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The Mission of ACRI

Our mission is to educate the American public about racial and gender preferences and the importance of achieving equal opportunity for everyone.

Specifically, ACRI focuses on public education, policy research, monitoring the status of California's Proposition 209 and working with other national organizations to build a coalition of support of equal treatment by our government.

The views expressed in this publication do not necessarily reflect the positions of ACRI.

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U.S. Supreme Court Catches Up

by Tracy Haven

For those of us interested in equality and fair treatment by our government and institutions, late June represented a thing of beauty. Declared a "glorious decision" by ACRI Chair Ward Connerly, June 28, 2007 marked the day in which the United States Supreme Court fell in line with what the majority of Americans have recognized for years – that race preferences should not play a role in American public life.

On the last day of its 2006-2007 term, the Supreme Court made a landmark decision comparable in significance to that of *Brown v. Board of Education*. Ruling 5 to 4, the Supreme Court struck down voluntary integration plans that use race as a means for determining school admission, declaring such policies in violation of the

Equal Protection Clause of our 14th Amendment. Speaking for the majority, including Justices Samuel Alito, Antonin Scalia, and Clarence Thomas, Chief Justice John Roberts summed it up simply by saying, "The way to stop discrimination on the basis of race is to stop discriminating on the basis of race."

Background

The Supreme Court considered the two related cases of *Meredith v. Jefferson County Board of Education* (Louisville, Ky.) and *Parents Involved in Community Schools (PICS) v. Seattle School District* (collectively known as the "Meredith cases").

Under Seattle's "open-choice" assignment plan, students and parents could select their preferred high school. In cases in

which there were more requests than space available, school officials would give priority based on certain "tiebreakers." The first tiebreaker was generally whether the requesting student had a sibling already attending the school; the second was whether the student's race would meet the school's goals of mirroring the population – 40% white and 60% minority.

The school district in Jefferson County, Ky., which includes Louisville, had been under court-ordered desegregation until 2000. To avoid "resegregation," school officials devised a "managed-choice" system that considered parent preferences, but also required that each school maintain between 15% and 50% black students. Parent Crystal Meredith challenged

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The Justices' Views on 'Racial Balancing'

The U.S. Supreme Court ruled on June 28, by a 5-4 margin, that it is unconstitutional for schools to use race as a factor in assigning children to specific schools (see *U.S. Supreme Court Catches Up*, above). The majority included Chief Justice John Roberts, Antonin Scalia, Samuel Alito, and Clarence Thomas, as well as an expected swing vote by Justice Anthony Kennedy, who departed from the plurality on certain aspects noted below. Dissenting justices were Stephen Breyer, Ruth Bader Ginsburg, David Souter, and John Paul Stevens.

The decision was lengthy and included six separate Justices' opinions. Herein are the primary concepts on which the Court was divided.

"Diversity" Interest

A key area of disagreement on the High Court involved the purported benefits of "diversity" and the application of the Gratz and Grutter decisions to the programs at issue in the K-12 school system. The majority contrasted the Meredith cases with the Grutter decision based on the fact that, in Grutter, the University of Michigan admissions program looked at each individual applicant and race was part of a "holistic review."

Writing for the majority, Chief Justice Roberts said that race, in the Meredith cases, "is not simply one factor weighed with others in reaching a decision, as in Grutter; it is the factor." Roberts also noted that the use of colorful semantics does not

change what these admissions programs are at their core: "While the school districts use various verbal formulations to describe the interest they seek to promote — racial diversity, avoidance of racial isolation, racial integration — they offer no definition suggesting that their interest differs from racial balancing."

The Chief Justice also mentions that the districts did not "demonstrate in any way how the educational and social benefits of racial diversity or avoidance of racial isolation are more likely to be achieved at a school that is 50 percent white and 50 percent Asian-American, which would qualify as diverse under Seattle's plan, than at a school that is 30

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Racial Preferences Are More Harmful Than Beneficial

By Joe R. Hicks

I was recently invited to facilitate “A Conversation About Race” at a meeting of the Federalist Society in Los Angeles. The speakers at this May luncheon were Ward Connerly, my friend and ACRI Chairman, and civil rights attorney Connie Rice. Although engagements such as this are often less than cordial, this meeting would prove to be one of those rare moments when two intelligent people could address both sides of a controversial issue in a civil, constructive manner.

