

"political combat within the context of the American rules of the game" (1977, 59). Instead of referenda, Peter argued, the American public need "new participatory structures to afford the people political experience." Without such experience, he said, "the kind of issues which the elites will present will be more or less hate issues," such as "busing, pornography, Government supported abortion and the like" (60). And he guessed that the populace would vote against "important issues such as unemployment and city decay." He gave the example of a referendum in Maine on a proposal to equalize school funds among the rich and poor districts of the state. In the referendum the voters voted two to one against the proposal. Even voters from the poorer districts voted against it. "We have case after case," he concluded, "where voters who stood to gain from a vote on a bond voted against it because of their feeling of powerlessness and their feeling of being ripped off by the government . . . They are that much turned off" (61).

When the senators asked him to explain what kind of participation he thought would be educative, Peter answered, "If we were more imaginative and thought about that issue of how to bring one-third of the population back into the political system, one way of doing that would be to expand the political arena to include large corporations so that the individual within the workplace could make a decision on something which he knows something about and is very much concerned with" (1977, 63–64). Senator Hatch interjected, "I don't understand that." Senator Abbourezk echoed, "I don't understand what you mean" (1977, 64). Peter explained that "the giant nature of the corporation today in America is really a political entity" and ought to be run democratically. He added, "We could also experiment with neighborhood governments." Now Senator Hatch understood. He responded, "I disagree violently with that point" (64).

Benjamin Barber, who supported the referendum, was disappointed with Peter's stance. He wrote, "[I]t is particularly disheartening to see critics of elitism who spring from the popular Left join the outcry against such populist institutions as the referendum in America." Robert Michels, he continued, had predicted this kind of thing when he wrote that "socialists for the most part reject . . . practical applications of democracy" (1998, 133, note 30; see also Barber 1984, 154, note 16).

Peter had not succeeded in getting across what he called his "basic point" that the referendum effort was wrongly focused. "It should be focused," he told the senators, "on what Congress can do to bring the nonvoter, the alienated, into the political system in a sustained, educative and meaningful way" (1977, 60). Or, as he had said two years before in the article that meant so much to me, the cycle of political apathy and ignorance can be broken "only if the polity as a whole develops democratic structures that facilitate political reflection and action by people from all groups in society." In this process, he wrote, "man becomes aware of his political interests only as he becomes a communicative being" (1975, 43).

That is the thought that reminds me so positively of the early Marx and the Marx who criticized the Gotha Program. Just as Marx thought that it was by actually exercising control over the means of production on a continuous basis that humans could develop into their potential as species beings,

so Peter thought it was by actually exercising control over political decisions on a continuous basis that human beings could become aware of their political interests and develop into communicative beings. More equitable distribution would follow. ■

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THE CHALLENGE OF PETER BACHRACH

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Peter Bachrach had a remarkable impact on those who encountered him in person and on generations of readers. Judith Baer vividly captures, among other things, his inspiring, emboldening influence on his students and the sheer fun it was to be with him. My recollections are of exciting, forward moving, intense, and probing arguments, in private and public settings, with an infectiously warm, buoyant, generous friend.

I first met him in Oxford, where I was teaching. I liked his forceful formulation of participatory democratic ideas, but I had a bone or two to pick with his "Two Faces of Power" and so seized the chance to meet him at dinner in Nuffield College, where he was spending some months. Our dinner conversation was electrifying and led to a series of debates, between ourselves and with students, all hugely enjoyable. They inspired one participant, John Gaventa, whom I was supervising, and for whom Peter developed a huge respect, to embark on his study of power and acquiescence among Appalachian miners, eventually published as *Power*

and Powerlessness. In that book Gaventa sought, with remarkable success, to render empirically researchable the less visible operations of power (the concern Peter and I shared) and to explore the issue of whether power can shield people from awareness of their own interests (on which our disagreements largely focused).

