Dear Superintendent,

I am addressing this letter to you regarding the recent action taken by the City Council in approving the school budget for the fiscal year 2022-2023. As a parent and community member, I want to express my concern about the allocation of funds for various departments.

According to the approved budget, the district intends to allocate a significant portion of the funds for the maintenance and repair of school buildings. However, I believe that there is a need to prioritize investments in areas such as technology and curriculum development. These improvements will not only enhance the learning experience of our students but also prepare them for the challenges of the 21st century.

Moreover, I urge the administration to consider the impact of the recent increase in property taxes on families. The school district should explore alternative funding sources to ensure that all students receive a quality education without burdening them with excessive financial strain.

Thank you for your attention to this matter.

Sincerely,
[Your Name]
Eckenherr (AG of Washington)

No court has ever found any duty to segregate.

Fundamental 350 adopt policy of neighborhood schools, it does not reflect opposition to desegregation.

DC found discriminatory purpose but CA 9 did not review this. The AG argues there is no ev. to support it as there has never been any segregation of state schools.

No remediation on county state level.

Hoge

Absent the prior reg., no duty to order housing.

Refer heavily to Hunter.

The 3 school districts in this case are only one of the 300 districts in State, that have desegregation plans.

Also see 565 Brief P16

* CAG found an exempt classification.

Q5 ask who are the classes? Who is favored person? Hoge said white people.
Eckenstein (Reply)

Majority of blacks approved 350 ¿ true?
Different from before, don't like limitations

3/23/82

81-9 Seattle School Dist Court (Initiative 350)

Critical fact: Does not involve any de jure discrimination.

It concerns voluntary action by 5/30.

Courts - state & fed - remain free to include busing in desegregation decision.

Hunter is distinguishable:

1. No special burden on minorities where there is de jure segregation, there is a stigma that should be removed.

But long distance busing per se is not necessarily beneficial to minorities students. Fair housing - as in Hunter - is specifically designed to assure housing of & only of minorities want the housing.

Minority students - like white students - are given no choice in mandatory busing.

Denial of 5/30's right to order mandatory busing is not to deprive both minority & white students of benefit of integration.
No racial classifications can be made as a result of the executive order of
note. 

Fundamentally, there is no violation of

4. Statisfically perfect in all.

5. Political process remained unchanged.

6. Under the 18th amendment, 9th amendment, and 14th amendment.
I have thought a bit more about these cases after our discussion of yesterday. The Washington case is the more difficult of the two—because of Hunter v. Erikson. Even so, I think Hunter can be readily distinguished for two reasons:

I. By contrast to Hunter, the busing limitation imposes no special burden on a minority.

The essential point here is that busing, unlike fair-housing legislation, is not necessarily beneficial to minority students. In the case of de jure segregation busing may be needed to remove the stigma of official discrimination. Even here your opinions have noted the risks posed by busing to desegregation itself as well as to other goals. Outside the context of de jure segregation, the dangers posed by busing would seem even more pressing because not balanced by the desire to remove the taint of official action. As you have noted it is not always clear what interest the busing/integration cases seek to protect. When there has not been a fourteenth amendment violation, mandatory busing
presumably seeks to expose students to the benefits of integration. But these benefits are open to black and white alike. A decision to cease busing in this circumstance "hurts" blacks and whites both--both are deprived of the benefits of integrated education. Similarly, both are helped by being assigned to closer schools.

II. By contrast to Hunter, there has been no radical restructuring of the political process.

In at least three ways the Washington Initiative does not appear to have placed any unusual obstacle in the way of minority groups. First, the Initiative process is itself a well established mode of legislation in Washington. The process was not altered in this case; it was merely used. Second, the state retains a certain amount of control over the operation of the schools. It appears from the state's brief that most school decisions are made at the state level. Third, I would assume that many decisions pertaining to racial matters are made at the state level. Finally, there has been no change in procedure akin to the Hunter situation.

I think that James v. Valtierra, 402 U.S. 137 (1971), has some bearing on this argument. That case involved Article XXXIV of the state constitution which provided that no low-rent housing project could be developed by a state public
body until the project was approved by a majority of those voting at a community election. A 3-judge court found that the Article violated the 14th Amendment on the Hunter principle. This Court reversed. The Court found first that the Article was racially neutral: "The Article requires referendum approval for any low-rent public housing project, not only for projects which will be occupied by a racial minority." Second, "California's entire history demonstrates the repeated use of referendums to give citizens a voice on questions of public policy.... A lawmaking procedure that 'disadvantages' a particular group does not always deny equal protection." Finally, "an examination of California law reveals that persons advocating low-income housing have not been singled out for mandatory referendums while no other group must face that obstacle. Mandatory referendums are required for approval of state constitutional amendments" etc.

