

status; that is, for a judicial determination that the goal of racial desegregation had been accomplished. Thus, the consent decree held out the hope that such a motion could dismantle most of the decree at some point prior to its scheduled expiration in 2000.

Judge Battisti passed away in October 1994, and Judge Robert Krupansky became responsible for further proceedings in *Reed v. Rhodes*. Judge Krupansky later transferred the case to another jurist, George White, and it was White who in 1997 determined that Cleveland had achieved unitary status. The plaintiffs appealed, and the Sixth Circuit affirmed in what Saphire calls “a very brief, unanimous, and unpublished opinion.” The remaining elements of judicial supervision were lifted on schedule in 2000.

What did it all achieve?

Costs and benefits: there’s the rub. A quarter century of litigation and the positive difference to Cleveland schools, the difference in the lives of Cleveland students, appears to have been minimal.

Saphire doesn’t see this as discrediting the efforts he has described and I have just summarized. Indeed, he praises Battisti for having the “personal courage, intellect, stamina, and conviction” that allowed him to make the effort over the final 20 years of his life. But, as Saphire also acknowledges, actual improvements as a result of this Sisyphean toil seem elusive.

Saphire writes, “If the measure of success lies in the achievement of dramatic (or, for that matter, even measurable) changes in the racial composition of the Cleveland schools, the record is indeed a bleak one.” More damning still, “if success is measured in terms of improvement in the actual quality of education received by minority, or indeed all, students, the record is no less problematic.”

So, how was it worth it? There are costs, after all. That \$295 million from the state, the \$275 million from the city—those millions didn’t come from thin air. Also, one may plausibly contend that the voters of Cleveland suffered some damage to their rights, in that their votes for or against school board members became a good deal less meaningful once Judge Battisti effectively took over many aspects of the running of the schools. It would be good to know that something valuable came out of such

costs. Unfortunately, from the evidence provided by this chapter, we cannot know that.

Final Thoughts

Perhaps it is time that we look again at how courts might accept the facts of racial segregation, acknowledge without blinking the long (and continuing) history of state involvement with such segregation, and rule on those facts as the plain language of the Equal Protection Clause requires, *without* judges involving themselves in a teleologically futile role as day-to-day and decade-after-decade administrators of school systems.

Perhaps the courts, and even vulnerable schoolchildren like Robert Anthony Reed or Yvonne Flonnoy, would be better off if the courts confine themselves to declaring when there has been an equal protection violation, stating clearly what it is, and ordering that it stop (subject of course to enforcement for violations of those court orders). None of this really calls for more complicated remedial plans, quotas, transportation schemes, or compliance officers.

Equal protection remains a tricky goal. All that can be said decisively, with this chapter of this fine book as an item of evidence, is that our legal system hasn’t gotten it right yet. ☉

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THE IMMIGRATION CRUCIBLE: TRANSFORMING RACE, NATION, AND THE LIMITS OF THE LAW

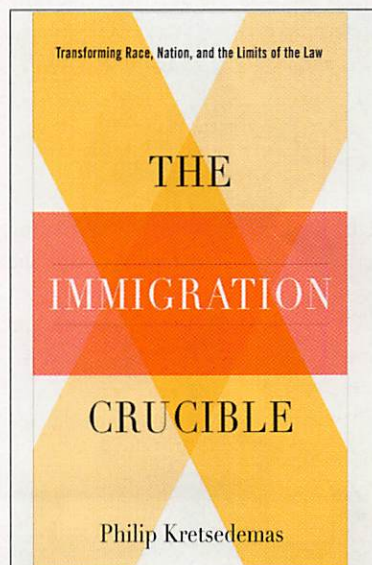
Columbia University Press, New York, NY, 2012. 213 pages, \$85.00 (cloth), \$28.00 (paper).

Reviewed by R. Mark Frey

Last year, 2012, we witnessed some of the most contentious elections in United States history. Passions ran high and tempers flared as voters were served candidates—national, state, and local—with starkly contrasting visions for this country. Today, in the aftermath, we find both Republicans and Democrats unified in their commitment to make 2013 the Year of

Comprehensive Immigration Reform. It seems appropriate, then, to look at Philip Kretsedemas’ *The Immigration Crucible: Transforming Race, Nation, and the Limits of the Law*, a book devoted to a discussion of immigration policy that may give readers some insights into the immigration legislation that Congress has begun crafting.

Philip Kretsedemas is an associate professor of sociology at the University of Massachusetts Boston, where he has devoted several years of research to immigration policy, immigration enforcement, and immigrant marginality. Prior to his current position at the university, Kretsedemas spent two years as a communications director and policy analyst with the National Immigration Project in Boston. According to Kretsedemas, immigrants have historically been viewed with ambivalence, while our country’s immigration policy reflects an overtly economic perspective. As he sees it, those in the anti-immigrant camp view immigrants as “the other”—people who are different from the majority and are responsible for taking undue advantage of social services here, displacing many from their jobs, and driving down wages for all workers. From this perspective, immigration is a drag on the economy, and it is not surprising to hear calls for limiting which individuals and groups should be allowed into the United States. The pro-immigrant camp, by contrast, according to Kretsedemas, views immigrants as hard workers willing to fill jobs that native-born workers are unwilling to take. Immigration from this perspective is good for the economy.



