

BOOK BRIEFS

The New American Dilemma: Liberal Democracy and School Desegregation.
By Jennifer Hochschild. New Haven: Yale University Press. 1984. Pp. 261.
\$8.95 (paperback).

Thirty years after *Brown v. Board of Education*¹ the debate over school desegregation continues with great intensity. The nature of the debate, however, has changed in the past few years. The arguments now center, not on whether minority and Anglo children should go to school together, but on whether the resulting disruption is worth the effort. In addition, it is becoming increasingly difficult to find proponents. The Justice Department no longer actively brings cases. The Reagan administration openly opposes busing to achieve desegregation² and has sought to end it where it is already in place. Recently, for example, the Justice Department went to court to urge that local school districts be allowed to dismantle court ordered busing, even if the action results in greater racial imbalance.³ Public support, among minorities as well as Anglos, is also decreasing. Much of the change in public attitude is due to the trauma associated with the attempts to desegregate the schools in many of our larger northern cities. The public's perception is that "busing" does not work, that it is divisive, that it causes white flight, and that race relations are severely damaged through its implementation.⁴

Jennifer Hochschild is a strong proponent of school desegregation. Her advocacy is based on extensive analyses of the impact of desegregation on racism, test scores, white flight, and on a review of the role of race, racism, and education in the development of our society. In her book Professor Hochschild concludes that the trauma of school desegregation is worth undertaking, but only if done under specific guidelines. Hochschild's review of school desegregation shows that in order to effect the inequities in our educational system, desegregation must be done decisively, include all portions of the metropolitan area, and exempt few, if any, students. Unfortunately, this is not the manner in which most court ordered desegregation has been implemented.

There has been a considerable amount of thought and literature attempting to explain why racism has continued to coexist with our liberal democracy. These explanations coalesce around two theories, and Hochschild uses them as the basis for evaluating the successes and failures of school desegregation. One theory is that racism is a terrible anomaly of our society. This is the

1. 347 U.S. 483 (1954).

2. The word "desegregation" is used to indicate the public policy of eliminating racial segregation. "Integration" is the hoped-for impact of that policy.

3. The first time that the Reagan administration filed in support of a district's attempt to reverse a plan was *Kelley v. Metropolitan County Bd. of Educ.*, 687 F.2d 814 (6th Cir. 1982), *cert. denied*, 459 U.S. 1183 (1983). The Court of Appeals did not allow the reversal.

4. The negative attitudes toward school desegregation are more likely to be held by those who have not experienced desegregation. A majority of parents of bused children find the experience partly or very satisfactory. Anglos oppose the practice in theory but are content with it in practice. Harris, *Majority of Parents Report School Busing Has Been Satisfactory Experience*, THE HARRIS SURVEY, no. 25 (1981) (cited in J. HOCHSCHILD, *THE NEW AMERICAN DILEMMA* 182-83 (1984)).

thesis of Gunnar Myrdal.⁵ The anomaly theorists argue that racism and one of its major manifestations—segregation—can only be changed through slow, non-disruptive, small steps. For maximum acceptance, these incremental changes should be shaped through citizen participation and control. The claim is that incrementalism is intrinsic to liberal democracy and that drastic change is disruptive to the system.⁶

The alternative theory is that racism is an integral part of the American liberal democratic body—a symbiosis. Racism and its consequences are so deeply embodied in our society that incremental policy decisions and popular control do little to eliminate it.

In the thirty years since *Brown*, school desegregation has been the major public policy designed to impact racism and its manifestations. Hochschild presents an overwhelming amount of evidence that school desegregation does have a positive impact on reducing many of the consequences of racism. Test scores of minorities do improve,⁷ racial harmony increases, and other inequities are lessened. Then why the bad rap? The reality is that most attempts at school desegregation have been incremental. Grade levels are either phased-in or left out entirely. Parts of the district are exempted and change yearly. This process leads to instability, protest, flight, and often failure. Only a few cities have sought to make the broad, dramatic changes that are called for under the symbiosis theory. Kansas City, Missouri, for example, reassigned several thousand students, closed school, and changed grade levels in thirty schools. School desegregation in Kansas City is considered, by most observers, a success.

One of the tenets of the recent call for “separate equality” is that mandatory desegregation causes white flight. There has been considerable research on flight and Hochschild summarizes most of the major studies. The evidence is that massive flight does not necessarily follow from every court ordered plan. Many factors influence the amount and duration of flight, including family income, availability of alternatives, and racism. The bus ride itself does not appear to be the major element in causing some to stay in a district and others to leave. There is additional evidence that flight can be reduced if all parts of the metropolitan area are included. This takes away the unfairness issue. Voluntary plans, primarily the use of magnets, also produce less flight. Voluntary plans, however, do not desegregate school districts. In fact, magnet schools often exacerbate disparities within districts. By skimming off the best students, a new, dual school system is created.