I suppose it can be argued that the Washington plan does not fall under Valtierra because it is not "racially neutral." But I think it can be said that although the Initiative may—in effect—prohibit busing for racial integration, this does not mean that it is not "racially neutral." The benefits and burdens of busing in the setting of de facto segregation presumably fall equally upon blacks and whites alike.
There seems to be a continuum of governmental action from Hunter to Valtierra. I think that this Initiative is on the Valtierra side of the line.
Teachers Who Lost Jobs Because of Race

By WALTON BIRNIE

Last year, I introduced an article on this page with the statement: "Seventeen years ago Congress set out to eliminate racial discrimination in the workplace. To accomplish this, it enacted the Civil Rights Act of 1964, Title VII of which declares it to be unlawful for an employer 'to fail or refuse to hire or to discharge any individual ... because of such individual's race, color, religion, sex, national origin, or handicap.' "The Carter Agreement That Creates Racial Quotas," Feb. 5, 1981.) Presumably, hiring and firing were to be done on a non-discriminatory basis.

The occasion for the article was a court decree, approved a month earlier by a federal judge, according to which the government agreed to scrap an aptitude test used to screen applicants for civil service jobs. The test was said to be discriminatory because too few blacks and Hispanics were accepted to pass it, and very few with scores high enough to insure their being employed. In place of the test, the government agreed to incorporate what is in effect a racial quota system. So much for hiring on a nondiscriminatory basis. What about firing?

This past February, even as the press was excoriating the Reagan administration for failing to move swiftly on the affirmative-action front, the U.S. Court of Appeals in Boston affirmed an order discharging over 600 of Boston's public school teachers solely because of their race.

They were white; or more precisely, they were not black. They were also tenured professionals with an average of 12 years seniority and working under a contract—part of a valid collective bargaining agreement—specifying that, in the event of reductions in force became necessary, they would be discharged in reverse order of seniority. Except insofar as it honored this seniority principle in the selection of the whites to be laid off, the School Board's action paralleled that of the School Teachers Union, as Judge Garrity's order making the school board to hire black teachers—now interpreted to cover protection and rights, and that is indeed their effect. It was not a question of black teachers being fired, but of blacks who, admittedly, had done no wrong. It was a question of observing a court order of preferential hiring over white teachers who, in fact, had not been laid off.

The courts also faced a fiscal crisis, brought on in part by the taxpayers' revulsion that culminated in the passage of Proposition 2 1/2. The firing order to the teachers in question, then, was a holdover from the old days when the courts ordered the school board to hire black teachers—now interpreted to cover protection and rights, and that is indeed their effect. It was not a question of black teachers being fired, but of blacks who, admittedly, had done no wrong. It was a question of observing a court order of preferential hiring over white teachers who, in fact, had not been laid off.

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Withdraw power of S/B to assign students to school other than "nearest" or "next nearest" in place of residence.

Three exceptions:
1. If required in emergency
2. If required by health or safety
3. If next nearest overcrowded

Exception: does not bar any voluntary programs (magnet schools)

Does not limit power of any court, fed or state, from ordering busing if court decree.
The Chief Justice

No one significant vote. After discussion, still Pass. No recount. Segregation has been found. Four counts remain free if thus in form. To remedy it, facial.

On record before us, no showing of a 14th Amendment. One may occur later.

All classification on bases of race are not invalid, e.g. fullilove.

Justice Brennan

Affirm (W.B. had his statement written out)

Initiative 350 was racially motivated.

Histrionically, student assignment left to S/Bie.

350 changes "rules of game"

Hunter controls.

350 was facially violative of 14th Amendment.

Justice White

Affirm

May be difficult in certain cases.

Finding of discriminatory purpose.

Racial classification under 350

Hunter probably controls.

Though there is a "hard case."
Justice Marshall

Aff'm

Local people should make their decision (what? Fed. judge have been making them)
Seattle not first to desegregate voluntarily. "Don't want anything to prevent
local people from deciding these questions"

Involved in you, problem that City should be free to decide these issues.

Justice Blackmun

Aff'm

Hunter is applicable - places special burden on blacks. Rule also applies.
J. Wright's dissent itself recognized racial purpose.

Justice Powell

Rev.

See my notes
Justice Rehnquist

Reversing denial of relief is relevant but is still not determinative. See Rev. in Hunter v. H. - mere refusal of ordinance.

Justice Stevens

Affirming Third am: case.

Intent issue requires more careful analysis. For the case, there was racial motivation, but don't equate mere with stated hostility to blacks.

Hunter controls. 350 in a state wide measure, etc.

Justice O'Connor

Reversing finding in racial conscious action.

It is not unsupported, for the state took the people of a state to limit school district authority.
April 2, 1982

Re: No. 81-9 - Washington v. Seattle School District No. 1

Dear Lewis:

Would you be disposed to take on a dissent in this case?

Regards,

Justice Powell

cc: Justice Rehnquist
    Justice O'Connor

Dear Chief:

Harry has agreed to take the opinion for the Court in the above.

Sincerely,

The Chief Justice

cc: The Conference
April 5, 1982

81-9 Washington v. Seattle School District

Dear Chief:

I will be glad to undertake a dissent in this case.

Sincerely,

The Chief Justice

lfp/ss

cc: Justice Rehnquist

Justice O'Connor