

## RACIAL GERRYMANDERING

By Edwin D. Reilly, Jr.  
for the *Sunday Gazette*

Since last I wrote, the two hot-button issues in the press have been illegal immigration and the Supreme Court ruling with regard to inverse segregation of schools. I'll tell you my ingenious solution to the first in a few weeks. As soon as I think of one.

In the second case, through one of its infamous and contentious 5-4 decisions that it can't seem to avoid, the Court ruled that the promotion of "diversity," a somewhat cloudy social goal if ever there was one, is not a worthy aspiration of a governmental body when race is involved.

What the Supremes ruled a no-no by the school boards of Seattle and Louisville was assigning pupils to schools that were further away, sometimes much further away, from the closest one they would otherwise be eligible to attend in order to increase the average level of "diversity" of each school in the district. And worst of all, according to Justice John Glover Roberts, Jr., the only factor used to allocate children was the "binary" choice—white vs. "other."

Heaven only knows how "white" a child had to be to be so classified. Even people called white look closer to light pink to me, or copper if they've just returned from vacation or a tanning salon. So, there are many words associated with this decision that need to be examined carefully. As Humpty Dumpty said, in a rather scornful tone, "When I use a word, it means just what I choose it to mean, neither more nor less."

The first word I checked into was "binary." When first I read of its usage by Judge Roberts, I thought that perhaps his extensive computer literacy led to this choice of word. But astronomers wrote of binary stars long before there were electronic computers, and the Oxford English Dictionary, which gives as first meaning a synonym for "dual," goes on to quote something written by one John Capgrave in his Chronicle of 1460, 32 years before Columbus landed in the new world and found lots of people who didn't look very white to him.

Apparently, the school boards in question considered Hispanics to be "others." And if they had chosen to use the categories Hispanic and others, Mr. Justice Roberts still would not like that because the two categories would be just another binary classification.

But wait. Just who is Hispanic? Well, somewhat whose ancestry can be traced to Spain or to a Spanish speaking country in Central and South America or Mexico. So, I wondered, what may we call a person whose heritage is Portuguese or Brazilian? Is there a term comparable to Hispanic for them? Yes, I discovered, it is "Lusitanic." So if the errant school districts had used the ternary classification Hispanic, Lusitanic, and "other," would they have escaped the disapprobation of Roberts, Scalia, Alito, Brown, and Kennedy? Probably not; Roberts would not have liked ternary arithmetic any better than binary if race were still involved.

Well, let's imagine that race is indeed left out of it. According to a prolix definition of "diversity" I found on the Web, other factors that might have been considered include "ethnicity, gender, sexual orientation, socio-economic status, age, physical abilities, religious beliefs, political beliefs, or other ideologies." What a can of worms.

As far as I can tell, most newspaper editorials, including one in the *Gazette*, greatly disapprove of the Court's decision. Columnists split, conservative vs. liberal. The latter believe that the decision blows a hole below the waterline of (Oliver) *Brown vs. Board of Education* (of Topeka, KS), the landmark desegregation decision that said that "separate but (allegedly) equal" schools for blacks and whites violated the equal protection principle of the 14<sup>th</sup> Amendment. But, guided by the moderate concurring opinion of Judge Kennedy in the current instance, this is surely an overstatement.

What I couldn't find in the cacophony of press and TV coverage is comparison of the decision to a practice that the Supreme Court has left standing for years—allowing the legislatures of states with significant minority populations to gerrymander congressional districts so as to ensure that certain minorities—principally African-Americans and Hispanics—will have allegedly "fair" representation in Congress. So, apparently, the Supremes consider it an admirable goal that Congress be racially diversified, but not schools.

I had high hopes for Chief Justice John Roberts when he was confirmed, and still do. Surely, he would have the courage not to be Scaliafied. And even though he joined the gang of four in this decision, his final words have a nice ring to them: "The way to stop discrimination on the basis of race is to stop discriminating on the basis of race."

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