

CAPITOL GAMES:
CLARENCE THOMAS, ANITA HILL, AND THE STORY
OF A SUPREME COURT NOMINATION

Timothy M. Phelps and Helen Winternitz

Hyperion / 458 pages / \$24.95

reviewed by TOD LINDBERG

The problems with Timothy Phelps and Helen Winternitz's *Capitol Games: Clarence Thomas, Anita Hill, and the Story of a Supreme Court Nomination* begin with its title and end with its last sentence. The title is non-committal, nonjudgmental. It seems to promise a disinterested insiders' account of events from June 27, 1991, when Thurgood Marshall announced he was retiring from the high court, to October 26, when the Senate confirmed Clarence Thomas for the seat—journalism in its "objective" or "fair" or "balanced" sense.

As for the last sentence, we may take it as an oblique summa of the authors' position on the truth or falsity of Prof. Hill's charge that Thomas sexually harassed her: "The Republicans had no appetite," the authors archly aver, "for investigating the alleged conspiracy that they say had been concocted to sabotage their nominee to the Supreme Court." It is a detail, the final detail, that the authors seem to regard as "telling." What does it tell? That even the Republicans, who are earlier described as willing to "stop at nothing" to see their man confirmed, may themselves not have believed Thomas.

This is polemic by insinuation, a practice that should be depressingly familiar to anyone who follows the Washington press corps. Rather than giving the book a proper title based on its contents (for example, *Betrayal: How the Senate Wronged a Woman Who Came Forward to Tell the Truth about a Supreme Court Nominee*), the authors and their publisher give us a veneer of neutrality. Why? Surely not to lend unwarranted authority

Tod Lindberg is the editorial page editor of the Washington Times.

to their highly selective presentation of the evidence in this spectacular case.

As it happens, *Capitol Games* was more or less foreordained to be a fundamentally disingenuous book. Phelps, who covers Washington politics for *Newsday*, was the second reporter (after Nina Totenberg of National Public Radio) to get Anita Hill to talk about her charges on the record. His story was the first to appear, in the Sunday, October 6 *Newsday* (whose first editions are printed Saturday evening, at about the same time its important stories are released over the wire services). Totenberg's broadcast was Sunday morning. Their one-two punch came just after the Senate Judiciary Committee had split evenly on the nomination, and the Senate as a whole was scheduled to vote October 8. Eventually that vote would be postponed, and the nation would be treated to an unforgettable, riveting weekend of television when Sen. Joseph Biden's committee convened as a sexual harassment tribunal.

Phelps, in short, knows exactly who let that runaway train out of the station. And he isn't saying. He promised his sources anonymity, and he is keeping his promise.

So *Capitol Games* is ultimately based on the premise that the charges Anita Hill made are more important than how they came to be made and how they came to be made public. In fact, the last two questions count for nothing to Phelps and Winternitz (though they intermittently pretend to address them). In this, they are hardly unique. It is the essential and paradoxical conceit of journalism that anonymous information conveyed by a

source counts as news, but the fact that the source conveyed it doesn't count as news. Without this conceit, journalism as we know it would cease to exist. All in all, that would be a bad thing; the practice is not indefensible. But reporters who deny that it is a problem are mistaken.

It is hard to imagine a case in which it is a bigger problem than in the case of the Anita Hill leak. The authors' catty concluding sentence notwithstanding, we have all known a few things at least since last October: interest groups opposed to Thomas's nomination on ideological grounds were working night and day looking for "dirt" on him; equally committed staffers of senators opposed to the nomination were similarly engaged; the groups and the staffers worked close together; at least some of those who were aware of Anita Hill's allegations thought they were potentially serious enough to derail the nomination; they further thought the reception accorded the allegations by the Judiciary Committee was inadequate; and they leaked information about the charges to the press with the expectation that a public airing, even at the eleventh hour, would derail the nomination.

The truth or falsity of Hill's allegations is, of course, the central issue. But it is preposterous to maintain, explicitly or implicitly, that the full history of the surfacing of these charges can tell us nothing about their truth or falsity. Yet that is where we find ourselves, by default, in the partial account offered in *Capitol Games*.

At the same time, the Phelps and Winternitz account is useful for the snippets it does provide. In this rendering, which rings true, we have a portrait of the Democratic staff and senators of the Judiciary Committee divided into warring camps over the Hill allegations. Staffers for Senators Kennedy and Metzenbaum hear rumors of the allegations from Nan Aron's left-wing Alliance for Justice, an organization whose principal mission is to derail conservative judicial nominees. But Kennedy, whose reputation has been beaten about the face and head thanks to the goings-on at the family compound in Palm Beach the previous Easter weekend, doesn't want to lead the charge on

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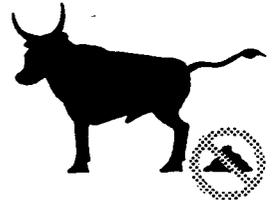
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CAPITOL GAMES (continued from page 65)

the Hill allegations. That creates disgruntled staffer No. 1, Ricki Seidman, who was formerly legal director for People for the American Way. (She is now working for Bill Clinton.)

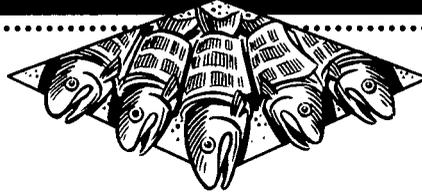
Metzenbaum's staff will pursue the matter, albeit cautiously (in the *Capitol Games* account). The principals are James Brudney, William Corr, Christopher J. Harvie, and Gail Laster. Laster and Seidman (exceeding her instructions?) reach Hill, who is not forthcoming. Seidman makes more headway; Hill will think it over.