Early in the discussion, Ms. Rice revealed that she had abandoned the attempt to defend racial preferences and would not join any new campaign to defend this well-trod ground. The importance of this revelation must not be missed. During the long and contentious struggles in California during the campaign for Proposition 209, Rice was one of the more effective adversaries in defense of preferences, making arguments that were formidable in their eloquence and legal complexity. If someone of her skill and intellect is rejecting the call to defend race preferences - just as a bruising campaign to eliminate race preferences in five additional states is about to begin - the ground has shifted significantly in the battle to end racial preferences.

Having been Rice’s ally in the failed effort to defeat Proposition 209, I know her effectiveness first-hand, although the effort to defeat 209 was, for me, a water-shed event. After many years spent as a hard-core Marxist organizer and then as an orthodox civil rights “leader” heading up the Southern Christian Leadership Conference – the civil rights group founded by Martin Luther King, Jr., I joined the campaign against 209 believing that “affirmative action” was simply a method of com-

pensating for years of racial discrimination. My faith in these arguments, however, soon evaporated as I began to explore the many compelling arguments *against* race preferences. It was no small matter that my debates and interactions with Ward Connerly during this period also chipped away at my increasingly shaky stand on preferences.

In the 11 years since the Prop 209 debates, I have been intrigued by the continuing defense of preferences by racial advocates, even while evidence is abundantly available that shows such policies have actually harmed the recipients of affirmative action.

The rationale most frequently offered for race preferences is that blacks and other minority groups have historically been treated shamelessly, something that is obviously true. Contemporary civil rights figures go further, however, making the argument that America is today a hostile place for “people of color,” something that requires the protection of government through policies like “affirmative action.” On the contrary, let’s compare and contrast what has actually occurred within black communities over past generations.

As writer John McWhorter has pointed out, in 1960, 55 percent of blacks lived in poverty, with only 3.8 percent of black men working as managers or proprietors. Only 1.8 percent of doctors were black, and there were four black members of Congress. Even grimmer, in 1940 only one in one hundred black people were middle-class.

However, by 2000, almost half of all blacks had achieved middle-class status (having increased by 10 percent since 1970), with only under a quarter of blacks living in poverty. By 2000 one in five employed blacks worked as managers,

there were twice as many doctors and three times as many lawyers as there had been in 1960, and by 1995 there were no fewer than forty-one black members of Congress. Moreover, black-white relationships and marriages (once the ultimate taboo) are so commonplace that they hardly raise an eyebrow.

But today’s race advocates are not impressed at all, continuing to claim “people of color” need “affirmative action” because racism will always hamper the life chances of minorities. But what if something else were spoiling the competitive ability of black people? What if racial preferences are not just intellectually repulsive, but actually harmful?

UCLA law professor Richard H. Sander has conducted a new study (2006 – North Carolina Law Review) that concludes that while black lawyers are well-represented among new associates at prestigious law firms they are less likely to remain at the firms or to make partner than their white counterparts. Rather than racism being the reason, poor law school grades appear to be responsible, according to Sander’s study. Based on the need to push for diversity among new associates, elite law firms hire black lawyers with, on average, lower grades than whites. Sander says this sets these lawyers up to fail. Further, his study found that the pool of black lawyers with excellent grades is so small that law firms must relax their standards if they are to have new associates who resemble the pool of new lawyers. The result is that “Black and Latino attrition at corporate law firms is devastatingly high,” according to Professor Sander.

A common response by race preference advocates to the argument that racial preferences harm its recipients has

been to either ignore or deny the evidence of harm. Having been both a Marxist organizer and a civil rights activist gives me a unique vantage point to argue that many of my former colleagues are the captives of a sincere, but self-serving belief in the color-coded categorization of the nation’s population. They downplay the nation’s observable, documented racial progress, preferring to see blacks and other minorities as needy, childish “victims.” Ultimately, they have a stake in perpetuating the view that “race” is a structural component of American life – something actually argued by the advocates of an idea called “critical race theory” now in vogue in laws schools and college campuses.