In defending his side in our arguments, Peter was a wonderfully resilient and engaged discussant, sometimes issuing sharp, occasionally unanswerable challenges, sometimes making surprising concessions. We both enjoyed these exchanges so much that, after my *Power: A Radical View* appeared, he helped to secure an invitation for me to Temple University to co-teach with him. I readily accepted (in the process turning down an invitation to the Princeton Institute of Advanced Studies; Albert Hirschmann expressed his astonishment to me at such a choice). The experience was unforgettable. We became good friends and spent time together with his family and with various sympathetic colleagues. We pursued our argument with his students, who entered the fray with gusto and sometimes striking insights. I saw, in his interaction with students, some of the virtues that Judith Baer so well describes. He was patient and encouraging but, where appropriate, for-

But Peter's impact also reached innumerable readers, above all of his famous brief essay with Morton Baratz. (I used to joke with him that Baratz, whom I never met, actually never existed and that he had invented him in order to attribute to him any faults in the argument. He always fiercely denied this charge.) That article in effect *inaugurated* the so-called power debate. In his "Critique of the Ruling Elite Model" and his classic study of New Haven politics, *Who Governs?*, Robert Dahl had sought to convert loose talk of "power elites" and "ruling classes" into empirically refutable (and, he and his fellow pluralists went on to claim, refuted) hypotheses. The resulting behaviorist focus on decision making in settings of conflicting preferences, which was to inspire an entire research program pursued by Dahl, his colleagues and followers, seriously narrowed, as Peter clearly perceived, the understanding of what power is, and the first step into the new debate was the simple, incisive question: Who decides what gets decided? The next step, of course, was to invent the awkwardly-named notion of "nondecisions"—which began as observable decisions but became, under the pressure of the debate, less and less recognizable as deliberate and observable interventions by identifiable agents. Schattschneider's

He made teaching and, I am sure, learning terrific fun while always focused on serious matters. One crucial part of the mix was his irreverence, more particularly towards prevailing academic orthodoxies. Another was his centredness: he reasoned from and lived by a set of basic principles. He really believed in the beneficent effects of active participation (as, for instance, in the classroom), which had to be full and real. He was ever watchful for its phoney surrogates—for ways, in C. Wright Mills's phrase, of "managing discontent."

midably severe. "So what's your argument?" he would demand, kindly but always supportively, cutting short the long-winded, the prolix, or the befuddled.

He made teaching and, I am sure, learning terrific fun while always focused on serious matters. One crucial part of the mix was his irreverence, more particularly towards prevailing academic orthodoxies. Another was his centredness: he reasoned from and lived by a set of basic principles. He really believed in the beneficent effects of active participation (as, for instance, in the classroom), which had to be full and real. He was ever watchful for its phoney surrogates—for ways, in C. Wright Mills's phrase, of "managing discontent." And his radicalism was, as Aryeh Botwinick rightly observes in this symposium, always inflected by a firmly held liberalism that made him suspicious, not only of Marxism, whether orthodox or sectarian, but also of my own tendency to allow room for real or objective interests. He liked some Marxists, notably Gramsci, and was critical of others, such as Nicos Poulantzas, but was always interested in them for what their thought might contribute to the understanding of his central preoccupation, which was, as Jane Mansbridge acutely notes, the key issue of control.

"mobilization of bias," cited by Bachrach and Baratz, began to look more and more impersonal and less episodic, more and more like Gramscian hegemony. From there the debate could range freely into questions about structure and agency, degrees of hegemony and the postulation of false consciousness, subjective and objective interests, positive and negative actions, the relations between power and freedom, and the still puzzling methodological dilemma of how, through empirical research, one is to reach the least observable aspects of power relations, given the assumption (which Peter and I shared) that power is at its most effective when least perceptible to actors and observers alike.

