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The big question for the 1970s is what the effect is going to be of a U.S. withdrawal of its military power from both Europe and Asia. What will be the consequences to the peoples there when they find themselves at the mercy of a Communist empire which need not use nuclear weapons but can send a large land army to almost any country to achieve a military objective?

The time may come when the "Isolationism" which is so popular today—and which was espoused prior to World War I and prior to World War II—will turn out to be dangerous again. For the Communists are not likely to be content to confine their imperialism to Europe and Asia, but will extend it intensively to Mexico and other countries in Latin America.

Ever since the Monroe Doctrine was proclaimed, it has been recognized that the United States had a duty to protect the nations of this hemisphere, and since World War II the principle of collective defense of Europe and Asia has been widely accepted. Now these concepts have deteriorated, and this constitutes the real danger in international relations in the 1970s.

#### EXTENSION OF THE BAN ON BIOLOGICAL WEAPONS

Mr. FULBRIGHT. Mr. President, last November the President issued his widely acclaimed renunciation of biological warfare and declared that the United States would never be the first nation to employ lethal or incapacitating chemical weapons. At the same time the President stated his intention to submit the 1925 Geneva Protocol to the Senate. Together with many of my colleagues I congratulated the President on those historic actions.

This past Friday the President took yet another significant step to reduce further the peril posed by the production of chemical and biological weapons. I refer to his extension of the ban on biological weapons to include all toxins regardless of their method of production. To me this represented a reaffirmation of the basic spirit and purposes of the President's earlier decision—to strengthen existing barriers and restraints which reduce the risk of chemical and biological warfare, and to take advantage of these opportunities available to us to contribute to the eventual total elimination of such weapons.

As I reiterate my admiration for those actions already taken by the President, I also wish to express my firm belief that as he faces other decisions involving chemical warfare the President can count on strong support in the Senate and in the Nation for his continued leadership in broadening and strengthening the Geneva Protocol.

#### EXTENSION OF THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

Mr. PERCY. Mr. President, on Monday the Senate adopted the resolution to extend and to fund the Select Committee on Nutrition and Human Needs. As a member of that committee gravely concerned about the problem of hunger and malnutrition in our affluent Nation, I am gratified by the support demonstrated for its continuation.

As the distinguished Senator from Louisiana (Mr. ELLENDER) indicated, I stated last year that the Select Committee on Nutrition should not continue indefinitely. Its functions should be absorbed by the proper existing committees and agencies.

I still adhere to this position. Investigations, hearings, talk must be superseded by concrete action to eliminate hunger and malnutrition—action which the select committee cannot undertake itself. But it became increasingly evident to me that the committee's activities should not be curtailed this year.

Dr. John Mayer, the special assistant to the President who directed the White House Conference on Food, Nutrition, and Health, boldly stated that it would be a shame if the hunger committee were dissolved this year. He felt that the committee could continue to contribute to finding and combating the causes of poverty and hunger.

A review of what the Nutrition Committee has accomplished and what it has not had an opportunity to explore substantiates Dr. Mayer's view.

Over the past year, the select committee has delved into such subjects as the extent of malnutrition in the United States, poverty related hunger, the operation of existing food programs, and the role of private industry in the area of nutrition. We did not, however, have time to consider income maintenance programs as a solution to hunger, health problems generated by malnutrition, and the many recommendations of the White House Conference.

I am pleased that we will now have the opportunity to continue our investigations in the hope that our bipartisan efforts will help eliminate poverty and hunger from our society.

#### SENATE RESOLUTION 359—TO CREATE A SELECT COMMITTEE ON EQUAL EDUCATION OPPORTUNITY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Mondale resolution now at the desk be called up and be given immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk proceeded to read the resolution.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the Senate will proceed to its consideration.

Mr. MONDALE. Mr. President, I send to the desk the resolution just reported, with certain modifications.

One modification states that the at-large members of the committee will be selected in the same manner as the members of other committees—through the steering committee process. The second modification strikes subsection (c) which provides funding.

The first is a technical amendment which simply clarifies what I thought the resolution provided. The second modification or amendment relates to a proposed budget to be presented to the Committee

on Rules and Administration in the normal process.

I am glad to see that the chairman of the Committee on Rules and Administration is present.

The PRESIDING OFFICER. Will the Senator send the amendments to the desk?

Mr. MONDALE. Mr. President, I send the amendments to the desk.

The PRESIDING OFFICER. The amendments will be stated.

Mr. MONDALE. I ask unanimous consent that their reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. And, without objection, the amendments will be agreed to en bloc.

The amendments agreed to en bloc are:

On page 2, line 1, after the word "committees", to insert: "to be appointed in the same manner as the chairman and members of the standing committees,"

On page 3, to strike out lines 11 through 14, as follows:

"(c) Expenses of the committee in carrying out its functions shall not exceed \$200,000 through January 31, 1971, and shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee."

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. JORDAN of North Carolina. As the Senator knows, it is customary for a resolution to be sent directly to the Committee on Rules and Administration. We do not like to have a resolution presented and agreed to on the floor without the committee having had a chance to look it over.

I appreciate the cooperation of the Senator in striking out section (c). It meets my objection.

Mr. MONDALE. Mr. President, I thank the Senator from North Carolina. I called the Senator personally this morning to express my embarrassment about the way this matter arose.

Last night we hoped to act on this essential proposal in the form of a statutory enactment. Objection was heard on the ground that this would be an unusual procedure. I think that it does have some precedent. In any event, it is an unusual way to establish a committee.

So on the spur of the moment we withdrew the statutory proposal. We had not had a chance to discuss the matter with the distinguished chairman.

I am glad that, with this modification, the resolution is acceptable to the chairman.

I gather that once the committee is established, it would draw up a proposed budget which would then go before the Rules and Administration Committee.

Mr. JORDAN of North Carolina. The Senator is correct. Would the Senator care to make one additional commitment to the effect that this committee would, in fact, end at the time stated in the resolution.

Mr. MONDALE. Well, as we mentioned earlier in private discussion, the committee would expire at the time stated in the resolution.

vestigative reporting for her work. This award is sponsored by the Theta Sigma Phi professional journalism society for women.

I have read and studied "Hunger in Chicago." The description of the effect of hunger on schoolchildren and our elderly and of the bureaucratic obstacles involved in implementing food programs have contributed to my understanding of the problem of hunger. They have been valuable resources in my work on the Select Committee on Nutrition and Human Needs.

I commend Mrs. Rockey for her fine reporting. She has made a great contribution to delineating the complexities of hunger and malnutrition in this Nation.

Through her efforts, an American public is better informed and public officials, including legislatures at the Federal, State and local level, must now be compelled to act.

#### A MUTUAL CEASE-FIRE

Mr. MOSS. Mr. President, so much has been said in this place about Vietnam that when something valuable is said, most of us are not listening. The ever vigilant Deseret News, however, in a thoughtful editorial, performed a "rescue operation" on a resolution by Senator MONDALE that most of us missed when it was first offered. I ask unanimous consent that this editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Deseret News, Saturday, Feb. 7, 1970]

FOR PEACE, HOW ABOUT A VIET CEASE-FIRE?

One test of a good idea is that it seems so simple and obvious it's surprising that something wasn't done about it long ago.

By that test, the resolution that Sen. Walter F. Mondale of Minnesota presented to the Senate Foreign Relations Committee the other day on bringing peace to Vietnam looks like an eminently fine idea.

But the best ideas don't necessarily command the most attention, and the Mondale resolution seems to be in need of a rescue operation if it is to win the support necessary for its success.

Briefly, the Mondale resolution goes like this:

"Whereas, the United States has not formally proposed for negotiation at the Paris Peace talks a mutual cease-fire as part of a comprehensive package to achieve a political and military settlement in Vietnam; and...

"Whereas, such a proposal could help break through the stalemate by offering a means of ending all the killing and moving the struggle for leadership from the military to the political level, thus enabling all the South Vietnamese people to choose freely and without interference their own future government; and

"Whereas, a cease-fire and political settlement is the best way to assure the earliest possible return of all U.S. forces, and release for constructive purposes the enormous resources now being expended on the war;

"Now, therefore, be it resolved that the Senate urges the U.S. government to offer formally for negotiation at Paris a comprehensive proposal for an internationally supervised standstill cease-fire by all sides . . ."

Simple? Well, not entirely. Setting up the

supervisory machinery seems bound to generate a lot of haggling, since whoever controls that machinery controls the future of Vietnam. Accepting the status quo would amount to North Vietnam's admitting defeat. Moreover, assuring self-determination is still no easy matter in a land that has known only martial law for years and autocracy before that.

But certainly the Mondale resolution seems more realistic than the remote hope that the war will just fade away without a negotiated settlement.

Certainly a cease-fire could bring all U.S. forces—not just combat troops—home much faster than "Vietnamization" of the conflict alone.

Indeed, Vietnamization alone may simply perpetuate the slaughter, with South Vietnamese deaths being substituted for American deaths.

Will North Vietnam accept a cease-fire? If not, surely the enemy's refusal can be used against him in the battle for free men's minds. But let's not take a rejection for granted. As Sen. Mondale observes:

"Only when we move our offers from the realm of publicity to the realm of true diplomacy can we say with any certainty what the other side's response will be."

Mr. MOSS. As the Deseret News observes, it is long past time to get the Paris peace talks moving.

The United States should make a genuine proposal for a mutual cease-fire. Such a proposal should contain detailed provisions for international peacekeeping machinery to oversee the cease-fire, the withdrawal of outside military forces, and prompt free elections.

Most Americans will be surprised to learn that the United States has never made such a common-sense proposal for a mutual cease-fire. The North Vietnamese may reject it, but at least we should make the sincere offer.

Surely a negotiated settlement is much preferable to the endless agony of Vietnamization. As the Deseret News says:

Vietnamization alone may simply perpetuate the slaughter with South Vietnamese deaths being substituted for American deaths.

Vietnamization is really no more than a military solution by proxy.

To encourage our Paris delegation to propose a mutual cease-fire, I am joining Senator MONDALE in cosponsoring Senate Resolution 351.

#### THE DANGER OF ISOLATION

Mr. McGEE. Mr. President, is there a danger that history might repeat itself and that this world might yet be plunged one day into another massive war—maybe even a conventional war which eschews the horrors of nuclear power but utilizes great land armies and navies? Could the new wave of isolationism so rampant in American today lead to a withdrawal of the United States from Europe and Asia, leaving those crucial continents naked to aggression, and with the balance of powers upset so that a potential aggressor might be tempted to march?

These questions, Mr. President, cannot, of course, be answered with any certainty. But they are questions posed honestly by some who are upset with the international picture in both Europe and Asia today. Yesterday, columnist David

Lawrence explored these questions in a column entitled, "Isolationism May Be Danger Again," which appeared in the Evening Star of Washington. I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

#### ISOLATIONISM MAY BE DANGER AGAIN

(By David Lawrence)

What should the policy of the United States be toward defending the peoples of Asia and Europe against aggression?

President Nixon would naturally not wish to discuss such delicate subjects in detail and deal in advance with the numerous contingencies that might arise. For U.S. policy will be made not by presidential speeches or by pronouncements by a committee of Congress. Everything will depend upon the nature of the emergency and the extent to which the defense of this country is actually involved.

Most people—even many in government here—don't like to look at the realistic picture in either Europe or Asia today. The truth is there now is no standing army which can match that of the Soviet Union. Reliance on the nuclear bomb has become a fact of international life.

For this reason the European countries have practically given up the idea of spending large sums for defense. They have been assuming that the United States would take care of the principal obligations of the North Atlantic Treaty Organization in the future and that it would immediately come to the aid of the smaller countries of Asia.

The American people, on the other hand, as a result of their experience in Vietnam, are not enthusiastic about sending an army of 500,000 or more troops into a foreign land to defend a country which is the victim of aggression. Inevitably the question then is asked: "What about collective defense under the U.N. Charter?"

There is at present no sign that the European or Asian peoples are willing to get together themselves to set up defense forces that would lighten the load for the United States.

So utterances by U.S. officials indicating a lack of interest in further missions like the one in Vietnam are bound to have an impact on the world situation. European governments are already aware that the United States will not maintain a large force to support NATO, and the Asians know that a big U.S. military establishment can hardly be stationed in their lands to guard their area.

For many years now the countries of Western Europe have assumed that nuclear weapons possessed by the United States would act as a deterrent against any threat by the Soviet Union. In recent months, the Communists in Moscow have indicated a readiness to talk about the limitation of strategic arms. Thus far, this seems to mean only a desire to prevent other nations from obtaining nuclear armaments. There is no evidence of a desire to prohibit the use of nuclear weapons.

But suppose the Kremlin decides to avoid the nuclear problem and depend solely on conventional forces? The opportunity for conquest would probably present itself to the Communists in the next decade if the United States has really retreated from Europe and Asia.

The Russians have been steadily increasing their naval strength in the Mediterranean, and have shown themselves ready to support Egypt and the Arab countries in their fight against Israel. There are as yet no signs that the Russians wish to let the Middle East conflict grow into a world crisis, but the situation could change at any time.



I gather that what the chairman wishes from me is a response that that what we intend to do and that we not come back again to the committee.

It is our objective and hope that the select committee be established in the very near future so that it will be able to act and come back with recommendations quickly. I would hope that it would complete its business within the time frame mentioned.

One point I would make is that it is a tight time frame. I would hope that the Rules and Administration Committee could act quickly on the proposed budget, so that the committee could proceed with its business.

Mr. JORDAN of North Carolina. I can assure the Senator that we will do that as quickly as we can get a quorum. That would probably be next week. However, I am not sure about that. We will make every effort to expedite the matter.

The reason I made the request is that we have had committees set up for a period of 6 months; then they come back with a request that the committee be extended for another year.

We would like to have some idea as to whether the committee can complete its business within the time frame mentioned and then quit.

With that assurance, I have no objection.

Mr. MONDALE. Mr. President, I ask that the resolution be agreed to.

Mr. BYRD of West Virginia. Mr. President, I note no provision in the bill which indicates the method by which the members of the select committee would be chosen. From listening to the able Senator as he spoke on the meaning of the two amendments, I gather that the first amendment he has offered is intended to clarify this matter. I am not sure I fully understand how the 15 members of the select committee to be established by this resolution would be selected.

Mr. MONDALE. The select committee would be broken down in three categories.

Mr. BYRD of West Virginia. Who would determine the selection, the President pro tempore, the Vice President, or the Democratic and Republican steering committees?

Mr. MONDALE. Five would be selected by the Committee on Labor and Public Welfare, five by the Judiciary Committee, and the five at-large members would be selected in the normal steering committee process. That is the intention of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. MONDALE. Mr. President, this morning there was a very perceptive and moving editorial that was published in the New York Times, written by Tom Wicker.

The editorial expresses the deep sense of dismay, which I share along with many others, about the meaning of the action taken yesterday by the Senate and its significance for the future of this Nation. I hope and believe this is a country in which we seek to live together as Americans, rather than to be divided on the utterly irrelevant, disruptive, and

undemocratic grounds of race and color.