But something else is at play here. Today’s race and “diversity” advocates have become a lucrative cottage industry even in this post-civil rights era - financially sustained by corporate America, bolstered intellectually by the nation’s colleges and universities, aided by the nation’s media elite, and catered to politically by Democrats and Republicans alike. Introspection in this milieu is a rare thing indeed. ■

Joe R. Hicks is the vice president of Community Advocates Inc., a non-profit political think-tank headquartered in Los Angeles. He also is a social critic and commentator who hosts a weekly Talk Radio show and regularly contributes opinion articles to a variety of print media - among them the Washington Post and Los Angeles Times. Hicks formerly headed the Southern Christian Leadership Conference (founded by Martin Luther King Jr.) and the Los Angeles City Human Relations Commission. Once a self-described “hard-core” leftist, today his politics are best identified as “firmly conservative.”

Colorado Civil Rights Initiative Receives Approval

Secretary of State ballot authorities in Colorado gave approval to the proposed Colorado Civil Rights Initiative in mid-June. In a liberal act of desperation, opponents filed a motion for rehearing by the Colorado Ballot Title Board primarily on the basis of their claims that:

- 1) the measure is in violation of the single-subject requirement on the basis of their premise that “preferential treatment” and “discrimination” are two different things.
- 2) that voters would supposedly be duped into voting for something they want (to end discrimination) while unexpectedly also prohibiting “preferential treatment.” In one of several comments that would make George Orwell proud, opposing attorney Ed Ramey claims that “even discriminatory forms of preferential treatment are remedies for discrimination.”

As Valery Pech Orr, the Executive Director of the Colorado Civil Rights Initiative, and Linda Chavez wrote in response to the motion for

rehearing to the title board, “The Initiative presents a simple and straight-forward amendment to the Colorado Constitution prohibiting discrimination by the State of

The Ballot Title Setting Board denied opponents’ motion for a rehearing, determining that the initiative indeed contains a single subject. Opponents appealed to

one subject: nondiscrimination by Colorado governments. The term ‘preferential treatment’ is only a form of discrimination, and is not a separate subject.” The AG went on to say, “The close relationship between preferential treatment and discrimination is presently recognized in the Colorado Constitution”... “Even if one agrees with Objectors’ position that one can interpret ‘preferential treatment’ as not necessarily equivalent to discrimination, one must also acknowledge that others disagree and equate any kind of race-based decision-making as discrimination. This initiative essentially asks the voters of Colorado to adopt the latter view. It is not the function of the Board to choose sides in the philosophical and political debates that underline this measure. Its function is merely to ascertain the meaning of the measure to determine whether it includes one subject.”

The Colorado Supreme Court is expected to render its decision by December. ■

“Discrimination and the prohibition of preferential treatment are congruous principles having a necessary and proper connection.”

— Excerpt from the Opening Brief by Respondents to Colorado Supreme Court appeal

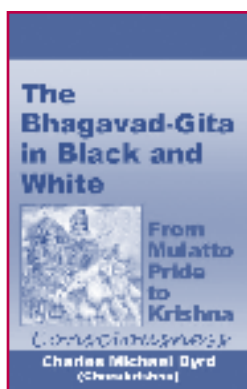
Colorado and instrumentalities of the State.” “The language is clear, the objects of it are specific, and no Colorado voter of reasonable intelligence will misunderstand concerning the effect of the Measure.”

the Colorado Supreme Court in July. The Colorado Attorney General issued an unusually strong brief on behalf of respondents (proponents of the initiative), stating that “the measure includes only

“The Bhagavad-Gita in Black and White: From Mulatto Pride to Krishna Consciousness”

Charles Michael Byrd’s new book, “The Bhagavad-Gita in Black and White: From Mulatto Pride to Krishna Consciousness” (Backintyme Publishing) is now available on Amazon.com.

This book is indispensable for those seeking to transcend America’s oppressive race-consciousness. It is fashioned after the eighteen chapters of the *Bhagavad-Gita*, the essence of India’s Vedic wisdom and one of the great spiritual and



philosophical classics of the world. Along with synopses of each *Gita* chapter is commentary culled from Mr. Byrd’s and other contributors’ *Interracial Voice* editorials

— as well as specific *Gita* verses that expand on that commentary from the Vedic perspective.

The primary lesson of the *Bhagavad-Gita* is that we are not our bodies; rather we are the eternal sparks of consciousness, the spirit-souls, animating our fleshy forms. The practical application, particularly as it relates to the race notion is simple. You are not your body; therefore, you are not a representative of a racial or ethnic group. Studying the ancient Vedic spiritual philosophy residing in the *Gita* allows you to transcend race-consciousness and to realize your true nature as an eternal servant of God or Krishna.