I always valued and, indeed, admired Peter's reluctance to relinquish what remained of behaviorist assumptions in his approach and his insistence on the need for robust evidence when making assertions about where power lies. Here lay his important challenge to attempts to carry his critique of the prevailing orthodoxy further. He remained, in this sense, a practicing political scientist who could, with unmistakable irony, write that "if there appears to be universal acquiescence in the status quo," then it will not be possible "to determine empirically whether the consensus is genuine or instead has

been enforced through nondecision-making” and that then “analysis of the problem is beyond the reach of a political analyst and perhaps can only be fruitfully analyzed by a philosopher” (Bachrach and Baratz 1970, 49). Of course, he realized that the very idea of such “universal acquiescence” is indeed a fantasy, at best a philosopher’s imaginary case aimed at raising the question of how to identify unacknowledged interests. His answer was: more subtle and probing empirical research.

I continue to miss Peter Bachrach. He was a vibrant and lovable person who was capable of transforming the lives of his students and whose insights into how power operates were sharp, clear, and deep. ■

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POWER, LAW, AND FINAL THOUGHTS: THE CONTRIBUTIONS OF PETER BACHRACH

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I am pleased to be part of this symposium to celebrate the life and work of Peter Bachrach. Although my focus is the relevance of Peter’s ideas of power to law, I want to begin with some personal comments as well as raise some final thoughts, drawing on others’ contributions. Like so many of Peter’s other students, I adored him. Peter’s joy in ideas, his passion for participatory democracy, his love of teaching, and his extraordinary capacity to listen to students were infectious. As others

sibilities of law. The questions of power and participation that he explored in political science he also brought to law.

He influenced many of us to think critically about law but also to think about becoming lawyers. Many classmates have told me that they would not have thought about becoming lawyers, a very big deal for women at that time, if it were not for Peter’s encouragement. And Peter’s work and teaching encouraged many of us who became lawyers to pursue women’s rights, civil rights, poverty law, and international human rights, issues that Peter raised in his classes.

The work that I went to law school to do has carried on these themes of power, empowerment, and democratic participation. Much of my work as a civil rights lawyer involved representation of people who were seeking justice because they lacked power. My writing on the possibility of rights claims as a way of articulating claims of politics and making visible political issues of participation and empowerment flows from these concerns (Schneider 2000). The concept of a dialectical relationship between rights and politics, and analysis of this process in the women’s movement, grew out of an emphasis on the importance of political participation and empowerment. Rights claims could be ways of asserting politics and vehicles to make visible political issues that we were articulating. Rights claims could be ways of seeking power.

But there are several other dimensions of law that Peter’s work on power highlights. Two are raised by Judith Baer and Jane Mansbridge in the context of the women’s movement. First, as Baer mentions, Peter’s work on non-decisions raises the importance of looking at both presence and absence of power, of seeing where the law is present and where it is silent, and understanding that silence reflects power as well.

Peter’s emphasis on participation, not outcomes, also relates to issues of process in the law, and the importance of looking past what might appear to be formal aspects of legal representation, like referenda. As a teacher and scholar of civil procedure, I see many connections in critical theory on process and process values. His deep analysis of the nuances of power has much resonance with the work of poverty lawyers and the study of social movements and law as well as with those who study and seek to reform the lawyer-client relationship so as to make clients more active decision makers in the legal process.

have said, he lit up every room that he was in. He inspired me to become a civil rights lawyer and law professor and to teach, write, and advocate about issues that he cared about.

Peter taught about social change, participatory democracy, community organizing, activism, and the importance of political involvement. And because I was at Bryn Mawr from 1964–68, Peter’s concerns had enormous influence on me and so many others during these important times. I came to college interested in civil rights and majored in political science because of him. Peter’s classes exposed me to law for the first time. His course American Constitutional Law introduced me to issues of law and politics, and excited me about the progressive pos-

Looking at silences, listening for what is not said, has been an important facet of feminist legal theoretical work. Second, Mansbridge observes the importance of Peter’s work in revealing the ways in which participation in a political struggle could “strip away commitments to a false common good” and emphasizes her own experience of that in the women’s movement. One of my arguments about the dialectic of rights is that these tensions and conflicts can emerge more fully in the assertion of rights claims in law and that it is important for them to do so. Peter’s emphasis on participation, not outcomes, also relates to issues of process in the law, and the importance of looking past what might appear to be formal