Another component of liberal democratic theory that Professor Hochschild tests is citizen participation. For citizen involvement to have any positive impact on school desegregation, several conditions must be met. Community members must be involved early in the process and their duties

5. G. MYRDAL, *AN AMERICAN DILEMMA: THE NEGRO PROBLEM AND MODERN DEMOCRACY* (1944).

6. See R. DAHL, *PLURALIST DEMOCRACY IN THE UNITED STATES: CONFLICT AND CONSENT* (1967); D. BRAYBROOKE & C.E. LINDBLOM, *THE STRATEGY OF DECISION: POLICY EVALUATION AS A SOCIAL PROCESS* (1967).

7. See e.g., Crain & Mahard, *Desegregation and Black Achievement: A Review of the Research*, 42 *LAW & CONTEMPORARY PROBLEMS*, Sum. 1978, at 1, 3; W. HALEY, *ASSESSMENT OF CURRENT KNOWLEDGE ABOUT THE EFFECTIVENESS OF SCHOOL DESEGREGATION STRATEGIES* (1981).

must be clear. If their work is relevant and actually influences the process, they may improve the plan and increase community-wide acceptance. But these conditions are seldom satisfied.

Strong leadership on the part of officials, especially school officials, may facilitate acceptance. What often occurs, though, is that citizens are led to believe that political action can overturn court orders and public resistance grows. This public resistance was "successful" in Los Angeles. "Anti-busing" members of the Board of Education supported a state-wide initiative which led to the dismantling of court-ordered desegregation. Thus, citizen participation, which is an integral part of liberal democracy, appears to do little good and may actually harm the school desegregation process. The less desirable method, authoritative leadership, has been effective when utilized.⁸

Hochschild's convincing analysis of the factors affecting the successes and failures of school desegregation demonstrates that the anomaly thesis does not hold up. "[O]ur conventional, preferred methods of action (incremental change through popular control) do not reach our goal (eradicating racism through school desegregation). That is the new American Dilemma."⁹ On the other hand, there is substantial evidence to support the symbiosis theory of racism. Only through drastic, authoritative change has there been any real impact on the eradication of racism.

This does not mean that there is little hope for dealing with racism in America. Our educational system may still provide the place and desegregation may be the mechanism. There is enough evidence to demonstrate that swift, drastic change in a school district does a great deal of good for minorities and for Anglos as well.

Some of the blame for the lack of success of court ordered desegregation has been put on the judicial system. It is argued that judges are not suited for making social policy. Most are not education experts, they are better at determining guilt than fashioning remedies, and they are not use to dealing with the kind of information that is helpful for making decisions in this area. When these factors are combined with the rigidity of the court system and the ambiguities of class action suits, successful remedies are unlikely. Hochschild notes that this is changing, that judges are becoming more sophisticated and when they lack the expertise, they seek help by appointing experts and monitors.

The conclusions Hochschild reaches on how to desegregate schools with the least dislocation are not entirely new and she admits that. Through my experience with Los Angeles' ill-fated attempt to desegregate its schools, I can validate her analysis of the results of incremental implementation. In 1976 the California Supreme Court in ordering Los Angeles to desegregate its schools said that school districts are best equipped to draw-up and implement plans.¹⁰ The Los Angeles Unified School District (LAUSD) complied by establishing the Citizens Advisory Committee on School Integration (CACSI), a large cross-section of parents, religious, and community leaders. CACSI produced

8. For example, elected officials desegregate less than appointed ones, and cities where school policy is subject to popular control show less change than cities with relatively insulated decision-making processes.

9. J. HOCHSCHILD, *NEW AMERICAN DILEMMA* 176 (1984).

10. *Crawford v. Board of Educ.*, 17 Cal. 3d 280 (1976).

a workable, mandatory plan which included most schools in the district. LAUSD responded by dissolving CACSI and disavowing its plan.

The first plans which the LAUSD submitted to the court were voluntary. Finally, a plan which included both mandatory and voluntary components was accepted by the court. However, not all parts of the district were included, grades were to be phased in and planning was inadequate. The results the first year were not surprising. The board was openly resistant, students flocked to schools that were exempt or to private schools, and anti-busing sentiment increased. The court then sought to help through its Monitoring Committee and by the appointment of experts. In the second year the court drew up its own plan which resembled the CACSI proposal. Before that plan could be fully tested, as noted above, the citizens of California overwhelmingly passed an "anti-busing" initiative which was upheld by the California Supreme Court, and ultimately by the United States Supreme Court.¹¹

Professor Hochschild analysis shows that Los Angeles history was predictable. Her book contributes to our understanding of how the accepted methods of policy making and implementation impede the goals of school desegregation. The book can serve as a guide for policy makers and advocates. *The New American Dilemma* is also valuable because Professor Hochschild has summarized and analyzed an incredible amount of research on school desegregation, racism, and related issues.¹² It is an excellent resource book for those whose concerns include the history and role of racism in our society as well as the politics of school desegregation.