Mr. Byrd is of black, white and Cherokee heritage. As Publisher of *Interracial Voice* (1995-2003), he appeared on Jim Lehrer’s *NewsHour* and wrote Op-Eds for the *San Francisco Chronicle* and *Newsday*. A student of Vedic scriptures, he believes that *mixed-race* individuals soon begin searching for spiritual truth — allowing them to make sense of the madness behind lumping humans into separate racial categories. ■

Coming to terms with “Diversity”

by Ward Connerly

I will never forget my first meeting, in 1993, as a regent on the governing board of the University of California. Although the Office of the President had placed a number of items on the agenda for the regents to consider, the item that was to become the highlight of our meeting was a report on “diversity.” Based on that meeting, I can state unequivocally that if one has never been briefed by university administrators about “diversity,” then one has missed out on one of life’s most surreal experiences.

For the uninitiated, “diversity” is one of the most widely used but amorphous terms in American life; its fuzziness has contributed in part to the increasing disaffection that has now come to characterize it. In 1993, however, “diversity” was a term that could be invoked by a member of the university family with assurance that the term would go largely unchallenged.

As the report unfolded, I learned that “we must celebrate our diversity.” I also learned that “diversity is excellence,” to use a favorite phrase of my good friend Chris Edley, Dean of the Boalt Hall Law School at UC Berkeley. Although I have no doubt that Chris knows full well what he means when he makes such a statement, I also have little doubt that many (most) of those who were making such a representation at the 1993 briefing had not a clue as to what they were saying. All of the chants about the benefits flowing from “diversity” were like mindless chants that one would hear at some cultish gathering.

As I began to dissect the chants, I realized that in the parlance of the university, “diversity” actually is a code

word for the number of blacks (and occasionally Hispanics – specifically those of Mexican descent) – to be found in the student body and on the faculty and staff of the university.

Over the years, “diversity” has come under serious scrutiny by a number of individuals who understand the inherent danger that it represents to a number of American values. The first serious challenge to the “di-

versity” rationale came in the form of a book, “Diversity: The Invention of a Concept,” authored by Peter Wood, now Executive Director of the National Association of Scholars. Wood delineates the history of “diversity” and warns that, left unchallenged, the “diversity” rationale has the inherent danger of profoundly altering American life.

In 2003, the Supreme Court of the United States legally sanctioned the use of race by institutions of higher education while in the pursuit of “diversity.” The plaintiffs in that case were represented by a prominent Minnesota attorney, Larry Purdy, who has written a soon-to-be-released book, “Getting Under the Skin of ‘Diversity’: Searching for the Color-Blind Ideal.” Purdy provides compelling commentary that “diversity” has its harmful effects, not the least of which is

the damage that it often does to the presumed beneficiaries. But, the most serious challenge to the “diversity” rationale has come from an unlikely source – Robert Putnam, a Harvard professor who has released the results of a massive study about the effects of ethnic “diversity” on communities. Professor Putnam’s researchers conducted 30,000 interviews in 41 American communities. The conclu-

sion was that “the inhabitants of diverse communities tend to withdraw from collective life, to distrust their neighbors, regardless of the color of their skin, to withdraw even from close friends, to expect the worst from their community and its leaders, to volunteer less, give less to charity and work on community projects less often, to register to vote less, to agitate for social reform more, but have less faith that they can actually make a difference, and to huddle unhappily in front of the television.”

It seems to me that the question is not whether diversity is good or bad. In a pluralistic society such as America, we have no choice but to live with “diversity.” For my part, I neither celebrate nor condemn “diversity” anymore than I celebrate or condemn homogeneity. Although I delight in seeing any venue that has individuals of

varying backgrounds working and playing together, because that reaffirms what America is, I attach no more significance to the possibility that all 20 students in a math class are Chinese than I do to the fact that all ten players on the floor of a National Basketball Association game are black. “Diversity” should not be the issue, but the means by which it is pursued in the public domain – public education, public employment and public contracting, for example. As long as the results of a college student body, a public workforce and the selection of a contractor to do a public job have been achieved by a free, fair and open competition, the lack or presence of “diversity” should not concern us. To be certain, the government has a role to ensure that “diversity” is not the cause of social unrest – when blacks move into an all-white neighborhood, for

example, and the attendance of their children at a previously segregated school causes controversy. There is a legitimate public interest in such a circumstance. On the other hand, there is no legitimate public interest, in my view, in having the government bus little children into the school to create that “diversity.” In short, I have no objection to “diversity” as an end result; my objection is to the pursuit of “diversity” in the public activities of government – public jobs, public contracts and public education. That is the fight that must be fought in the war about “diversity.”



