

has gone too far''?

Despite its claim of objective legal reasoning, the **Bakke** decision reflects broad political and economic changes. The 1970's have been a period of relative inactivity for movements against racial discrimination. There has been less pressure on employers to hire and promote minority workers and less pressure on the government to enforce or



An 1890s cartoon showing Blacks going West and California Chinese fleeing East to escape racial persecution.

U.S. HAS A HISTORY OF RACIST ATTACKS

Historically, during times of economic crisis minorities have been blamed for society's problems. This has included violent racial attacks as well as official government repression.

- During the depression of the 1870's, Chinese workers in California, recruited during the boom years, were subjected to massive, violent racial attacks. Over half were forced to flee the U.S.
- With the depression of the 1890's a marked increase in lynchings of Blacks occurred. Between 1889 and 1901 there were 1,955 recorded lynchings, which is nearly half of all recorded lynchings from 1882-1947.
- In the post-war depression of 1919, major race riots against Blacks were instigated in Chicago, East St. Louis and other cities.
- Over 500,000 Mexican workers, imported into California to provide cheap labor for large ranches and farms in the 1920's, were deported during the depression of the 1930's.
- With the return of millions of World War II veterans, racial and sexual discrimination was stepped up, forcing many women and minorities to lose their jobs.

• The crisis of the 1970's has meant rising unemployment with millions of minorities and women subjected to the rule "Last hired, first fired." The deportation of Mexicans and other "illegal aliens" is again on the rise following a decade of recruitment of foreign born workers during the good times of the 1960's.

— MCHR pamphlet, **The Bakke Case**

expand affirmative action programs.

The 1970's have also been a time of economic recession. All poor and working people face severe competition for jobs and educational opportunities. Workers' real wages have declined. Social services of all kinds have been cut back. And historically, in times like these minorities have been blamed for society's problems.

Many of the hard-won gains of the 1950's and 60's are now being reversed. Minority admissions to colleges and professional schools have decreased. Minorities have been hurt most by rising unemployment and social service cuts. In financially-troubled cities like New York and Newark, services to minority communities have been slashed and the communities allowed to deteriorate.

The increased visibility of racist groups like the Ku Klux Klan and the Nazi Party is another sign of minorities under attack. Racist violence has erupted in Boston, Chicago, Louisville and other communities.

OPPOSE THE BAKKE DECISION

Legal rulings like the **Bakke** decision hide the fact that the Civil Rights movement of the 1960's produced gains for all poor and working people, and the current setbacks are setbacks for all. The struggles that minorities led for racial equality and decent living conditions meant that the employment of people of all colors was boosted by the expansion of social service jobs and vocational training programs. Working class children of all races who were unable to attend college in the past received work-study jobs and other types of financial aid which made higher education a possibility. Improvements in services such as low-cost housing, community medical clinics and new schools were gains for both whites and minorities. And the militance and pride that was developed by minorities during the struggles for racial equality carried over into union organizing drives for hospital workers, clerks and other workers in the late 1960's. Minority people often led those battles. The Civil Rights movement also gave women of all races inspiration and legal and political precedents to demand equal rights in this society.

But in the 1970's needed social programs like financial aid or affirmative action have suddenly become "too expensive." Wages have become "too costly" and jobs are eliminated. The gains of the 1960's are being reversed, and the effect is to set whites fighting minorities for a limited number of medical school seats and jobs.

It's going to take the united efforts of people of all colors, ages and occupations to continue the fight for racial equality and justice and prevent further setbacks in the gains won during the 1960's. Affirmative action programs must be defended and expanded. But affirmative action alone is not enough. We must rebuild the broad struggle for racial equality. Joining the campaign to overturn the **Bakke** decision is one important place to begin.

BUILDING A NATIONAL CAMPAIGN

A number of groups around the country are working against the **Bakke** decision. The National Committee to Overturn the **Bakke** decision (NCOBD) was formed in late April, 1977 and is doing education and organizing work in communities, schools and workplaces as part of this effort. The campaign has taken the form of holding house meetings and forums on the **Bakke** case, working with the media, circulating a petition asking Congress to oppose the decision and organizing protest actions.

The NCOBD has established regional and local committees in communities, schools, and the labor sector in several metropolitan areas throughout the country. We are also building a support network of groups and individuals who can assist the work of the NCOBD in various ways but cannot participate in the committees themselves.

