them; in broader terms than are required by the precise facts to which the ruling is to be applied; if the record presents some other ground upon which the case may be disposed of; at the instance of one who fails to show that he is injured by the statute's operation,

or who has availed himself of its benefits; or if a construction of the statute is fairly possible by which the question may be avoided."

Rescue Army v. Municipal Court, 331 U. S. 549, 331 U. S. 568-569 (footnotes omitted). *See also Ashwander v. TVA*, 297 U. S. 288, 297 U. S. 346-348 (Brandeis, J., concurring).

[Footnote 5/8]

The doctrine reflects both our respect for the Constitution as an enduring set of principles and the deference we owe to the Legislative and Executive Branches of Government in developing solutions to complex social problems. *See* A. Bickel, The Least Dangerous Branch 131 (1962).

[Footnote 5/9]

Record 29.

[Footnote 5/10]

H.R.Rep. No. 914, 88th Cong., 1st Sess., pt. 1, p. 18 (1963).

[Footnote 5/11]

It is apparent from the legislative history that the immediate object of Title VI was to prevent federal funding of segregated facilities. *See, e.g.*, 110 Cong.Rec. 1521 (1964) (remarks of Rep. Celler); *id.* at 6544 (remarks of Sen. Humphrey).

[Footnote 5/12]

In *McDonald v. Santa Fe Trail Transp. Co.*, the Court held that "Title VII prohibits racial discrimination against . . . white petitioners . . . upon the same standards as would be applicable were they Negroes. . . ." 427 U.S. at 427 U. S. 280. Quoting from our earlier decision in *Griggs v Duke Power Co.*, 401 U. S. 424, 401 U. S. 431, the Court reaffirmed the principle that the statute "prohibit[s] *[d]iscriminatory preference for any [racial] group, minority or majority.'" 427 U.S. at 427 U. S. 279 (emphasis in original).*

[Footnote 5/13]

See, e.g., 110 Cong.Rec. 1520 (1964) (remarks of Rep. Celler); *id.* at 5864 (remarks of Sen. Humphrey); *id.* at 6561 (remarks of Sen. Kuchel); *id.* at 7055 (remarks of Sen. Pastore). (Representative Celler and Senators Humphrey and Kuchel were the House and Senate floor managers for the entire Civil Rights Act, and Senator Pastore was the majority Senate floor manager for Title VI.)

[Footnote 5/14]

Representative Abernethy's comments were typical:

"Title VI has been aptly described as the most harsh and unprecedented proposal contained in the bill. . . . "

"It is aimed toward eliminating discrimination in federally assisted programs. It contains no guideposts and no yardsticks as to what might constitute discrimination in carrying out federally aided programs and projects. . . ."

"* * * *"

"Presumably, the college would have to have a 'racially balanced' staff from the dean's office to the cafeteria. . . ."

"The effect of this title, if enacted into law, will interject race as a factor in every decision involving the selection of an individual. . . . The concept of 'racial imbalance' would hover like a black cloud over every transaction. . . ."

Id. at 1619. *See also, e.g., id.* at 5611-5613 (remarks of Sen. Ervin); *id.* at 9083 (remarks of Sen. Gore).

[Footnote 5/15]

E.g., id. at 5863, 5874 (remarks of Sen. Eastland).

[Footnote 5/16]

See, e.g., id. at 8364 (remarks off Sen. Proxmire) ("Taxes are collected from whites and Negroes, and they should be expended without discrimination"); *id.* at 7055 (remarks of Sen. Pastore) ("[Title VI] will guarantee that the money collected by colorblind tax collectors will be distributed Federal and State administrators who are equally colorblind"); and *id.* at 6543 (remarks of Sen. Humphrey) ("*Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination'") (quoting from President Kennedy's Message to Congress, June 19, 1963).*

[Footnote 5/17]

See, e.g., 110 Cong.Rec. 5253 (1964) (remarks of Sen. Humphrey); and *id.* at 7102 (remarks of Sen. Javits). The parallel between the prohibitions of Title VI and those of the Constitution was clearest with respect to the immediate goal of the Act -- an end to federal funding of "separate but equal" facilities.

[Footnote 5/18]

"As in *Monroe \[v. Pape,* 365 U. S. 167], we have no occasion here to" "reach the constitutional question whether Congress has the power to make municipalities liable for acts of its officers that violate the civil rights of individuals."

"365 U.S. at 365 U. S. 191. For in interpreting the statute, it is not our task to consider whether Congress was mistaken in 1871 in its view of the limit of its power over municipalities; rather, we must construe the statute in light of the impressions under which Congress did, in fact, act, *see Ries v. Lynskey*, 452 F.2d at 175." *Moor v. County of Alameda*, 411 U. S. 693, 411 U. S. 709.