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11. *Crawford v. Board of Educ.*, 458 U.S. 527 (1982). The Reagan administration filed an *amicus* urging affirmance.

12. With the large amount of research cited, an index would make this book much more useful.

Judicial Politics: An Introduction. By Jerome R. Corsi. Englewood Cliffs, N.J. Prentice Hall Inc. 1984. Pp. xii, 353. \$5.98.

In Jerome Corsi's well-written, *Judicial Politics: An Introduction*, the reader is treated to a broad based examination of the politicalization of the legal profession as seen through the eyes of a political scientist. Corsi contends that legal institutions such as courts, bar associations, and law schools may be examined as political entities apart from their legal function. He believes that law and politics are so closely interwoven that lawyers and judges often succumb to the same pressures that affect traditional politicians.

Corsi devotes the first half of his book to a historical-sociological examination of law schools, lawyers, and the recruitment and selection of judges. The author identifies early social stratification that surfaces in the legal community beginning with the law school an individual attends and extending to the type of law one chooses to practice.

Commencing with a discussion of Harvard, the nation's first law school, Corsi traces the study of law from its infancy. The author concludes with a discussion of contemporary problems confronting legal education, particularly in the area of practical skills. A significant part of the section on law schools analyzes the admissions process and how this works to stratify soon to be lawyers. Furthermore, through useful studies and statistics, Corsi pinpoints the swift rise of minorities and women in law school from the late nineteenth century to the present. Unfortunately, the author fails to forecast just where affirmative action and the role of minorities in the legal world may be headed.

Following the examination of law schools Corsi takes a hard look at the hierarchy of opportunities in the practice of law. He examines Wall Street attorneys, the Washington D.C. bar, private criminal law attorney, and black lawyers. The author contends that the bar is hierarchically stratified with the practice of corporate law considered the most prestigious while the practices of criminal and personal injury law are frequently at the bottom. In this section Corsi also develops the theme of economics of law which he later pursues in a separate chapter.

The first half of *Judicial Politics* contains a superb critique of the recruitment and selection of judges. Here the author's central theme is the pervasiveness of politics in determining who will don the noble black robes. By examining background characteristics of judges, such as political affiliation and prior legal experience, Corsi vividly documents which subgroups make the greatest contribution to the state and federal bench. For instance, he insightfully shows that prosecuting attorneys in criminal law appear to have the advantage in garnering appointments to state judgeships.

The author concludes this section by evaluating reform movements in the area of judicial appointments. Specifically, he looks at former President Carter's creation of a bipartisan selection committee (later scrapped when President Reagan took office) to oversee federal appointments. Yet, as Corsi acknowledges: "Choosing judges in America is a political process with a political result."¹ Thus, he implies that reform in an area of traditional political patronage is a somewhat unrealistic endeavor.

The second half of *Judicial Politics* concentrates on the courts, judicial decision-making, and the economics of the legal system. Court organization is outlined on both the state and federal level. A special feature here is an insightful look at overcrowding in the courts. Corsi describes the situation in state courts with the phrase "conveyor-belt justice."² Responding to this dilemma, the author traces reform movements which have sought to curtail and streamline litigation. Moreover, he reveals the underlying political interests of those who seek such reform. Here he discusses the role of professional court managers. These reformers view court managers as handling case flow, managing budgets, and supervising court personnel. Finally, Corsi identifies some judges who fear that such reform would streamline court administration and may jeopardize their jobs.

Next Corsi analyzes economic realities of dispute resolution. First the author contrasts the often divergent economic goals of lawyers and clients. Second, legal services for the poor coupled with prepaid legal plans for middle income people are described. This section concludes with an inquiry into the political nature of such services, especially those for the poor. §

The remainder of the work highlights the politics inherent in judicial decision-making and the impact of such decisions, particularly those of the Supreme Court. Here Corsi's theory is that politics remains relevant to the understanding of judicial decisions. Several policy-oriented, landmark decisions of the Supreme Court are examined to illustrate the political ramifications of the high Court's pronouncements. Corsi looks at *Brown v. Board of Education*³ (desegregation), *Engel v. Vitale*⁴ (school prayer), and *Mapp v. Ohio*⁵ (exclusionary rule) focusing on the political impact and compliance aspects of these momentous decisions. In addition to analyzing the content of these decisions, the author also probes the personal biases and political leaning of the individual Justices. Specifically, the author included studies showing that Democratic Justices were more inclined to decide for the defense in criminal cases. Alternatively, these studies also reveal that conservative Republican Justices prefer management over unions in labor disputes.

