Notes

Introduction

Acknowledgments

In addition to all of the remarkable people, many of whom are referenced in this volume, that brought their considerable intelligence to bear in defending this case, the lawyers, the administrators, the scholars, students, and alumni, and the friends across the country, I would like to thank the hearty members of the Office of the Provost and the Office of Undergraduate Admissions who toiled to mount this defense over so many years. Furthermore, I am indebted to Laura Calkins for her remarkable work in the Bentley Historical Library collections, and to Jo Thomas for her trenchant editorial comments.


5. Expert report of Claude M. Steele, Gratz and Grutter, District Court.


11. See Claude M. Steele, professor of psychology at Stanford University, and Patricia Gurin et al. in *Compelling Interest*.


15. Ibid., 199.

16. Amicus brief filed by the American Federation of Labor and the Congress of Industrial Organizations in *Gratz and Grutter*, Supreme Court, 17.

**CHAPTER I**


16. *Missouri ex. rel Gaines v. Canada* (1938) 59 S. Ct. 232, 305 U.S. 337, 83 L. Ed. 208; Kluger, *Simple Justice*, 212. Years later Marshall bristled when he recalled both the astounding victory and the fact that Gaines had simply disappeared by 1940, no doubt tired of the appeals and the spotlight. As a result

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he never attended the university. See Rowan, *Dream Makers, Dream Keepers*, 77–78.


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24. The positions of various organizations contributing to anti–affirmative action efforts are prominently advertised on Web sites and other documents. See American Civil Rights Institute, www.acri.org, a not-for-profit organization founded by Ward Connerly “aimed at educating the public about the need to move beyond racial and gender preferences”; the American Enterprise Institute at www.aei.org; the Ashbrook Center, a vigorous opponent of affirmative action, at Ashland University, www.ashbrook.org; the Center for Equal Opportunity bills itself as the “only think tank devoted exclusively to the promotion of colorblind equal opportunity and racial harmony” (www.ceousa.org). The group also includes the Center for Individual Rights, which filed suit against the University of Michigan on behalf of the named plaintiffs (www.cir-usa.org); Citizens’ Initiative on Race and Ethnicity (CIRE; www.cire.org) acknowledges there have been difficult times in the racial past but champions a forward-looking view that looks optimistically at a world where we have moved beyond race. Others active in the social movement to oppose affirmative action include Claremont Institute for the Study of Statesmanship and the Political Philosophy, www.claremont.org; Council for International Security Ethics and Public Policy Center (www.Claremont.org), which seeks to “clarify and reinforce the bond between the Judeo-Christian moral tradition and the public debate over domestic and foreign policy issues”; the Federalist Society, a network of conservatives and libertarians, which strongly supports “individual liberty” and “traditional values” (www.fed-soc.org); the Heritage Foundation (www.heritage.org); and the Independent Women’s Forum (www.iwf.org), which opposes the categorizing of Americans.


25. Carol M. Swain, “Affirmative Action: Legislative History, Judicial Interpretations, Public Consensus,” in America Becoming: Racial Trends and


31. As quoted in Robert A. Pratt, We Shall Not Be Moved: The Desegregation of the University of Georgia (Athens: University of Georgia Press, 2002), 155.


36. See note 35.


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44. Peckham, Making of University, 64, 67, 189–90, 278, 294–95, 312–13.


46. This point is fully delineated in the intervenors’ case before the courts: “U-M Response to Intervenors’ Petition for Writ of Certiorari in Gratz,” http://www.umich.edu/~urel/admissions/legal/gratz/gra-iopcert.html.


48. The long-term consequences of educating a racially and ethnically diverse population at the nation’s most selective institutions are explicated with care in William G. Bowen and Derek Bok, The Shape of the River: Long-
President of Cornell University. I appreciate comments I received on an earlier draft from Evan Caminker and Kathy Okun.

1. In an early era, some resisted the term integration, insisting that they were committed only to a more limited ideal of desegregation. I found it striking that no one invoked this distinction to me during the litigation; my sense is that this distinction has lost salience and today there is little public resistance to the ideal of integration.

