

January 1979

Regents of the University of California v. Bakke: Foreword

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Recommended Citation

William O. Douglas, *Regents of the University of California v. Bakke: Foreword*, 67 CALIF. L. REV. 1 (1979).

Link to publisher version (DOI)

<https://doi.org/10.15779/Z389B4K>

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California Law Review

VOL. 67

JANUARY 1979

No. 1

A SYMPOSIUM:

Regents of the University of California v. Bakke

Foreword

In *Brown v. Board of Education*, the Court unanimously ruled that once a state has decided to provide an educational opportunity to its citizens, the fourteenth amendment requires that this opportunity "be made available to all on equal terms." Now, nearly a quarter of a century later, a different Court has had to face the issue of racial discrimination within our public educational institutions. This time the plaintiff was not a black schoolgirl who had been denied her right to attend the same public schools as her white neighbors, but rather was a white male twice denied admission to the Davis medical school.

Allan Bakke's equal protection claim was based on his inability to compete for sixteen of the one hundred seats in the entering class reserved for "disadvantaged minority" applicants. Thus, the question declared moot by my Brethren in *DeFunis* again raised its head in *Bakke*: Does a racial quota designed to enhance educational affirmative action programs pass legal muster? This question has already been answered by my Brethren in their five-to-four decision of June 28. Their opinions are analyzed in the following articles.

Bakke requires us to reflect on the means of determining the role of minorities in our professional ranks. It is they who have been denied the opportunity to compete with the white majority primarily because of their fleshstone. And it is they who must be allowed the opportunity to contribute to society at a level compatible with their ability and their desires. At the same time, failure to provide all our citizens with the promise of equal justice under law is to make a mockery of our Constitution and of our courts. This we must never do if we are to remain a nation of free men and women.

William O. Douglas