[Footnote 5/19]

Both Title VI and Title VII express Congress' belief that, in the long struggle to eliminate social prejudice and the effects of prejudice, the principle of individual equality, without regard to race or religion, was one on which there could be a "meeting of the minds" among all races and a common national purpose. *See Los Angeles Dept. of Water & Power v. Manhart*, 435 U. S. 702, 435 U. S. 709 ("[T]he basic policy of the statute [Title VII] requires that we focus on fairness to individuals, rather than fairness to classes"). This same principle of individual fairness is embodied in Title VI.

"The basic fairness of title VI is so clear that I find it difficult to understand why it should create any opposition. . . ."

"* * * *"

"Private prejudices, to be sure, cannot be eliminated overnight. However, there is one area where no room at all exists for private prejudices. That is the area of governmental conduct. As the first Mr. Justice Harlan said in his prophetic dissenting opinion in *Plessy v. Ferguson*, 163 U. S. 537, 163 U. S. 559:"

"Our Constitution is color-blind."

"So -- I say to Senators -- must be our Government. . . ."

"Title VI closes the gap between our purposes as a democracy and our prejudices as individuals. The cuts of prejudice need healing. The costs of prejudice need understanding. We cannot have hostility between two great parts of our people without tragic loss in our human values. . . . "

"Title VI offers a place for the meeting of our minds as to Federal money."

110 Cong.Rec. 7063-7064 (1964) (remarks of Sen. Pastore). Of course, one of the reasons marshaled in support of the conclusion that Title VI was "noncontroversial" was that its prohibition was already reflected in the law. *See ibid.* (remarks of Sen. Pell and Sen. Pastore).

[Footnote 5/20]

For example, private employers now under duties imposed by Title VII were wholly free from the restraints imposed by the Fifth and Fourteenth Amendments which are directed only to governmental action.

In *Lau v. Nichols,* 414 U. S. 563, the Government's brief stressed that "the applicability of Title VI . . . does not depend upon the outcome of the equal protection analysis. . . . [T]he statute independently proscribes the conduct challenged by petitioners, and provides a discrete basis for injunctive relief."

Brief for United States as *Amicus Curiae,* O.T. 1973, No. 72-6520, p. 15. The Court, in turn, rested its decision on Title VI. MR. JUSTICE POWELL takes pains to distinguish *Lau* from the case at hand because the *Lau* decision "rested solely on the statute." *Ante* at 438 U. S. 304. *See also Washington v. Davis,* 426 U. S. 229, 426 U. S. 238-239; *Allen v. State Board of Elections,*393 U. S. 544, 393 U. S. 588 (Harlan, J., concurring and dissenting).

[Footnote 5/21]

As explained by Senator Humphrey, § 601 expresses a principle imbedded in the constitutional *and* moral understanding of the times.

"The purpose of title VI is to make sure that funds of the United States are not used to support racial discrimination. In *many instances,* the practices of segregation or discrimination, which title VI seeks to end, are unconstitutional. . . . In *all cases,* such discrimination is contrary to national policy, and to the moral sense of the Nation. Thus, title VI is simply designed to insure that Federal funds are spent in accordance with the Constitution and the moral sense of the Nation."

110 Cong.Rec. 6544 (1964) (emphasis added).

[Footnote 5/22]

Petitioner's attempt to rely on regulations issued by HEW for a contrary reading of the statute is unpersuasive. Where no discriminatory policy was in effect., HEW's example of permissible "affirmative action" refers to "special recruitment policies." 45 CFR § 80.5(j) (1977). This regulation, which was adopted in 1973, sheds no light on the legality of the admissions program that excluded Bakke in this case.

[Footnote 5/23]

110 Cong.Rec. 6047 (1964) (remarks of Sen. Pastore).

[Footnote 5/24]

Record 30-31.

[Footnote 5/25]

See, e.g., Lau v. Nichols, supra; Bossier Parish School Board v. Lemon, 370 F.2d 847 (CA5 1967), *cert. denied,* 388 U.S. 911; *Uzzell v. Friday,* 547 F.2d 801 (CA4 1977), *opinion on rehearing en banc,* 558 F.2d 727, *cert. pending,* No. 77-635; *Serna v. Portales,*499 F.2d 1147

(CA10 1974); *cf. Chambers v. Omaha Public School District*, 536 F.2d 222, 225 n. 2 (CA8 1976) (indicating doubt over whether a *money judgment* can be obtained under Title VI). Indeed, the Government's brief in *Lau v. Nichols, supra,*succinctly expressed this common assumption: "It is settled that petitioners . . . have standing to enforce Section 601. . . ." Brief for United States as *Amicus Curiae* in *Lau v. Nichols,* O.T. 1973, No. 72-6520, p. 13 n. 5.