What you can do:

1. Talk to your friends about the **Bakke** issue and the national campaign.
2. Sign our petition.
3. Contact a regional or local committee in your area to join the support network.
4. Attend and support our events, particularly the national days of protest.
5. Tax deductible contributions can be made through the National Lawyers Guild. Any financial help is greatly needed.
6. Distribute our petition and/or brochures.
7. Join our local or regional committees.
8. Form a local committee in your community, workplace, or school (guidelines and material are available).

Join us in our demands to:

- OVERTURN THE BAKKE DECISION
- IMPLEMENT, MAINTAIN AND EXPAND SPECIAL ADMISSIONS AND OTHER ESSENTIAL SERVICES FOR MINORITY STUDENTS AT UNDERGRADUATE AND GRADUATE SCHOOLS
- IMPLEMENT, MAINTAIN AND EXPAND AFFIRMATIVE ACTION PROGRAMS IN EMPLOYMENT

PROTEST THE BAKKE DECISION IN OCTOBER

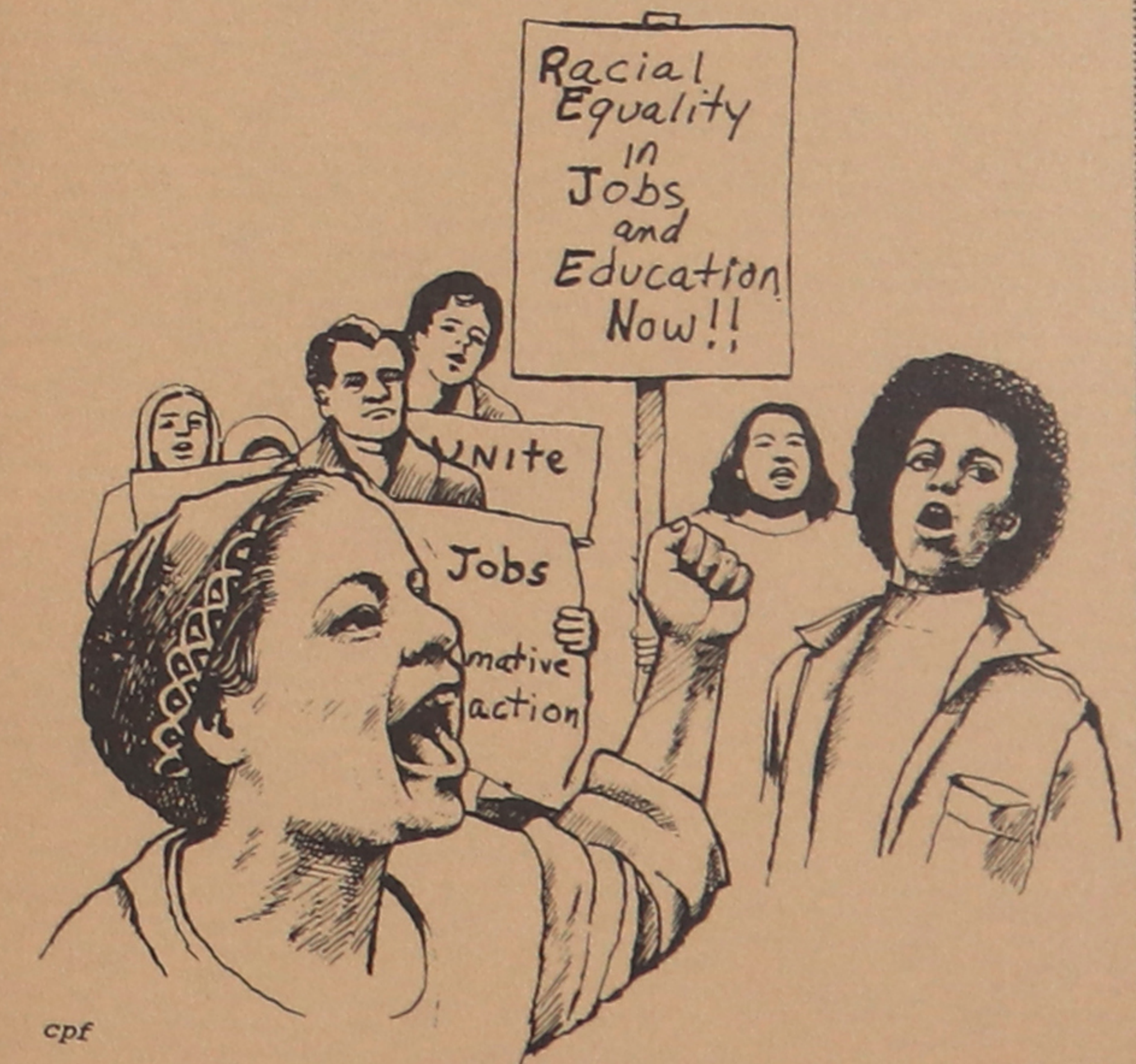
The NCOBD, BALSA (Black American Law Students Association) and the People's Alliance have issued a joint call for national days of protest in October, when the U.S. Supreme Court is expected to hear the **Bakke** case.

