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## Senator Stennis Civil Rights Correspondence B03F18L02

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August 23, 1970

MEMORANDUM TO SENATOR STENNIS

From: Lester Fant

re: Speech on Schools

I believe that the following points could be made in regard to the school situation, and I will set forth the points in outline form, for your consideration. I have done considerable research on these points, and if you would like for me to fill in the facts and the laws and make a full scale presentation on this approach, let me know.

I Jurisprudence, generally speaking, can be divided into two branches: Civil Law and Criminal law.

A. The goal or purpose of civil law is to bring the affairs of men into accordance with the standards fixed by the law: for example, to repay a man for the damages negligently done to his property by another, or to enforce a trust by its terms.

B. The purpose of the criminal law is to punish individuals for their past wrongs: If a man steals, it is not enough that he repay what he has stolen, he must also be jailed or fined by the criminal law, because he has committed an act generally condemned by society.

II. There have been repeated statements and assurances by the President of the United States, the Leaders of Congress, and the various Circuit Courts of Appeals to the effect that the schools in the North are complying with the law.

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A. The law requires a unitary school system, and since the schools in the North are repeatedly proclaimed to be in conformity with the law, the schools in the North must have "unitary systems".

III. Therefore, if Civil law were being applied to the Sputhern Schools, then I believe that all that would be required of them is that they come into conformity with the national standard of ~~unitary~~ unitary schools, that is schools which are condoned in the North.

- IV. Schools in the South, however, are not being required to conform to the National standard: Instead they are being required to go far beyond the national standard and adopt specific percentages of racial balancing in the schools, simply because of the fact that they had "seperate but equal" laws in effect a few years longer than Norther states.
- A. This is a clear cut example of criminal jurisprudence: Instead of bringing the schools into conformity with the national standard, they are being required to go further because of the general condemnation of their past errors by elected and appointed officials.
- B. The form of punishment is mass disruption and destruction of schools which drastically weakens the school system and destroys the opportunities for education of the children both black and white.
- C. The children who suffer under this criminal jurisprudence did not pass the seperate but equal laws, and should not be the ones to ~~suffer~~ to suffer. If all that were asked of them was to conform to the national standard, this would be an example of civil jurisprudence, and the confusion and disruption would be at a lower level, a level consistent with applying a remedy instead of a punishment.
- V. It is intolerable to have children deprived of education because of vengeance of officials against the past errors of law of adults, particularly under the guise of a civil law. If a criminal law were proposed having this effect, it would be unanimously defeated. But, instead, a scheme of civil jurisprudence is being perverted in operation into a penal system, which extracts penalties instead of seeking compliance.
- VI. In response to this intolerable situation I propose to introduce legislation which will have the effect of limiting actions against southern schools to actions generally recognized as being a part of civil jurisprudence: Actions designed to bring southern schools into compliance with the National standards which are found in the operations of the Northern school systems, and proclaimed by the President, the congress and the courts to be in accordance with the law.
- A. The thrust of this legislation will be to prevent the use of legal standards and tests in the south which are not in general use across the country.

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B. The pupose of this legislation will be not only to avert a continuation of the tragedy that is now being imposed in the name of vengence, but laso to restore the integrity to the civil jurisprudence of the United States.

When you have reviewed these ideas, please let me know if you desire a fuller treatment. I can preapre one on relatively short notice, since I have most of the materials in hand.

*LGF*  
LGF