The Burger Court Opinion Writing Database

Milliken v. Bradley

433 U.S. 267 (1977)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University

To: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: The Chief Justice

Circulated: JUN 1 1977

Recirculated: _____

No. 76-447 - Milliken v. Bradley

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari in this case to consider two questions concerning the remedial powers of federal district courts in school desegregation cases, namely, whether a District Court can, as a part of a desegregation decree, order compensatory or remedial educational and administrative programs for school children subjected to past acts of de jure segregation, and whether, consistent with the Eleventh Amendment, federal courts can require state officials found responsible for constitutional violations to bear part of the costs of those programs.

I

This case is before the Court for the second time following our remand, 418 U.S. 717(1974); it marks the culmination of seven years of litigation over de jure school segregation in the Detroit Public School System. For almost six years, the litigation has focused exclusively on the appropriate remedy to correct official acts of racial

STYLISTIC CHANGES

+ 1.22 (omission)

To: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: The Chief Justice

Circulated: _____

Recirculated: JUN 7 1977

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76-447

William G. Milliken, Governor of the State of Michigan, et al., Petitioners, *v.* Ronald Bradley et al. | On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

[June —, 1977]

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This case is before the Court for the second time following our remand, *Milliken* v. *Bradley*, 418 U. S. 717 (1974) (*Milliken I*); it marks the culmination of seven years of litigation over *de jure* school segregation in the Detroit Public School System. For almost six years, the litigation has focused exclusively on the appropriate remedy to correct official acts of racial discrimination committed by both the Detroit School Board and the State of Michigan. No chal-

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 8, 1977

Personal

RE: 76-447 - Milliken v. Bradley

Dear Harry:

I have dropped the cite to Rizzo v. Goode as per your note of June 1.

Regards,

WEB

Mr. Justice Blackmun

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 9, 1977

Re: 76-447 - Milliken v. Bradley

Dear Bill:

Thank you for your memorandum of June 8 on this case. As you know, I urged Lewis to let me have comments particularly as to his stance as "detached" from both Milliken and Dayton. I am glad to have your collective observations. As I have a focus on Milliken, you have it on Dayton, and I agree on the need to harmonize to avoid more confusion to other courts.

I believe most, if not all your positions can be accommodated, but you will be the judge of that when I get back to you.

As with predecessor cases in this area, it is important we make every effort to present the "maximum front" possible, without, of course, sacrifice to substantive views.

More to follow.

Regards,

Mr. Justice Rehnquist

cc: Mr. Justice Stewart
Mr. Justice Powell

The C.J. still has written far too sweepingly in view of the wholly unique facts in this case - where School Board has requested the educational remedies & wants more to force State to pay.

pp. 2, 14, 15, 19-20

To: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
~~Mr.~~ Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: The Chief Justice

Circulated: _____

Recirculated: JUN 14 1977

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76-447

William G. Milliken, Governor of the State of Michigan, et al., Petitioners, *v.* Ronald Bradley et al.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

[June —, 1977]

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 20, 1977

Re: 76-447 - Milliken v. Bradley

MEMORANDUM TO THE CONFERENCE:

In an abundance of caution I call your attention to changes on pages 19 and 20, as attached.

Absent dissent, these changes will be made in the hope that this case, Dayton and Hazelwood will all be ready for tomorrow. If Hazelwood is not ready, I would opt to let the other two come down. I see no nexus.

Regards,

WEB

76-0447

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

6/21/77

Lewis

Enclosed two pages of Milliken.

I think you may not have focused on F.N. 17 but in any event I add some of your thought on p. 19.

Will this do it?

WEB

p.19

To: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: The Chief Justice

Circulated: _____

Recirculated: JUN 24 1977

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76-447

William G. Milliken, Governor of the State of Michigan, et al., Petitioners, *v.* Ronald Bradley et al.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

[June —, 1977]

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 2, 1977

RE: No. 76-447 Milliken v. Bradley

Dear Chief:

Please join me in the excellent opinion you have written for the Court.

Sincerely,

Bill

The Chief Justice

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

June 17, 1977

76-447, Milliken v. Bradley

Dear Chief,

I am glad to join your opinion for the Court in this case.

Sincerely yours,

P.S.

The Chief Justice

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 2, 1977

Re: No. 76-447 - Milliken v. Bradley

Dear Chief:

Please join me.

