

# The Burger Court Opinion Writing Database

## *Lawrence County v. Lead-Deadwood School District No. 40-1*

469 U.S. 256 (1985)

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



7116

To: The Chief Justice  
Justice Brennan  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice Stevens  
Justice O'Connor

From: **Justice White**

Circulated: MAR 20 1984

Recirculated: \_\_\_\_\_

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

LAWRENCE COUNTY ET AL. *v.* LEAD-DEADWOOD  
SCHOOL DISTRICT NO. 40-1

ON APPEAL FROM THE SUPREME COURT OF SOUTH DAKOTA

No. 83-240. Decided March —, 1984

JUSTICE WHITE, dissenting.

+0

The issue presented in this appeal is whether a state may regulate the distribution of funds that units of local government receive from the federal government in lieu of taxes under 31 U. S. C. § 6902. The Court's dismissal of the appeal resolves this important issue in a manner that appears to be inconsistent with the language and legislative history of § 6902. Accordingly, I dissent.

The Payment in Lieu of Taxes Act, 31 U. S. C. 6901 *et seq.*, compensates local governments for the loss of tax revenues resulting from the tax-immune status of federal lands located in their jurisdictions. Under § 6902, the Secretary of the Interior is required to make annual payments "to each unit of general local government in which entitlement land is located." The local unit "may use the payment for any governmental purpose." 31 U. S. C. § 6902. In 1979, South Dakota enacted a statute requiring local governments to distribute federal payments in lieu of taxes in the same way it distributes general tax revenues. S. D. Codified Laws § 5-11-6 (rev. 1980).<sup>1</sup> Since appellant Lawrence County allocates approximately 60% of its general tax revenues to its school districts, application of the state statute would require that the County give the school districts 60% of the § 6902 payments it receives.

The present litigation arose after the County's federal-court challenge to the state law was dismissed on jurisdic-

<sup>1</sup> In full, the statute provides: "The county auditor shall distribute federal and state payments in lieu of tax proceeds in the same manner as taxes are distributed."

Reproduced from the Collections of the Manuscript Division, Library of Congress

HAC

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

March 22, 1984

Re: No. 83-240, Lawrence Co. v. Lead-Deadwood School Dist.

Dear Byron:

I shall give you a fourth vote to note this case.

Sincerely,



Justice White

cc: The Conference

Reproduced from the Collections of the Manuscript Division, Library of Congress

HAB

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

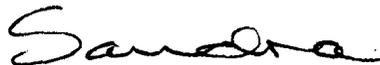
March 20, 1984

Re: No. 83-240 Lawrence County et al. v. Lead-Deadwood  
School District No. 40-1

Dear Byron,

Please join me in your dissent.

Sincerely,



Justice White

Copies to the Conference

Reproduced from the Collections of the Manuscript Division, Library of Congress