Ward Connerly

“...diversity is one of the most widely used but amorphous terms in American life.”

Super Tuesday for Equal Rights 2008

This spring Ward traveled with ACRI senior staff members and members of our National Working Group to different states to examine how prevalent preference programs have become. In each state we heard from our opponents that “preferences don’t exist in our state.” Which makes you wonder, if programs that give preference based on race and gender don’t exist, why are our opponents fighting so hard to stop the people from debating and ultimately voting on this issue?

Low and behold, research has uncovered multiple examples of programs that grant preferential treatment based on race and sex. Let’s look at the five states where education campaigns have been engaged: Arizona, Colorado, Missouri, Nebraska, and Oklahoma.

Arizona

Research into the major Arizona universities reveals that race preference programs are pervasive. Many state-funded scholarships are exclusive to specific minority groups and are grossly discriminatory. The state government also maintains discriminatory hiring policies. The Arizona Board of Regents even has a policy that states, “Between equally qualified candidates, preference shall be given to candidates whose hire will help correct underutilization as identified in university affirmative action plans and then to candidates whose hire promotes diversity.” These programs, as well as others, are riddled with discrimination and preferential treatment. Because of the programs that have been uncovered, the people of Arizona are poised to file language with the Secretary of State to end these discriminatory policies once and for all.

Colorado

In Colorado our opponents have publicly stated, “Even

discriminatory forms of preferential treatment are remedies for discrimination.” But yet, they still tell us that race and gender preferences don’t exist in the state of Colorado! A recent report issued by the Independence Institute, based in Golden, CO, says that “diversity” programs are costly. For instance, CU-Boulder administrators publicly announced that \$21.8 million is spent annually on “diversity” efforts. Later it was revealed that the administrators do not have a good accounting of how much is spent on “diversity” efforts and they could be spending even more than the outrageous \$21.8 million that they have budgeted. Of course, “diversity” at CU-Boulder is nothing more than a code-word for race-based quotas. Organizers of the Colorado Civil Rights Initiative are convinced that the public will be outraged at the astronomical spending on these so-called “diversity” efforts and at the attempts of the elite establishment to use code words like “diversity” to cover up race-based quotas.

Missouri

Tim Asher, Missouri Civil Rights Initiative’s executive director, recently debated a prominent state senator. Senator Bray insisted that the Initiative was not necessary due to the absence of race preferences in the state of Missouri. But, just moments later, Senator Bray was defending “affirmative action” programs that include race as being “an established practice in the City of St. Louis.” Senator Bray obviously thinks we’re not smart enough to realize that she’s making conflicting points. A little research uncovered that preferences based on race and sex are prevalent, especially in contracting. For instance, the City of St. Louis sets “minority inclusion goals” for contracting — this year’s goal is 25%. The Minority Inclusion Alliance

is threatening to shut down any contractors who fall short of this quota of 25%. Kansas City’s City Council recently passed a measure that calls for increasing apprenticeship programs to include 35% minorities or women.

Nebraska

Omaha City Council members took the remarkable step of removing preferences based on race and gender in the Omaha Fire Department’s promotion policy. The change didn’t come easily. Two fire fighters who were passed over for a promotion because of the department’s discriminatory policy filed a lawsuit four years ago. Earlier this year the department finally agreed to end the use of race and gender preferences in fire fighter promotions. Unfortunately, programs are still prevalent in other areas of the Nebraska government. For instance, preferences based on race and gender still exist in the Omaha Police Department. Instead of waiting to find someone with the courage to file a lawsuit and challenge these policies in a long, drawn-out battle, the people of Nebraska are taking matters in their own hands and are organizing the Nebraska Civil Rights Initiative.

Oklahoma

The City of Tulsa recently renamed their MBE/WBE program to the Building Resources in Developing Enterprises (BRIDGE) program. However, after a brief perusal of the requirements of the BRIDGE program it is clear that nothing other than the name of the program has changed. The BRIDGE program uses essentially the same criteria as the MBE/WBE program but removes the stigma of a business owner getting successful bids based on race, gender or other physical characteristics of the business owner — a new name

with the same old use of preferences in public contracting is still wrong. The Oklahoma Civil Rights Initiative has been established to ultimately end these types of discriminatory policies.