I do not know what the politics of human rights is today. I suspect it is less popular than it has been for many years.

I sense a feeling of agony, frustration, and despair which generates a sense of antagonism and separatism that we have not seen in this country for a long time.

I do not know where it will take us. But I do know this. I in no way intend to reduce my efforts or my commitments to the cause of a country in which color is irrelevant. I do not think we can have a democracy that is not color blind.

I was brought up by my father in a family which believed that everyone was a child of God and was entitled to the dignity that flowed from that concept. I was taught that a man's color was irrelevant.

I will continue to press this cause, because unless we can sustain it, the promise of America will be lost.

Mr. President, I ask unanimous consent that the editorial to which I have referred be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 19, 1970]  
IN THE NATION: THE DEATH OF INTEGRATION  
(By Tom Wicker)

WASHINGTON, Feb. 18.—The Senate of the United States has now cravenly abandoned the policy of racial integration—sixteen years after it was born in a Supreme Court decision, ninety-four years after the Civil War "Reconstruction" ended in a similar sell-out, and less than a week after President Nixon, on Lincoln's Birthday, gave the signal of surrender.

When all the apologetics have been set aside, that is the meaning of the adoption of the Stennis amendment, to the concept of which Mr. Nixon extended his blessing at the crucial moment. If pressures against school segregation must "be applied uniformly in all regions of the United States without regard to the origin or cause of such segregation," then they are not going to be applied anywhere, because there is neither the manpower, the money, the knowledge nor the will to do the job.

#### WHAT SEGREGATIONISTS WANTED

Although the effort cannot be made everywhere, it now cannot be limited to the South either. That is exactly what the South's segregationists wanted. That is what their ally in the White House is willing to permit. That is what their dupes in the Senate have approved.

The justification is ready at hand. Integration, it is now contended by both black and white leaders, is a failure. In many cases this is demonstrably true; in other cases it is unquestionably false. Just today, there were reports of a successful reshuffling of student patterns in Greenville, S.C. To say that integration has failed is to ignore and denigrate the thousands of Southern citizens who in the past decade and a half have faithfully tried to obey what they believed was the law of the land. It is to abandon to their fate those local and state political leaders who courageously led the integration movement, sometimes at peril and even sacrifice of their lives.

#### INEFFECTUAL REMEDY

But even if integration has failed—and to say that it has is not only false but an assertion of the bankruptcy of American society—what is suggested in its place? Stewart Alsop, quoting those who say integration has failed, tells us in Newsweek:

We must "open up middle-class jobs and the middle-class suburbs to Negroes." We must "make the schools good where they are"—that is, pour money and attention into the ghetto schools. The fact is that despite the pleas of the Kerner Commission, the Eisenhower Commission and every other reputable body that has made any good-faith effort to gauge the situation; despite the empty rhetoric of the Nixon Administration about "reforms" and new programs, despite the hypocrisy of those Northern Senators who supported Southern segregation under the guise of attacking Northern segregation—despite all this, there is not the slightest indication that the American people have any intention of doing any of these things, or that their fearful leaders will even call upon them to do so.

Mr. Alsop's strategists also insist that the nation not "sell out integration where it's been successful." That is precisely what Mr. Nixon and the Senate have done: what will happen now in Greenville, and in other cities where courageous, good-faith efforts had been made? Whatever those black leaders who say integration has failed may think, what will the millions of black people believe as they see starkly confirmed one more time—after so many precedents—the unwillingness of white Americans to make good on their commitments and their ideals?

"The Union," wrote C. Vann Woodward in *The Burden of Southern History*, "fought the Civil War on borrowed moral capital. With their noble belief in their purpose and their extravagant faith in the future, the radicals ran up a staggering war debt; a moral debt that was soon found to be beyond the country's capacity to pay, given the undeveloped state of its moral resources at the time." For eighty years thereafter, Mr. Woodward pointed out, the nation simply defaulted until "it became clear that the almost forgotten Civil War debt had to be paid, pain in full, and without any more stalling than necessary."

#### IN DEFAULT

That is clearer than ever, because we are not dealing in 1970 with five million ignorant field hands in the cotton South, as we were in 1876. But once again, the Union is defaulting; once again its capacity to pay has been found grievously wanting; and still its moral resources are sadly undeveloped.

Poor old Union! Its great and generous dreams falling one by one to dusty death.

Mr. JAVITS. Mr. President, I do not wish to delay the passage of the resolution in which I have the great honor to join with the distinguished Senator from Minnesota.

I think the purpose of the resolution is admirable and that it will produce the results the Senate hopes for, both those for and against—namely, how we can best come together to assure equal opportunity everywhere.

I am very pleased to see that the distinguished majority leader and the distinguished deputy minority leader have cooperated in allowing the matter to come up at this time.

Mr. PERCY. Mr. President, I would like to indicate my support for the measure. I believe that it is a very worthwhile step which is being taken. However, I would like to give the minority leadership an opportunity to respond.

Mr. HARRIS. Mr. President, today I will vote for the resolution offered by the distinguished Senator from Minnesota (Mr. MONDALE) and the distinguished Senator from New York (Mr. JAVITS), of which I am a cosponsor.

The Mondale-Javits resolution takes cognizance of the deep and profound

questions which are on all our minds about the future of our national educational system, and proposes a constructive way to begin to develop an approach which will be consistent with the needs of all our citizens. Specifically, this amendment would create a Select Committee on Equal Educational Opportunity, to be composed of members of the Senate Committees on Labor and Public Welfare and the Judiciary, as well as Members of the Senate at large. This committee would make an interim report by the first of August of this year, and a final report by January 31, 1971. The inquiry would consider all phases of the problem of de facto segregation, including development of possible alternatives to busing, which would still insure equal educational opportunities.

This course of action, I believe, holds the promise of providing new policies which are more satisfactory to all Americans. Pending the report of this committee, it has seemed to me to be unwise to further complicate and confuse the difficult issues involved by adopting the amendments proposed by the distinguished Senator from Mississippi (Mr. STENNIS) and others which would generate more intense feeling and make ultimate resolution still more difficult.

One of the great advantages of this course of action, I believe, is that it should provide an opportunity for citizens from all over the country who have had firsthand experience with the difficult problems we face in providing equal education to be heard and to present their views and share their experiences and knowledge with those of us who are charged with developing and approving needed legislation.

Mr. MANSFIELD. Mr. President, I think the best thing to do would be to withdraw the resolution at this time. We have been through too much travail yesterday and this morning. No one is against the measure.

It was stated that the matter would be brought up during the morning hour today. And I think that the minority leader was present at the time. So, if there is going to be any further delay—

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, if there is any problem, I will myself, as I shall vote in favor of the resolution, move to reconsider the vote by which the resolution was agreed to.

Mr. MONDALE. And I will join with the Senator.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended. [Putting the question.]

The resolution (S. Res. 359) as amended, was agreed to as follows:

S. Res. 359

Resolution to create a Select Committee on Equal Educational Opportunity

Whereas the policy of the United States to assure every child, regardless of race, color, or national origin, an equal opportunity for a quality education has not been fully achieved in any section of the country: Now, therefore, be it

Resolved, That (a) there is hereby established a select committee of the Senate (to be known as the Select Committee on Equal Educational Opportunity) composed of three

majority and two minority members of the Committee on Labor and Public Welfare, three majority and two minority members of the Committee on the Judiciary, and three majority and two minority Members of the Senate from other committees, to be appointed in the same manner as the chairman and members of the standing committees, to study the effectiveness of existing laws and policies in assuring equality of educational opportunity, including policies of the United States with regard to segregation on the ground of race, color, or national origin, whatever the form of such segregation and whatever the origin or cause of such segregation, and to examine the extent to which policies are applied uniformly in all regions of the United States. Such select committee shall make an interim report to the appropriate committees of the Senate not later than August 1, 1970, and shall make a final report not later than January 31, 1971. Such reports shall contain such recommendations as the committee finds necessary with respect to the rights guaranteed under the Constitution and other laws of the United States, including recommendations with regard to proposed new legislation, relating to segregation on the ground of race, color, or national origin, whatever the origin or cause of such segregation.

(b) For the purposes of this resolution the committee, from the date of enactment of this resolution to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants; *Provided*, That the minority is authorized to select one person for appointment and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than \$2,700 than the highest gross rate paid to any other employee; (3) to subpoena witnesses; (4) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government; (5) to contract with private organizational and individual consultants; (6) to interview employees of the Federal, State, and local governments and other individuals; and (7) to take depositions and other testimony.

The PRESIDING OFFICER. Without objection, the preamble is agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER OF BUSINESS

Mr. JAVITS. Mr. President, I ask unanimous consent to suggest the absence of a quorum without the time being charged to either side.

Mr. BYRD of West Virginia. Mr. President, we are still in the morning hour.

The PRESIDING OFFICER (Mr. ALLEN in the chair). We are still in the morning hour.

Mr. JAVITS. Then I withdraw that unanimous-consent request.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, we are still debating the education bill—

The PRESIDING OFFICER. The Chair will state to the Senator from New York that we are still in the period for the transaction of routine morning business, with a limitation of 3 minutes on statements.

Mr. JAVITS. I thank the Chair. I shall take only 3 minutes.

#### ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969 AND SELECT COMMITTEE ON EQUAL EDUCATIONAL OPPORTUNITY

Mr. JAVITS. Mr. President, we are still debating this very critically important education bill, though, naturally, we got into a rather different subject—not that it is not related to education; of course, it is, very directly, but it differs from the general thrust of the other aspects of the bill, and we may have forgotten that the bill is still before us. There are still a number of amendments to be considered which relate to the effort to establish unitary rather than dual school systems in this country.

The Senate has now very materially expanded that concept. I have argued very often and with great feeling that will result in slowing down integration in the South, and not necessarily speeding it up in the North, much as I would like to speed it up.

It is always interesting to get the view of a distinguished commentator, so I shall ask, while we are still debating the question, so that Senators may have an opportunity to think about it, that there may be included in the RECORD an article which appeared in this morning's New York Times, by Tom Wicker, entitled "In the Nation: The Death of Integration." I shall not comment; the words of Mr. Wicker are too eloquent to require comment. I just beg every Senator, whatever side of the issue he may be on, to read it, and then ponder anew, before he votes, as so many have, in my judgment, without really wrapping themselves around the total consequences, on the rest of these amendments.

I ask unanimous consent that Mr. Wicker's piece may be made a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 19, 1970]

IN THE NATION: THE DEATH OF INTEGRATION

(By Tom Wicker)

WASHINGTON, February 18.—The Senate of the United States has now cravenly abandoned the policy of racial integration—sixteen years after it was born in a Supreme Court decision, ninety-four years after the Civil War "Reconstruction" ended in a similar sell-out, and less than a week after President Nixon, on Lincoln's Birthday, gave the signal of surrender.

When all the apologetics have been set



aside, that is the meaning of the adoption of the Stennis amendment, to the concept of which Mr. Nixon extended his blessing at the moment. If pressures against school segregation must "be applied uniformly in all regions of the United States without regard to the origin or cause of such segregation," then they are not going to be applied anywhere, because there is neither the manpower, the money, the knowledge nor the will to do the job.

#### WHAT SEGREGATIONISTS WANTED

Although the effort cannot be made everywhere, it now cannot be limited to the South. That is exactly what the South's segregationists wanted. That is what their ally in the White House is willing to permit. That is what their dupes in the Senate have approved.

Justification is ready at hand. Integration is now contended by both black and white leaders, is a failure. In many cases this is obviously true; in other cases it is undeniably false. Just today, there were reports of a successful reshuffling of student patterns in Greenville, S.C. To say that integration has failed is to ignore and denigrate the thousands of Southern citizens who in the past decade and a half have faithfully tried to obey what they believed was the law of the land. It is to abandon to their fate those local and state political leaders who courageously led the integration movement, sometimes at peril and even sacrifice of their lives.

#### INEFFECTUAL REMEDY

But even if integration has failed—and to say that it has is not only false but an assertion of the bankruptcy of American society—what is suggested in its place? Stewart Alsop, quoting those who say integration has failed, tells us in *Newsweek*:

We must "open up middleclass jobs and middle-class suburbs to Negroes." We must "make the schools good where they are—that is, pour money and attention into the ghetto schools. The fact is that despite the pleas of the Kerner Commission, the Eisenhower Commission and every other reputable body that has made any good-faith effort to gauge the situation, despite the empty rhetoric of the Nixon Administration and "reforms" and new programs, despite the hypocrisy of those Northern Senators who supported Southern segregation under the guise of attacking Northern segregation—despite all this, there is not the slightest indication that the American people have any intention of doing any of these things, or that their fearful leaders will even call upon them to do so.

Mr. Alsop's strategists also insist that the nation not "sell out integration where it's been successful." That is precisely what Mr. Nixon and the Senate have done: what will happen now in Greenville, and in other cities where courageous, good-faith efforts had been made? Whatever those black leaders who say integration has failed may think, what will the millions of black people believe as they see starkly confirmed one more time—after so many precedents—the unwillingness of white Americans to make good on their commitments and their ideals?

"The Union," wrote C. Vann Woodward in *The Burden of Southern History*, "fought the Civil War on borrowed moral capital. With their noble belief in their purpose and their extravagant faith in the future, the radicals ran up a staggering war debt, a moral debt that was soon found to be beyond the country's capacity to pay, given the undeveloped state of its moral resources at the time." For eighty years thereafter, Woodward pointed out, the nation simply defaulted, until "it became clear that the almost forgotten Civil War debt had to be paid, paid in full, and without any more stalling than necessary."

#### IN DEFAULT

This is clearer than ever, because we are not dealing in 1970 with five million ignorant field hands in the cotton South, as we were in 1876. But once again, the Union is defaulting; once again its capacity to pay has been found grievously wanting; and still its moral resources are sadly undeveloped.

Poor old Union! Its great and generous dreams falling one by one to dusty death.

Mr. JAVITS. Mr. President, I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote by which the Mondale resolution (S. Res. 359) was agreed to be reconsidered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the hour of 12:15 p.m. there be a yeas-and-nays vote on the Mondale resolution.

Mr. GRIFFIN. Mr. President, reserving the right to object, will the distinguished majority leader consider 12:30 p.m., to give the Members an opportunity to be notified and get here if they have anything to say?

Mr. MANSFIELD. All right, but provided we end the morning business and get down to the unfinished business.

I will change the request to 12:30 p.m., and I hope all Members will be notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

#### ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

YEAS-AND-NAYS VOTE ORDERED ON S. RES. 359

Mr. MANSFIELD. Mr. President, I yield myself one-half minute on the bill. I ask unanimous consent that it be in order to

ask for the yeas and nays on the Mondale resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

YEAS-AND-NAYS VOTE ORDERED ON PENDING ERVIN AMENDMENT

Mr. ERVIN. Mr. President, I ask for the yeas and nays on the pending amendment, amendment No. 492.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Carolina (Mr. ERVIN).

Mr. JAVITS. Mr. President, what is the time situation?

The PRESIDING OFFICER. The time situation is that the Senator from North Carolina has an additional 26 minutes, and the Senator from Rhode Island—in his absence, the Senator from New York—has an additional 37 minutes on the amendment.

On the bill itself, the majority leader has 78 minutes under his control. The Republican leader has 106 minutes.

Who yields time?

Mr. GRIFFIN. Mr. President, will the Senator yield me 3 minutes?

Mr. JAVITS. I yield 3 minutes to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I want to acknowledge the move made by the distinguished majority leader in asking that the Mondale resolution be reconsidered, and I want to indicate that that was done after consultation with the junior Senator from Michigan. I asked him to do that not because I oppose the Mondale resolution. I intend to vote for it. But I was aware yesterday, in my leadership capacity, that there was a good deal of concern about it and concern about some of the details of it, concern about the composition of the committee and other factors; and I felt that at least there ought to be a reasonable opportunity for those on both sides of the aisle to know that this resolution was to be brought up and voted on.

I want to indicate my sincere appreciation to the majority leader for his cooperation in that respect.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. MANSFIELD. I think the Senator should thank the distinguished Senator from Illinois (Mr. PERCY) and the distinguished Senator from New York (Mr. JAVITS), who made it very clear that, while they were in favor of the Mondale resolution, if any question arose, they would be among the first to reconsider the resolution.

Mr. GRIFFIN. I thank the distinguished majority leader for saying that.

Mr. MANSFIELD. I believe the Senator from Minnesota said he would, too.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. MONDALE. In no sense did we wish to railroad this resolution through. As I understood it, last night we agreed that this would be the pending business and would be the first matter brought up

after the speech delivered by the Senator from Alaska.

Mr. MANSFIELD. During the morning hour.

Mr. MONDALE. That is correct. On that basis, we did have a colloquy for 10 or 15 minutes this morning in addition to a long colloquy yesterday, and I was under the impression that there was no objection. As soon as the Senator from Illinois suggested that further discussion might be in order, I made it clear, along with others, that I would be glad to withdraw the action and proceed as we have now proceeded.

Mr. GRIFFIN. I do not know that there will be serious objection. I do know that this was considered to be a very important part of the consideration yesterday. It was a very important amendment when it was offered. It is a very important step for the Senate to take, and I want to be sure that all Senators are aware when it comes to a head and a vote.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. JAVITS. If we had passed it by, we probably would have passed by the chance that we could have finished the bill today, because it had been agreed that this should come up only in the morning hour. We never like to bring things up about 7 or 8 o'clock, the shag end of the day. We were really against it, and the Senator has been very kind.

There is time for the debate, not just on the bill. I do not think we are going to act on the Ervin amendment very quickly. There will be time for debate, should the Senator desire it, and the same applies with respect to Senator MONDALE and me. If the Senator desires it, he can name his time.

Mr. GRIFFIN. The majority leader has received unanimous consent that there would be a vote on the Mondale resolution at 12:30. Although there is no specific provision for debate on it, I understand that the Senator from New York would be willing to provide some time from the bill if some Senator desires it.

Mr. JAVITS. Not only from the bill, but also on this amendment. If the Senator wants it now, I will be happy to yield now, or I will yield later.

I yield myself an additional 3 minutes. Mr. MONDALE. The one observation I should like to make, which may be somewhat irrelevant in the light of our agreement here, is that we act on this proposal in the context of the action we took yesterday. I view yesterday's action as one primarily directed at the problem of dual school systems. I know that many will disagree, but that is how I view it. I view the action on this resolution as the only step that can be reasonably taken and, in my opinion, must be taken, to try to deal with the national problem of de facto segregation.

Therefore, I hope than one can follow quickly after the other so that we can dispose of the issue in that way.

Mr. GRIFFIN. May I ask the Senator from Minnesota, the resolution as now pending, which will be voted on at 12:30 o'clock today, has it been modified to eliminate the money provision?

Mr. MONDALE. It has been modified in two respects. The first is without significance. I clarified the fact that the at large members of the committee would be selected through the normal steering committee process. That is what I intended, but I clarified it. The other modification strikes the money provision because of the suggestion by the chairman of the Committee on Rules and Administration that we should prepare the budget after the committee is established and present it to the Committee on Rules and Administration. I agreed to that and struck the money provision out of the resolution.

Mr. GURNEY. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. GURNEY. Let me state that I share the sentiments of the distinguished minority whip, as well as those expressed yesterday and, I understand, today by the majority whip with regard to this.

Actually, I think I favor the idea of a committee to study the problem as strongly as the authors of the amendment do, but I must say that I share some reverence for the procedures of a parliamentary body such as the Senate. For my purpose, I would think it would be better if we referred the resolution to the Committee on Rules and Administration and let it work it over. There are money matters to be judged as to the staff funding as well as the composition of the committee, too.

I do not think I could point to a more important committee in this session of Congress to undertake this very necessary study. I, for one, would prefer to see it go through the Committee on Rules and Administration.

Let me conclude by saying that here is one Senator who does feel that anything as important as this should go through the normal procedures of the Committee on Rules and Administration and then come back to the Senate for appropriate action. I do not see that that would mean any great delay. Everyone seems to be in favor of the committee approach, and so is the chairman of the Committee on Rules and Administration. I think that would be the better way to do it.

Mr. GRIFFIN. Mr. President, I thank the distinguished Senator from New York for yielding us time to speak on the subject.

Mr. JAVITS. I am glad to yield more time, if other Senators wish to discuss it.

Mr. President, by way of completing my thought on this committee matter, I would like to state for myself that I believe the context within which the committee is being authorized is much more in the nature of adapting an amendment to the bill—what should be an amendment to the bill, to the procedures of the Senate than otherwise, that, therefore, it is not really a detached committee which has no relevance to a given issue in a bill before the Senate but is of a general character, and that this may be an element in determining how members may vote on amendments, how members will vote on the bill and, therefore, I think the purpose and effort to adapt Senate procedures is a very necessary element of this particular subject.

I hope very much, therefore, that this committee will be approved on a rollcall vote by the Senate.

Mr. JORDAN of North Carolina. Mr. President, will the Senator from New York yield me 1 minute?

Mr. JAVITS. I yield.

Mr. JORDAN of North Carolina. Are we talking about the Mondale resolution now?

Mr. JAVITS. I am.

Mr. JORDAN of North Carolina. I thought that was to come up at 12 o'clock.

Mr. JAVITS. We are debating it. We did debate it a bit now, and then at 12:30—

The PRESIDING OFFICER. The Chair would inform the Senator from North Carolina that a vote on the resolution comes up at 12:30 o'clock today.

Mr. JORDAN of North Carolina. What I want to know is, what do we want to do with it?

Mr. JAVITS. I would like to see it approved.

Mr. JORDAN of North Carolina. In the form it was approved this morning?

Mr. JAVITS. In its amended form which the Senator from Minnesota (Mr. MONDALE) has just proposed.

Mr. JORDAN of North Carolina. That is agreeable to me. I just did not want to see any changes made in it, because we have agreed on it.

Mr. JAVITS. If I can explain, it means a recourse to—I think I understand it clearly—it means that we would come back to the Senate to name the members of the committee, and we would come back to the Committee on Rules and Administration for the money.

Mr. MONDALE. Right.

Mr. JAVITS. So that all the steps inherent in the subsequent sections of the resolution would be complied with.

Mr. MONDALE. This is what happened, let me say to the Senator from North Carolina. We passed it and then there was objection to adopting it the way it was drawn. We are adopting it now in amended form as approved this morning.

Mr. JORDAN of North Carolina. Has the Senator made any changes in it?

Mr. MONDALE. No, none at all.

Mr. JORDAN of North Carolina. Five members by the Judiciary Committee, five by the Labor and Public Welfare Committee, and five by the policy committees.

Mr. MONDALE. By the steering committees.

Mr. JORDAN of North Carolina. Yes. I have no objection.

Mr. JAVITS. Mr. President, I yield myself 5 minutes on the Ervin amendment.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, it seems to me that we are being greeted this morning with a whole trough of predictions that integration is dead and that desegregation of the public schools in the United States of America, North, South, East, West—and everywhere else—as contemplated by the Supreme Court in Brown against Board of Education, has come to an end.



I think it is tragic to suspend the Constitution because we do not know how to administer it. I do not think that is true. There is enormous improvement everywhere. Certainly a tremendous amount of forward motion has been generated in the South where the problem first arose.

Thousands upon thousands of men and women of good will, whose deeds go unsung, have responded to the finding of the courts, and the legislation of Congress which came 10 years later. Much good has come from it in respect of the promises that were made to our children as to their future.

I rise today to assert that integration is not dead, that a living, powerful appeal to the sense of justice of the American people cannot be killed by the adoption of one or another amendment on the floor of the Senate, that the heavens have not fallen in, unless we are going to accept the idea that they have, and act accordingly.

Thus, Mr. President, for me, I intend to go on doing my utmost as ranking member of this committee, as a man and as a Senator of responsibility, in respect of a major bill, to preserve everything that can be preserved both of Federal aid to elementary and secondary education according to the scheme of the bill, which is of enormous benefit to the country, and in respect of the mandate of the Constitution in respect of desegregating the public schools of America.

I always say that they publish newspapers every day and it looks black today, but it may be brighter tomorrow. I believe that, somehow or other, our collective wisdom will enable us to fight our way through to a solution.

I should like to address one word to my southern colleagues.

The Constitution has been their bulwark and their defense on a thousand battlefields. Indeed, their principle has always been that if Abraham Lincoln had lived, the course of transition after the Civil War would have been very much smoother and far less painful, and that the hurts and wounds would have been bound up much more quickly.

The Constitution of the United States is a holy testament to them, as it is to me. It is infinitely more important and overshadows the grave controversy in which we are now engaged.

I am reminded of a line in the Old Testament with respect to my own faith:

Behold, I have given you a good doctrine. Forsake it not.

I hope very much that we will all realize how much we have at stake in the integrity of the Constitution, and the authority of the Supreme Court, even though we do not disagree with it, and in the structure of this country, for we cannot govern millions of people by force. That goes for blacks and it goes for whites. We will not so tip the balance, just because the tide happens to be going that way, as I indicated yesterday, in such a manner as to destroy our own purposes and our own fundamental rights.

Mr. MONDALE, Mr. President, will the Senator yield?

Mr. JAVITS, I yield.

Mr. MONDALE, Mr. President, I express my profound admiration for the genius and commitment of the Senator from New York to the cause of human rights. It is a pleasure to serve in the Senate with him and to be permitted to work with him on what I regard to be the most fundamental cause, a cause that strikes at the very vitality of our Nation.

The Union of South Africa does not appeal to me. I do not think that we can have a democracy in which we do not treat all human beings equally. We cannot accept color as a valid distinction. To proceed in that manner in a democracy would be to proceed on two concepts that are incompatible and would destroy each other.

I do not know what the politics of human rights is today. It is hard to tell. The frustration, the agony, the despair, and the hatred that one sees growing increasingly in this country reminds us of the dire predictions of the Kerner Commission and the Eisenhower Commission, which were rejected by so many as doomsday predictions. They appear today increasingly to be justifying themselves.

Whatever the politics, I am one of those who believes that there can be no compromise on the issue of human rights, that this is one issue that is worth everything, including one's public office.

I would hope, as the Senator has implied, that as the American public focuses on this amendment, they will broaden and expand their indispensable commitment to decency and fairness in American life.

Mr. JAVITS, Mr. President, I am very grateful for the Senator's statement. It moves me very deeply. As a young man in the Senate, with many years before him, he will have a chance to further this goal. I thank the Senator very much.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS, Mr. President, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for an additional 5 minutes.

Mr. JAVITS, Mr. President, I address myself to the amendment introduced by the Senator from North Carolina. It seems to me that the very critical part of this effort is to interdict even the courts from ordering any kind of busing or changing busing.

I would like to call very strongly to the attention of the Senator the sweeping character of the amendment which not only inhibits the guidelines of the HEW and the power to withhold money, which is all the Stennis amendment did, but also inhibits the courts.

It reads:

No court . . . shall have jurisdiction . . . to assign children to public schools to transport any child from one place to another or from one school to another, or from one school district to another school district to alter the racial composition of the student body at any public school.

That means not only that the amendment would deprive the court of the power

to order busing, but also deprive the court of the power even to change busing where busing is an element of segregation.

I assume that we have the power to do this. And I rather believe that we do by law have the power to deprive the court of this amount of jurisdiction. I think it is most unwise, because we would be striking a blow at precisely what we do not wish to strike a blow against—the efforts being made to correct de jure segregation.

In addition, I think the amendment is very clearly open to the charge that a real effort is being made to abate enforcement of the Court's decree in the South or anywhere else, wherever it may be, relating to de jure segregation.

I point out that this would apply wherever the courts act. If they believe they can extend their jurisdiction to de facto situations, it would apply as well to those situations.

In this connection, I read with the greatest of interest the decision in the case of Green against the School Board of Virginia. That was a very landmark decision in 1947. It dealt with the question of busing. It was very interesting to me that a part of the busing situation which we have not looked at is referred to in this particular decision.

I read an excerpt from the decision:

The record indicates that 21 school buses, 11 serving the Watkins School and 10 serving the New Kent School—

The Watkins School was a black school, and the New Kent School was a white school.

I continue to read:

travel overlapping routes throughout the county to transport pupils to and from the two schools.

That is a very key point. One of the ways in which the humane counties respond to the situation is to furnish buses.

The only choice a child has is to walk to school or ride, if he can find a means of transportation, or not to go to school at all if he is black.

One of the ways in which segregation was perpetuated in humane counties in the case of black children was to transport them very long distances to a black school.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS, Mr. President, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for an additional 5 minutes.

Mr. JAVITS, A member of the minority staff of the committee which considered the pending bill was born in the District of Columbia. He tells me that when he went to school in the District of Columbia, there was a dual school system. He went across the street to school, but the black children of the janitor had to go roughly a mile, although it was a city, to go to a black school somewhere else.

They could have walked across the street, too, but, no, they were not permitted to do so.

The reason I say that is to point out how integral an aspect of the desegre-



gation process busing, not actually creating busing, but a shift in the busing pattern, can be in respect to this matter.

The Senator from North Carolina—and again, I do not challenge his right to do so or the pertinence of any fact that was brought up—brought up yesterday a case—and as I read it, I might agree with him—in great detail. The case involves busing and was very recent.

As I said yesterday, we have all kinds of cases of that sort in the Federal and State courts and in Congress. And we fight against injustice and endeavor to correct the situation. But we do not pick out a particular example of injustice as the basis for junking the whole system, which is so deeply inherent in the Constitution, by depriving the court of all jurisdiction—which, in many cases, may be the only instrument capable of correcting the wrong.

If that were the only superficial guide, I pointed out how often we would feel that what the court does is wrong, too.

Mr. President, I welcome making that issue clear for the guidance of the courts. Second, I really think we would be pushing this far beyond any provident relationship to the constitutional issue and the issue in our country if we agreed to this amendment which takes away from the courts the jurisdiction to do anything about busing systems.

But on the other side of the coin, the Green case illustrates clearly what I have in mind. Where the pattern of busing itself—if you wish to deal with unconstitutional segregation—needs to be revised, the court should have the power and the authority to do it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 5 additional minutes.

Now, one last thing. As a Senator, it seems to me that we should feel that once we undertake to enforce law, that we will enforce it; and we do not want to abort the enforcement process, whether as a tool as essential as the one we are now debating or not.

Mr. President, I wish to read from a memorandum from HEW entitled "Civil Rights Implications of Possible Anti-busing Amendment to ESEA":

The antibusing amendment described here—

Which is the Ervin amendment—would prevent title IV officers—

Those seeking to deal with the problems of title IV of the Civil Rights Act of 1964—

from preparing and submitting desegregation plans involving busing changes which may be minor, but which nonetheless provide the only means in a given situation to comply fully with the law and the orders of the courts.

Then, to give some concept of the result of any such action, I shall go on and read further from the memorandum:

In substance, school districts which have accepted changes in their busing system in order to comply with the law would be encouraged to retreat. On the other hand, those districts with which HEW is still negotiating for compliance would not longer feel obligated to make busing changes which may be essential in eliminating vestiges of

the dual school structure as ordered by Federal courts.

I am quoting from this memorandum as to the facts with respect to busing. May we have order in the Chamber, Mr. President?

The PRESIDING OFFICER. The Senator will be in order.

Mr. JAVITS. The memorandum states:

However, this restriction has not heretofore prevented the Federal Government from dealing with racial imbalance which is deemed illegal, discriminatory, or unconstitutional; that is, school segregation that has been brought about deliberately, either by formal law or custom or by the acts of local authorities. In this case, Title VI, which prohibits racial discrimination in Federally assisted programs, imposes upon the school district the obligation to take steps, including busing if necessary, to correct that deliberate or illegal segregation.

Further on this subject, we go to the way in which it is worked. There have been many statements here about the horrendous results which have resulted from the actions of HEW. Again, I would like to read from the memorandum:

To date, most desegregation plans accepted by HEW under title VI have involved little or no additional bussing in the affected school districts. Of approximately 300 voluntary desegregation plans negotiated for implementation in September 1969, less than 10 involved additional bussing.

It seems to me that that very materially diminishes the impact, which has been claimed here, with respect to busing and the alleged improvident use of that kind of remedy for de jure segregation, and I emphasize that is what we are talking about—de jure segregation.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I would like to point out that in another memorandum directed specifically to the various amendments of the Senator from North Carolina (Mr. ERVIN), HEW points out that in negotiating for compliance, and this relates to violations in respect of de jure segregation—that is where you have dual school systems—under title VI of the Civil Rights Act, HEW may recommend and local school districts may adopt desegregation plans to reschedule, reroute, or reunify the preexisting busing system, particularly if the system is being used to maintain segregation.

That would be prohibited by the Ervin amendment. They say this is the only way de jure segregation can be corrected. It seems to me under these circumstances this would be a very improvident amendment to agree to. It would abort the effort to correct not only segregation of schools which are in the twilight zone but segregation which is directly contrary to law and even to a court decree, by what is frequently the only method by which it can be cor-

rected, to wit, some change in the busing system. The HEW points out that in very rare cases has this been invoked but nonetheless that it is very important and they point out that in only 10 cases out of 300 was additional bussing required.

It seems to me under these circumstances we would be destroying a major and massive activity in a most improvident way by agreeing to the amendment which goes to the very jurisdiction of the courts themselves insofar as the authority to issue a decree to cure admittedly illegal segregation in the public schools is concerned.

Whatever may be the procedure ultimately adopted to deal with the amendment I hope very much the Senate rejects the amendment.

I reserve the remainder of my time. The PRESIDING OFFICER. Who yields time?

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. Mr. President, will the Chair advise the Senator from Minnesota of the parliamentary situation on the vote to be held at 12:30 p.m. Are we voting on the merits?

The PRESIDING OFFICER. At 12:30, under the previous order, the Senate will proceed to vote on the Mondale-Javits resolution.

Mr. MONDALE. And the vote will be on the merits.

The PRESIDING OFFICER. On the merits. It will be on Senate Resolution 359, as amended.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending resolution take place at a quarter to one; and I do so because certain Senators have raised certain questions and they would like to engage in a little debate before a decision is reached.

I hope that request will be met with the approval of the Senator from Minnesota and others.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—will there be 15 minutes of time to debate on the resolution that would not be charged?

Mr. MANSFIELD. Yes, of course, and the time would be under the control of the Senator from Mississippi and the Senator from Minnesota.

Mr. RUSSELL. Mr. President, will the Chair please repeat the unanimous-consent request? I did not hear it. I was engaged in another matter.

The PRESIDING OFFICER. The unanimous-consent request was that at 12:45 the Senate will proceed to a vote on Senate Resolution 359. Pending that time, debate can take place, the time not to be charged against the Ervin amendment or the bill itself.

Who yields time?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Are we now operating on a block of time controlled by different Sen-

ators than the Senator from North Carolina and the Senator from Rhode Island?

The PRESIDING OFFICER. The time is controlled by the Senator from Minnesota and the Senator from Mississippi.

Mr. PELL. Mr. President, will the Senator from Minnesota yield me some time?

Mr. MONDALE. Mr. President, I yield 4 minutes to the Senator from Rhode Island.

Mr. PELL. Mr. President, I have been reading in the press references to the "bitter disappointment" of certain Department of Health, Education, and Welfare officials at my reluctance to hold hearings in the Education Subcommittee on the question of segregation.

My reasons for not wishing to hold such broad-based hearings within our subcommittee are twofold:

First, the subcommittee is basically liberal in an educationally oriented view and I believe that in order to give the subject the balance that it needs and in order to increase the opportunity of acceptance of its views in the Senate as a whole, there should be spokesmen for other points of view and other committees. While the thrust of the problem is educational, there should be an equal thrust with regard to civil rights, housing, and employment. In other words, I was concerned that our subcommittee could not, under its jurisdiction, do the in-depth study that is needed.

Second, my own view is that the Education Subcommittee should, as much as possible, concentrate on the improvement of the quality and scope of the education of our youngsters and that the subject of integrated education should be treated as part of that general effort.

If our subcommittee becomes too deeply involved in the civil rights issue, it will be civil rights that will soon be the tail waving our dog and our Education Subcommittee would increasingly find itself being used by liberals and civil rights leaders as a means to counteract the more conservative Judiciary Committee.

This deflection of our basic mission of concentrating on education would, I believe, be an error.

Both my objections would be met by the adoption by the Senate of the excellent idea of Senators MONDALE and JAVITS that a select committee would be composed of representatives, not just of the Labor and Public Welfare Committee but of the Judiciary Committee and of the Senate as a whole.

The studies conducted by the select committee should help us in arriving at some realistic solutions to this problem. At the conclusion of the studies conducted by the select committee, I would hope that the Education Subcommittee would be able to advance such legislative proposals as may be necessary to deal with the educational problems arising from racial isolation in our schools.

The language of the resolution sets forth a broad mandate to assess the effectiveness of the existing laws of the United States in providing equal educational opportunity. Since racial isolation, principally black isolation, is the central problem before us at this time and the

major problem to be dealt with first is assuring all citizens of the right to equal educational opportunity, it is assumed that the select committee will deal primarily with segregation on the basis of race, color, or national origin, whatever may be the origin or cause of that segregation. It is my expectation that those Federal education programs which are intended to assist in providing equal educational opportunity will come under the review of the select committee only to the extent they are related to the problem associated with racial isolation. I would hope that the select committee would be able to conclude its work by the expiration date set forth in the resolution and that such recommendations as that committee may have would be available to the appropriate legislative committees for action during the first session of the 92d Congress.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, will the Senator from Minnesota yield me just 2 minutes, or 1 minute?

Mr. MONDALE. I may say to the Senator that there are only 3 minutes remaining to me. I think we might reserve that time.

Mr. JAVITS. Very well.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, I yield myself 3 minutes.

Mr. President, may I make an inquiry of the majority leader? I have not had time to read the resolution. As I understand, the steering committee of the majority and minority will select the membership of this select committee?

Mr. MANSFIELD. That is my understanding, and that is in the resolution.

Mr. STENNIS. I really have not had time to read it. I understand there has been some discussion on the floor and there was an agreement reached that it would be taken up this morning. The Senator from Mississippi had no knowledge of that. I came here at 12:15 and learned for the first time that a vote on the resolution was scheduled for 12:30 p.m. today. I thank the Senator from Montana for that answer. I wanted to be sure.

Mr. President, I have just stated here that I heard yesterday in the early evening that there would be a resolution providing for this select committee. I was just old fashioned enough to think that the resolution would be referred to a committee, or to the Rules Committee, for consideration and weighing and confirming of language with recommendations by the committee with a report thereon. I am not critical of anyone, considering the rush we are in here, but I walked in here and found out that the resolution had been agreed to in the morning hour, but, on request, had been reconsidered and set for a vote at 12:30.

As I said, I got here at 12:15 and did not even know what had happened. There is no time now for us to fully read the resolution, weigh its provisions, or discuss it or ask questions. I understand the money provisions have been stricken out, so at least there would be a chance for the Committee on Rules and Administration to hear the evidence on that

issue. It would not have any authority to modify the language of the resolution.

I just think we ought not to act so hastily on a matter of this extreme importance in this delicate field. Further if there is going to be a comprehensive study of this complex problem, a report cannot be had by August 1 of this year. I do not believe it can be. I do not see how busy Senators can possibly have time to give it much attention. Staff members could give it some attention in that short time, but that is about all.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I want to express my thoughts on this matter as briefly as I can, and I am sorry there is no time to discuss it thoroughly. I had thought the Senate was actually reaching a point of rational action the other afternoon. I am thinking particularly of the remarks of the former Secretary of Health, Education, and Welfare that he knew we had dozens of programs in this field that were not working and we ought to do something about it.

First, I do not feel that this resolution should be considered until it goes to the Rules Committee, and I do not think it is completely proper that anyone accept this resolution for the Rules Committee unless the committee has acted on it.

Second, when in the world is the Senate going to start to get some sense and stop shucking off its responsibilities to everyone else and saying, "Well, we appointed a commission, we appointed a committee, and now we are appointing a special joint committee?"

We have a Labor and Public Welfare Committee, and in it is a Subcommittee on Education. I have not even had time to check it, but they have a budget of more than \$500,000, I believe, this year; and this is their responsibility. What have they been doing all these years if they have not been considering this matter? This is one of their responsibilities, and I feel that this is where it should be, not in a special committee, because such a committee cannot do a comprehensive job in a few months.

I sincerely hope the resolution will be rejected, because I think it is a shucking off of our responsibilities, as we do far too often by saying, "Let us appoint a commission, let us appoint a committee, let us appoint a board, and then we will have discharged our problem."

Mr. PELL. Mr. President, will the Senator yield?

Mr. ALLOTT. On the Senator's time, yes. I do not have any time.

Mr. PELL. I ask unanimous consent to respond to the Senator, not on his time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. As chairman of the Education Subcommittee, I wish to state that our budget is not quite as large as the Senator indicated.

Mr. ALLOTT. I am talking about the full Committee on Labor and Public Welfare.

Mr. PELL. I am sorry; I thought the Senator said the Education Subcommittee.

I also believe very strongly that for



such a committee to be effective, the Senate should come out with a resolution touching this delicate subject of integration. I think our committee is basically a liberally oriented committee. I think for an overall study to be made, there should be representatives of all points of view in the Senate, and that is why I like this idea of a broader range, where one-third of the membership would be out of our committee, one-third out of the Committee on the Judiciary, and one-third appointed by the steering committee as a whole.

Mr. STENNIS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. STENNIS. I yield 1 minute to the Senator from Florida.

Mr. GURNEY. Mr. President, on January 21, I had printed in the *Record* an article by Mr. Joseph Alsop, in which he made the following statement:

The fact is that something perilously close to race war has now begun in just about every integrated high school in the United States. This is not a Southern problem. It is a nationwide problem, with future political implications so grave that we dare not go on being ostriches about it.

Then he mentions the investigation conducted by the Department of Health, Education, and Welfare, and says of the investigation:

Their story . . . was downright hair-raising.

What I am saying is that we now, in the Senate, propose to appoint a special committee. We have had no debate about the committee or its merits at all. There has been no discussion of the matter. It could be the most important committee that the Senate could appoint this year. I certainly subscribe to the sentiments of the distinguished Senator from Mississippi and the distinguished Senator from Colorado that what we ought to do is refer this matter to the Rules Committee so that complete hearings can be had, and then we can come up with a committee that does represent a broad cross-section of the Senate.

I am 100 percent in favor of a committee, but I do not think we ought to create it here on the Senate floor, after about 5 minutes of discussion or even less.

Mr. MONDALE. Mr. President, how much do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. MONDALE. How much time has the opposition?

The PRESIDING OFFICER. There is 1 minute remaining on each side.

Mr. STENNIS. Mr. President, I yield myself 1 minute.

Mr. President, as I have already said here, I had, when this proposal was offered as an amendment, prepared an outline of an argument concerning it. I do not have that memorandum here this morning. I make the most vigorous protest that, even if good faith has been exercised by everyone, that a problem of such far-reaching importance as this

could be given such slight consideration by the Senate; and, if we are going to pass it on such slight consideration, without all Senators knowing about it, I would not have much respect for, not the membership of the committee, but the act of the Senate in thus passing on a matter of such tremendous importance.

I hope that someone will move to refer this matter to the Rules Committee, so that they may further consider it. It might be that I would support such a measure to provide for a select committee; but, my goodness, I for one have not had a chance—not 5 minutes—to weigh this thing and express my views to my colleagues.

Mr. MONDALE. Mr. President, I yield 1 minute to the majority leader.

Mr. MANSFIELD. Mr. President, I can sympathize with the distinguished Senator from Mississippi, who has been on the Senate floor day in and day out for a long time. I cannot, however, sympathize with his statement that this matter has not been considered. It was considered on this floor for more than an hour yesterday. It was considered for about half an hour this morning. It was changed considerably, tightened up drastically, and I think it represents the overwhelming will of the Members of this body. There is nothing hasty about this action. This proposal is really a part of the bill under consideration. It must be considered as such. Everyone knew that such a proposal would be offered.

So I hope if any motion is made to refer it to committee or to table, it will be defeated, and I hope the Senate will face up to its responsibility today and pass this resolution, which was offered in good faith.

Several Senators addressed the Chair. The PRESIDING OFFICER. All time has expired. Senators can be recognized only by unanimous consent.

Mr. GURNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GURNEY. Would a motion be in order at this point to refer this resolution to the Committee on Rules?

The PRESIDING OFFICER. Unanimous consent was obtained that at 12:45 p.m. a vote would occur on the matter itself.

Mr. GURNEY. If a unanimous-consent request were propounded to entertain a motion to refer the resolution to the Committee on Rules, would that request be in order?

The PRESIDING OFFICER. It would be in order.

Mr. GURNEY. I make such unanimous-consent request.

Mr. MANSFIELD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. If the Senator wishes to make a motion to table, I shall not object to that; I will ask unanimous consent that he may do so.

The PRESIDING OFFICER. By unanimous consent, such a motion could be made.

Mr. GURNEY. Mr. President, I ask unanimous consent that a motion to table be in order at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. If the Senator makes the motion, the Chair will put the question.

Mr. GURNEY. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GURNEY. If a motion to refer were made, and the Chair ruled it was out of order, the ruling of the Chair would then be subject to appeal to the Senate; is that correct?

The PRESIDING OFFICER. Yes; any ruling of the Chair would be subject to appeal.

Mr. MANSFIELD. Mr. President, I move to lay the pending resolution on the table, though I shall vote against the motion.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana to lay on the table Senate Resolution 359.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana (Mr. MANSFIELD) to lay on the table Senate Resolution 359. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Montana (Mr. METCALF), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. DODD) and the Senator from Texas (Mr. YARBOROUGH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), and the Senator from Maryland (Mr. MATHIAS) would each vote "nay."

On this vote, the Senator from Arizona (Mr. GOLDWATER) is paired with the Senator from Illinois (Mr. SMITH). If present and voting, the Senator from Arizona would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 31, nays 56, as follows:

[No. 46 Leg.]

YEAS—31

Aiken	Ellender	Murphy
Allen	Ervin	Russell
Allott	Fannin	Sparkman
Anderson	Gurney	Stennis
Baker	Hansen	Talmadge
Bennett	Holland	Thurmond
Byrd, Va.	Hruska	Tower
Cotton	Jordan, N.C.	Williams, Del.
Curtis	Jordan, Idaho	Young, N. Dak.
Dole	McClellan	
Eastland	Miller	

NAYS—56

Bayh	Harris	Pastore
Belmont	Hart	Pearson
Bible	Hollings	Pell
Boggs	Hughes	Percy
Brooke	Inouye	Prouty
Burdick	Jackson	Proxmire
Byrd, W. Va.	Javits	Randolph
Cannon	Long	Ribicoff
Case	Magnuson	Saxbe
Church	Mansfield	Schweiker
Cook	McGee	Scott
Cooper	McGovern	Smith, Maine
Cranston	McIntyre	Spong
Eagleton	Mondale	Stevens
Fong	Montoya	Symington
Fulbright	Moss	Tydings
Goodell	Muskie	Williams, N.J.
Gore	Nelson	Young, Ohio
Griffin	Packwood	

NOT VOTING—13

Dodd	Hatfield	Mundt
Dominick	Kennedy	Smith, Ill.
Goldwater	Mathias	Yarborough
Gravel	McCarthy	
Hartke	Metcalf	

Arizona would vote "nay" and the Senator from Illinois would vote "yea."

The result was announced—yeas 61, nays 26, as follows:

[No. 47 Leg.]

YEAS—61

Aiken	Griffin	Pastore
Anderson	Harris	Pearson
Baker	Hart	Pell
Bayh	Hollings	Percy
Bellmon	Hughes	Prouty
Bible	Inouye	Proxmire
Boggs	Jackson	Randolph
Brooke	Javits	Ribicoff
Burdick	Long	Saxbe
Byrd, W. Va.	Magnuson	Schweiker
Cannon	Mansfield	Scott
Case	McClellan	Smith, Maine
Church	McGee	Sparkman
Cook	McGovern	Spong
Cooper	McIntyre	Stevens
Cranston	Mondale	Symington
Eagleton	Montoya	Tydings
Fong	Moss	Williams, N.J.
Fulbright	Muskie	Young, Ohio
Goodell	Nelson	
Gore	Packwood	

NAYS—26

Allen	Ervin	Murphy
Allott	Fannin	Russell
Bennett	Gurney	Stennis
Byrd, Va.	Hansen	Talmadge
Cotton	Holland	Thurmond
Curtis	Hruska	Tower
Dole	Jordan, N.C.	Williams, Del.
Eastland	Jordan, Idaho	Young, N. Dak.
Ellender	Miller	

NOT VOTING—13

Dodd	Hatfield	Mundt
Dominick	Kennedy	Smith, Ill.
Goldwater	Mathias	Yarborough
Gravel	McCarthy	
Hartke	Metcalf	

So the motion to table was rejected. The PRESIDING OFFICER. The question now before the Senate is on adoption of the resolution offered by the Senator from Minnesota (Mr. MONDALE), amended.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Montana (Mr. METCALF), and the Senator from Texas (Mr. YARBOROUGH), are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. DODD), and the Senator from Texas (Mr. YARBOROUGH), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. SMITH), are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), and the Senator from Maryland (Mr. MATHIAS), are detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), and the Senator from Maryland (Mr. MATHIAS), would each vote "yea."

On this vote, the Senator from Arizona (Mr. GOLDWATER), is paired with the Senator from Illinois (Mr. SMITH). If present and voting, the Senator from

So Mr. MONDALE's resolution, as amended, was agreed to.

The PRESIDING OFFICER. Without objection the preamble is agreed to.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, may I inquire how much time remains on the Ervin amendment?

The PRESIDING OFFICER. The Senator from Rhode Island has 3 minutes remaining, and the Senator from North Carolina has 26 minutes remaining.

Mr. JAVITS. Mr. President, I suggest that the Senator from North Carolina may wish to use some time, since we have almost used all of ours.

Mr. ERVIN. Mr. President, I yield to the Senator from Florida (Mr. GURNEY) so much of the remaining time as he may wish to use.

The PRESIDING OFFICER. The Senator from Florida is recognized.

The Senator will not proceed until the Senate is in order.

The Senator may proceed.

Mr. GURNEY. Mr. President, I rise to support the amendment offered by the distinguished Senator from North Carolina which, in effect, would stop this forced busing which creates a school problem throughout the country, and especially in our part of the Nation.

I have listened very carefully to the argument in opposition to the amendment, mainly made by the distinguished

Senator from New York. As I see it, the argument against the amendment is twofold. One argument is that if we agree to the amendment, we will stop and destroy the integration of our school system that has been proceeding around the country, and especially in our part of the Nation.

There is no validity to that argument whatsoever. There is not anything in the amendment that alters Brown against School Board or, for that matter, any of the other Supreme Court or circuit court of appeals decisions which have come down since, which say that we will proceed with the integration of our schools.

This argument is a red herring—nothing more or less.

Another argument has been made here. The word de jure is used again and again by those who oppose the amendment. I think the argument runs that if we agree to the amendment, then, of course, the outlawing and stopping of de jure segregation, which occurred in previous years in some parts of the country, will not be proceeded with.

Again, I can see no validity at all to this argument.

What we have done, in Florida at least—and that is a situation with which I am familiar—is really de facto segregation. De jure segregation went out long ago. We have been proceeding with integration rapidly in the last 2 years, and especially in the past year.

We were proceeding fairly well until the Supreme Court decision of a few weeks ago which said that there would be integration this very month.

The problem which we have in Florida, and I think that is true of other States as well, under the recent court order of the Supreme Court is, indeed, de facto segregation and not de jure segregation, and how busing is used to alter de facto segregation.

What is happening all through Florida, and it has brought our public school systems to a state of chaos, is the busing which has been instituted under the court orders to alter de facto segregation.

We have schools there, as they have in New York City and in other large cities, that are located within Negro areas and are located within white areas, neighborhood schools that, of course, are all black or all white, not because of any de jure concept of integration, but because we have de facto segregation. It is a matter of where people live and work, and they send their children to the neighborhood schools.

So this business that we should not agree to the amendment because it would stop de jure segregation is entirely false and entirely a red herring also.

Mr. President, I have never in my lifetime, in or out of public office, seen the feeling that has been aroused in my home State of Florida this year under the Supreme Court decisions and the implementation of those decisions. Our office has been flooded with communications in the last few weeks. I have brought a few of those communications with me to the Chamber today. Here are some of them; and I have another five piles with me which are just as big. This



constitutes only a very small portion of the communications we received on busing. We get them from white parents, we get them from black parents, and we get them for everybody. I might read some of the language in some of the letters. Here is one.

DEAR SIR: I will come immediately to the point. My husband and I are most unhappy over HEW running over our children's lives—upsetting, interrupting and disrupting their education in the middle of a school year. \* \* \* there is still a question of busing. I am against busing, my husband is against busing and my children (the innocent victims of this political mess) do not want to be bused out of our neighborhood schools. We moved out where we are, a woody area, dirt road even, near FTU for the country environment and country type of schools.

Mr. President, there is nothing in here that shows any feeling or prejudice against black people, or against the integration of schools. This is true in all these letters we receive from Florida. What they do not want is busing, where they have moved into a neighborhood and they have selected a neighborhood in which to live with schools nearby.

Here is another letter:

I am writing to you to protest the forced busing of school children.

As a new resident, and soon to be voter of the State of Florida, I am appalled at the terrible problems existing in the schools here.

My son was attacked, and robbed the first month he was in school here. The group of hoodlums involved were bused in. This element carries knives, switchblades, and other weapons. The principal was sympathetic, but his hands are tied.

I do not know how much plainer one could be than that. The letter concludes in this way:

The Supreme Court gave up listening to the people long ago.

I agree with that; it surely did.

Here is an interesting letter from the Dade County Federation of Women's Clubs. Those who know Florida know that Dade County is the largest county and it has the cities of Miami and Miami Beach located within its boundaries; politically it is Democratic, and it is quite liberal. This letter is from the Federation of Women's Clubs, representing 57 member clubs and approximately 12,000 members. They met on January 28 and passed a resolution and they sent me this letter:

We are opposed to the transporting of pupils to newly and artificially assigned schools, to the closing of existing useful schools, and especially to the use of federal funds or local school taxes for massive transportation of pupils when these funds should be used for the construction and equipping of much needed new schools.

I agree. This makes a lot of sense and something that many of us have been pursuing a long time.

Here is another letter which states:

DEAR SIR: I am waiting to tell you that we are protesting the busing of our children to other schools away from our area. We have always sent our children to the nearest school by our home. Our children have to arise early enough to get to school by 7:30 and 7:45. With this early daylight saving time, it is before dawn when they leave our home to catch a bus. I can imagine how early they will have our children up, so they can spend an hour traveling to another

school so a racial balance can be created. Also, in case of illness or accident what Mother needs to drive ten miles to pick up her child. If she happens not to be at home at an unfortunate time, I don't think a neighbor will be as willing to help out. These are just a few things I can think of to protest "Busing".

Here is another letter:

I am the mother of three children. The two oldest boys are in the first and second grades, the youngest a daughter is 4 and will attend kindergarten next fall. I am writing in regard to the busing of children because of integration. I am totally and wholeheartedly against busing of any kind. I do not want my children bused to a school when they have one in their community. How can children participate in school activities if their school is out of their community? How can mothers and teachers confer for the future of our children if the children is miles away. Many mothers do not have cars. How can mothers contribute their services if they cannot get to the schools. I feel this is not a democracy anymore when you buy a home in a community, where black or white have equal opportunity to do so, then the Supreme Court tells you your children have to be bused elsewhere. This is happening and it is too much.

Here is a letter from a town manager which states:

I am fed up—up to my neck with the word 'integration' as it applies to our schools and the busing of pupils to schools. I am ashamed of our United States Supreme Court in their many renditions and legality of our United States Constitution.

First, let me say, I am not a racist. I have lived in the North, in Ohio and Pennsylvania, and gone to grade school, high school, and college with Negroes. It happened to be in these states that all of us in a municipality attended these schools by walking. It so happened that this was our school and we were proud of the same—regardless of color.

First, in the matter of busing it is simply an economic situation. Secondly, it is a matter of taking small children away from their little friends and out of the municipality and into another. Third, and last, it is a matter of freedom.

This involves not just crosstown busing but busing from one community to another.

Mr. President, I could go on and on and give many examples. In one of our counties, Sarasota, there is busing 42 miles each way between communities, which is 84 miles each day in order to get to and from school. Under an order affecting Palm Beach County, which we were able to get set aside this year, there would have been busing of 40 miles. One of my close friends had three children in neighborhood schools until recently, but now one of the children goes to a school 2 miles away, another to a school 4 miles away, and the other boy to a school 4 miles. There is a complete disruption of education in Florida because of school busing. It makes no sense, it is costly, it is disrupting the lives of young children, and it interferes with the education of young children.

We have had just as many communications from blacks as from whites. In Gainesville, Fla., a short time ago, a Negro high school was closed down and pupils scattered to other parts of town. When this occurred there was a riot in the high school. Black students protested this arbitrary busing around.

The only way we can stop this under the interpretation of court decisions by HEW of what HEW feels must be done to carry out the Supreme Court decisions, is to agree to this amendment against busing. It is a practical amendment.

As I read the signs of the times there is not only opposition in the South against this practice; there is opposition everywhere.

As soon as some of the amendments we are agreeing to here in the Senate are implemented in other parts of the country, the opposition is going to be in other large communities in the United States and it will be even more vehement than it is in our part of the South. I cannot imagine a more explosive political, social, and economic issue as this one; nor can I think of any issue that touches on all three of these facets of our lives or anything that has ever had such wholesale opposition to it at any time in our country than the opposition by the people to busing.

The amendment is needed to preserve sanity in our school system. It will not stop the course of integration. That is not the purpose of the amendment as I see it. The purpose is to put some sense back into integrating our schools.

I hope the amendment is agreed to and agreed to overwhelmingly.

Mr. ERVIN. Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I wish to ask the distinguished proponent of the amendment a question. Is my interpretation correct that the amendment the Senator from North Carolina moves the element of Federal compulsion but it does not prevent local school authorities from instituting busing if they choose to do so?

Mr. ERVIN. The Senator is correct. It would only prevent the Federal Government from doing so and it leaves the local boards free to do what they please in respect of this.

Mr. TOWER. If the school board in my hometown wanted to impose busing on its own initiative it would be free to do so. Is that correct?

Mr. ERVIN. Absolutely.

Mr. TOWER. I thank the Senator.

Mr. ERVIN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from North Carolina has 11 minutes left.

Mr. ERVIN. Mr. President, I yield as much of that 11 minutes to the distinguished Senator from Mississippi (Mr. STENNIS) as he may use.

Mr. STENNIS. Mr. President, I certainly thank the Senator from North Carolina. I know time is short, and I shall not impose on his time.

Mr. President, it is a privilege for me to join with the Senator from North Carolina as a cosponsor of his amendment. It is plain, simple language. It is practical in its application.

The present situation with reference to busing of schoolchildren outside of the South is local choice. It is a local problem. It is a local question for decision by the boards, or even State policy. And that is the way it should be.

There has to be some busing of children, of course, to get them to school.

That is the way we consolidated our schools in rural areas more than a generation ago. That is the rule they have. In our part of the country we are, in effect, under judicial order or under the plans of HEW to do what I call unjust and unreasonable busing. It is not just busing that we object to; it is the demand for arbitrary and unreasonable busing, not for educational purposes, not really connected with quality education, but just in order to carry out a ratio to overcome racial imbalance, as the term is used.

There is an express provision in the Civil Rights Act of 1964 that that shall not be done; and that is respected and applied, as I say, outside the Southern States. It is another illustration of this arbitrary rule or sectional policy. That provision of the present law is ignored simply by saying that "We are not doing it to overcome racial imbalance; we are doing it to overcome segregation, and we are thereby doing it to improve the quality of education."

I just do not know of any place where there is a more open, willful ignoring of the statute, both in letter and in spirit, than there is there.

I remember that we had a fine debate on that provision of the Civil Rights Act before it was voted on. The explanation was made over and over again that this would all be done under uniform rules of national application.

Those statements were made in good faith. That was the intent of the Senators who made that argument at that time. But the application and the practice have moved far beyond that field, now anything HEW cooks up and wrings out of the local boards in order for them to get money, goes in spite of this provision.

It is also true, unfortunately, that the courts have ignored that provision. The courts have based their decisions, as they have said, strictly on the 14th amendment.

So something like this amendment is the only way to restore a national policy with respect to this particular activity.

But there are additional reasons. I have been connected, to a degree, with schools all my life. I have never been a teacher. I have never had that privilege. But I have had three sisters who have spent a great deal of their adult life in schools as teachers, and I have been on school boards and in the PTA, and have been, and am now, close to the schools, and I know parents and teachers.

The idea of taking a little girl or a little boy and putting them on a bus and carting them around over the county school district—whether it is a county or not—and moving them away from their own community, moving them to another area, putting them in school there, and taking little children out of that school and moving them back across the county or district and putting them where the first group came from, just to create an artificial racial balance, is not justified in law, is not justified in conscience, and is not justified on any basis.

When a man and woman buy a home in a community or area, they are buying into the schools, they are buying into the churches, they are buying into the

community life, they are buying into the parks, and they are buying into whatever there is for their family to share. It is as much their decision and their right to make the decision as is the front door on that residence. Then the government—it does not make any difference which one it is—says to them, when their children get to be 6 years old, or whatever the age is, "We are going to take your children out of your community; we are not going to let them go to school with their friends; we are not going to let them go to school over here where they will be partly under your attention and surveillance; we are not going to go to school where you will be members of the PTA or the community; we are going to take them out and cart them through the school district of the county as if they were so many cattle. It does not make any difference what the race is, whether they are black citizens or white citizens; it does not make a bit of difference in the world; there is an inalienable constitutional right and a natural right that the child and the parents be protected, unless it was on the ground of the health or sanitation or communicable disease, or something of that kind.

Mr. President, you invade a holy province when you touch family life. What rights are the people going to have left? This is supposed to be a land of freedom and a land of liberty. We are sending young men halfway around the world to fight in the jungles of South Vietnam, in a war that I have supported, for what we say is to let those people have the right of self-determination. That has not been made clear to the people yet. We do that with one hand and, assuming that it is justified, with the other hand we pull back the self-determination even of the inner confines of their own personal families, relating to their children.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. STENNIS. Mr. President, I am very sorry I let the time slip up on me. May I ask unanimous consent that the Senator from North Carolina have 5 additional minutes?

Mr. JAVITS. There is time available on the bill.

Mr. ERVIN. I would like to yield also to the distinguished Senator from Wyoming.

Mr. JAVITS. Does the Senator from Mississippi wish for further time?

Mr. STENNIS. No.

Mr. JAVITS. Mr. President, I yield 3 minutes on the bill to the Senator from Wyoming.

Mr. HANSEN. Mr. President, when the smoke clears, there is one issue which each of us must resolve in our own minds. That issue is whether it is in the public interest for any court, agency, or department to have the power or the right to tell young children that they must attend a certain school outside the community in which they live.

It would be easy for me to stand on my soapbox here today and proclaim all the advantages of forced busing. In 1968, there were only 665 Negro students attending schools in my home State of Wyoming. This represents 0.8 percent of

the total school enrollment. It would be easy for me to say to my distinguished colleagues that forced busing is a valid practice and should be continued elsewhere, because regardless of what decision is made here today, it would have little immediate effect on my State.

Mr. President, I cannot in good conscience speak in favor of forced busing.

Unfortunately the effect of forced busing cuts much deeper than the mere equalization of whites and blacks. We are not speaking of mere numbers; we are concerned with human beings who have feelings and personalities that are unique unto themselves.

The debate of the last few days has pointed up the problems. We need to start looking at students as human beings, and quit concentrating merely on numbers to achieve racial balance.

I firmly believe that the black or white child, who is shipped out of his neighborhood into a different environment, is put under severe psychological strain and pressure.

The conflict which arises from this busing is multiplied by the fact that the child is in a new surrounding. Teachers and classmates are new. In effect, the little black or white child is plucked from his home environment and forced to go friendless into a whole new arena of life. This could not help but have an adverse effect on the child's emotional makeup.

I think that educators would agree that a major part of any child's learning is the preschool and postschool activities which all children enjoy participating in—especially on the secondary level. Participating in activities like the Future Homemakers of America, Honor Society, Camera Club, and Language Club all represent an added educational experience which occurs outside the classroom. Participation in this type of activity is an important aspect of the educational experience. We have all heard stories about teenagers who continue in school only because they want to participate in sports. This type of peripheral educational experience would be largely eliminated if a child had to catch a bus after school so that he could be transported across the city or county to his own home.

Mr. President, I support the pending Ervin amendment. I think it is wrong for education to take the full brunt of the integration movement, and I think it is wrong for children to have to bear the burden of this movement. We should concentrate more on improving the educational standards of all schools rather than merely making little children the object of a numbers game.

Mr. JAVITS. Mr. President, I yield 3 minutes on the bill to the Senator from Ohio.

Mr. SAXBE. Mr. President, I am somewhat disturbed at the confusion which seems to arise from these discussions, because it seems we are discussing only the busing of small, innocent children, and the inconvenience it causes to their families, and so on.

There is a much bigger picture involved, and I think that to see it properly we have to go clear back and review the issue of slavery, and what caused it



and what resulted from it; because that, too, is a part of this whole pattern.

Slavery was instituted in this country as an economic measure. The slaves could be used as beasts of burden, and they were. After much jockeying in these Chambers, resulting in the Missouri compromise, the Kansas-Nebraska law, and all of that fancy footwork, a war was fought in this country on the question of whether slavery would survive.

The forces of the United States prevailed, and from that time on, the lot of the Negro in the South, instead of improving, declined, because the Ku Klux Klan and the other organizations that arose to keep the Negro in his place prospered, until the Plessy against Ferguson case, which came in the 1890's, rather than being a setback for the Negro, represented at the time a tremendous move forward, because up until then he was not getting any education at all except that which might be provided as a beneficence from the rich planter or the man who still controlled the black man and his family.

After Plessy against Ferguson, there was an attempt, but a feeble attempt, to provide separate but equal facilities.

We have talked a lot about this "de jure" and "de facto" segregation. When Brown against Board of Education came along, on the question of the so-called de jure segregation, it required some shifting of gears to change what had been the law of the States under Jim Crow—and not just the law, because that was simply no longer constitutional, but the customs and the social practices.

We have seen the towns in Florida—and I am sorry the Senator from Florida (Mr. GURNEY) is not present—where, as you go along down the east coast of Florida on the Seaboard or Florida East Coast Line, it runs about a mile from the coast, and that railroad is a barrier, in a hundred cities that run up and down that east coast of Florida. I have sat in the town of Delray Beach, Fla., where not only is that railroad a barrier, but they have seen fit to build a 6-foot high, horse-high and hog-tight concrete fence around a designated area where the black people are supposed to live; and they had better live there.

This was not accomplished by a law that was passed, that said that man has to live there. It was done by real estate interests, and by the police and their effective enforcement. But it has been done, and the schools were established accordingly. This is a geographical line, it is not a legal line; but the schools were established, and the black children go to those schools.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. JAVITS. I yield the Senator 2 additional minutes on the bill.

Mr. SAXBE. As the situation has progressed in the South, the boundaries have been adjusted accordingly. I have admitted on this floor that in Ohio and Washington and other States, we have de facto segregation because of geographical living patterns, and it is to be deplored. But I submit that, by adopting the amendment now before us, which says you cannot bus under any conditions, and that no Federal agency

can direct or enforce an order to bus, and no court, the Government is deprived of a weapon that can be used, not indiscriminately, as I see it—and I admit that it would appear that it has been used indiscriminately, and perhaps not too intelligently—but we are only 15 years away from de jure segregation, and it is too early to abandon the effort. It is too early to say, "Well, there is nothing we can do for the black man, he is not capable of living in our community or going to our schools; he degrades our schools; he is never going to be any better."

I do not believe that. I think there is still hope, and there is opportunity. To agree to this amendment and adopt this course of action at this time is an admission of our inability to cope with this problem, and an admission that perhaps the South is right, that they know how to treat the black man, and they know how to keep him in his place. To me, it is an admission that they may have the right answer, and I will not be a party to it.

Mr. ERVIN. Mr. President, will the Senator yield me 1 minute?

Mr. PELL. I yield 1 minute on the bill to the senior Senator from North Carolina.

Mr. ERVIN. Mr. President, I was very much intrigued by the argument of the distinguished Senator from Ohio in going back to slavery. Slavery was abolished 100 years ago. But if you are going to allow Federal judges and Federal bureaucrats to haul little children to and fro over the face of the earth, you are enslaving the little children to the bureaucracy and the judiciary.

I appeal to Senators to vote for this amendment and provide that children, in the year of our Lord 1970, will not be made slaves to bureaucrats and Federal judges but, on the contrary, that they be made free.

Mr. JAVITS. Mr. President, I yield 3 minutes to the Senator from Kentucky (Mr. COOPER).

Mr. COOPER. Mr. President, I shall vote against this amendment, and I shall outline my reasons for doing so.

As I said the other day in a colloquy with the distinguished Senator from North Carolina, it was my duty in 1964, together with former Senator Douglas, to manage on the floor of the Senate title IV of the 1964 Civil Rights Act.

In the debate on title IV, in 1964, both Senator Douglas and I, in response to questions from other Members of the Senate about the intent of title IV as to busing, gave our judgment that, under the measure, busing was prohibited—as elaborated later in colloquy with the late Senator Johnston of South Carolina—from one school district to a contiguous school district. I think that was the intention of the law. But I do not think that our interpretation went to the necessary means a school board will take inside a district to meet the problems of their schools.

I can give several illustrations. In the rural area in which I live, there were 60 or more schoolhouses in the county—one- or two-room schoolhouses—several years ago. Now, with the advent of better roads, we have a few consolidated ele-

mentary and secondary schools and consolidated high schools to which pupils are bused from all over the county. It is necessary and both black and white bused. It preserves, as best one can, neighborhood school.

Again, situations have arisen in the South since the Brown case in which I do not believe busing should be employed unless it is employed equally over the land. We have discussed such situations for 2 or 3 days in connection with the Stennis amendment around the issue of de facto segregation. In the North, in large cities, there is de facto segregation. The courts have held thus far that they are not subject to the same rule of the Brown case.

As a result, HEW and the courts do not intervene and no busing is compelled. But in a similar de facto case in the South, HEW does in effect compel busing. This is not equal protection of the law, certainly not equal application of law.

The PRESIDING OFFICER. The of the Senator has expired.

Mr. GRIFFIN. I yield 2 additional minutes to the Senator from Kentucky.

Mr. COOPER. To me, the trouble with the amendment is this. The Supreme Court is a coequal branch of the Federal Government. I doubt that it can be divested of its authority to rule upon constitutional questions which arise under the Brown case. If we can divest the Court of power and authority in this instance we would be tempted to divest the Court of power to deal with any condition we dislike in this land even if a temporary or fleeting matter. I do not think it is right to start on such a course. Whether one agrees with the Supreme Court's decisions or not, there must be an institution in this land which has the authority to review the acts of the Federal Government, of the State governments, of Congress, and of the Executive to determine whether or not in the Court's view justice has been done. That institution is the Supreme Court. And we should not attempt to divest it of appellate jurisdiction in cases arising under the Brown case.

I repeat that I believe the intent of the Civil Rights Act of 1964, title IV, was to prohibit busing from one school district to another, and the law that should be followed by HEW and the courts. I do not believe it was intended to compel busing in a true de facto situation in the South, and not do so in the North, East, and West. But I must say it goes too far for us to say in difficult cases. We should divest the Supreme Court of the authority that rests in it to review the actions of the Federal Government, of the State governments, of individuals, of Congress, and of the Chief Executive.

I must rest my case on that position.

Mr. GRIFFIN. Mr. President, I yield 3 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I wish to state to the Senator from North Carolina—he may wish to address himself to the subject—that I intended to move to table this amendment, and the reason I intended to move to table it is as follows:

I think it differs very materially from the Stennis amendment, both in thrust

and in consequence, because the Stennis amendment dealt with an educational aspect of the bill. This amendment deals with the power of the courts to enforce the Civil Rights Act of 1964. It seems to me, therefore, that it is not a relevant part of this bill but, rather, a relevant aspect of a general civil rights debate.

It is to be noted that this whole problem was dealt with by the Civil Rights Act of 1964, and reliance has been had time and again on that in the action of HEW.

Again, Mr. President, Senator STENNIS' amendment, as he made very clear, went to the guideline question and the withholding of money by the Department of Health, Education, and Welfare. This amendment goes directly to the power of the courts to deal with the constitutional question of the segregation of public schools contrary to the mandate of the Constitution.

It seems to me very clear that, in its thrust, it goes far beyond the Stennis amendment, and I think Senator COOPER put his finger on it when he said "it goes too far." Whereas Senator STENNIS affirmed to the Senate, in the most considerate way, that he did not seek to abate enforcement anywhere—in the South or anywhere else—there is no question about the fact that this amendment would materially abate enforcement because it would prevent any court from making a decree in any way involving busing, no matter how outrageous may be the segregationist practice in a particular area.

Lest we think that this is ancient history, we have these de jure segregation cases every day in the newspapers, including this morning. This morning we have a story about a case in Florida. It is a fact that in some school districts separate bus systems have been operated on the basis of race, one bus for transporting whites and another bus for transporting blacks. It is a fact that in school districts bus systems have been operated in such a way as to transport black or white students, as the case may be, past the nearest school to another school in which their race is a majority. It is a fact that schools have been deliberately located in the midst of a black neighborhood, which is arbitrary school gerrymandering; and you cannot deal with that situation if you are a court unless you have the power to say something about busing.

Finally, Mr. President—I do not want to repeat the argument of last night, which was very comprehensive—we speak about enslaving little children, busing little children, and so forth. I pointed out yesterday that it has been a longstanding practice of our country to require that educational requirements prevail, and that is why the one-room schoolhouse was eliminated in favor of the central schoolhouse. Many parents objected to that violently. That is why in the South and other parts of the country—but certainly in the South—Negroes never went to school because, though there might be one across the street, they had to go to a school miles away, which they could not afford to do, and there were no buses. Thus, Mr. Pres-

ident, there is nothing angelic about any of this.

The fact is, we all seem to be agreed that we want to follow the constitutional mandate, that we do not want, by amendments loaded onto the bill, to abate the constitutional mandate. Yet, this amendment will go directly to the heart of the ability to cope with enforcement of the Constitution of the United States.

Mr. PELL. Mr. President, I yield myself 1 minute on the bill.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for one minute.

Mr. PELL. Mr. President, I shall support the senior Senator from New York's motion to table.

Personally, I believe that I am as opposed to indiscriminate busing as anyone in this Chamber. But, it is a question of degree. I think that the way the Governor of Arkansas put it might well be stated here, his words, paraphrased, were that:

Judicious busing used with discrimination is one of the necessary adjuncts to the courts in trying to achieve, in certain areas, more of a degree of integration in the schools.

Indeed this is a good description of busing and one of which I approve. The proposed amendment would knock out busing whatsoever, thus making it impossible for the courts to effectuate any type of integration order.

For that reason, I intend to support the motion to table.

Mr. JAVITS. Mr. President, it seems to be the opinion of many who feel strongly about the amendment—as strongly as I do—and I have consulted with them, that notwithstanding the same feeling that they will strike out busing any way they can, no matter how improvident it may be, the reach of the amendment, including the reach of the courts is of such a character that a number of my colleagues feel they would rather face the issue directly and vote it up or down.

Under those circumstances, Mr. President, I shall refrain from making a motion to table and allow the amendment to be voted on up or down.

Mr. ERVIN. I should like to thank the distinguished Senator from New York (Mr. JAVITS) for taking that attitude. I believe that is the best way to dispose of this issue.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a statement by the Senator from Connecticut (Mr. DODD) in which he indicates his support for the amendment. I do this at his request.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

#### STATEMENT BY SENATOR DODD ON THE BUSING OF SCHOOLCHILDREN

Prior commitments make it necessary for me to be away from the Senate today, but if present, I would vote for Amendment No. 492, proposed by the senior Senator from North Carolina, to prohibit the Federal Government from transporting children to alter the racial composition of the student body at any public school.

I am well aware that school experience includes a great deal more than instruction in academic skills and disciplines, for the

school is a social institution and the child learns much from his associations with children whose economic, social, and racial backgrounds are different from his own.

The integration of American schools has had my full support, and I have been concerned at the slow pace at which it has moved in many areas of the country. My overall record on civil rights legislation stands on its own, needing no defense.

However, I cannot in conscience support the proposal to uproot children from their neighborhoods and transport them some distance in order to achieve racial balance in the schools.

Serious questions exist as to whether the cause of civil rights would be served by forced school busing. Certainly, the cost to the children of all races and to their parents and to the community would be high if busing were mandatory.

Rather, let us continue to improve conditions and opportunities for our black citizens, economically, politically, and socially, so that there will be balance without busing.

I shall do whatever I can to make this a reality.

I commend the Senator from North Carolina for introducing this important amendment. I hope that it carries.

Mr. ERVIN. Mr. President, I also ask unanimous consent that there be printed in the RECORD headlines and an excerpt from an article which appeared in the Washington News of February 6, 1970, relating to 42 schoolbuses that were bombed in Denver because some people in Denver resented the busing of their children to schools.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### BOMB 42 SCHOOLBUSES IN DENVER INTEGRATION

#### BLASTS WRECK DENVER BUSES—42 DESTROYED OR DAMAGED

DENVER, February 6.—Deliberately planted explosives ripped thru a school bus parking lot last night, triggering a blaze that destroyed or damaged 42 school buses.

The explosives were planted under gasoline tanks and one fire official, who did not wish to be identified, speculated the incident was related to a current Denver controversy concerning integration by busing.

#### DAMAGED HEAVY

"Forty-two buses were damaged, of which 22 were totally destroyed," said Acting Fire Chief Dan Cronin. "I'd estimate the damage at around a half million dollars."

"Forty firemen battled the blaze for over half an hour before they put it out," he said.

One school employe, identified as Charles Crow, was moving buses out of danger when he was struck in the back by flying debris. He was examined and released at a local hospital.

"I'd say it was the work of someone expert in demolitions," Chief Cronin said. "A high explosive, probably dynamite, was placed under the gas tanks of the 22 buses and set off at the same time, blowing flaming gas over other buses."

#### SOME BUSES SAVED

"The buses other than the 22 were damaged by fire and concussion," he said. "No buildings were damaged."

He said he estimated 10 stick of explosives were used.

"We were still moving buses out while they were exploding and burning," said Joe Lorimer, 47, night foreman at the parking lot.

"We saved, I'd say, 25 buses from extensive damage out of the 83 that were in the immediate area of the explosion." He said he



"was starting out the door when I heard the first explosion, but I didn't see any fire."

"I went trotting toward the sound when a terrific explosion shot fire 50 to 60 feet into the air," he said.

Mr. THURMOND. Mr. President, the pending amendment deserves the support of all Senators who are opposed to the busing of students for the purpose of changing the racial composition of the public schools. There is a great need for this amendment. Although the Congress has expressed itself before when the so-called Whitten amendment was passed in opposition to busing, bureaucrats at HEW have shown initiative and ingenuity in devising ways to avoid the intent of Congress.

This amendment accomplishes the purpose of preventing such busing in clear and straightforward language that will prevent those in HEW from finding any loophole. The amendment also removes jurisdiction from any court to order busing. Furthermore, this amendment does what it purports to do and nothing else. There are no hooks. There is no attempt to pull the wool over anybody's eyes. Simply put, this amendment prevents any government officials or employees or any court from transporting students for the purpose of affecting the racial composition of any public school.

Mr. President, almost everyone who has spoken out publicly on this issue has opposed busing. President Nixon both in his campaign and again the past week has made clear his support for neighborhood schools. There is no question that parents and students strongly oppose busing to accomplish integration. I believe it is fair to say that this extends to black citizens as well as white citizens.

Let us stop and think for a moment what is involved in busing. The most important consideration is the child himself. Suddenly he is told he cannot go to the school nearest to him which is often within walking distance. Instead, he must board a bus and be transported to a strange school in a strange neighborhood; and even though the child may be young, it does not take him long to figure out that this is because of his race. Whether it is a black child being bused from a ghetto to a suburb or whether it is a white child being bused into a formerly all-Negro school, the effect is the same. In the name of ending discrimination the child's race determines the school he attends, and the environment in which he lives and to which he is accustomed cannot be the environment in which he will be educated. This certainly creates a shock for a child and is naturally opposed by parents.

Mr. President, I believe the purpose of our schools must be to educate. If the time and the money and the human endeavor devoted to create unnatural schemes of student assignment were devoted instead to improving the quality of the education a child is receiving in the school most convenient to him, all children, both black and white, would benefit.

This amendment is needed. In spite of all the rhetoric opposed to bussing from people of all races and persuasions and all levels of influence, we still find

such conditions being imposed upon school districts by both federal judges and the Department of HEW under the threat of loss of federal aid. Let us settle that issue once and for all by passing this amendment.

The PRESIDING OFFICER (Mr. HOLINGS in the chair). The question is on agreeing to the amendment of the Senator from North Carolina (Mr. ERVIN).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHURCH (when his name was called). On this vote, I have a pair with the Senator from Connecticut (Mr. DOBB). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DOBB), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. METCALF), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "nay."

On this vote, the Senator from Alaska (Mr. GRAVEL) is paired with the Senator from New Jersey (Mr. WILLIAMS). If present and voting, the Senator from Alaska would vote "yea," and the Senator from New Jersey would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Maryland (Mr. MATHIAS) is detained on official business.

On this vote, the Senator from Colorado (Mr. DOMINICK) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Colorado would vote "yea," and the Senator from Oregon would vote "nay."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from Maryland (Mr. MATHIAS). If present and voting, the Senator from Illinois would vote "yea," and the Senator from Maryland would vote "nay."

The result was announced—yeas 36, nays 49, as follows:

[No. 48 Leg.]

YEAS—36

Allen	Ervin	Miller
Bennett	Fannin	Murphy
Bible	Fulbright	Randolph
Byrd, Va.	Goldwater	Russell
Byrd, W. Va.	Gurney	Sparkman
Cannon	Hansen	Spong
Cook	Holland	Stennis
Cotton	Hollings	Talmadge
Curtis	Hruska	Thurmond
Dole	Jordan, N.C.	Tower
Eastland	Long	Williams, Del.
Ellender	McClellan	Young, N. Dak.

NAYS—49

Alken	Hughes	Pastore
Allott	Inouye	Pearson
Anderson	Jackson	Pell
Baker	Javits	Percy
Bellmon	Jordan, Idaho	Prouty
Boggs	Magnuson	Proxmire
Brooke	Mansfield	Ribicoff
Burdick	McCarthy	Saxbe
Case	McGee	Schweiker
Cooper	McGovern	Scott
Eagleton	McIntyre	Smith, Maine
Fong	Mondale	Stevens
Goodell	Montoya	Symington
Gore	Moss	Tydings
Griffin	Muskie	Young, Ohio
Harris	Nelson	
Hart	Packwood	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Church, against.

NOT VOTING—14

Bayh	Hartke	Mundt
Cranston	Hatfield	Smith, Ill.
Dodd	Kennedy	Williams, N.J.
Dominick	Mathias	Yarborough
Gravel	Metcalfe	

So Mr. ERVIN's amendment (No. 492) was rejected.

Mr. JAVITS. Mr. President, I move reconsider the vote by which the amendment was rejected.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT OF FEDERAL CREDIT UNION ACT—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2) to amend the Federal Credit Union Act so as to provide for an independent Federal agency for the supervision of federally chartered credit unions, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report. (For conference report, see House proceedings of February 18, 1970, pp. H947-H948, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. SPARKMAN. Mr. President, I move adoption of the conference report.

The motion was agreed to.

#### VISIT TO THE SENATE BY A DELEGATION OF THE SPECIAL AUDIT COMMITTEE OF THE FRENCH NATIONAL ASSEMBLY

Mr. SPARKMAN. Mr. President, it is my privilege to announce to the Senate that we have a group of distinguished visitors in this Chamber at the present time who are members of a delegation from the Special Audit Committee of the French National Assembly.

Mr. President, I ask unanimous consent to have printed in the RECORD a

short biographical statement on each one of our distinguished visitors.

There being no objection, the biographical information was ordered to be printed in the RECORD, as follows:

**BIOGRAPHIC NOTES ON THE MEMBERS OF THE DELEGATION OF THE FRENCH NATIONAL ASSEMBLY, SPECIAL AUDIT COMMITTEE**

**PIERRE BAS**

Deputy of Paris to the National Assembly (Union of Democrats for the Republic) Chairman of the Special Audit Committee of the National Assembly.

Born on July 28, 1925, M. Bas, after obtaining a degree in law (licence-en-droit) and studying administration of French Overseas territories at the "Ecole Nationale de la France d'Outremer", held several administrative posts in French African territories and was a member of the staff of the Minister for Overseas France (1958) and of the Presidency of the Republic (1959).

Appointed a "Conseiller référendaire à la Cour des Comptes" (National Audit Commission) in 1962, M. Bas was elected the same year to the National Assembly and re-elected in 1967 and 1968.

He is a member of the Paris Council.

**VIRGILE BAREL**

Deputy of Alpes Maritimes to the National Assembly (Communist Group).

Born on December 17, 1889, M. BAREL is a retired school teacher.

Elected to the Chamber of Deputies in 1936, he was a deputy to the two National Constitutional Assemblies, and was elected to the National Assembly in 1946. He has been reelected in 1956, 1967 and 1968.

**CLAUDE ROUX**

Deputy of Paris to the National Assembly (Union of Democrats for the Republic).

Born on October 27, 1920, M. ROUX is a lawyer and a member of the Paris Bar. He was elected to the National Assembly in 1958, and reelected in 1962, 1967 and 1968. He is a member of the Paris Council.

**CHARLES DEPREZ**

Deputy of Hauts-de-Seine to the National Assembly (Independent Republican).

Born on February 14, 1918, M. Deprez is a businessman. Elected to the National Assembly in 1967, he was reelected in 1968.

He is the Mayor of Courbevoie (Hauts-de-Seine), a suburban city of the Paris area.

**ALAIN TERRENOIRE**

Alain Terrenoire, Deputy for the Loire Department, was born in Lyons, June 14, 1941. He is the son of Louis Terrenoire, a Deputy and former minister.

After completing his studies in law he became assistant secretary general to the European Democratic Union Party in the European Parliamentary Assembly. He remained in this post from 1964 to 1967. From 1964 on, he was president of the Young European Democrats Union.

He was elected Deputy for the Loire in March 1967 and reelected in the June 1968 elections on the Union for the Defense of the Republic ticket. Mr. Terrenoire has been secretary general to the Parliamentary group of Science and Technology since December 1968, secretary general to the interparty group of young Deputies and as of April 1969, founder-president of the Center for Liaison and Regional Studies.

Mr. SPARKMAN. Mr. President, we are delighted to have these guests visit us today. I now ask them to rise and be seated by the Senate.

Applause, Senators rising.]

**ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969**

The Senate resumed the consideration of the bill (H.R. 514) to extend programs

of assistance for elementary and secondary education, and for other purposes.

Mr. ERVIN. Mr. President, I call up my amendment No. 491 and modify it so as to read as follows:

No child shall be denied the right to attend the public school nearest his home which is operated for the education of children of his age and ability.

Mr. BYRD of West Virginia. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ERVIN. Mr. President, I have modified my amendment, No. 491, to read as follows:

No child shall be denied the right to attend the public school nearest his home which is operated for the education of children of his age and ability.

The PRESIDING OFFICER. Will the Senator send the amendment forward.

The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from North Carolina (Mr. ERVIN) for himself and others proposes modified amendment No. 491 as follows:

**AMENDMENT No. 491**

Add at the end thereof an additional title and section appropriately numbered and reading as follows:

"No child shall be denied the right to attend the public school nearest his home which is operated for the education of children of his age and ability."

Mr. ERVIN. Mr. President, the amendment speaks for itself. The amendment undertakes to give every child the right to attend his neighborhood school. I am perfectly willing to waive argument on the amendment and to vote immediately.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TYDINGS. Mr. President, will the Senator yield so that I may ask a question?

Mr. ERVIN. I yield.

Mr. TYDINGS. Is the purpose of the amendment to legalize the freedom-of-choice operation of public school systems and public schools in the South of the Nation?

Mr. ERVIN. The purpose of my amendment is to give every child, black, white, or brown, the right to attend the school nearest his home which is operated for the education of children of his age and ability.

Mr. TYDINGS. What would be the effect of the amendment on so-called freedom-of-choice school plans which have, in effect, perpetuated the segregated schools systems in the South? Would it have the effect of saying that henceforth the so-called freedom-of-choice plans are quite proper regardless of their effect?

Mr. ERVIN. The amendment does not say that. The amendment states that every child shall have freedom to attend the public school nearest his home which is operated for the education of children of his age and ability.

