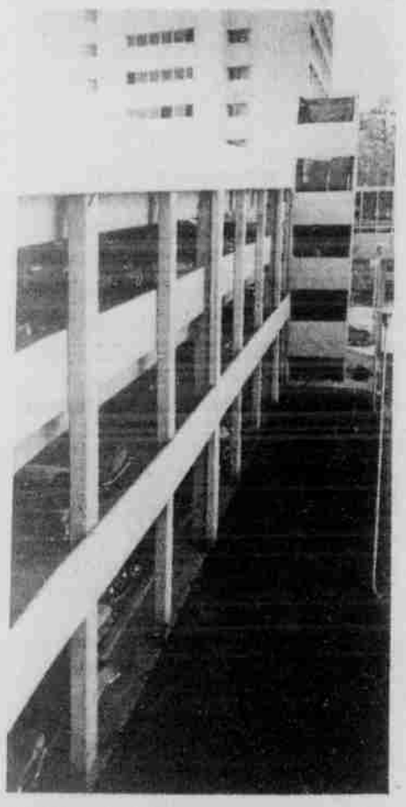
The Daily Tar Heel

85th year of editorial freedom

Fringe lot good alternative to parking deck addition

If there is one lesson the University should have learned by now, it is that money won't solve every problem. But the Board of Trustees' most recent excursion into the world of on-campus parking problems indicates that the simplest of schoolings has gone unlearned.

The UNC Board of Trustees has given its approval to a proposed $2.6-million addition to the South Campus parking deck. But the board's decision seems to be based more on the desire to spend than on a commitment to solving the parking problem.



The Board of Trustees approved a $2.6 million addition to this parking deck.

According to Student Government Transportation Director Paul H. Arne, a fringe parking lost would cost, at the maximum, $1,000 per space. Even assuming an expensive and elaborate bus service to the lot, the total cost of the alternative would fall far below the $3,300 per space cost of the proposed addition.

Simply, there are cheaper and more effective ways to ease the parking squeeze on campus. For instance, a fringe parking lot with more bus service could serve the same purpose as the proposed parking deck, and would cost a great deal less.

But an alternative to the addition would offer other benefits besides savings. For example, it doesn't take a traffic specialist to realize that a parking deck on Manning Drive would not meet student needs. Yet student money would nevertheless be used to help finance the proposed addition. The equity problems here are indeed obvious.

-A well-selected fringe lot with adequate shuttle service to campus would strike the heart of Chapel Hill's traffic problem — commuters — and not the superficial contributors to the problem — visitors to the medical complex. Conscientious planning could lead to a cheaper, more efficient and far more equitable solution to the parking problem.

Although the Board of Trustees has approved the project, it has not awarded contracts yet. We urge the board to take one last look at its options before giving the final go-ahead to the parking deck addition on Manning Drive. If the trustees have the good of the campus, the University and the community at heart, they should revise their plans and investigate alternatives such as a fringe lot that will meet our needs more adequately and efficiently.

The board should realize that it takes careful planning and weighing of alternatives — and not just money — to solve problems.

letters to the editor

Faculty valuable advising resource

To the editor:

To be sure, I am among the many who welcome enthusiastically the increased attention being given to undergraduate advising ("Maligned system needs help," Nov. 29). We can hope that the inquiries now being made will lead to changes in the institution which will make more and better advice available. And yet, while the scrutiny now being given to formal advising procedures is warranted and some changes are surely needed, I feel also that some changes in the attitudes and behavior of the undergraduates might go far to remedy the current situation.

The faculty are here, they are well-trained, they are experienced, and they are, in most cases, quite able and willing to advise their students and to explore with them their many academic options. Perhaps if the students could come to regard the faculty less as semi-animate automata who have no existence outside the classroom and understand clearly that the faculty consists of learned, humane individuals who are glad to discuss and advise — then perhaps the undergraduates might come to approach their own teachers for counseling, and proposed changes in the advising structure (while necessary and good) would be only supplementary to the faculty's resumption of its total teaching role.

Daniel J. Sheerin
Department of classics

More punk

To the editor:

An apology is due to Mr. Templeton: My dear Gil, I am sorry for whatever "pot shots" at your personal integrity I might have made in the past. I should not have used such terms as "narrow-minded" and "foolish" in describing your character. Rather, I should have described you as being *unfair* to New Wave artists.

Gil Templeton, as evidenced in his rebuttal ("Reviewer responds," Letters, Nov. 28), didn't seem to understand what the furor his review engendered was all about. Whether the Dead Boys' LP has musical value or not is not the point Mr. Brown, I or any of the others who found, as he puts it, "discontent" with his review, wanted to make. The point is this: Mr. Templeton chose one "punk" LP at random, listened to as much as his precious ears could take, decided that he didn't like it, and proceeded to condemn an entire genre of rock. This was undeniably unfair to many punk groups he had not heard.

