

## Book Review

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## Book Review

**Residential Abandonment: The Tenement Landlord Revisited.** By George C. Sternlieb and Robert Burchell. Rutgers University Press. 1973. Pp. 444.

No phenomenon epitomizes the current status of the major cities of the Northeast more than that of increasing residential abandonment. The thousands of vacant houses standing in Newark, Chicago, New York, Philadelphia, Washington, St. Louis, Cleveland, Detroit, and Baltimore are a constant and visible reminder of our urban dilemma. In New York City the chief housing official has indicated that 10,000 apartments a year are being abandoned.<sup>1</sup> While the phenomenon is visible, its causes and cures are more obscure. As abandonment is a relatively recent problem in these cities, there has been little research into its causes, and even less effort expended on the development of programs that will at least slow the process down.

The fertile soil of George Sternlieb's Center for Urban Policy Research at Rutgers University has produced another in a long series of publications designed to promote an understanding of the current urban situation. In cooperation with Robert Burchell, Professor Sternlieb has presented in *Residential Abandonment: The Tenement Landlord Revisited*, the results of his eight year study of 567 buildings in Newark. By examining which of these properties were abandoned during the intervening years, the study seeks to isolate those conditions which correlate with, if not cause, abandonment.

The study produces few surprises.<sup>2</sup> We learn that abandonment is more likely to take place in neighborhoods characterized by minority populations, absentee ownership, high crime rates, and low incomes. Such areas are referred to by the authors as "crisis ghettos." In these areas, the cost of operating a rental dwelling exceeds the rental income that can be charged to the poor residents who are willing to live in an unpleasant environment. As the rental of an apartment by an absentee landlord is a for-profit business, it is understandable that these businesses close down when they are no longer profitable. To this economic fact are added several additional ingredients that reinforce the

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1. N.Y. Times, Feb. 26, 1974, § 1, at 1, col. 7.

2. See NATIONAL URBAN LEAGUE, NATIONAL SURVEY OF HOUSING ABANDONMENT (1971); U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT, ABANDONED HOUSING RESEARCH (1973).

trend toward abandonment. One is that the tenants are largely low-income blacks and the landlords middle-income whites. The resulting conflict, often with racial overtones, encourages abandonment. Because of the economic and racial segregation of our society, the landlord often lives far from his property and, because of fears for his personal safety, employs third parties to collect his rents and manage his buildings.

Professor Sternlieb finds that minority absentee ownership is not the answer. His study indicates that black absentee owners appear to abandon properties as regularly as their white counterparts. An earlier study by Professor Sternlieb in 1964 suggested that resident ownership of multi-family dwellings might be the answer. A survey of these properties six years later indicates that this is not the solution.<sup>3</sup> The essential finding is that it is not the condition of the structure or the race or residence of the owner that is the determining factor in the abandonment process. Instead, it is the neighborhood environment.<sup>4</sup>

Abandonment is more likely to occur where the occupancy of older houses changes from elderly white to low income younger black families with large numbers of children and few male-headed households. In comparison, abandonment is less likely to take place in areas of high owner occupancy, high percent male-headed households, high housing value, and high percent foreign born. In essence, as the authors note, "residential abandonment occurs more frequently in areas of general urban decay."<sup>5</sup>

Of interest are those factors which the study finds to have no relationship to abandonment. These include the owner's experience in real estate, his age, the quality of the building or its type of construction. One factor not thoroughly explored is the effect of the size of the structure. The Urban League study concluded that Detroit had less abandonment because its housing stock was characterized by one and two family homes.<sup>6</sup> Sternlieb found no correlation in size of structure,<sup>7</sup> but no break out was made for single family structures.

While an argument can be made that abandonment is a positive force, in that residents are leaving bad neighborhoods to move into better ones, the book rightly assumes that society

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3. G. STERNLIEB & B. BURCHELL, *RESIDENTIAL ABANDONMENT: THE TENEMENT LANDLORD REVISITED* 97-133 (1973) [hereinafter cited as STERNLIEB & BURCHELL].

4. *Id.* at XXIV.

5. *Id.* at 341.

