

The Journal of Law and Education

Volume 7 | Issue 3

Article 8

7-1978

Book Reviews

Follow this and additional works at: <https://scholarcommons.sc.edu/jled>



Part of the [Law Commons](#)

Recommended Citation

(1978) "Book Reviews," *The Journal of Law and Education*: Vol. 7: Iss. 3, Article 8.

Available at: <https://scholarcommons.sc.edu/jled/vol7/iss3/8>

This Article is brought to you by the Law Reviews and Journals at Scholar Commons. It has been accepted for inclusion in The Journal of Law and Education by an authorized editor of Scholar Commons. For more information, please contact digres@mailbox.sc.edu.

Book Reviews

JUDICIAL EXCERPTS GOVERNING STUDENTS AND TEACHERS. By Edward C. Bolmeier. Charlottesville, Va.: The Michie Company, 1977. pg. 334, no price available.

*Reviewed by John S. Brubacher**

The great virtue of this book is that it has limited objectives. In the first place it delimits itself from the great body of judicial decisions on education in general to just those concerning students and teachers. In the second place it limits itself to brief and simple statements of the law. In each instance the author holds himself to two or three sentences on the facts of a case and then a short quotation from the judge's decision expressing the pith of his thinking. By this method he covers over two hundred cases in about three hundred pages—quite a feat. By compressing himself within such limits the author obviously is not addressing his book so much to lawyers—although they can read it with profit for initial orientation—as to laymen, teachers and board members on the one hand, and to parents, citizens, and even older students on the other.

Although this book is not a scholarly exposition of the law as it affects students and teachers, one should not conclude that it has not taken scholarship to produce it. The author, now emeritus, has taught school law for several decades at Duke University. The selection of cases he presents have been taken from a wide reading of state and federal court decisions and from both majority and dissenting opinions. The collection of cases spans a period from the nineteenth to the twentieth centuries with a rich assortment of cases decided in recent times.

In spite of this temporal spread, the book is not organized chronologically but rather topically, the two principal topics, of course, being students and teachers. Under students the author deals at the outset with compulsory attendance, vaccination as a condition of attending school, attendance of married girls, also of those unwed or pregnant. In another student category the author deals with cases concerning the curriculum such as sex education, together with religious and moral instruction. In similar vein are cases on the hand salute to the flag and the oath of allegiance. Another classification of student cases has to do with grooming codes, display of insignia as a gesture of social protest, student demonstrations, their freedom of speech, search and seizure for drugs, secret societies, sex discrimination in sports. The last category under students covers the doctrine of *in loco parentis*, due process in handling

* Emeritus Professor, University of Michigan.

disciplinary cases, administration of corporal punishment, suspension and expulsion.

Under the heading of teachers are such categories as their affiliation with subversive organizations, teacher oaths, invoking the fifth amendment. A separate chapter is devoted to grounds for dismissal of teachers, such as incompetency, immorality, insubordination, and grooming violations. In a following chapter consideration is given to teachers engaging in political campaigns, holding public office, discussion controversial social issues in and out of the classroom, and engaging in extra-curricular activities. Special attention is paid to the teacher's right to strike and picket. Finally, teacher torts and negligence are touched on, as is also assault and battery.

As one can see from this summary of topics, Bolmeir's book is a kind of all you ever wanted to know about the law as applied to students and teachers without going to the bother of digging it out from learned tomes.

COLLECTIVE BARGAINING FOR COMMUNITY COLLEGES. By J. H. Metzler. Washington, D.C.: Association of Community College Trustees, 1975 pp. 110. \$7.25.

*Reviewed by Jackson W. Foley, Jr.**

Metzler's brief volume is a useful guide to collective bargaining in the educational setting. Published by the Association of Community College Trustees, the book is directed to "those community college trustees who become involved in negotiations." The author's stated purpose is to provide a framework for a board of trustees to both improve relations with organized faculty and staff and retain broad management rights. The tension between these two objectives is not apparent in the text, as it is the latter objective which is the focus of Metzler's advice.