Templeton says in his rebuttal that his article "expressed what my feelings and opinions were in accordance to the album." Oh, so *that's* what he was doing when he said "PUNK ROCK," meaning all New Wave bands, amateur and professional, signed and unsigned to recording contracts, "IS BOTH DEGRADING TO THE WORLD OF MUSIC AND HAZARDOUS TO YOUR HEALTH." *That*, Mr. Templeton, is totally uncalled for.

I have made my apology to you, Gil. You are indeed entitled to your opinion. Now, however, it is your turn to apologize for the liberties you took in your article that were based on insufficient and inconsequential facts. I hope you are responsible enough a journalist to admit fault.

Tom Eisenmenger
210 Carr Dorm

Agreement

To the editor:

In his column on nuclear technology (Nov. 28) Julian Grajewski asks, "Why, then, is the national media engaged in a veritable propaganda blitz...?"

Why, Julian, is you in English graduate school?

Chuck Babington
Bynum Hall

Wasted fees?

To the editor:

Now that the referendum is over, those of us who voted against the fee increase can only hope the money will be spent wisely. But I doubt that it will.

Last summer one of the editors under the Media Board forged Mrs. Sparrow's signature to a $250 check to pay a $25 photographer's bill. Apparently the payee needed a short-term loan since the money was eventually paid back. Both parties claimed it was just a joke and they did it to relieve boredom, but Mrs. Sparrow wasn't laughing. But it was a wise expenditure, no doubt.

A member of CGC told me that he had done a study and found that WXYC could operate on $4,000 per year. He pushed the $14,000 expenditure for three reasons:

1) To deplete the budget and force a fee increase.

2) To prevent minor organizations (AWS, etc.) from getting any money.

3) To allow WXYC to get at least $20,000 per year after the fee increase passed.

He told me that he coached the WXYC people on what to tell individual members of CGC in order to "snow" them so they would pass the expenditure with a minimum of fuss. Again a wise expenditure, no doubt.

Over the past few weeks, the *DTH* reported the Crime of the Century at WXYC. Is it wise for students to support this stupidity?

Only three examples do not make a case against a fee increase, but it is necessary to see that any fee increase does go where it is needed. As a law student, I already support a student bar association, two law reviews and a moot court, and I want to make damn certain that the money I pay to undergraduates isn't wasted.

Kerry Holliday
609-A Hibbard Drive

The *Daily Tar Heel* welcomes letters to the editor. Letters must be typed, double spaced, on a 60-space line and are subject to condensation or editing for libelous content or bad taste.

Wilmington 10 fiasco mocks human rights

By VIKKI BROUGHTON

North Carolina, ironically termed the state "First in Freedom," has earned the rather dubious distinction of being one of the most oppressive and racist states in the nation in light of the Wilmington 10 case.

The plight of the Wilmington 10 has received international news coverage, and its reflection on North Carolina is not a very flattering one. In these days of self-righteousness and human rights declarations, this case makes North Carolina, and the United States in general, appear to be absurdly hypocritical at best.

Officials in Gov. Jim Hunt's office said last week they had received more than 1,000 letters, telegrams and petitions either urging or opposing a pardon for the Wilmington 10. The governor's press secretary, Gary Pearce, estimated that two-thirds of the messages urge a pardon for the nine black men, including the Rev. Ben Chavis, who are serving long prison terms on charges stemming from racial disorders at Wilmington in 1971. The other member of the 10, a white, female social worker, has been paroled.

Pearce said 13 letters and a petition signed by 120 persons had come from individuals who identified themselves as members of Amnesty International, the worldwide human rights organization which recently won the 1977 Nobel Peace Prize.

Amnesty International has classified the Wilmington 10 as political prisoners in their own country, that is, prisoners who were arrested "for their beliefs, color, ethnic origin or religion." This claim should not be taken lightly. The London-based organization is regarded highly for its accuracy and impartiality. In fact, Amnesty International is a source of information on human-rights violations for both Congress and the State Department.

At a recent news conference, Gov. Hunt said he would not be swayed in his stand on the Wilmington 10 by the strong black support given to the succession amendment in the referendum held a few weeks ago. He said in deciding such as case, "You just set all that aside and do what is best for the state."

If, indeed, Gov. Hunt wants to do what is best for the state, regardless of political concerns, he should take a more responsible position in regard to this violation of human rights. If this case, now being appealed to the N.C. Court of Appeals, again meets an unresponsive and irresponsible state judicial system, then Hunt should exercise his executive privilege.

