Ending Racial Preferences Is Constitutional

The editorial denouncing an amendment that would prohibit racial preferences in higher education (“State House Reverts to Destructive Racial Politics,” June 11) exhibited a serious misunderstanding of the Supreme Court’s decisions in the University of Michigan affirmative action cases. It is also a troubling example of the racial politics that it condemns.

Contrary to the editorial, the Supreme Court recognized neither a “right” nor a “duty” of public institutions to adopt racial preferences. It held only that preferences do not necessarily violate the federal Constitution. Whether states should adopt them is a different matter.

Under the court’s decisions, the Legislature may abolish preferences, state courts may hold that they are invalid under the state Constitution, and the people may amend the Constitution to abolish them. In fact, the court noted that several states have outlawed racial preferences in admissions without giving any indication that such actions were constitutionally suspect.

The most distressing part of the editorial implies racism by legislators, labeling their actions “racial politics,” “abhorrent” and “reprehensible.” Yet, what is so abhorrent about making the constitutionally permissible decision to protect all students from racial discrimination?

The editorial questions the “good faith” of legislators supporting the amendment and provides a link to a list of their names on The News’s Web site. The fact that a substantial majority of state residents oppose racial preferences suggests that the paper may have done these legislators a favor by publicizing their names.

The editorial also describes a “shoving match” between a legislator and a staffer, calling it “a perfect example of the destructive passions evoked by this sort of exploitive racial politics.” Yet, the altercation was between Democrats who were arguing about whether Democrats had opposed the bill strongly enough. Since when is violence by opponents of a bill a reason to oppose the bill?

Kingsley R. Browne
Professor
Wayne State University Law School
Detroit