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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

constitutional amendment if all appropriate steps were taken. The idea is to face up to it now.

May I say that it is a matter for the Senator itself to decide. And what the Senate in its wisdom does will be perfectly satisfactory to the Senator from Montana, whether he agrees with it or not.

Mr. President, with those preliminary remarks out of the way, to make my position clear, very clear, I will now turn to the amendment itself.

First, may I say that the amendment would prohibit busing to achieve school desegregation if, in the process, the health of students is endangered.

Second, it would prohibit busing to achieve school desegregation if, in the process, the educational process is significantly impinged upon.

Third, busing would be barred where the school to which the student was transported is found significantly inferior. Our overall goal, as I understand it, is quality education for all.

Mr. RIBICOFF. Mr. President, will the distinguished Senator yield?

Mr. MANSFIELD. I cannot yield at this time. We are under limited time. I hope the Senator will forgive me.

Fourth, it prohibits the use of Federal funds to carry out busing unless expressly requested in writing by local school authorities.

Fifth, there would be no court orders for school district mergers or consolidations or where students are assigned to schools outside home districts until all appeals are exhausted—but this would not extend beyond June 30, 1973.

Sixth, it forbids the practice of coercing localities into busing by threatening to hold back Federal funds.

Seventh, Federal agents would be precluded from conditioning approval of funds for State or local purposes on busing.

Eighth, though busing would be allowed on the express written request of local school officials, no Federal court or official could order such a request.

Ninth, it would forbid Federal officials from requiring or urging local officials to spend State or local funds for any purposes for which Federal funds are forbidden.

What the amendment does not do is this.

It does not change or modify or alter the Constitution of the United States or in any way permit practices of discrimination as barred by the Constitution and by the laws of the land.

Mr. President, were I a lawyer, constitutional or otherwise, I might feel a little more comfortable addressing the subject I am about to raise. At the root of the "busing" issue there is the law and the Constitution. For both of these I have the highest regard and respect. I must approach this subject instead, however, as one who is deeply concerned about an issue that throughout this country—north, south, east and west—has generated more emotion and has divided and torn apart as many communities as has any issue in my career as a public servant.

It is an important issue; important because it involves, in my judgment, the

most precious resource this Nation has to offer—school children. At stake is the right of each child to obtain the best education possible. It is a right in my opinion that is just as sacred and just as sacred and just as carefully protected as any right preserved by the Constitution of the United States. It was on the basis of that document that the Supreme Court first ruled that segregated schools in our society violate a child's right to seek the best education possible—a "quality" education on an equal basis for all, regardless of race, color, national origin or economic circumstances. I refer of course to the famous Brown case decided back in 1954.

To comply with the law, local school districts have assigned students to schools in a nondiscriminatory way. Over 65 percent of our children attending schools today live at such a distance from their school as to require the use of buses or other means of transportation. Substantial busing was employed before the Brown case in 1954, and circumstances have not changed. What has generated the controversy is not the bus ride but what is at the end of the ride. Every parent wants his child to obtain the highest quality education; and no law should interfere with that desire.

The bill before us meets that issue directly as it should—all education measures are designed to improve the quality of schools that have been so long neglected, to provide funds for these purposes and to facilitate constitutionally guaranteed rights of every child to a quality education without regard to race, creed, religion or national origin. It is this goal we should seek to advance; in achieving it, our premise should be founded with the recognition that this society of ours is composed of varied backgrounds, and a multitude of beliefs and origins and that the quality of each student's education is enhanced by contributions from the widest spectrum.

With that said, I can nevertheless understand the concern of parents who, after living in a community for some time, or after having moved there for the express purpose of finding "better" schools, learn that their children must board buses every weekday to take them out of their community away from their neighborhood to different schools. Rearranging school districts that have been intentionally drawn by local school officials to segregate the schooling of children by race must be stopped, but not by burdening the child with the sins of their elders. The basic bill before us offers another remedy.

It is for this reason that I have joined in attempting to meet the issue. It is for this reason that I have taken the position that the issue must be faced now, today, not next year or the year after, or whatever length of time it would take after initiating the constitutional amendment process. To me, that course of action is neither necessary nor prudent. I believe the remedy lies instead within the legislative process.

I have therefore joined in an amendment to the Education Act. The amendment seeks to correct the most grievous consequences of what has become known as "forced busing" within our society.

Under this amendment, busing must be voluntary. I repeat—the goal of this amendment is voluntary busing. For decades now, in my memory, the schoolbus has been used as a means of getting children to and from school. They were used before 1954. 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 desegregates may obtain Federal busing funds but does so only upon its own, independent application.

The bill itself seeks to furnish the real answer to years of discrimination. Elsewhere under it, funds are designated to upgrade those schools that have in the past been deprived. It should be said that neither the bill, nor this amendment, would tolerate discrimination as prohibited by the Constitution, and I hope that no one would even attempt to change the Constitution to permit discrimination. In that regard, a constitutional right without a remedy is no right at all.

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 clear and unmistakable language. Even if such a request is made, 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 at the uncoerced 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 reaches 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 fine reputation of its schools and making such a move in reliance upon the fact that one's child or children will be attending those schools, no parent should be compelled to stand aside to watch his child deprived of that opportunity unless he is assured that his child will receive an education that is

substantially identical. Therefore, this amendment would bar the transportation of a child to any school that is 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 by bus 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 courts which seek to merge or abolish school district boundaries. This is a particularly vexing problem and one which I think every Member of this body is in sympathy with. I, 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. It is therefore 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.

May I 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 North, as well.

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 suspension 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 peaceably. 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. In the process, 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-

bia. With education assistance provided at the Federal, State, and local level, I would hope all children could be given equal educational opportunities.

Mr. President, may I say in closing that this is a constructive effort on the part of those of us who are offering it to meet a pressing problem and to meet that problem now.

Mr. RIBICOFF and Mr. HOLLINGS addressed the Chair.

Mr. MANSFIELD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. MANSFIELD. I yield to the Senator from Connecticut.

Mr. RIBICOFF. The Senator refers to not requiring a child to go to a school substantially inferior to the one he would have attended under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

Will the Senator tell us who is to say what is an inferior school?

Mr. MANSFIELD. I would say it would be up to the courts to make that decision, if need be. It would be up to the Government, local, State and Federal working hand-in-hand with the education community to determine if the educational opportunity is substantially less at one institution as opposed to another.

Mr. RIBICOFF. In other words, we may have a lawsuit to determine if each and every school is inferior or not.

Mr. MANSFIELD. Not necessarily, because I think standards as between the schools can be drawn quite readily. In certain cases the difference is so apparent that the answer would be easily forthcoming.

Mr. RIBICOFF. How is it going to be easily forthcoming? What would be the standard, for instance, in the little dilapidated schoolhouse with a white teacher or a black teacher? Who will set the standards of what is inferior under the Senator's amendment?

Mr. MANSFIELD. The question has been answered. The Senator is going around the issue. A number of factors contribute to determining the type of education a school child gets, and we know that in many schools of this country students are being passed from grade to grade with no education in reality. There would be no question there as to what type of school that was.

In most of suburbia as well there would be no question as to what type of better school that would be. It is my judgment that the education community and all agencies of Government, Federal, State, and local that contribute to the education process would be most capable of handling the task.

Mr. RIBICOFF. It may, however, take years for these determinations to be made.

The ACTING PRESIDENT pro tempore. All time has expired.

Mr. HOLLINGS. Mr. President, on both sides?

The ACTING PRESIDENT pro tempore. On both sides of the amendment.

Mr. GRIFFIN. Mr. President—

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, empowered to 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 transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes 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.