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06-17-1986 Justice White, Concurring and Dissenting

Byron R. White
US Supreme Court Justice

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

HAB

From: **Justice White**

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 85-93 AND 85-428

85-93 P. E. BAZEMORE, ET AL., PETITIONERS
v.
WILLIAM C. FRIDAY ET AL.

85-428 UNITED STATES, ET AL., PETITIONERS
v.
WILLIAM C. FRIDAY ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT

[June —, 1986]

JUSTICE WHITE, with whom JUSTICE POWELL, JUSTICE REHNQUIST, and JUSTICE O'CONNOR join, concurring in part and dissenting in part.

I concur in Parts I, II and IV of the Court's opinion but cannot agree with Part III. It is true that prior to 1965, the Extension Service maintained segregated 4-H and Home-maker Clubs, and it is true that when this suit was started and when judgment was entered there were a great many all-white and all-black clubs. However, it is undisputed that in response to the Civil Rights Act of 1964 the Service discontinued its segregated club policy and opened any club, then existing or newly organized, to any otherwise eligible person regardless of race. The District Court could find no evidence of any discrimination since that time in either services or membership and concluded as a matter of fact that any racial imbalance existing in any of the clubs was the result of wholly voluntary and unfettered choice of private individuals. App. to Pet. for Cert. 172a. The court found that "the Extension Service has had a policy that all voluntary clubs be organized without regard to race and that each club certify