Sincerely,

Byron

The Chief Justice

Copies to Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 7, 1977

Re: No. 76-447, Milliken v. Bradley

Dear Chief:

Please join me.

Sincerely,

T. M.

The Chief Justice

cc: The Conference

No. 76-447, Milliken v. Bradley

JUN 20 1977

MR. JUSTICE MARSHALL concurring.

I wholeheartedly join the CHIEF JUSTICE'S opinion for the Court. My brother POWELL'S opinion prompts these additional comments.

What is, to me, most tragic about this case is that in all relevant respects it is in no way unique. That a Northern school board has been found guilty of intentionally discriminatory acts is, unfortunately, not unusual. That the academic development of black children has been impaired by this wrongdoing is to be expected. And, therefore, that a program of remediation is necessary to supplement the primary remedy of pupil reassignment is inevitable.

It is of course true, as MR. JUSTICE POWELL notes, that the Detroit School Board has belatedly recognized its responsibility for the injuries that Negroes have suffered, and has joined in the effort to remedy them. He may be right--although I hope not--that this makes the case "wholly different from any prior case", post, at 1. But I think it worth noting that the legal issues would be no different if the Detroit School Board came to this Court on the other side. The question before us still would be the one posed by the State: Is the remedy tailored to fit the scope of the violation. And as the CHIEF JUSTICE convincingly demonstrates that question would have to be answered in the affirmative in light of the

6/23/77

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76-447

William G. Milliken, Governor of the State of Michigan, et al., Petitioners, *v.* Ronald Bradley et al.	On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

[June —, 1977]

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 3, 1977

Re: No. 76-447 - Milliken v. Bradley

Dear Chief:

If you can see your way clear to omit the citation of Rizzo v. Goode on page 28 of the typed copy circulated June 1, I shall be glad to join your opinion. If you feel that it is necessary to include that citation, please note me as concurring in the result.

I do not wish to be "picky" about this, but I do not agree with the characterization of the Rizzo decision, and it is for this reason that I make the request.

Sincerely,

HAB

The Chief Justice

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 20, 1977

MEMORANDUM TO THE CONFERENCE

Re: No. 76-447 - Milliken v. Bradley

There is, I believe, a misunderstanding in Lewis' memorandum of June 18 about my vote being still "out." On June 3 I advised the Chief (with copies to the Conference) that I would join his opinion if he would remove the citation to Rizzo v. Goode. He immediately did so, and so my joinder became effective and my vote is not still outstanding.

I write this note to straighten out any confusion that might exist as to this.

HAB.

June 1, 1977

PERSONAL

No. 76-447 Milliken v. Bradley

Dear Chief:

A first reading of your opinion in this case prompts me to write at once because of the importance, as I view it, of clearly preserving the sharpness and force of the central holding in Bill Rehnquist's opinion in Dayton.

We took Dayton, as you will recall, to give us the opportunity to afford specific guidance to the lower courts on the "scope of the remedy" issue. Swann, Milliken I and Gatreaux have repeated the familiar general rule. But, as you have often commented, some of our District and Court of Appeals courts have given the rule lip-service only in ordering system-wide remedies and massive busing.

Bill Rehnquist's opinion in Dayton articulated specifically for the first time a standard that is appropriate. See specifically pp. 12-14. The key sentence in Bill's opinion is to the effect that a District Court in the first instance "must determine how much incremental segregative effect" the specific constitutional violations have had "on the make up . . . of the school population as presently constituted, when that population is compared to what it would have been in the absence of such constitutional violation." (pp. 13, 14)

Although your opinion recognizes the general principal (e.g., p. 17), it may be read - I am afraid - as undercutting what Bill has written. I am disturbed by the paragraph the first few sentences of which read as follows:

> "The 'condition' offensive to the Constitution is a de jure segregated school system. This condition which the District Court was obliged to eliminate,

> Green v. County School Board (citation) is not, under the holdings of the Court, necessarily or invariably cured completely by simply establishing schools on a nonracial basis, although that is the key step in the remedial process. Our cases recognize that the evil is, more broadly, a dual school system infected with long-standing inequities." (pp. 17, 18).

The finding simply of a "de jure segregated school system," without more, does not justify in every case a system-wide remedy involving, as in the Dayton case, some degree of racial balance in every school plus system-wide busing. As Bill's opinion indicates, the District Court must ask whether the segregative conduct caused the degree of racial segregation in the schools or whether a significant part of it resulted from demographic conditions over which the school board had not the slightest influence or control.