[Footnote 5/26]

Supplemental Brief for United States as *Amicus Curiae* 24-34. The Government's supplemental brief also suggests that there may be a difference between a private cause of action brought to end a particular discriminatory practice and such an action brought to cut off federal funds. *Id.* at 28-30. Section 601 is specifically addressed to personal rights, while § 602 -- the fund cutoff provision -- establishes "an elaborate mechanism for *governmental* enforcement by federal agencies." Supplemental Brief, *supra* at 28 (emphasis added). Arguably, private enforcement of this "elaborate mechanism" would not fit within the congressional scheme, *see* separate opinion of MR. JUSTICE WHITE, *ante* at 438 U. S. 380-383. But Bakke did not seek to cut off the University's federal funding; he sought admission to medical school. The difference between these two courses of action is clear and significant. As the Government itself states:

"[T]he grant of an injunction or a declaratory judgment in a private action would not be inconsistent with the administrative program established by Section 602. . . . A declaratory judgment or injunction against future discrimination would not raise the possibility that funds would be terminated, and it would not involve bringing the forces of the Executive Branch to bear on state programs; it therefore would not implicate the concern that led to the limitations contained in Section 602." Supplemental Brief, *supra* at 30 n. 25.

The notion that a private action seeking injunctive or declaratory judgment relief is inconsistent with a federal statute that authorizes termination of funds has clearly been rejected by this Court in prior cases. *See Rosado v. Wyman,* 397 U. S. 397,397 U. S. 420.

[Footnote 5/27]

See 29 U.S.C. § 794 (1976 ed.) (the Rehabilitation Act of 1973) (in particular, the legislative history discussed in *Lloyd v. Regional Transportation Authority,* 548 F.2d 1277, 1285-1286 (CA7 1977)); 20 U.S.C. § 1617 (1976 ed.) (attorney fees under the Emergency School Aid Act); and 31 U.S.C. § 1244 (1976 ed.) (private action under the Financial Assistance Act). Of course, none of these subsequent legislative enactments is necessarily reliable evidence of Congress' intent in 1964 in enacting Title VI, and the legislation was not intended to change the existing status of Title VI.

[Footnote 5/28]

Framing the analysis in terms of the four-part *Cort v. Ash* test, *see* 422 U. S. 66, 422 U. S. 78, it is clear that all four parts of the test are satisfied. (1) Bakke's status as a potential beneficiary of a federally funded program definitely brings him within the "*class for whose especial benefit the statute was enacted,'" ibid. (emphasis in original). (2) A cause of action based on race*

discrimination has not been "traditionally relegated to state law." Ibid. (3) While a few excerpts from the voluminous legislative history suggest that Congress did not intend to create a private cause of action, see opinion of MR. JUSTICE POWELL, ante at 438 U. S. 283 n. 18, an examination of the entire legislative history makes it clear that Congress had no intention to foreclose a private right of action. (4) There is ample evidence that Congress considered private causes of action to be consistent with, if not essential to, the legislative scheme. See, e.g., remarks of Senator Ribicoff:

"We come then to the crux of the dispute -- how this right [to participate in federally funded programs without discrimination] should be protected. And even this issue becomes clear upon the most elementary analysis. If Federal funds are to be dispensed on a nondiscriminatory basis, the only possible remedies must fall into one of two categories: first, action to end discrimination; or second, action to end the payment of funds. Obviously action to end discrimination is preferable, since that reaches the objective of extending the funds on a nondiscriminatory basis. But if the discrimination persists and cannot be effectively terminated, how else can the principle of nondiscrimination be vindicated except by nonpayment of funds?"

110 Cong.Rec. 7065 (1964). *See also id.* at 5090, 6543, 6544 (remarks of Sen. Humphrey); *id.* at 7103, 12719 (remarks of Sen. Javits); *id.* at 7062, 7063 (remarks of Sen. Pastore).

The congressional debates thus show a clear understanding that the principle embodied in § 601 involves personal federal rights that administrative procedures would not, for the most part, be able to protect. The analogy to the Voting Rights Act of 1965, 42 U.S.C. § 1973 *et seq.* (1970 ed. and Supp. V), is clear. Both that Act and Title VI are broadly phrased in terms of personal rights ("no person shall be denied . . ."); both Acts were drafted with broad remedial purposes in mind; and the effectiveness of both Acts would be "severely hampered" without the existence of a private remedy to supplement administrative procedures. *See Allen v. State Bd. of Elections,* 393 U. S. 544, 393 U. S. 556. In *Allen,* of course, this Court found a private right of action under the Voting Rights Act.