Hill calls Seidman back on the eve of the start of the first round of hearings. But Seidman knows Kennedy doesn't want to head this effort, so she passes Hill on to Brudney. Hill starts to talk.

"Metzenbaum's staff" (this is characteristic of the book's willful evasiveness) has told "Biden's staff" about the matter, and the latter has told the former that if Hill wants to proceed, she will have to contact the committee. The committee will not contact her. She does, talking to Biden's nominations counsel, Harriet Grant. (The authors say that Grant's "reputation among the liberal groups opposing Thomas was that she was too straitlaced." This is not praise. *Capitol Games* essentially portrays Grant as a stooge, doing no more and no less than her boss's bidding.)

Biden now emerges fully as the villain of the piece: "To this day, it remains unclear as to whether Biden even tried to understand Hill's position on this sensitive issue." In any case, Hill wants to remain anonymous, and Biden will not circulate charges under those circumstances. So nothing happens on the committee.

Or, rather, nothing significant appears to be happening based on the account in *Capitol Games*. For a fuller account of this period, one must turn to the report of Peter Fleming, Jr., the independent counsel engaged by the Senate to investigate the Thomas leak. From that report, we learn that Brudney is in nearly daily telephone contact with Hill in this period. He is disgruntled staffer No. 2. We also learn that
(continued on page 70)



New Republic

In downtown Houston, Hendrik Hertzberg confronts the occult:

Kemp is a species of miracle I don't pretend to understand. How did a person of such obviously sincere concern and, more amazingly, respect for the poor and down-trodden manage to find his way into Bush's Cabinet and the hearts and minds of Bush's delegates? It's a mystery, like Gorbachev and Yeltsin coming out of the Soviet Communist Party.

[September 7 & 14, 1992]

Roanoke Times and World News

Pat Pratali, still valiantly fighting the Cold War at the empty offices of something called the Plowshare Peace Center in Roanoke, Virginia, declaims from his time warp, with a tape of Peter, Paul, and Mary playing in the background:

It amazed me to discover that Cuba was only minutes from Miami. It amazed me to find no poverty. Education through university is free for all. Medical care is excellent, free and readily accessible to all. In the countryside, there are more health clinics than gas stations per square mile. The infant-mortality rate is lower than ours. The literacy rate is higher.

There are shortages due to the U.S. embargo and the dissolution of the Soviet Union. In this "special period," staples are rationed. But everyone has enough to eat, and intensive volunteer production has proved very successful.

There is some unemployment, due to lack of petroleum, but employees who are laid off are paid 80 percent of their wages. Those who volunteer to work in food production can receive 100 percent of their wages.

Gasoline is rationed, but bicycles have replaced thousands of automobiles. The right-hand lane is reserved for bicyclists, and this form of transportation is clean and safe. It certainly contributes to better air quality in Havana than in most U.S. cities.

[August 4, 1992]

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[from *More Reflections on the Meaning of Life*, by David Friend and the Editors of *Life*. Little, Brown, 244 pages, \$29.95]

Financial Times

Traditional values on the British stage, as reviewed by Malcolm Rutherford:

If socialism is dead, can liberalism survive? The piece is called *Hush* because the question requires a pause for thought and prolonged, quiet discussion. The theatre has not approached such a new frontier for a very long time.

Otherwise, the play is set in more conventional Royal Court terms. A 15-year-old girl is being (playfully) buried on a beach. The girl subsequently demands, and gets, sex, from a character called Dogboy. He then practically turns canine and, having killed his dog, kills himself. Another girl, temporarily employed as the house cleaner, wants to go off to Tibet to meet the monks, there not being enough sex on the beach at home.

Do not be put off by such old hat. . . .

[August 12, 1992]

Minneapolis Star

A concerned citizen addresses the conscience of a nation and remonstrates somewhat courageously against the CIA's warmed-up cloaks and daggers:

I would like to know whether cartoonist Garry Trudeau is alive or not. His comic strip, "Doodlesbury," was in the middle of a series about Clarence Thomas when Trudeau recently left without warning for an eight-week sabbatical. He had also just finished a damaging series about David Quayle's political prisoner.

As the old CIA types in the Bush/Quayle campaign warm up their cloaks and daggers, I find myself concerned with the whereabouts of Trudeau, and this letter is the least I can do to repay his vigilance regarding our all-too-often corrupt government.

—David Snyder, Roseville

[June 19, 1992]

Time

While Sarajevo burns and Olympian triumph, someone by the name of Anastasia Toufexis in the "Behavior" section of a great gazette essays breakthroughs in the ejaculatory arts heretofore mainly associated with the inhabitants of Monkey Island at the zoo:

Happily married for 10 years, Richard Sharrard, a dance instructor, and Tina Tessina, a psychotherapist and writer, blend nicely enough with their neighbors in the middle-class community of Long Beach, Calif. But the couple's life-style is far from ordinary: Sharrard and Tessina are openly and unapologetically bisexual. During their unusually flexible marriage, Sharrard has enjoyed liaisons with half a dozen men while Tessina has taken two female lovers. "It's the best of both worlds," declare Sharrard, who thinks nothing could be more natural than bisexuality.

In a world where sexual orientation is polarized into heterosexuality and homosexuality, bisexuality comes as a disturbing challenge, at once a riddle and a discomfort

[August 17, 1992]