2-24-1972

Congressional Record S. 2551 - Busing

Mike Mansfield 1903-2001

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Mr. MANSFIELD. Mr. President, first, may I say to the distinguished Senator from South Carolina (Mr. Hollings), whose speech I enjoyed very much—and I can understand his deep feelings on this matter—that there is no "small print" so far as the Senator from Montana is concerned.

May I say also that I have had no contact with "liberal Senators" in the drawing up of this amendment which was, in large part, my own idea. I did not even speak to the distinguished minority leader on this matter until yesterday morning.

May I say also that I have had no contact with the administration. This proposal is offered in good faith. It is not a hoax. It is not something cynical. It is not perfect. But it is an attempt to face up to the most pressing domestic problem of the time and to do so, hopefully, on a constructive basis.

I do not want to see that issue prolonged for 5, 8, or 10 years. That is why I feel that initiating the constitutional amendment process would not be apropos at this time, because not only have there been proposals for a 10-year drawing-out period, so to speak, but there have also been proposals for a constitutional amendment which, in my opinion, would have difficulty passing this body because of the two-thirds vote required. The same would apply to the other body. And it would take three-fourths of the States to ratify such a
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Under this amendment, busiug must be voluntary. I repeat—the goal of this amendment is voluntary busiiig. For decades now, in my memory, the school bus has been used to transport children to and from school. They were used before 1834. They have been used since 1954. Schools and school districts should always, in my judgment, have buses available as a means of transporting schoolchildren.

Education is basically a State or local matter. Assigning students to schools and the problem of getting them there is better handled by local school authorities. Federal involvement has been limited to the use of Federal funds to see that where possible each child in the Nation is afforded quality education. That is the goal. Under this amendment, therefore, the use of Federal funds for busing would be strictly voluntary. Any school system that segregates may obtain Federal busing funds but does so only upon its own free and voluntary consent.

The bill itself seeks to furnish the real answer to years of discrimination. Elsewhere under it, funds are designated to this end. The past has been deprived. It should be said that neither the bill, nor this amendment, would tolerate discrimination as prohibited by the Constitution to permit discrimination. In that regard, a constitutional right about which a remedy is needed.-

There is another aspect to this busing issue which has disturbed me very much. It is that Federal administrators or officers or employees may have coerced local school districts into a program of busing. No system of busing can be voluntary if established in the face of threats to cut off Federal funds to which that school district would otherwise be entitled.

This amendment bars this practice and does so in a clear and unmistakable language. Even if such coere is applied, no schoolchild under this proposal need ride a bus if in doing so there would be any risk to the health of the schoolchild in question.

There is one final aspect to the problem which this proposal would address. Even if a system of busing is established on a voluntary basis and in response to the request of the local district, no child should be transported out of his community, away from his neighborhood to attend a school that is inferior to the school to which that child would otherwise be assigned.

More than any other aspect of this problem, it is this issue that makes it to the very essence of the concern of the parent. So many have said: "It is not the bus ride that concerns me; it is what's at the end of the line that most disturbs me." I agree with that sentiment. Quality education is the goal. And no student should suffer for the sake of riding a bus.

Once moving to a particular community because of the Board's decision, use of schools and making such a move in reliance upon the fact that one's child or children will be attending those schools, should not be put in jeopardy. This amendment does that. It sets forth a standard which seeks to correct the most grievous consequences of what has become known as "forced busing" within our society.
substantially identical. Therefore, this amendment would bar the transportation of any child to any school that could be substantially inferior to or where the quality of education is substantially less than that found at the school he would otherwise attend.

To summarize, the amendment bars forced busing. It does so by conditioning the approval of any plans to transport children from one side to the other on the express request of the local community school district. The amendment also bars a number of practices that have arisen in connection with the busing issue. Foremost, it bars the practice of coercing localities into busing by threatening to hold back funds to which they were entitled otherwise. Moreover, in any busing scheme—even though initiated at the request of the community—no child can be made to ride the bus if such activity threatens his health or impinges the education process. And finally, no child may ride the bus if it means attending a school inferior to the one he would otherwise attend.

One final point. There are now pending a number of cases within the Federal circuit courts that arise out of the school district boundaries. This is a particularly vexing problem and one which I think every Member of this body is interested in. If, for one, do not wish to see broad school districts broken apart without the most careful and cautious consideration.

At the present time these cases are in various stages as they wind their way through the courts to the Supreme Court. The amendment provided in this proposal that while these proceedings continue their way through the appellate process, the consolidation or merging of school districts under court order be suspended until such time as the Supreme Court has had an opportunity to rule. I may say in passing that this goes far beyond the Richmond decision and it extends to cases pending in other parts of the country, in the Midwest and the Northwest.

To achieve uniformity and consistency and to promote harmony, I think that such a provision is necessary and in the public interest. If further legislative action is found necessary, this amendment will provide the added opportunity to give Congress the chance to take necessary remedial steps to correct any inequities or to provide any new remedies, depending on the outcome.

So the date of June 30, 1973, at midnight, is a flexible date. I should like to say finally, that in compliance with Court mandates, thousands of school districts throughout this Nation have desegregated smoothly and peacefully. I would venture to say were we a totally colorblind society, there would be no busing issue at all. The fact is, we are working toward the goal of being colorblind and ultimately we will achieve that goal, because, if we are to survive as a nation of laws we have no choice. If we do not, however, I do not wish to see any child suffer for lack of educational opportunities be he white, black, yellow; a youth of the poorest ghetto, the Indian reservation, or subur-

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, I send to the desk a perfecting amendment to the text of the amendment proposed by the Senator from Alabama (Mr. ALLEN).

The ACTING PRESIDENT pro tempore. The clerk will read the amendment. The assistant legislative clerk proceeded to read the perfecting amendment.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I will say, for the benefit of the Senate, it is my amendment No. 927 insofar as the substance of the language is concerned.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Michigan? Without objection, it is so ordered.

The perfecting amendment is as follows:

In line 3 of the Allen amendment as printed (No. 922), after the word "teachers", strike all that follows through and including the last word in line 4, and insert in lieu thereof the following: "on the basis of their race, color, religion or national origin."

And after line 4, add the following:

Sec. 902. No court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

Sec. 903. No department, agency, officer, or employee of the United States shall extend Federal financial assistance to any program or activity at any school by way of grant, loan, or otherwise, shall withhold or threaten to withhold any such Federal financial assistance in order to coerce or induce the implementation or continuation of any plan or program the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

Sec. 904. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purpose of achieving a balance among students with respect to race, color, religion, or national origin, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

Sec. 905. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby.