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STATEMENT BY SENATOR THURMOND (D-SC), FEBRUARY 9, 1955, UPON INTRODUCING BILL REGARDING EXCEPTIONS TO APPELLATE JURISDICTION OF UNITED STATES SUPREME COURT AND COURT OF APPEALS.

The Supreme Court's decision of May 17, 1954, overturned all of the legislative action and judicial determination on the subject during the past ninety years, both Federal and State. Under that decision local school authorities are required, as the price of operating public schools, to attempt to engage in a most difficult sociological experiment.

The Supreme Court recognized in its decision the large variety of local conditions to which the decision must be applied. Presumably its implementation will be left by that court to the district courts which sit in the different localities and are familiar with the problems that they face.

The situation would not be helped by a flood of appeals from the district courts in school cases. Such appeals will only clog the appellate courts and dissipate the time and resources of the school authorities.

I have been studying the problem for some months, and believe that Congress can help in a difficult situation by limiting the appellate jurisdiction of the Federal Courts to cases involving public schools in which inequality of a tangible nature is claimed to exist.

The Constitution in Article III, Section 1 vests judicial power in the Supreme Court and "in such inferior courts as the Congress may from time to time ordain and establish."

In Section 3 of the same article, the Constitution specifically provides that the Congress has the power to make certain exceptions to the appellate power of the Courts. It says:

"In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

Thus, it is clearly within the power of the Congress to limit the appellate jurisdiction of the Supreme Court and the Court of Appeals, as I propose in this bill.

The enactment of this bill will strengthen the hands of both the district courts and the school authorities in dealing with the problems now before them. This step has been recommended by the Governor of my State, and endorsed unanimously by the South Carolina General Assembly, in the interest of preserving efficient public school education for all of our people.

I propose this bill because I believe it to be in the best interests of all people of the United States.

To make certain exceptions to the appellate jurisdiction of the Supreme Court of the United States and of the United States Courts of Appeals in actions relating to the public schools.

That

neither the appellate jurisdiction of the Supreme Court of the United States nor the appellate jurisdiction of the United States Courts of Appeals shall extend to or be applicable in the case of any action, suit or proceeding where there is drawn into question the validity of a State constitutional provision, statute or regulation relating in any manner to the establishment, maintenance or operation of the public schools in any State, on the ground of its being repugnant to the Constitution, treaties or laws of the United States, for any reason other than substantial inequality of physical facilities and other tangible factors.