Although the two camps appear to be diametrically opposed in their views of immigrants, Kretsedemas maintains that they agree when it comes to the matter of immigration enforcement. Both support tough immigration laws.

Consider, for example, that the 1996 Immigration Reform Act, which has been criticized for inaugurating the current era of get-tough immigration laws, was enacted under the Clinton administration. Meanwhile, the Obama administration has not only continued most of the immigration enforcement initiatives of the Bush administration but has also significantly intensified them. ... Indeed, the continuities in the immigration priorities of the past several administrations have been more striking than their differences.

Strange bedfellows indeed, but, according to Kretsedemas, it's a necessary result with an immigration policy that takes a restrictive economic view of immigration and immigrants. And, how is this tough enforcement manifested? For the anti-immigrant camp, enforcement is necessary to get those "others" out of the country, and this includes increasing the authority of state and local law enforcement to ferret out people who are subject to removal. "A good example is the role that the 2000-2008 Bush administration played in overturning prior legal precedent to affirm the inherent authority of local governments to enact their own immigration laws."

For the pro-immigrant side, it's about restricting immigrant rights while still encouraging immigration, presumably for the benefits resulting from a steady flow of labor. How would the pro-immigrant camp restrict immigrant rights? By keeping immigrant workers without status in limbo ("a kind of de facto statelessness"), ever vigilant to the prospect of deportation while still forming an integral part of the social and economic fabric of the United States. These workers' lack of status would make it difficult for them or their supporters to organize for their rights.

Kretsedemas' central thesis is that U.S. immigration policy has been based on a strict economic perspective of immigrants and the degree to which they benefit the U.S. economy, and that this policy has

been increasingly reliant upon enforcement. But, to Kretsedemas, that's not the whole story. Underlying this pragmatic perspective is a much more nuanced and subtle view of immigrants involving such issues as cultural pluralism, racial differences, immigrant assimilation, and national identity. In his chapter, "Race, Nation, Immigration," Kretsedemas examines two key U.S. Supreme Court decisions that tackled the question of race and citizenship. In *Ozawa v. United States*, 260 U.S. 178 (1922), he notes that the Court found Asian nationals to be ineligible for citizenship because they were not white. And, in *United States v. Bhagat Singh Thind*, 261 U.S. 204 (1923), the Court found Thind to be ineligible for citizenship because he did not meet the criteria for what was "popularly known as the Caucasian race." According to the Court, for all practical purposes, race was not a biological concept but rather a social construct, which, in Kretsedemas' words, should be "interpreted in light of popular sentiments that had been shaped by the history and culture of a nation." The irony of the *Thind* decision, writes Kretsedemas, "is that it preserved the integrity of white citizenship by undermining social Darwinist arguments that had been used to justify the racial exclusions of the Jim Crow era."

The Immigration Crucible shines in its call for a new vision of immigrants, immigration, and immigration policy—a policy that acknowledges the growing diversity of U.S. society while seeking to address the continued marginalization of immigrants in this country. As Congress tackles immigration reform in 2013, Kretsedemas calls for a vigorous public debate about these issues and the American experiment—"a discussion about 'who we are' as a national people."

Once again, the main point of distinction is not between white and nonwhite or immigrant and native born, but between a defensive, preservationist type of identity politics and a more open, transformational understanding of political-cultural identity. This latter kind of identity (or project) requires an openness to new interpretations of what could be broadly defined as the U.S. national identity.

In late 2012, the U.S. Census Bureau stated that, by 2043, just three decades from now, whites will no longer comprise the majority population. In fact, there will be no majority population, and the United States will for the first time be truly pluralistic. The critical question, though, is how those different populations will be integrated into the social, economic, and political fabric. Will power be distributed and shared by those diverse groups or will a minority population hold power, dictating policies and marginalizing others?

The coming immigration debate factors into this analysis. Kretsedemas' book is most vibrant and dynamic when it discusses the necessity for a vigorous debate about immigration policy, especially as it relates to factors of race, cultural pluralism, immigrants, and marginalization. Let's hope that policymakers seize the opportunity to grapple with these weighty issues while they consider changes in our immigration laws. ☉

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LINCOLN'S LADDER TO THE PRESIDENCY: THE EIGHTH JUDICIAL CIRCUIT

Southern Illinois University Press, Carbondale, IL, 2012. 324 pages, \$34.95.

LINCOLN'S FORGOTTEN FRIEND, LEONARD SWETT

Southern Illinois University Press, Carbondale, IL, 2012. 306 pages, \$34.95.

Reviewed by Henry S. Cohn

Guy C. Fraker's *Lincoln's Ladder to the Presidency: The Eighth Judicial Circuit* is an intriguing look at Abraham Lincoln's legal career and the role it played in his attaining the presidency and in shaping his presidency. Fraker, a long-time attorney in Bloomington, Ill., previously wrote about the travels of the attorneys of Illinois' Eighth Judicial Circuit in "The Real Lincoln Highway: The Forgotten Lincoln Circuit Markers." The "highway" of this article (available online) consists of stone monuments erected in the 1920s to mark the