- October 3 (Monday) DAY OF STUDENT PROTEST — nationwide student demonstrations.
- October 8 (Saturday) NATIONAL DAY OF PROTEST — marches and rallies in major cities throughout the country.

LABOR DONATED
Fits Printing

National Committee to
OVERTURN THE BAKKE DECISION
P.O. Box 3026, South Berkeley Station,
Berkeley, CA 94703
Phone: 415/549-3297

Fight Racism— Overturn the Bakke Decision!



THIS FALL the U.S. Supreme Court will hear the Bakke case — one of the most important cases in the last 25 years on the question of racial equality. The Bakke decision, which is based on the idea of "reverse discrimination," is a serious attack on the rights of minorities to jobs and education. If the Bakke decision is not overturned by the Court, affirmative action programs for minorities and women will be threatened with elimination.

WHAT IS THE BAKKE DECISION?

In 1973 and 1974 Allan Bakke, a 34 year old white engineer, applied for admission to medical school at the University of California at Davis. He was rejected both times. The medical school has only 100 openings each year, yet in 1974 there were more than 3700 applicants. UC Davis medical school also has a special admissions program which reserves 16 of its 100 openings for students from "disadvantaged" backgrounds. These special admissions slots have been filled each year by minority students.

Allan Bakke, with encouragement from a UC Davis admissions officer, filed suit against the University in 1974 charging that he had been a victim of "reverse discrimination" because some of the 16 minority students admitted were "less qualified" than him. In September, 1976 the California Supreme Court ruled in favor of Bakke.

The Court based its ruling on the fact that Bakke had scored higher on entrance tests and had a higher grade point average than some of the minorities admitted. The Court said that it was unconstitutional to favor minority applicants unless the University had intentionally discriminated against minorities in the past, and that special admissions programs which consider race represent "reverse discrimination" against whites. The Court ignored the fact that the 84 regular admissions openings go almost exclusively to whites.

The University of California appealed the case to the U.S. Supreme Court. At that time many legal and minority groups urged UC not to appeal the case, and asked the U.S. Supreme Court not to accept it because UC's defense of the case was so weak. **UC never attempted to give evidence of its own past discrimination against minorities**, and offered little evidence to defend its program. UC ignored the requests of minority groups to hire a minority co-counsel to represent the views of those directly affected by the case.

Despite the pleas not to hear the case, last February the U.S. Supreme Court accepted it. The Court will hear the case this Fall and make its decision sometime afterward.

WHY IS THE BAKKE CASE SO IMPORTANT?

While the University "lost" the case, the real losers are minority students and workers. Now that the **Bakke** case is in the lap of the U.S. Supreme Court the idea of "reverse discrimination" could become the law of the land. This would apply great pressure on employers and universities across the nation to eliminate their affirmative action programs. The dean of admissions at UCLA medical school recently stated that "without preferential admissions policies, there will be almost no minority students in the schools. . ." A look at UC Davis medical school brings home the point. In its first two years the medical school had no affirmative action program and only 2 Blacks and one Latino were admitted. By contrast, 33 Latinos, 26 Blacks and one Native American were admitted in the following four years when the special admissions was in operation.

The effects of the **Bakke** decision in employment would be even more severe. Job training and apprenticeship programs for minorities could be ended. Employers with voluntary affirmative action programs would drop them rather than face legal suits similar to Bakke's. And if **Bakke** becomes the law of the land, we will witness an epidemic of such cases. Already a number of similar cases have followed the **Bakke** rule. In November, 1976 the New Jersey State Supreme Court ruled that state and local governments could not pass over whites who scored higher on employment tests in order to hire Blacks for jobs from which they had been excluded in the past. Last May the U.S. Supreme Court ruled that a seniority system set up before the Civil Rights Act of 1964 may still be used even though it perpetuates racial or sexual discrimination. (see box)

"REVERSE DISCRIMINATION"

Have affirmative action programs succeeded in correcting several hundred years of racial discrimination in this country? Have affirmative action programs now gone too far and resulted in "reverse discrimination?"

The facts shed much light on these questions. The ratio of white doctors to the white population in the U.S. is about 1/700. But the ratios of minority doctors to minority populations are roughly as follows: Black 1/3,800; Native American 1/20,000 and Latino 1/30,000. In California where the minority population is over 25%, only 1% of the state's lawyers are minorities.