My impression is that the book will provide a helpful introduction to the major issues and processes of collective bargaining for community college trustees. Its usefulness, however, is more broad: Governing boards and administrators in secondary education and four-year college settings can benefit from Metzler's insights. Too, unionized faculty and staff may find the strong management perspective of interest.

Included within the volume's 110 pages are a foreward, an introduction, fourteen substantive chapters, an epilogue, and a glossary. The first two chapters sketch the legal framework for collective bargaining in public higher education. Emphasized are the importance of establishing the governing board's basic management philosophy and the crucial role of the chief negotiator. The next four chapters set forth important considerations about the makeup of the negotiating team, preparation for negotiations, tactics, and the various levels of communication which occur during negotiations. There are also chapters on mandatory and permissive subjects of bargaining and the

* Assistant to the Executive Director for Personnel and Contract Services, Board of Trustees of Regional Community College, Hartford, Connecticut.

structuring of contract grievance procedures. Impasse procedures, grievance arbitration, strikes, and unfair labor practices merit individual chapters.

Metzler has succeeded in providing an exposition of basic concepts for the reader with little knowledge of collective bargaining and providing useful insights for experienced practitioners. His treatment of the various topics includes a helpful analytical framework. An example of this is provided in the chapter on preparing for negotiations, in which employee demands are categorized:

In establishing parameters, one can normally divide employee demands into three types: demands which are primarily an attempt to establish equality with the board in decision-making processes which more properly belong to the board alone; demands which tend to restrict administrative freedom to act; and demands which involve cost.

There are also specific suggestions for achieving a contract which preserves important management prerogatives. For example, the chapter on negotiability treats the question of faculty assignment in this way:

The basic determination of teaching assignments, voluntary transfers, and reassignments must rest with the administration and should neither be delegated nor restricted by prior agreement.

However, certain procedural matters may be more negotiable, for example, the furnishing of lists of open assignments or related schedules. The Board should discuss such possibilities with the college president to determine administrative feasibility before reaching agreement. In general, the board should distinguish rather precisely between basic decision-making and procedure. It is quite easy to negotiate mechanical procedure, but the board must be careful that in meeting a procedural requirement it does not lose the right to make final determinations in these areas.

The quoted passages exemplify the style of *Collective Bargaining for Community Colleges*. I think the style ideal for the busy trustee, free as it is from the technical turgidity of law review articles and the prolixity of the quasi-sociological treatments of collective bargaining which are proliferating.

On balance, I found Metzler's book to be a helpful primer for a management-rights approach to collective bargaining in higher education. As a basis for improving relations with organized faculty and staff, Metzler is short of the mark. Important issues of shared authority in both educational and personnel decision-making, concerns of increasing importance to community college faculty throughout the country, are inadequately addressed.

The epilogue touches on this in listing as one of the issues which will continue to be sources of conflict the attempt of employee organizations to negotiate matters which trustees feel should not be negotiable. Metzler observes, "The battle will be joined, not only in negotiations but also in grievances, arbitration proceedings, and unfair practice hearings and will be never-ending. The professional educators are not the advocates for local lay control of education and will continue to attempt to share, if not assume, control themselves."

Metzler sets out a hard-nosed approach to the "battle." The concluding sentence of the book summarizes the message: "The board's primary concern in negotiations must be operational control, as well as managerial efficiency, and must not be lost by default."

ASPECTS OF EDUCATIONAL CHANGE. By Ivor Morrish New York: Halsted Press, a Division of John Wiley & Sons, Inc., 1976. Pp. 178, \$11.50.

*Reviewed by Edward F. Iwanicki**

During this period when the goals and processes of education are being questioned and reassessed continually, educators would benefit from a fresh insightful perspective on educational change. Unfortunately, *Aspects of Educational Change* fulfills this need only partially. This work provides some valuable insights on the problems associated with educational change, but devotes little attention to potential solutions to these problems.