Although Corsi described his book as an introduction, the work's breadth was quite extensive. Nevertheless, the author's primary goal was to present a general survey of law and politics rather than an ivory tower of scholarships. Throughout the book, Corsi utilizes a descriptive-narrative approach instead of a purely analytical one. Yet with the voluminous amount of social science studies to which the author refers (each chapter averages one-hundred and forty three footnotes) one might be led to believe that the book strives to be more analytical than it actually is.

Suffice it to say that an audience problem potentially exists for Mr. Corsi. The beginning chapters plainly suggest that *Judicial Politics* is targeted to a lay, non-legal audience. Indeed, the vast majority of the book will seem quite obvious to most lawyers (and to many law students as well). Thus, the legal community does not appear to be the primary audience. For the most part, Corsi is successful in keeping his work within the grasp of non-lawyers. How-

2. *Id.* at 171.

3. 347 U.S. 483 (1954).

4. 370 U.S. 421 (1962).

5. 367 U.S. 643 (1961).

ever, his overly detailed explanation of the mechanics of the federal court system may strain the patience of the lay reader.

This writer strongly recommends Corsi's work to undergraduates with a pre-law major. *Judicial Politics*, more than just a study of law and politics, provides a valuable foundation for one considering a legal career. Finally, this informative book might serve the needs of first year law students seeking a broad overview of the profession.

RICHARD CHASTANG

Reagan for Beginners. By David Smith and Melinda Gebbie. New York: Writers and Readers Publishing. 1984. Pp. xxi, 191. \$4.95.

Reagan for Beginners is an ambitious book. By interspersing cartoon drawings and photographs throughout the text, the authors present a comic book format that critiques Reagan, his politics, and his predecessors. In addition, the authors offer a Marxist vision as an alternative to Reagan. Whether or not the book succeeds depends largely upon whether the reader decides that the end justifies the means.

The book begins by suggesting that Reagan, contrary to popular belief, did not herald the arrival of an ideological revolution. Rather, the authors assert, Reagan is part of a Western triumvirate which includes Margaret Thatcher of Great Britain and Helmut Kohl of West Germany. In terms of political policies, the book states, Reagan, Thatcher, and Kohl "are virtually carbon copies."¹ After proposing this rather sweeping thesis in three pages, largely dominated by illustrations, the authors add that Reagan closely resembles many of his predecessors.

This bold beginning does not, however, characterize the entire book. The early chapters focus on Reagan's path to the presidency. From relatively modest beginnings in rural Illinois, Reagan achieved fame first as an actor in B-movies. Reagan's principal assets as an actor, the authors suggest, were his "pleasant new face"² and his "near-photographic memory."³ As the book chronicles Reagan's movement from actor, the president of the Screen Actor's Guild, to corporate spokesman for General Electric Corporation, to Governor of California, and finally to president, the emphasis remains upon Reagan the actor.

Reagan the president, the authors assert, is the product of "millionaire kingmakers"⁴ who hired experts to create a more marketable Reagan. With the help of psychologists, speech experts, and public relations firms, Reagan became practically a cult figure, capturing the imaginations of "Republican money men."⁵ One chapter of the book, entitled "The Millionaire Backers," is in fact a mini expose of the wealthy, well-connected individuals, like A. C. Rubel, Chairman of the Board, Union Oil Company, who propelled Reagan to prominence.

Much of the book is spent denouncing Reagan's policies, including Reaganomics with its accompanying woes, the nuclear arms race, and highhandedness in foreign affairs. Reagan is part of a movement which the authors label "post-liberal capitalism."⁶ According to Smith and Gebbie, it was President Carter, not Reagan who initiated this movement away from the social upheaval of the late sixties and seventies.

It is at this point that the authors disclose their startling conclusion. While *Reagan for Beginners* begins as an analysis of the Reagan tenure, it ends as a condemnation of the American two-party system, and advocates Marxist

1. D. SMITH & M. GEBBIE, *REAGAN FOR BEGINNERS* 7 (1984).

2. *Id.* at 31

3. *Id.* at 31.

4. *Id.* at 57.

5. *Id.* at 47.

6. *Id.* at 104.

socialism as an alternative. In a final chapter appropriately entitled "Fast Forward," the authors condemn Democrats as well as Republicans, and even include the U.S.S.R. in the indictment:

The U.S. and the U.S.S.R., Democrats and Republicans, liberals and post-liberals—all alike are implicated in a system of global, life-threatening competition. The principle of this competition is the 'profit-motive,' i.e. the drive to accumulate capital by means of employer-controlled commodity production and exchange.⁷

It seems odd that a book ostensibly dedicated to denouncing the extremes of Reagan's politics would in their stead suggest an equally extremist, albeit unrelated philosophy. While *Reagan for Beginners* is a source of general information about Reagan, its characterization of American politics and world politics as an indistinguishable mass makes it an unlikely book for the true "beginner."

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7. *Id.* at 185.