6. NATIONAL URBAN LEAGUE, *NATIONAL SURVEY OF HOUSING ABANDONMENT* 66 (1971).

7. STERNLIEB & BURCHELL 309, 378.

wishes to stop or slow down the tremendous waste of resources resulting from this process. To do so, predictive indicators are needed to specify not only those neighborhoods that are threatened with abandonment, but also the programs needed to combat this trend. The major predictive tool is property tax delinquency. If an owner fails to pay his taxes, the study finds a high probability that the property—if it is located in a neighborhood characterized by the aspects of a “crisis ghetto”—will be abandoned.

A second question is largely unanswered by the study; that is, what to do about the threat of abandonment once its existence is established. One possible answer is to attempt to increase home ownership. As the book points out, this approach might help the neighborhoods, at least temporarily, but it is not clear that it will help the potential home owner who is asked to make a financial and social commitment to a neighborhood apparently on its way down.<sup>8</sup> Inner city home ownership was encouraged sporadically by the federal government over the last few years, most notably through the Section 235 moderate-income program for existing houses.<sup>9</sup> This program was recently terminated by the President, allegedly because it had failed. The book indicates that this judgment was a hasty one.<sup>10</sup> If a house is owner occupied, it is four times as likely not to be abandoned. Naturally, a higher default rate in home ownership programs is to be expected in the central city when compared with the suburbs, but the investment appears worthwhile if accompanied by other programs aimed at improving the neighborhoods in which these houses are located.

Another possible answer is the rent subsidy (housing allowance) currently favored by the federal administration.<sup>11</sup> If the landlord cannot charge enough rent to meet his costs, he abandons his house. A housing allowance paid to the tenant representing the difference between a fair rent and the amount the tenant can afford to pay would permit the rent to be increased to an acceptable level. The authors do not comment on the wisdom of this approach.

Using the suggested remedies stated above, one experiment might involve the massive conversion from absentee owned to owner occupied properties. The owner could either be the original tenant or a new family. Depending on the condition of the neigh-

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8. *Id.* at 64.

9. Housing and Urban Development Act § 235, 12 U.S.C. § 17152 (1970).

10. STERNLIEB & BURCHELL 252-56.

11. See Housing and Community Development Act of 1974 § 201(a), Pub. L. No. 93-383, 9 U.S. CODE AD. & NEWS 3267, 3278 (1974).

borhood, the cost of the house to the new owner may have to be written down in order to attract owner occupants. That is, if the house costs \$5,000 to acquire from the absentee owner, and \$5,000 more were spent in correcting housing code violations, the house may have to be resold for \$5,000 in order to obtain a buyer. Although this experiment would encourage home ownership, it must be kept in mind that there are many persons who either do not want to own a home, or are incapable of managing their own property. If these families are not provided for in the "crisis ghetto," they will be pushed into other neighborhoods, thereby decreasing the home ownership percentage elsewhere in the city. Any experimental program designed to prevent abandonment would be of little value if it did nothing more than transfer the problem to some other neighborhood.

This raises a point not often understood about public housing. During its early years, public housing in America was basically middle class in that it only admitted employed families when the husband and wife were living together. For a variety of reasons during the 1960's, public housing increasingly admitted truly low income families. In Baltimore, the 15,000 public housing units are now 70% occupied by welfare recipients. This has lowered the income and raised the expenses of housing authorities because the income of the tenants and, therefore, the rent they pay, is lower and because managing a low income project is more expensive than operating one occupied by middle class families.

Public housing has thus been criticized because of its increased need for public subsidies. Local public housing authorities have been urged by the federal government to stop admitting a high proportion of truly poor applicants. The factor not often considered is that those poor families not admitted to public housing remain in private housing. There they are part of neighborhood environments that lead to housing abandonment and to the future public costs needed to correct the resulting problems.

A necessary element in any experimental anti-abandonment program, in addition to increasing home ownership, is a rent subsidy to those persons who are too poor to pay an adequate rent and who either will not or cannot become homeowners. The resulting higher rent would permit the absentee owner to maintain adequately his unit. Additionally, housing code enforcement should be used to require him to do so. Such a rent subsidy exists in experimental form in the rental allowance program currently being tested by HUD in selected cities.