Mr. TYDINGS. The legislative intent of the amendment is to go no further than the actual words of the amendment? It is not intended to relate to the so-called freedom-of-choice system which has been adopted in some States?

Mr. ERVIN. This is intended to mean

exactly what it says, no more, no less. I am perfectly willing to waive argument or to agree to a 5-minute limitation and vote immediately.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. PELL. I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, obviously a child cannot make a choice. Obviously, the choice is going to be made by the child's parent. They are not going to rely on the choice of a child at the age of 5, 6, or 7. If it is made by the parent, that is the freedom-of-choice plan. It can be said that the amendment means what it says, but I understand what it means, and it means to legalize the freedom-of-choice plan.

Again, contrary to what has been contended here so eloquently by the Senator from Mississippi (Mr. STENNIS)—and I tell the Senator from Mississippi now that, if I am a conferee, I will fight for his amendment as if it were my own; that is a Senator's duty, and that is the end of that—to have amendments which seek to abate the authority of the court to deal with de jure segregation, authority which is the law of the land, it seems to me, to use a cliché, is going too far.

I think that is the reason the previous amendment was rejected. It was not rejected on the eloquence of anyone. I do say that we should not go backward. It has been contended that we do not desire to go backward.

Mr. President, I hope the amendment is rejected.

Mr. ERVIN. Mr. President, this amendment has nothing to do with freedom of choice. It would not give the child the right to pick any school to attend, except the school nearest his home. It is purely the neighborhood-school proposition, and it would only give him the opportunity to go to the school nearest his age and ability.

Mr. TYDINGS. Would the Senator have any objection to adding the word "desegregated" to his amendment where it states "to attend the public school nearest his home" so that it would read "to attend a desegregated public school nearest his home"?

Mr. ERVIN. I think the child should have the right to go to the school nearest his home if it is desegregated. But what about other situations? In many communities they might have only one race. For example, we have Mitchell County in North Carolina where there are no colored children, and, under the Senator's proposal, he would have to go to a school which was desegregated.

Mr. TYDINGS. I mean a school which had complied with the law and which had been judged by the courts to have complied with the law.

Mr. ERVIN. I do not think there should be a modification of my amendment. If the Senators think children should not be given the right to attend schools nearest their homes that are available to them, they can vote the amendment down.

Mr. LONG. Mr. President, will the Senator yield?



Mr. ERVIN. I yield.

Mr. LONG. I would like the Senator from Maryland to hear this. As I understand it, there is nothing in the amendment that says courts cannot order other children to be assigned to that school. The amendment does not interfere with that.

Mr. ERVIN. It does not interfere with school boards assigning children to a school, as long as the children do not want to go to a neighborhood school.

Mr. LONG. What the Senator is saying is that if a child wants to go to a school nearest his home—

Mr. ERVIN. He can go.

Mr. LONG. He can go, and, likewise, if someone else wants to send that child to another school, if the child does not want to go he cannot be made to go.

Mr. ERVIN. Yes.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. HOLLAND. As I understand the amendment, it is single in its purpose. It gives to no authority the right to deny the right of a child to attend the school nearest his home when the school serves pupils of that age and experience.

Mr. ERVIN. That is right.

Mr. HOLLAND. The child is not deprived of the right to go to another school which is legally open to him if, for some good reason, or reason known to himself, he elects to go there.

Mr. ERVIN. That is right.

Mr. LONG. Mr. President, if the Senator will yield further, if I understand the amendment, what the Senator is saying in his amendment is what I thought the original Brown case meant.

Mr. ERVIN. It is exactly what the Brown case meant.

Mr. LONG. It means that every child is entitled to go to the school nearest his home.

Mr. ERVIN. That is what the decision meant. If he wants to attend the school nearest his home, he has a right to go to the school. This amendment is in perfect harmony with the Brown case.

Mr. LONG. Since the Brown decision came down a lot of people have felt that integration is so good for a person that he ought to be required to have it whether he wants it or not, be he white or black.

Mr. ERVIN. That is right.

Mr. LONG. To illustrate how ridiculous some people can be, we have a fine Negro college in my hometown of Baton Rouge, La., which illustrates the problem at the college level. That college—Southern University—has a fine band, and 80 million people saw it perform at the Super Bowl game. That band is the pride of the South. It performed before the entire country. It is a great band. Joe Bellino, Heisman Trophy winner, sat behind me at the game and he said he had never seen a better half-time show.

So there is that fine Negro college at the north side of the city. Every Negro in that institution is eligible for immediate admittance to Louisiana State University. On the south side of the same city is Louisiana State University, where there is a considerable percentage of Negroes. Everybody in Southern can go to LSU, but someone from Washington pro-

ceeds to say Louisiana State must lose its racial identity and Southern must lose its racial identity, so that they must be made one, even though nobody at LSU wants it that way. Neither the students and the faculties do not want it that way.

I always thought that the idea of the Brown decision was to confer rights on someone, but here is someone in Washington who seeks to deny both people their rights.

The Bible says, "Honor thy father and thy mother." To me, it makes some sense that one honors his father and mother by taking pride in his own people, and pride in what they can achieve. If these people prefer to go to Southern, can the Senator give me any reason why they should be compelled to go to Louisiana State University?

Mr. ERVIN. They should not be, if the United States is to remain a free society, and not a totalitarian police state. There is a difference between this amendment, No. 491, and freedom of choice. In freedom of choice, the child or the parent of the child can choose to go to one of several schools. This amendment only gives the child the right to go to the school nearest his home which is available for children of his age and experience.

Mr. LONG. The amendment would preserve the right of every Negro living in a white community to go to any white school nearest his home.

Mr. ERVIN. Yes.

Mr. LONG. If he were coerced or discriminated against, the court could issue an injunction against every citizen in that community, if need be, and could even require that the child be given passing grades and be treated as he should be; but it would guarantee him the right to go to the nearest school in his own community, and not be required to be bused across town.

Mr. ERVIN. Yes.

Mr. LONG. The Senator has offered a fine amendment. I do not see how anyone could contend that, if everyone else has a right to go to that school, the child who lives next to it should not be denied the right to go to that school.

Mr. PELL. Mr. President, I yield 5 minutes to the distinguished Senator from Tennessee (Mr. GORE).

Mr. GORE. Mr. President, I must reluctantly oppose the amendment offered by the distinguished senior Senator from North Carolina and my friend. I do so, I believe, for very practical reasons. In earlier years I was superintendent of education in my home county. Therefore, I have had some experience with respect to school districts and assignment of pupils.

I respectfully call to the attention of Senators the fact that the proposed amendment does not necessarily relate to the transportation of children by bus or otherwise. If Senators will read the amendment—and I really doubt if my distinguished friend intends for it to be so all-inclusive—it would limit the power of a school board to assign students. The only criterion set up in the amendment is the public school nearest a student's home.

Senators know that school districts are drawn with respect to blocks and neighborhoods. There might very well be a

very busy thoroughfare of four lanes limited access—

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. GORE. I yield.

Mr. BYRD of West Virginia. Or the school nearest his home might be overcrowded.

Mr. GORE. This is another reason. Let me finish with the highway illustration.

Let us assume that there is a limited access highway. There is a school building within a block, on the north. The thoroughway may be the dividing line between the two districts. Yet a large number of schoolchildren living in a district south of the thoroughway may be only 300 yards away from the school building to the north, yet for very good reasons they are assigned to a school south of the thoroughway. The only criterion set up in the amendment is "nearest his home."

So I say there are physical and geographical reasons why the amendment should not be adopted.

Other than that reason, which is a and geographical reason, what is so by the amendment is to place 1 tions upon a school board, not Federal official. Does the Senate wish to do that? I have doubts that it should.

There are other reasons, such as the one raised by the Senator from West Virginia.

There may be a new school building within a school district with a large tenement house nearby, but an additional school three blocks away, and school officials wish to make assignments in a very practical way.

I very strongly endorse the neighborhood concept of schools.

I came to appreciate, through my experience, the contributions of the community, the Parent-Teachers Association, the community spirit, the community pride in the school, and the effect it had upon the discipline and upon the morale in the school.

But that is not involved here. The test is entirely too narrow, and the limitation, it seems to me, would create administrative chaos for the local school and administrative authorities. I hope the Senator will not press his amendment. I do not wish to detain the Senate, but it seems to me that this is something that the Senate should not undertake to do.

Mr. ERVIN. I yield 3 minutes to the Senator from Florida.

Mr. HOLLAND. Mr. President, I think my distinguished friend from Tennessee has not carefully read the amendment. The amendment does not require the child to go to the school that is nearest to him. Very far from that. The amendment says that no court, department, agency, officer, or employee of the United States shall have jurisdiction or power to deny to any child, to withhold from any child, the right to attend the public school nearest his home, which is operated for the education of children of his age and ability.

This simply gives the student a right to attend, if he wishes to or if his people wish him to, the school that is nearest to him. I questioned the Senator about this is an earlier colloquy, and he made

it very clear that the proposal was not signed at all to prevent the child from going to another school, provided the law of the area or the law applicable at the time permitted him or her to be eligible to attend there. The amendment simply says that a child cannot be denied the right to go to the nearest school by any Federal agency. I see nothing wrong with that.

Mr. GORE. Mr. President, will the Senator yield?

Mr. HOLLAND. I am glad to yield.

Mr. GORE. The distinguished Senator from West Virginia brings up the question. Suppose that students, for some very reasonable justification, are by the school board assigned to attend another school, to which they must be transported by bus? It is an assignment not because of race or religion, but because of a local administrative reason which the local authorities consider sound, sufficient, and justified.

Or, to put a strained interpretation on it, let us consider the question of discipline. Suppose that a child is attending one school by assignment, 10 blocks from his home, but there is another school eight blocks from his home. Suppose the child becomes an incorrigible in school A and he wishes to leave that school and go to the other. There may be two blocks difference. Yet what is the test? The only test is "nearest to his home, operated for children of his age and ability."

How are you going to test his ability? There may well be differences in ability. School officials may have, and indeed they do have, classrooms for advanced children, for precocious children, and they have other classes for children who are retarded. This amendment would deny a school board the right of assignment except on the basis of distance, unless they wished to make some official determination of the comparative ability of the child.

This is a limitation on the authority of a school board. I doubt if we want to do that; and I respectfully urge that it not be done.

Mr. HOLLAND. Mr. President, my understanding of the amendment is quite different. My understanding of the amendment is that no child can be denied the right, if he wishes to assert it or if his parents wish to assert it, to attend the school nearest to where he lives, provided he is of the age and ability to go to that school. He can go to other schools if his parents or guardians want him to go to other schools, or if the child wishes to go to another school and they approve it. There is nothing in the world to prevent it. The amendment simply says he cannot be denied by a Federal agency the right to attend the closest school.

I do not believe the Senator would want to deny him that right.

Mr. ERVIN. Mr. President, I should like, in line with the suggestion of the Senator from West Virginia, to modify my amendment. I ask unanimous consent to modify my amendment so as to add, at the end thereof, the following words: "if space is available for him in such school."

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. ERVIN. I ask unanimous consent to make the modification.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina? The Chair hears none, and the amendment will be so modified.

Who yields time?

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I wish to speak in opposition to this amendment, and I do so with the greatest reluctance, because I am fully sympathetic with what I think the distinguished Senator from North Carolina is trying to achieve.

In my State of Wyoming, we have a number of school districts, many of which have different mill levies to meet the requirements of their school systems; and, as I read the amendment, without modification, it occurs to me that, if I were a resident of one school district, and a school was present in an adjoining district nearer me than the school being provided by my school district, I could assert my right to go outside my school district.

I further interpret the amendment to imply that I might even go across the State line. It happens that in my home county of Teton, within one school district in that county there is no high school. I can see no reason why I could not say, being a resident of Wyoming, that I would prefer to go across the State line into Idaho to the nearest high school, and the court would be denied the right to tell me that I had to go to a high school within my own State or my own school district. Is that correct?

Mr. ERVIN. You cannot go to a high school in another State, under existing law, unless the other State passes a law authorizing it.

Mr. HANSEN. What about a grade school?

Mr. ERVIN. That is true of a grade school also. In other words, you cannot go to a school anywhere unless the law of the State which operates the school makes you eligible to attend that school.

Mr. HANSEN. I think the amendment is unclear in that regard. The way I read it, it would certainly leave that a very gray area. If I were to appeal from the decision—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PELL. I yield 2 additional minutes to the Senator from Wyoming.

Mr. HANSEN. If I were to appeal from the decision of the school board, even on a county basis, is there anything in this amendment which would preclude a resident of one county crossing a county boundary line, if a school in that county were the nearest school?

Mr. ERVIN. It would not authorize him to go to another county unless the State law authorized him to do so. In other words, that would depend on the State setup or how the State supports its schools.

Mr. GORE. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. GORE. That would bring up the question, what is a right? This is sup-

posed to be a Federal law. Now, we would have a Federal law which says no child shall be denied a right.

Mr. HANSEN. Would that strike down any State law?

Mr. ERVIN. No.

Mr. GORE. If the Senator will yield further, who knows? Certainly a Federal law is superior to a State law, if it is a Federal law. Therefore, if we say that no child shall be denied a right, then we have got to understand what a right is.

What right does a child in Memphis have to go to a school in West Memphis, or a child in Mississippi to go to a school in Memphis? Shall we deny the school board of Memphis its disciplinary authority and jurisdictional authority, or shall we say that a child has a right to go to the school nearest him? That is what the amendment says.

Mr. HANSEN. That is the way I read it.

Mr. ERVIN. The Senator from Tennessee knows it is a fact that we are a Federal legislative body. We have no jurisdiction to pass laws affecting the internal management of schools in the States.

This would only prohibit Federal authorities from denying a child the right to go to his neighborhood school. That is all it would do. The Senator from Tennessee has conjured up a lot of imaginary legal ghosts that do not exist.

Mr. BYRD of West Virginia. Mr. President, will someone yield me 2 minutes?

Mr. PELL. I yield 2 minutes to the junior Senator from West Virginia.

Mr. BYRD of West Virginia. I thank the Senator for yielding.

Mr. President, the Senator from Tennessee has not conjured up situations which are far stretches of imagination. As the former chairman of the Appropriations Subcommittee on the District of Columbia for 8 years may I say that we had that very situation in the District of Columbia, in which problem children—children who were troublemakers, if I might use that term, in their school—were taken out of their school and put in a special school. I do not know whether such special schools still exist in the District of Columbia. But the Senator from Tennessee has put his finger on a realistic situation which can very well arise. Under the pending amendment, such children could not be placed in such a special school if they chose to attend a closer school.

I am very sympathetic to the intent of the amendment. I do not question the ability of the Senator from North Carolina to draw an amendment in the proper verbiage to deal with whatever problem we hope to deal with. But there is nothing in his amendment which deals with race. After all, it was the 1954 decision which said that children could not be assigned to school on the basis of race or color. The Senator's amendment does not go to that question. I would join with him in an amendment properly worded which provided that children could not be assigned to schools away from their neighborhood schools purely on the basis of race or color. But his amendment does not do that.





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