U.S. Service Academies to De-Prioritize Race in Admissions

May 15, 2007: The U.S. Department of Defense has proposed the removal of admission priorities for minorities and women at preparatory schools. The news of this proposal surfaced May 4 during a meeting of the Air Force Academy’s civilian oversight board, wherein Air Force attorneys proposed changes to a 1994 Defense Department policy allowing “primary consideration for enrollment” to blacks, Hispanics and other “minorities, including women.” The U.S. Military Academy, the Air Force Academy, and the Naval Academy all rely heavily on prep schools to diversify their ranks; the schools are designed to help candidates who are unprepared to immediately enter the academies themselves. Air Force officials have said that the current policy is at odds with recent U.S. Supreme Court opinions that require diversity standards to demonstrate an academic need for such programs. If the current policy does not change, Air Force officials said “it could impair the service academies’ ability to defend admissions standards that are, in fact, consistent with their respective institutional academic needs and the Supreme Court case law.”

Sources: *Chronicle of Higher Education*, *The Times-Herald Record* (www.recordonline.com)

U.S. Supreme Court Catches Up

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the admissions plan claiming that it prevented her son, who is white, from attending their preferred school across the street on the basis of his skin color.

Although school officials in both districts state that their goal was to increase racial diversity and prevent de facto racial segregation at the school level, the majority opinion on this issue was addressed by Chief Justice Roberts. “The principle that racial balancing is not permitted is one of substance, not semantics. Racial balancing is not transformed from ‘patently unconstitutional’ to a compelling state interest simply by relabeling it ‘racial diversity’.” Ultimately, the Court’s majority addressed the following key issues in striking down the districts’ policies:

- 1) “racial balancing” can never be a compelling government interest;
- 2) the two school admissions plans were not narrowly tailored in pursuit of a compelling state interest;
- 3) both plans had very binary conceptions of race (“White/Non-White” in Seattle and

“Black/Other” in Louisville); and

- 4) neither district had adequately pursued race-neutral alternatives.

In addition to consideration

sion because they have been using race in order to create an “ideal” blend of races within the schools.

The four dissenting justices – Stephen Breyer, Ruth Bader Ginsburg, David Souter, and

University of Michigan, hit the nail on the head when she said of the Supreme Court decision, “Today is a really good day... our government institutions should judge people on character and merit, not skin color or sex.”

Ward Connerly sees the ruling as not only a victory, but a tremendous opportunity. “We are moving the ball up the field yard by yard.” Just as “affirmative action” was at one time a noble notion that people have not wanted to challenge, so too has the term “diversity” become a dominant notion.

The opportunity of which Mr. Connerly speaks is to engage more minorities and “blacks, especially, to enter the mainstream of American life. That is a cultural change that must occur.” And, although that is certainly no easy proposition, the foundation was made smoother on June 28.

** For more information on the Meredith cases and on the opinions of specific Justices, see “The Justices’ Views on ‘Racial Balancing’,” on page 1.*

“Racial balancing is not transformed from ‘patently unconstitutional’ to a compelling state interest simply by relabeling it ‘racial diversity’.”

of compelling government interest, there was passionate debate among the Court about re-interpretation of recent rulings such as the Gratz and Grutter cases at the University of Michigan, and the intent of *Brown v. Board of Education*.^{*} And although this ruling actually follows in the footsteps of *Brown v. Board of Education* by moving toward a more colorblind society, hundreds of school districts around the country are expected to be affected by the June 28 deci-

John Paul Stevens – disagreed with the majority opinion on the basis that the decision obstructs “efforts by state and local governments to effectively deal with the growing re-segregation of public schools...”

Although this was far from a unanimous opinion, the *Meredith* ruling should be viewed as a huge step in the right direction. Jennifer Gratz, who experienced the effects of race discrimination firsthand at the

Gross Misjudgment by Southern Poverty Law Center

It was recently brought to our attention that the Southern Poverty Law Center (SPLC) claimed an “alliance” existed between the Council of Conservative Citizens (CoCC) and the American Civil Rights Coalition (ACRC) in their Spring 2007 Intelligence Report –their annual “Year in Hate” review. The SPLC apparently based this “alliance” on a photograph taken during a public function with ACRC chair Ward Connerly and John Raterink, chair of the Michigan chapter of CoCC. The SPLC further implied that this “alliance” led to the successful

passage of Proposal 2 (now included in the Michigan Constitution).