We can be totally certain, for example, that the full extent of segregation in the Detroit school system was not occasioned by governmental action. To be sure, some of it was and rather sweeping generalizations (claimed to be findings) have been made to this effect. But to a large extent, Detroit is similar to Washington, D. C. Because of employment opportunities there, it has attracted hundreds of thousands of black citizens who more or less inevitably settled in predominantly black neighborhoods, with consequent and obvious results in the schools. The local board of education had no more to do with this than you or I.

Your opinion cites Green v. County School Board, 391 U.S. 430. As you will recall, however, this is an inapposite case. I know New Kent County intimately, having hunted in it for years. There are only two school buildings in the entire thinly populated rural county, and at the time of Green one was "black" and the other "white". The remedy ordered in Green was appropriate, but its language is wholly inappropriate to the city of Detroit as it would be to Chicago, New York, Washington, Newark, St. Louis and a host of other cities.

Believing - based on our several conversations over the years - that you and I are in accord on this issue, I hope you will consider favorably the conforming of your language to that of Bill Rehnquist's. This can be done without weakening your analysis or the conclusion you reach. I am afraid that if the paragraphs mentioned above (commencing

at the bottom of page 17) remains unchanged, the lower courts will feel free - in spite of Bill's opinion - to continue to impose system-wide remedies (with the accompanying busing) just as they have in the past, without regard to the scope of the constitutional violation and to the detriment of children of both races.

Perhaps I lack "standing" to write you, as I voted "the other way." I will write something separately but, in view of the approval by the Detroit School Board itself of the remedial action at issue, I may well end up joining the result.

Sincerely,

The Chief Justice

lfp/ss

cc: Mr. Justice Rehnquist

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 2, 1977

No. 76-447 Milliken v. Bradley

Dear Chief:

After spending several hours last night on this case, I now see it in a different perspective from the way the case was argued and discussed at the Conference. I had not previously read the several meandering decisions of the District Court in which it virtually assumes the role of School Superintendent of the Detroit school system.

In the context of conventional desegregation litigation, this is a noncase. The School Board, rather than opposing the extensive desegregation orders of the District Court, is enthusiastic about them. Indeed, the District Court's opinion of August 15, 1975, notes:

> "The Defendant Board of Education Plan. The Detroit Board of Education, unlike the boards in other school desegregation cases, is willing to assume its constitutional duty to desegregate the Detroit School System. The President of the Board and the members of the bi-racial administrative staff have convinced the court they will willingly implement any desegregation order the court may issue." (App. 49a)

There were differences of opinion below between the School Board and original plaintiffs, as the former wanted more busing and a somewhat more sweeping racial balance decree. But the real contest before us is between the School Board and the State of Michigan over funding certain aspects of the wide-ranging programs ordered by the District Court. Not unexpectedly, the School Board is delighted to improve the quality of education provided it can do so at State expense.

Thus, it is the State - not the School Board - that makes the argument with respect to the "scope of the remedy". I am not even sure the State has standing beyond arguing that whatever constitutional violations may have been committed by the School Board, a district court cannot order the State to pay for enhanced educational programs. In addition, it has the 11th Amendment issue.

But whatever may be said as to the standing point (which I merely mention in passing), this is indeed a unique case and could be written as such. I am therefore concerned that the Court should write a rather sweeping desegregation decision (similar to Swann) that will be applied by the lower courts in different circumstances when school boards are resisting the assumption by federal courts of the duties and authority vested by law in elected school boards and professional educators. It would be extraordinary for the average school board to be willing - if not eager - to surrender its educational responsibilities to the extreme degree that is evidenced by the wide-ranging opinions of the District Judge in this case.

I realize that my new perception of the case comes rather late in the day. In any event, I now let you know, with apologies for not having done my homework carefully at a more appropriate time.

Sincerely,

The Chief Justice

lfp/ss

cc: Mr. Justice Stewart
Mr. Justice Rehnquist

P.S. Potter and Bill Rehnquist discussed this case when we happened to be at lunch today. I expressed these views to them. I do not know to what extent, if any, that they share them.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 2, 1977

No. 76-447 Milliken v. Bradley

Dear Chief:

In due time I will circulate something in this case.

It may concur in the results, but for quite different reasons from those expressed in your opinion.

