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Clash in the Classroom

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E1

Clashes in The Classroom

THE BAKKE CASE: The Politics of Inequality. By Joel Dreyfuss and Charles Lawrence III. Harcourt Brace Jovanovich. 278 pp. \$8.95

FROM BROWN TO BAKKE: The Supreme Court and School Integration: 1954-1978. By J. Harvie Wilkinson. Oxford. 368 pp. \$17.95

By DAVID CHAMBERS

TWO NEW BOOKS deal with the school integration cases, one addressing *Bakke* alone, the other the sweep of cases from *Brown* to *Bakke*. Neither tells an encouraging tale, although the tone of their discouragement differs—in large part, it seems, because the life experiences of the authors differ. Joel Dreyfuss, a journalist, and Charles Lawrence, a law professor, are black. They write in the journalist's third person but with the immediacy of autobiography. J. Harvie Wilkinson, once a law professor, now a newspaper editor, is a white Southern liberal. He writes with spirit, often with dismay, but generally with the detachment of a person telling someone else's tale.

Though only Wilkinson discusses it, Dreyfuss and Lawrence would probably agree with most of his account of the Supreme Court's uneven course from *Brown* up to *Bakke*. In *Brown*, 25 years ago, the justices spoke to the nation with one voice. Their tone was muted but the message was clear: state-ordered segregation of schools is wrong. They ordered schools to integrate "with all deliberate speed," but when attorneys for black children pressed for speed, white federal judges (with a few notable exceptions) chose to deliberate. Tragically, the Supreme Court refused to intervene. In Wilkinson's blunt words, "From 1955 to 1968, the Court abandoned the field of public school desegregation." He reminds us that as late as 1962, not one black child attended school with whites in Mississippi, Alabama, or South Carolina.

When the Court finally reentered the field in 1968, it seemed to have acted as much out of embarrassment as commitment. Whatever its motive, the Court's order to integrate "now" was effective. By 1971, nearly half the black pupils in the South attended majority white schools. But when the segregation controversy—and busing—moved north and west, the justices faltered

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again. They ceased to speak with one voice. In the end, they rejected cross-district busing despite overwhelming evidence that integrated schooling could not occur in cities like Detroit without including the suburbs. Today in the north, residential patterns and neighborhood schools are more segregated than ever. The Supreme Court justices did not create the racial separation in our cities, but they have done less than they might have to alleviate the effects.

Then came *Bakke*, a case the authors view very differently. *Bakke's* facts are familiar. The medical school at the University of California at Davis held 16 places for minority students. On the whole, the minority applicants who were admitted had much lower college grades and admissions test scores than the white applicants who were admitted, although there was much disagreement about the significance of the lower marks. Allan Bakke was white, had high marks, and wanted one of those 16 places.

To Dreyfuss and Lawrence, the admitted students were all well qualified and the issue was whether among such applicants, a school may foster important goals by reserving a fixed number for minority students. To them, the answer is a clear "yes," for they find compelling the need to redress the centuries of black exclusion from American life and the need for more black professionals. They also emphasize studies that find no relation between medical students' numerical entry credentials and their later clinical performance. They give force to their narrative by weaving in what the case presented to the court in *Bakke* left out: the life stories of young and able black students at Davis who would not be doctors today but for the program.

In Wilkinson's opinion, the minority students were less qualified, and the question was whether such persons may be preferred solely because of their race. He says "no," convinced by what he perceives as the dangers of race ever being a determinant for public decisions, the impossibility of limiting the groups that can make claims for special treatment and the difficulty of ending such special programs once begun. Wilkinson, like Dreyfuss and Lawrence, also tells the life story of an applicant to Davis, but his choice is a Russian-born white person, Rita Clancy, whose parents had been held in concentration camps. She worked her way through college and was rejected at Davis despite high grades.

Wilkinson's arguments are troubling, but his apparent willingness, never directly stated, to postpone increasing the numbers of black professionals for another generation or two strikes the ear with an odd ring, especially since he never suggests that the minority students who are becoming doctors are not performing ably today. How sincere, one comes to wonder, are earlier claims he makes of a "deep-seated" need for more black professionals?

Justice Powell's solitary, middle-ground opinion that resolved the case is, of course, differently received by Wilkinson than by Dreyfuss and Lawrence. Powell, it is recalled, decided that the Constitution forbids schools

from insulating members of any group from comparison with all other candidates for available positions, but then explicitly affirmed the propriety of taking race into account among other factors to achieve diversity in the student body.

To Dreyfuss and Lawrence, the decision was a disappointment, playing into the hands of a white majority that has come erroneously to believe that discrimination no longer impedes black progress in the United States. Wilkinson, on the other hand, though he may well believe Powell went too far in assigning any weight to race, calls the decision "a Solomonic compromise" and the invocation of diversity as a justification for taking race into account a political "master stroke." Wilkinson's kind words for Powell are not surprising. Not only are they both white Virginians; Wilkinson was once Powell's law clerk.

Both books are well worth reading, giving ample space to the troubling arguments on the other side. Dreyfuss and Lawrence have succeeded in breathing life into a case that except for its central issue is essentially dull—no trial to speak of, a plaintiff who refused to be interviewed, no black persons in the case as parties or as attorneys. The authors succeed through their interviews with the attorneys involved, through their lucid exposition of the way lawyers form issues for courts and the way courts approach

"The Supreme Court justices did not create the racial separation in our cities, but they have done less than they might have to alleviate the effects."

decisions, and through an especially persuasive discussion of the continuing effects of race in American society. From time to time, nonetheless, their anger spills out in unnecessary epithets. They claim, for example, that the supporters of *Bakke* are purveying "a new form of racial McCarthyism" and "the new Racism." At these points they risk losing the audience so much of the book effectively addresses—those who are troubled by any policies openly taking race into account.

Wilkinson's book is a worthy sequel to Richard Kluger's *Simple Justice*, the monumental history of the civil rights litigation in public education through *Brown*. The immensely convoluted history of court involvement in education is made shorter and more accessible. Yet he too may offend readers, certainly black readers, not merely by his position in *Bakke*, but also by his language. He alludes to the views of "Southerners" and means white Southerners. He refers to a white suburb "mercifully" spared from a busing order and describes as a "black onrush" the movement of black families into a formerly white neighborhood.

In our language, as in our actions, we are still far from forging one America. □