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EDITORIAL

Resegregation Now

The Supreme Court ruled 53 years ago in Brown v. Board of Education that segregated education is inherently unequal, and it ordered the nation's schools to integrate. Yesterday, the court switched sides and told two cities that they cannot take modest steps to bring public school students of different races together. It was a sad day for the court and for the ideal of racial equality.

Since 1954, the Supreme Court has been the nation's driving force for integration. Its orders required segregated buses and public buildings, parks and playgrounds to open up to all Americans. It wasn't always easy: governors, senators and angry mobs talked of massive resistance. But the court never wavered, and in many of the most important cases it spoke unanimously.

Yesterday, the court's radical new majority turned its back on that proud tradition in a 5-4 ruling, written by Chief Justice John Roberts. It has been some time since the court, which has grown more conservative by the year, did much to compel local governments to promote racial integration. But now it is moving in reverse, broadly ordering the public schools to become more segregated.

Justice Anthony Kennedy, who provided the majority's fifth vote, reined in the ruling somewhat by signing only part of the majority opinion and writing separately to underscore that some limited programs that take race into account are still acceptable. But it is unclear how much room his analysis will leave, in practice, for school districts to promote integration. His unwillingness to uphold Seattle's and Louisville's relatively modest plans is certainly a discouraging sign.

In an eloquent dissent, Justice Stephen Breyer explained just how sharp a break the decision is with history. The Supreme Court has often ordered schools to use race-conscious remedies, and it has unanimously held that deciding to make assignments based on race "to prepare students to live in a pluralistic society" is "within the broad discretionary powers of school authorities."

Chief Justice Roberts, who assured the Senate at his confirmation hearings that he respected precedent, and Brown in particular, eagerly set these precedents aside. The right wing of the court also tossed aside two other principles they claim to hold dear. Their campaign for "federalism," or scaling back federal power so states and localities have more authority, argued for upholding the Seattle and Louisville, Ky., programs. So did their supposed opposition to "judicial activism." This decision is the height of activism: federal judges relying on the Constitution to tell elected local officials what to do.

The nation is getting more diverse, but by many measures public schools are becoming more segregated. More than one in six black children now attend schools that are 99 to 100 percent minority. This resegregation is likely to get appreciably worse as a result of the court's ruling.

There should be no mistaking just how radical this decision is. In dissent, Justice John Paul Stevens said it was his "firm conviction that no Member of the Court that I joined in 1975 would have agreed with today's decision." He also noted the "cruel irony" of the court relying on Brown v. Board of Education while robbing that landmark ruling of much of its force and spirit. The citizens of Louisville and Seattle, and the rest of the nation, can ponder the majority's kind words about Brown as they get to work today making their schools, and their cities, more segregated.