Sincerely,

Lewis

The Chief Justice

Copies to the Conference

LFP/lab

June 11, 1977

No. 76-447 Milliken v. Bradley

Dear Chief:

Your letter to Bill Rehnquist refers to your having requested me "to let [you] have comments particularly" as to the tension between Milliken and Dayton.

I had thought that Bill's letter served this purpose. But I am happy to supplement it.

My profound concern about your first draft (that you commented to me was quite preliminary) is that it can be read far more broadly than necessary. It is likely to be read as holding that whenever a District Court makes a generalized finding of a de jure segregated school system, it then would have authority - without further specific findings - to order any "remedial educational" programs that it may think have educational merit. There would be no necessity to find a constitutional violation with respect to the particular programs.

You and I agree, I think, that before a court should assume the educational functions of the school board it must have found a constitutional violation with respect to the manner in which the particular function had been donducted in the past. Bill's letter mentioned "testing". The same can be said for many other educational components.

The District Court in this case required that five new vocational centers be provided, and prescribed the curriculum for such. This extraordinary action was not challenged before us. Yet, unless the court had found discrimination in the way vocational education had been taught (e.g., depriving black students of the same quality and amount of vocational education as white students), there would be no justification

for usurping the legislative function of deciding how many vocational schools were needed and prescribing the cirriculum therefor.

If this is made clear, I will concur in the judgment. If you adopt the language Bill suggests (or its substance) this will harmonize the two cases.

I also will write in support of my view that we should DIG this case, as it is not a segregation case in the normal sense. It is simply a "row" over money between Detroit and the state.

I appreciate your willingness to consider suggestions. At this season of the year, I hesitate to make them even to the most tolerant of my Brothers.

Sincerely,

The Chief Justice

lfp/ss

lfp/ss 6/17/77

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Powell

Circulated: JUN 17 1977

Recirculated: _____

No. 76-447 MILLIKEN v. BRADLEY

MR. JUSTICE POWELL, concurring in the judgment.

The Court's opinion addresses this case as if it were conventional desegregation litigation. The wide-ranging opinion reiterates the familiar general principles drawn from the line of precedents commencing with Brown v. Board of Education, 347 U.S. 483 (1954), and including today's decision in Dayton Board of Education v. Brinkman, post, at ___. One has to read the opinion closely to understand that the case, as it finally reaches us, is wholly different from any prior case. I write to emphasize its uniqueness, and the consequent limited precedential effect of much of the Court's opinion.

Normally, the plaintiffs in this type of litigation are students, parents and supporting organizations who desire to desegregate a school system alleged to be the product, in whole or in part, of de jure segregative action by the public school authorities. The principal defendant is usually the local board of education or school board. Occasionally, the state board

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 18, 1977

No. 76-447 Milliken v. Bradley

MEMORANDUM TO THE CONFERENCE:

This is a note that I intended sending with the circulation yesterday of my opinion concurring in the judgment.

In the last paragraph, I refer to not being able to persuade my Brothers to DIG this case. There is a bit of "poetic license" in the statement, as I did not urge this result at our Conference. Although I was not entirely at rest, I was then inclined to agree with the state.

Further study persuaded me that I had not understood the case, which seems to me to be a "sport" in every respect.

As all of the votes were in except Harry's, I assume there is no great likelihood of a "Court" agreeing with me. Converts would, however, be doubly welcome at this time.

L.F.P.

L.F.P., Jr.

ss

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 20, 1977

No. 76-447 Milliken v. Bradley

Dear Chief:

In view of your comment this morning that some minor changes were being made in the language of this troublesome case, I hope you will forgive me for making a suggestion.

One of the aspects of your opinion that troubles me particularly is the extensive citation of lower court decisions in desegregation cases, including some rather broad and sweeping excerpts from several of their opinions. I refer particularly to part C, page 15, et seq.

Would it not be prudent to add a footnote, keyed to the first sentence in the second paragraph on page 19, along the following lines:

> "The citation above of numerous cases in which remedial education remedies have been decreed, including quotations from some of these, is not to be viewed as necessarily approving any of these cases. The facts and circumstances in desegregation cases tend to vary widely, and of course we have had no occasion to consider whether the remedies ordered in any one of these cases were in fact justified by the constitutional violations. We do think these cases are relevant, however, as demonstrating that--where the evidence supports the requisite findings--educational remedies are entirely appropriate."