ACRC wants to make several points clear:

- 1) There is NO alliance between the CoCC, or any separatist group, and ACRC. ACRC chair Ward Connerly travels continuously throughout the country to discuss the elimination of unfair preferences and meets people on all sides of the issue. As such, there are frequent impromptu photo requests. In an interview by Media Mouse – a liberal media outlet based in Grand Rapids, MI – Connerly re-

sponded that he “didn’t know of (Raterink’s) background when he shook my hand and asked if he could have his picture taken with me at a public function.”

- 2) While the CoCC spoke out in favor of Proposal 2, they had no role in the Proposal 2 campaign. Critics of Proposal 2 simply wanted to scare the public into believing that Proposal 2 was an extremist-backed initiative rather than an initiative about equality and fairness. As Michigan Civil Rights Initiative executive director Jennifer Gratz stated during an interview pri-

or to the passage of Proposal 2, the Michigan Civil Rights Initiative “didn’t ask for (the council’s) support... Even a broken clock is right twice a day.” Media Mouse noted that the SPLC “gives too much credit to the (CoCC) for their role in the passage of the measure” and that they “did little organizing around the issue.” Regardless of what activity they undertook to advance Proposal 2, the CoCC acted on their own and to further their own interests.

- 3) The SPLC stated in its report that Connerly “rejected

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The Justices' Views on 'Racial Balancing'

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percent Asian-American, 25 percent African-American, 25 percent Latino and 20 percent white, which under Seattle's definition would be racially concentrated."

Justice Thomas puts it even more succinctly: "In reality, it is far from apparent that coerced racial mixing has any educational benefits, much less that integration is necessary to black achievement...simply putting students together under the same roof does not necessarily mean that the students will learn together or even interact."

Narrow Justification

A large part of the majority opinion centered on the fact that the admissions plans in Seattle and Jefferson County, Ky., were not narrowly tailored enough to justify using race as a factor in school assignment. The Court addressed in *Gratz v. Bollinger* (2003) that "racial classifications are simply too pernicious to permit any but the most exact connection between justification and classification."

Chief Justice Roberts said, "The school districts have not carried their heavy burden of showing that the interest they seek to achieve justifies the extreme means they have chosen — discriminating among individual students based on race by relying upon racial classifications in making school assignments."

Justice Anthony Kennedy wrote a separate opinion to limit his concurrence with the majority, yet agreed with the majority's view on "narrow tailoring." "Crude measures of this sort threaten to reduce children to racial bits valued and traded according to one school's supply and another's demand," he wrote. "The idea that if race is the problem, race is the instrument with which to solve it cannot be

accepted as an analytical leap forward."

That being said, Justice Kennedy concluded that, in some cases, a diversity interest may be pursued by governments through careful race-conscious efforts. "The decision today should not prevent school districts from continuing the important work of bringing together students of different racial, ethnic, and economic backgrounds. Due to a variety of factors — some influenced by government, some not — neighborhoods in our communities do not reflect the diversity of our Nation as a whole. Those entrusted with directing our public schools can bring to bear the creativity of experts, parents, administrators, and other concerned citizens to find a way to achieve the compelling interests they face without resorting to widespread governmental allocation of benefits and burdens on the basis of racial classifications." He went on to note that "school boards may pursue the goal of bringing together students of diverse backgrounds and races through other means, including strategic site selection of new schools; drawing attendance zones with general recognition of the demographics of neighborhoods; allocating resources for special programs; recruiting students and faculty in a targeted fashion; and tracking enrollments, performance, and other statistics by race."

While those in the affirmative action industry may look to Justice Kennedy's views as encouragement to continue the use of race as a factor in admissions, his views should be taken in their entirety. "To make race matter now so that it might not matter later may entrench the very prejudices we seek to overcome," Kennedy wrote in explaining his concurrence.