This limitation may be a function of the manner in which this text was conceived. Morrish's work is an "adaptation and expansion of a booklet by Professor A. M. Huberman, entitled *Understanding Change In Education: An Introduction*, which was published by UNESCO in 1973" (p. 9). Morrish sought to strengthen this publication by supplementing the broad base of American literature reported with current British writings in an effort to provide an international, intercultural and comparative introduction to the process of educational change. Due to cross-cultural variations in the organization of educational systems, a discussion of how one should deal with the factors mediating against successful educational innovation may be beyond the scope of such an introductory text.

The initial chapters of this work focus on the sources, types, and processes of innovation. Early in this text, the reader is encouraged to view innovation and change as a long ranged planned modification of an educational program directed toward improving the processes and outcomes of education. Spontaneous short term alterations of educational practices would not be viewed as true changes or innovations. Upon providing this orientation, the author proceeds to discuss the sources and types of innovations which can be implemented in schools as well as the factors affecting the time and difficulty of bringing about such changes. Later chapters address issues such as the reasons why schools change so slowly, the characteristics of resisters and innovators, the traits and functions of innovative institutions, and processes for planning and executing change.

The major strength of this text lies in the socio-cultural perspectives the author provides regarding the change process. Morrish continually reinforces the point that the utility of an educational innovation is a function of the socio-cultural milieu in which it is implemented. The personal, interpersonal, organizational, and societal factors contributing to the success of an innovation in a particular setting must be documented clearly. The extent to which this innovation can be successfully implemented in another setting is dependent on the extent to which the conditions in this new setting approximate the environment where the innovation was originally implemented. When assisting developing countries in the planning of their educational programs, Morrish

* Associate Professor, Educational Administration, University of Connecticut.

cautions that "there is more to engineering change than the attempt simply to graft the successful innovations of one society upon another" (p. 41).

The author's socio-cultural orientation to change places considerable emphasis on the role of the individual in the change process. Educational change is portrayed as a process where one must change people's attitudes and practices before one can change the processes and outcomes of education. Unfortunately, the role of the individual as it relates to the school organization in the change process is not developed sufficiently. At times the teacher is typified as helpless in initiating change due to the hierarchical bureaucratic structure of schools. Although this condition may apply to some school organizations, much of the British and American literature on curriculum and organizational change would attribute considerable freedom to teachers in initiating educational innovations. This area could have been strengthened through a more complete treatment of the role of organizational development in the change process within the chapter on "Traits and Functions of Innovative Institutions."

The major weakness of this work is the manner in which the material is presented. First, the chapters of this text tended to be fairly independent of each other. Although most chapters contained some interesting perspectives on the process of change, it was difficult to discern a logical progression or building of thought from chapter to chapter, especially in the later sections of the book. Secondly, some chapter titles tended to be misleading. For example, the chapter on "Planning Educational Change" addressed the problems mediating against planned change rather than processes for planning change. Finally, some chapters tended to be more of an array of studies and observations about a particular aspect of change, than an integration or synthesis of thought on that issue. A more obvious example of this tendency is Morrish's treatment of change models. Chapters 6, 15, and 17 each address the research and development, social interaction, and problem solving models of educational change. Within these chapters, the author introduces each model and makes some interesting observations about the role of each approach in the educational change process. Then it is suggested that there is a need to integrate the processes comprising these models, but no discussion is provided on how these processes could be integrated to expedite or improve the change process in schools. Although one could agree with Morrish that "it is virtually impossible to devise blueprints for laws for the description of how changes in education come about, or how they might be controlled, delayed or accelerated" (p. 16), this position does not prevent the author from formulating hypotheses as to how the processes comprising these three change models could be integrated better to facilitate educational change.

In conclusion, *Aspects of Educational Change* contains some valuable insights on the problems of educational change, especially from a socio-cultural viewpoint. Although this work provides a quality historical account of the problems mediating against educational change, it lacks an analytic perspective on how these problems could be overcome. An educator seeking more information about the problems of innovation in schools would benefit from this

work by Ivor Morrish. The educator seeking solutions to these problems should look to other sources.