Unless we include such a caveat, I am afraid the lower courts will assume that we approve the holdings in the various decisions cited and relied upon. We can be reasonably certain that in many of these cases there were

no specific findings of violations other than a general conclusion that a unitary system did not exist. Also, it is likely that none of these cases involved such a massive intrusion into the legislative and administrative functions of a school board as was ordered in Detroit.

For the reasons stated in your opinion, this degree of intrusion may have been justified in Detroit, especially where the School Board requested it. Even so, the Board emphasized that without additional state funding the remedies ordered by the District Court could "destroy" public education in Detroit. This possibility suggests the wisdom of not giving the lower courts a broad invitation to take charge.

This really is my last word in this case. You have been tolerant and patient. But my understanding--from what you have said both recently and in the past--is that you share my view that lower courts often have been too eager to impose remedies beyond any proven specific violation. The Detroit situation was unique, and your opinion reaches the correct result. My concern goes only to the way it may be read by our brothers in the lower federal courts.

In view of the relationship of Dayton to Bradley, I am sending a copy to Bill Rehnquist.

Sincerely,

Lewis

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 20, 1977

No. 76-447 Milliken v. Bradley

MEMORANDUM TO THE CONFERENCE:

This refers to the Chief's memorandum to the effect that the above case is ready, so far as he is concerned, for tomorrow.

As I mentioned at the Conference, I am considering making some changes in my concurring opinion. Indeed, I have not yet had available a printed copy of my opinion.

Also, I may circulate this afternoon a brief concurring statement in Hazelwood.

In these circumstances, I would appreciate the cases being carried over. I will do my best to be finally "at rest" by tomorrow.

L.F.P., Jr.

ss

— ✓

P. 7

Stylistic Changes Throughout.

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Powell

Circulated: _____

1st PRINTED DRAFT

Recirculated: JUN 2 3 1977

SUPREME COURT OF THE UNITED STATES

No. 76-447

William G. Milliken, Governor of the State of Michigan, et al., Petitioners, *v.* Ronald Bradley et al. | On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

[June —, 1977]

MR. JUSTICE POWELL, concurring in the judgment.

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Normally, the plaintiffs in this type of litigation are students, parents and supporting organizations who desire to desegregate a school system alleged to be the product, in whole or in part, of *de jure* segregative action by the public school authorities. The principal defendant is usually the local board of education or school board. Occasionally, the state board of education and state officials are joined as defendants. This protracted litigation commenced in 1970 in this conventional mold. In the intervening years, however, the posture of the litigation has changed so drastically as to leave it largely a friendly suit between the plaintiffs (respondents Bradley, *et al.*) and the original principal de-

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 7, 1977

Re: No. 76-447 Milliken v. Bradley

Dear Potter:

I am sending to you and Lewis herewith a proposed rough draft of a letter to the Chief suggesting fairly modest changes in his present circulating opinion in Milliken v. Bradley. My main object has been to differentiate the two cases from one another, and to make the Chief's opinion in Milliken less subject to over-broad construction by overly eager District Judges. I shall be available at almost any time on Wednesday, Thursday, or Friday to jointly discuss these or any counter proposals you may have.

Sincerely,

Mr. Justice Stewart
Copy to Mr. Justice Powell

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 8, 1977

Re: No. 76-447 - Milliken v. Bradley

Dear Potter:

Herewith is a revised proposed letter to the Chief, which includes some suggestions by Lewis.

Sincerely,

WHR

Mr. Justice Stewart

Copy to Mr. Justice Powell

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 15, 1977

Re: No. 76-447 - Milliken v. Bradley

Dear Chief:

Please join me in your second draft opinion, which was circulated on June 14th.

Sincerely,

WHR

The Chief Justice

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

PERSONAL

June 17, 1977

Re: No. 76-447 Milliken v. Bradley

Dear Lewis:

I am writing you this in letter form since I plan to leave early this afternoon, and might not be able to see you before leaving. I think your concurring opinion is excellent, and properly serves to focus the attention of those who read the Court's opinion on how unusual a case this is. Indeed, with only the most minor changes, I think you could conclude the opinion by actually joining the Chief's opinion, though I realize you do not wish to do that.

If you want to talk about this, I will be at home later this afternoon.

Sincerely,

Bill

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 2, 1977

Re: 76-447 - Milliken v. Bradley

Dear Chief:

Please join me.

Respectfully,

JPS

The Chief Justice

Copies to the Conference