Brown v. Board of Education (of Topeka, KS)

Dissenting justices fervently disagreed with the majority's interpretation of *Brown* as applied to this case. Justice Breyer, writing for the dissent: "The plurality pays inadequate attention to this law (*Brown*), to past opinions' rationales, their language and the contexts in which they arise." "In so doing, it distorts precedent, it misapplies the relevant constitutional principles, it announces legal rules that will obstruct efforts by state and local governments to effectively deal with the growing re-segregation of public schools... and it undermines *Brown's* promise of integrated primary and secondary education that local communities have sought to make a reality."

Justice Stevens, in concurring with the dissent, wrote that "There is a cruel irony in the Chief Justice's reliance on our decision in *Brown v. Board of Education*... The Chief Justice fails to note that it was only black schoolchildren who were so ordered; indeed the history books do not tell stories of white children struggling to attend black schools. In this and other important ways, the Chief Justice rewrites the history on one of this Court's most important decisions."

Justice Thomas weighs in on the dissent's rationale for supporting the race-based school programs: "Racial imbalance is not segregation." "Although presently observed racial imbalance might result from past de jure segregation, racial imbalance can also result from any number of innocent private decisions, including voluntary housing choices. He went on to say, "Disfavoring a color-blind interpretation of the Constitution, the dissent would give school boards a free hand to make decisions

on the basis of race — an approach reminiscent of that advocated by the segregationists in *Brown v. Board of Education*. This approach is just as wrong today as it was a half-century ago. The Constitution and our cases require us to be much more demanding before permitting local school boards to make decisions based on race."

Do you know anyone who is interested in the elimination of racial and gender preferences? Do you know anyone who believes in equal opportunity and true equality for all Americans?

Please use the enclosed envelope and mail names and addresses of individual(s) you feel may be interested in receiving future issues of *The Egalitarian*. You may also email your submissions to jb@acri.org.



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Gross Misjudgment by Southern Poverty Law Center

(continued from page 6)

calls to denounce the CCC.” Connerly did not denounce the CoCC because he knew nothing about them, and it would be irresponsible to condemn an organization without knowledge of their activities. Connerly did, however, provide his philosophy about separatist groups in general when asked his opinion by Media Mouse. “I have nothing but contempt for separatist groups based on race that have done so much to hurt black people throughout American history,” he said. “Proposal 2 is about equality and fairness, not separation and preferences.”

4) Lastly, and perhaps most importantly, the point needs to be made that what the SPLC has done in publishing this erroneous information was irresponsible, to say the least. It is unfathomable that an organization that has championed civil rights and justice for more than 35 years would publish a report without re-

search and substantiation. If a smaller, local media outlet such as the Media Mouse could take the time to obtain both sides of this issue, then certainly a group such as the SPLC, with nationwide scope, could and should have done the same. This particular publication - the “Year in Hate” review - is reportedly read by 60,000 law enforcement officers nationwide (according to the SPLC website) and relied upon as a factual basis that, in some cases, leads to criminal convictions in hate crime cases. To link our organization to any of these groups is not only unacceptable, but seriously diminishes the reliability and respectability of the SPLC.

The ACRC requests that the SPLC retract its comments associating Ward Connerly and/or the American Civil Rights Coalition to the Council of Conservative Citizens or any separatist or racist group. ■

“ What They Said...

Quotes about the general subject of race and affirmative action, specifically.

“Ward Connerly is on a roll. Less than six months after leading a successful effort to abolish race and gender preferences in government contracting and college admissions in Michigan, the former University of California regent is taking his cause on the road again. This week he announced he will promote anti-quota ballot measures in Colorado, Missouri, Arizona and Oklahoma in the November 2008 elections.”

— *John Fund, Political Diary, 4/24/07*

“As for the one Mormon running for (president), those who really believe in God will defeat him anyways, so don’t worry about that; that’s a temporary situation.”

— “Rev.” *Al Sharpton*

“Almost every hard-working immigrant in this country has been forced, at one time or another, to use false documents to get a job.”

— *Edward Kennedy, U.S. Senator*

“If our history has taught us anything, it has taught us to beware of elites bearing racial theories.”

— *Supreme Court Justice Clarence Thomas*

“Justice Breyer’s good intentions, which I do not doubt, have the shelf life of Justice Breyer’s tenure.”

— *Supreme Court Justice Clarence Thomas*

“I don’t think that any of these states are particularly easy marks for Connerly.”

— *Wade J. Henderson, president of the Leadership Conference on Civil Rights, a national coalition of nearly 200 civil-rights organizations, referring to the states selected for “Super Tuesday”*

”

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