In many cities today the unemployment rate for Black youths is over 50%. For adults it is about twice as high for minorities as it is for whites. Minorities remain stuck in the low-paying, low-status jobs in many industries. The median income for minorities is about 60% of white income — the same as 20 years ago. And having been long excluded from educational and job opportunities, most minorities are forced to live in ghettos where poverty, unemployment, poor housing and health care are stark realities. Infant mortality rates are about twice as high for minorities, and life expectancy is much shorter.

Those who now talk about "reverse discrimination" and affirmative action "going too far" have

COURTS ATTACK AFFIRMATIVE ACTION

The **Bakke** case does not stand alone in its attack on affirmative action programs. In the past two years there have been several other cases where the courts have used the idea of "reverse discrimination" to eliminate affirmative action. Below are two examples.

In the case of **Weber v. Kaiser Aluminum**, Kaiser and the United Steelworkers Union agreed to a contract with an affirmative action program for on-the-job training to increase the small number of black workers in skilled jobs at a factory in Louisiana. The program required that positions open for on-the-job training be filled at a one-to-one ratio of black and white workers.

But a federal district court ruled that Title VII of the Civil Rights Act of 1964 outlawed such programs, because it forbids discrimination in employment on the basis of race. The court's ruling was made in spite of the fact that 40% of the population of the two parishes where most workers live was black, while only 14.8% of the total workforce was black, and only 2.2% of the skilled craft positions were filled by Blacks.

The court justified its decision on the grounds that there had been no showing of past discrimination (despite the figures cited above), and that only courts could order affirmative action programs using a quota, since courts are not subject to the prohibitions of Title VII of the Civil Rights Act.

In the case of the **International Brotherhood of Teamsters v. U.S.**, the U.S. Supreme Court decided 7-2 that a seniority plan established before the Civil Rights Act of 1964 may still be used in spite of the fact that it perpetuates racial or sexual discrimination. The Court based its decision on language in Title VII which says the law is not to be used against "bona fide seniority systems." Every federal Court of Appeal which had faced the issue had ruled that seniority systems which perpetuate discrimination were not in fact "bona fide" (legitimate). Disregarding the unanimous opinions of lower court judges, the Supreme Court gave more weight to the "vested rights" of white workers in their seniority system than to the right of minorities and women not to suffer discrimination — even though the white workers' seniority was built up at the expense of minorities and women unjustly excluded from the best jobs in the past.

chosen to ignore these realities. We have a long way to go in the fight against racial inequality in this country. Programs which seek to end these inequalities need to be strengthened, not eliminated!

AFFIRMATIVE ACTION AND RACIAL EQUALITY

Minority people's struggle for equality over the years has produced many important victories. "Whites Only" signs no longer appear in restaurants or on the front of a city bus. Blatantly racist voter registration laws and many other legal barriers to equality have been eliminated. Among the most important gains won by the Civil Rights movement of the 1950's and 60's were affirmative action programs in hiring and admissions.

Victories against overt segregation were important, but they meant little to minority high school graduates who could not get a job or college education because of discriminatory hiring practices or biased tests like the MCAT (see box). People demanded that these barriers be broken and that **special efforts** be made to overcome the effects of generations of discrimination. With the urban rebellions of the late 1960's and the growth of a militant minority student movement, a new push was given to the need for affirmative action. Students, workers and community groups fought for and won affirmative action programs which opened up some jobs, especially in state and local governments, and which increased minority enrollment in colleges and professional schools.

Affirmative action, simply put, means no longer relying on the promises of companies and other institutions not to discriminate. It means requiring companies and universities to recruit, hire or admit, promote, and pay equal wages to qualified minority and women applicants. The purpose of affirmative action is to ensure real equality of opportunity to victims of past and present discrimination.

BUT WASN'T BAKKE "MORE QUALIFIED?"

If everyone takes the same admissions test, doesn't that mean everyone has an equal chance to get into school?

A number of studies have shown that many admissions tests used today are biased against all poor and working people, and especially against minorities. One study of the Medical College Admissions Test (MCAT) — the test which supposedly proved that Bakke was "more qualified" — showed that there was little relationship between the scores which students got on the MCAT and how well they did later in medical school. This study, done by the Association of American Medical Colleges, showed that Blacks who had successfully completed the first two years of medical school had lower MCAT scores than whites who had flunked out.

WHY ARE THESE GAINS UNDER ATTACK NOW?

Why has the California Supreme Court and other courts suddenly decided that "affirmative action