The Soviet Union, under fire for its oppression of Soviet dissidents, is justifed in pointing out our country's hypocrisy concerning human rights. Granted the number of political prisoners in this country is small in comparison to that of the Soviet Union, but the United States is not without guilt.

The whole world is watching. It is time we practice what we preach.

Vikki Broughton, a junior journalism major from Raleigh, N.C., is editorial assistant for the *Daily Tar Heel*.

School may not have used best defense

Four possible legal reasons why Allan Bakke should lose his case

By CHARLES E. DAYE

Editor's Note: This is the first of two columns addressing the Bakke case. Today, Charles E. Daye, associate professor of law, argues that Allan Bakke should lose his "trumped-up" case. Tomorrow, Dean Morton I. Teicher of the School of Social Work will argue in support of Bakke's stand.

Setting the Record Straight. In 1973 Allan Bakke was one of 2,644 applicants for 100 seats at the Medical School at the University of California - Davis (Cal-Davis). In 1974 he was one of 3,737 applicants for 100 seats. Cal-Davis has a so-called "disadvantaged special admissions" program, a basic characteristic of which was that, in addition to other factors normally considered in determining an applicant's admissibility, the race of the applicant was also considered. The other factors included MCAT scores, grade point average, summary of a personal interview, the motivation, character and imagination of an applicant, as well as the locale of practice the applicant anticipated entering. Bakke challenged only the race referenced criterion. Bakke did not apply for admission under the special program although it was not, by its terms, limited to blacks or ethnic minorities. Blacks who did not request to be considered under the "special" program were considered under the "regular admissions" program. My information is that Bakke applied to 12 medical schools — all of which rejected him. Yet he sued only Cal-Davis. The trial court found Allan Bakke would not have been admitted even if the special program did not exist.

It is not altogether clear that Cal-Davis put its best defense forward. For example, it did not challenge nor, for all that appears, raise the potential issues of the discriminatory impact of standardized tests. Neither party raised the question of whether Cal-Davis had previously discriminated against blacks in admission, although Cal-Davis "admitted" that it had not previously done so. In sum, Cal-Davis was not the best surrogate for seeking to protect the interests of blacks which were clearly implicated in the litigation.

The Issue in the Bakke Case. The true issue in the case is: "Whether in allocating its scarce educational resources a state is constitutionally restricted to questionable quantitative criteria in the admission of students, or whether it may consider a broad range of societal interests, including the race of applicants?" This is the true issue because no one has contended that Cal-Davis admitted "unqualified," as distinguished from relatively "less qualified" persons.

The problem inheres in the impossibility of any qualifications test to reduce the applicant pool to the precise number of applicants to be admitted. Accordingly, the rhetoric about "reverse discrimination" utterly misses the point. When the state is incapable by qualifications tests to reduce the applicant pool to the precise number of applicants to be admitted, the state has to report to non-qualifications factors, or admissions *criteria*, to further reduce the size of the pool. If the state has no policy that it can further by the application of non-qualifications criteria, I submit that the only rational way to admit would be by lot. No university admits by lot. The simple reason is that universities do pursue other objectives in determining admissions policies.

Thus conceived, we can understand that a practice of admitting the relatively better qualified in preference to those relatively less qualified, *from pool in which all applicants are qualified*, effectuates a policy of allocating educational benefits exclusively to the relatively better qualified. Other policies may also be similarly pursued through the adoption of appropriate criteria reasonably related to the furtherance of other objectives. A well-used criterion is the geographic preference which practically all major national schools employ. So too with a policy of according opportunities to those who historically have suffered educational disadvantages. So too of a policy of producing medical or other professionals to meet crying social needs.

A Sketch of the Law. At the outset it must be pointed out that probably every law in some way discriminates. There is simply no prohibition in the constitution of general kinds of discrimination. Ordinarily when a law is challenged as denying equal protection on the grounds that it discriminates, the ultimate test is not whether in fact the law discriminates, but whether there is a rational basis which justifies that discrimination.

However, because of the unhappy history of race relations in America, the doctrine has evolved that distinctions, discriminations or classifications which are based on race are "suspect." Race classifications used by the post-bellum South for the purpose of suppressing blacks were the precise conditions which in larger measure motivated the passage of the Fourteenth Amendment and caused race classifications to be suspect.

Today Allan Bakke would tell us that a constitutional provision originally conceived and interpreted to constitute a shield for former slaves is to be turned into a sword by a white man to cut off the descendants of former slaves from educational opportunity in professional schools. That is an overwhelming irony.

'. . . it must be pointed out that probably every law in some way discriminates'

Allan Bakke should lose his case for any one of four possible legal reasons:

1) Not even a racial classification is unlawful if the state has compelling reasons to justify making it. Compensating for historic denials of opportunity can be found to constitute a compelling reason.