EQUALITY IN PUBLIC SCHOOL FINANCE. By Russell S. Harrison, Rutgers University. Lexington, Mass.: Lexington Books, D. C. Heath and Company, 1976. Pp. 194, \$18.00.

*Reviewed by Edgar H. Bittle**

Russell S. Harrison is a member of the political science department at Rutgers University, Camden College of Arts and Sciences. He teaches courses in political science methodology and policy evaluation techniques. He also teaches state and local politics, metropolitan government, the urban political system, public finance and administration, and intergovernmental relations. One has the feeling reading *Equality in Public School Finance* that the author sought to prove his credentials in each of these areas as he wrote this book.

The study focuses on nine policy variables which the author claims make independent contributions to equality of expenditure levels for education among local public school systems. The nine factors are: state aid, equalizing aid, federal aid, nonproperty taxes, full-valuation assessment techniques, consolidation of school systems (school reorganization), independent school districts (separate from other local government organization), removal of state ceilings on local property tax rates, placement of state ceilings on local debt.

The reader, having been presented with nine proposed solutions to inequalities in public school finance, and having been promised the vigorous statistical analysis which should help form guidelines to resolve this perceived problem, is disappointed to find the manuscript wending its way through pages of statistical information designed to prove the hypothesis presented in the introductory chapters. At one point, the book meanders from a review of fractional valuation assessment techniques to a wholly new topic of fiscal zoning and residential segregation. While this chapter is interesting and informative while reviewing other theories of fiscal zoning and the causes of economic, racial, and social segregation, it detracts from the main thesis.

In the preface, the author cites the need for documented proof, empirically gathered, to assist policymakers to determine which policies can most effectively eliminate educational inequalities in public school finance. To this end, the statistical studies in this book may prove useful.

The book is heralded as one that should be read by a wide audience of concerned citizens and public officials, particularly those concerned with educational problems, policies of intergovernmental aid, governmental reorganization, and local financing. It is also heralded as a book which "should provide useful reading for academic courses in state and local government, metropolitan and urban politics, public policy, intergovernmental relations, public finance, the economics of education, and educational administration."

* General Counsel, Iowa Association of School Boards, Inc., and the Des Moines Independent Community School District.

It is submitted that the book is directed to this latter audience, and those persons are the ones who may find the book most useful.

The book does review many recent studies as they relate to governmental finance and organization. The research methodology is an important contribution and no doubt will be closely studied by others doing research on the subject of inequality of financial resources available to public education. For those who support the concept of local control and local self-determination, the book provides some challenging ideas and solutions to urge them to make policies which can improve the local school system and at the same time improve the public school finance system.

The overriding solution which seems to be put forth in this book is that problems can be solved by more state aid. While this simplistic solution may stop many cold in their tracks, the additional suggestions that accompany this conclusion are helpful. Certainly, the author provides a good case for increased state funding, coupled with school reorganization. Many, particularly those in rural areas, will quarrel with Harrison's conclusion that the number of school systems should be decreased and that small school systems should be eliminated. However, the purpose of the study was not to predict political acceptance but to statistically prove policy alternatives which would be viable.

The part of the study dealing with property assessment standards, using the elimination of fractional valuation and the adoption of 100% assessments at full market value, should be reviewed carefully by educational policymakers and policymakers at the state legislative level.

The data supporting the conclusions relating to independent school districts is less compelling.

In short, there is a great deal of information to be gleaned from this book. It is not a book that can be quickly read and lightly tossed aside.

Finally, it is a book that cannot be fully understood without a basic knowledge of statistical methodology. The author assumes the reader will have a basic foundation understanding of statistics. Unfortunately, the wide audience of concerned citizens and public officials to whom the author directs this work do not, in all likelihood, have the fine knowledge of statistics which the author displays. For that reason, this book seems destined to "provide useful reading for academic courses in state and local government, metropolitan and urban politics, public policy, intergovernmental relations, public finance, the economics of education," and possibly, "educational administration."