2. Elements of the Grutter opinion could be read as suggesting that the state may have a sufficiently compelling interest in the integration of other institutions in society (such as the military) that it may take affirmative steps to achieve that goal. In the case of universities, the institutional interest involved their status as the critical path to leadership and success in America; other situations may require the identification of other interests of comparable significance.

3. To be clear, I do not mean to imply that Justice Powell himself did not appreciate the connection between integration and democratic legitimacy. I am suggesting only that, because such an appreciation did not manifest itself in the Bakke opinion, universities felt constrained to speak about affirmative action in ways that feel less authentic than the ways they may speak about the subject after Grutter.

Chapter 3

nicity at Stanford University; William G. Bowen, president of the Andrew W. Mellon Foundation and previously president of Princeton University; Claude M. Steele, professor of psychology at Stanford University; and Derek Bok, the Three Hundredth Anniversary University Professor at the John F. Kennedy School of Government at Harvard University and previously president of Harvard University.

2. The expert testimony was based on the collaboration of all of the authors of this chapter, although only one of us (Patricia Gurin) was formally the expert witness.

3. These features of an environment that promote mental activity are compatible with the cognitive-developmental theories we described earlier. In general, those theories suggest that cognitive growth is fostered by novelty, instability, discontinuity, and discrepancy. To grow cognitively, we need to be in situations that lead to a state of uncertainty, and even possibly anxiety (Piaget, 1971, 1985; Ruble 1994; Acredolo and O’Connor 1991; Berlyne 1970; Doise and Palmonari 1984).

4. In all analyses we also control for personal background characteristics of the students (gender, SAT composite of verbal and math scores, high school grade point average, ethnic diversity of the high school and of the pre-college neighborhood), and in the case of the national study for characteristics of institutions (percentage of undergraduates at the student’s college who are not white, selectivity as indicated by the mean SAT composite score of the entering freshman class, university versus four-year college, private versus public status, institutional diversity emphasis as indicated by student perceptions at each college about the degree to which the institution emphasizes diversity as an institutional goal, and faculty diversity emphasis as indicated by student perceptions at each college concerning the degree to which faculty incorporate diversity issues into the curriculum).

5. The classroom diversity measure in the MSS involves more than just exposure to content about racial and ethnic groups. Students’ answers to these classroom questions likely referred to classes that exposed them to racially/ethnically diverse students as well as to curriculum content. In 1994, when these students were seniors, they had to have taken at least one course that met the Race and Ethnicity Requirement. To meet that requirement, the Literature, Sciences, and Arts College had approved 111 courses. We obtained the racial/ethnic distribution of students in those courses for 1993–94, the year that the MSS gathered senior data. Two-thirds of these courses had enrolled between 20 and 80 percent students of color.

6. Findings on Latino/a students were presented only for the national
study. The number of Latino/a students in the Michigan Student Study was too small for our multiple regression analyses.

7. Rothman, Lipset, and Nevitte (2003) claim that most of the positive evidence of diversity has come from studies asking students to assess its impact themselves. This is a false claim in that the vast majority of research is of the type that ties diversity experiences statistically to measures of student outcomes that do not even mention diversity.

8. As noted above, findings on Latino/a students were presented only for the national study.

9. Of course, some students of color were randomly assigned roommates of color as well. The N of these pairings was too small, however, to analyze the effects of this pairing versus a randomly assigned white roommate from the perspectives of the students of color.

10. We do not indicate here questions about narrowly methodological aspects of our research such as questions about the survey samples, the size of effects, the adequacy of some of our measures. Answers to those questions appear in our responses on Michigan’s website.

11. Fewer than twenty amicus briefs were submitted on behalf of the plaintiffs. The number and breadth of American society represented by those briefs were much less impressive than were those briefs submitted in behalf of the University of Michigan.

Afterword

1. Brief for General Motors Corporation as Amicus Curiae 2.
2. Brief for Music Television Networks as Amicus Curiae 9.