2) Under recent Supreme Court cases, Allan Bakke should lose because it *cannot* be demonstrated that the Cal-Davis medical school, controlled by white males, was motivated by a racial animus against Bakke because he is a white male, nor can he prove that by their conduct the Cal-Davis faculty intended to cast a racial slur or stigma on him.

3) Allan Bakke should lose his case to the extent that he claims to have been discriminated against, that discrimination was imposed on him by member of the class to which he belongs, i.e. white males. There is no reason to fear that Allan Bakke and the entire class of white applicants are subjects of political oppression and are incapable of exercising political power to adequately protect their interests. In short, whites in the dominant position at Cal-Davis are doing things to themselves which is quite unlike the situation to which the Fourteenth Amendment originally was addressed.

4) The racial classification, to the extent that there truly was one in the Cal-Davis procedure, is not motivated by an animus against anyone, black or white. It was motivated by the objective of providing a limited, (I repeat limited), opportunity to a few, (I repeat a few), blacks. It was not motivated by an animus toward Bakke in particular nor whites in general.

Some Policy Dimensions. There is a serious question whether one can truly determine that Bakke was more qualified or less qualified than the blacks admitted, notwithstanding that they scored lower on the MCAT. First, standardized tests in general are predictive only with respect to first year performance, to the extent that they are predictive at all. Beyond that no one claims more. Surely no one claims that there is any correlation between high MCAT scores and the making of good doctors. It would be untoward to hold, for constitutional purposes, that Bakke was better qualified because of his higher score, for the simple reason that to do so would be practically to enshrine the MCAT in the Fourteenth Amendment.

The evil would be compounded since there exist serious questions about whether a standardized test score alone can really measure the aptitude of minorities *for medical study*, not to mention the aptitude of minorities *to become competent professionals*. Let the law school test makers tell it:

> "Any rational attempt to predict probable law school performance on the basis of (LSAT scores) must also take account of unquantified information about the applicant, including such things as work experience which might either aid them in the study of law or explain lower college grades, his reasons for studying law and his motivation and dedication in college, and his probable adjustment to the stress and competition of law school."

This is what the Law School Admissions Council told the Supreme Court in its brief on the Bakke case.

Beyond the legal issue there is quite a distinction between opportunity in the abstract and *realistic* opportunity. For example, in 1976-77 there were 39,996 first year students in 164 law schools. Of this number 2,128 (or 5.1 percent) were black. This was in the heyday of so-called affirmative action! For that same year a survey reveals thay if there had been no special admissions programs about 300 blacks (or 0.75 percent) would have been admitted to the 1976-77 first year class. It is well known that currently blacks comprise less than 2 percent of lawyers nationally and less than 5 percent of doctors. One cannot blink away the fact that a serious deprivation will be visited upon blacks, and this nation, if limited compensatory justice programs such as that at Cal-Davis are constitutionally prohibited.

Those who object to racial classifications sometimes claim they would not object to a "disadvantaged" classification. What is the *qualitative* distinction between a classification for the disadvantaged and one for race, if the evil is *any* classification? If the evil is not all classifications, then why only a racial classification? It appears that a so-called disadvantaged test, if applied honestly, would not necessarily reach the precise objective which is to provide opportunities to those who historically have been denied those opportunities.

But even beyond that, what is the logic, not to mention the morality, of a preference for the disadvantaged when it was blacks who in America were held in slavery for 246 years, when it was blacks who were subjected to state-imposed Jim Crow laws for 89 years, when it was blacks who were subjected to laws that made it a crime to teach slaves reading, when it was blacks who are grossly under-represented in the professions, when it is the central city and rural blacks who are without decent access to professional services?

There are those who argue that if we get into the business of race classifications, or indeed quotas, regardless of the purpose, the nation shall never be able to stop and shall tread a road to oblivion. I accuse such people of being unable to distinguish between an inch and a mile. They look upon a raindrop and envisage an inundation.

Who can doubt that dominant white Americans will keep close check and restrain affirmative action programs to see that they cease when their need has disappeared? Who has a realistic fear that professional schools dominated by white males will turn into institutions exclusively for blacks?

Postscript. Because of its media coverage and its controversial social content, regardless of how it is decided, the Bakke case will be seen to have much broader implications than anything the Supreme Court is likely to decide. If Bakke wins, those who went forward toward compensatory justice only reluctantly will have an excuse to backslide. Ultimately it appears that reasonable and flexible compensatory justice programs are necessary as an interim means if America ever is to become the ideal nation she holds out the claim of being. As interim measures, reasonable and flexible compensatory justice programs seem to be the only realistic steps that promise to work. Therefore they are not merely necessary, but imperative.

Charles E. Daye is an associate professor of law at the UNC law school.