The book, of necessity, deals with correlations rather than

causes. One gathers from the study that Newark has undertaken no program to reduce abandonment. Certainly, no such program has been undertaken by HUD. While the encouragement of home ownership was tried under various FHA programs, it was not concentrated in areas threatened by abandonment. Thus, it is not possible to determine whether the negative trend could be reversed. Nor, from what can be gathered from existing descriptions, is the experimental rental allowance program being focused in such a way as to determine whether it can reduce abandonment. It is hoped that works such as Dr. Sternlieb's which analyze the phenomenon that is blighting many of our large cities will result in the initiation by the federal government of adequately funded research projects designed to determine those programs that will permit our cities to combat the slow rot at their core.

While no corrective strategy is set forth, one conclusion that clearly emerges from the book is that it is difficult, if not impossible, to prevent abandonment in a crisis ghetto. By definition, such a neighborhood is a place where people with a choice would rather not live and where investors with a choice would rather not invest. Such neighborhoods remained occupied until now because of several factors. The first was the continuing influx of new urban immigrants, whether from Europe or rural America, who because of ignorance, fear, poverty, or discrimination had to live in the cities' worst neighborhoods. During the last few years, that immigration has almost ceased. At the same time, the number of poor families in America decreased by approximately 36% during the 1960's so there were fewer people restricted to poor neighborhoods by their income.<sup>12</sup> On the supply side, the explosion of suburban housing in the postwar years permitted millions of middle class city dwellers to move out of the city. This increased the supply of housing for the upwardly mobile ghetto resident, but left behind those families either too poor or too lacking in motivation to leave. When demand decreases and supply increases, it is not surprising that a buyer's market results and that some housing units, obviously the least desirable because of their environment, are left empty. The factor that most affects abandonment is the rate of new housing starts in the metropolitan area. The tighter the housing market, the more desirable ghetto housing will be. Thus, what is generally considered a public good—a high rate of homebuilding—has a negative side in that it weakens the market for existing housing and thus leads to abandonment in the least desirable neighborhoods.

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12. U.S. DEPT. OF COMMERCE, CURRENT POPULATION REP., p 60, No. 94, at 4 (1974).

It is interesting here to note the paradox involved in efforts to help the poor and minorities by "opening up" the suburbs. Such opening consists of contesting low density suburban zoning in order to permit construction of less expensive housing, or building less expensive housing directly in the suburbs by use of various federal subsidy programs for moderate income families. This superficially praiseworthy effort to permit moderate income families to move into suburban areas that can only be afforded by middle and upper income families, to the extent that it is effective, serves to actually worsen the condition of the city by encouraging the flight to the suburbs of working families who otherwise could not afford suburban living. Furthermore, the occupants of these garden apartments in the suburbs are overwhelmingly white so the cause of racial integration is also damaged.

Housing will be abandoned when there is no market for it. There will be no market when the neighborhood in which it is located is characterized by those qualities which accompany the concentration of low income, broken, minority families in certain areas. Limited programs can be undertaken to reduce this impact through rehabilitation, rent subsidies, ownership transfers, and low interest loans, but no permanent solution will be found until the metropolitan region is politically, economically, socially, and racially restructured. Because the cities and the poor represent a small minority of the voting power either in state or federal elections, relief can only be expected from the courts.

A body of law is beginning to build toward this metropolitan result though no suit has been brought that attacks the whole anachronism of the regional government system. This development is most noticeable in the realm of public education which is producing two relevant lines of cases. The first challenges the validity of school financing by local property taxes. The argument is that the variance in wealth between communities may require a citizen in a poor part of the state to pay a greater property tax than that required of a resident in a rich community in order to produce the same revenue to support the public education of his child. While the Supreme Court did not find this method of financing public education unconstitutional when questioned in Texas,<sup>13</sup> state courts in California have supported the challenge under the equal protection language of the state constitution.<sup>14</sup>

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13. *San Antonio Independent School Dist. v. Rodriguez*, 411 U.S. 1 (1973).

14. *Serrano v. Priest*, 5 Cal.3d 584, 487 P.2d 1241, 96 Cal. Rptr. 601 (1971).

A similar challenge to the sanctity of political subdivisions is found in school integration cases. The Supreme Court has spoken twice in this area. An equally divided Court sustained, without opinion, a decision by the Fourth Circuit that the federal courts did not have the power to order a metropolitan solution to school segregation in Richmond.<sup>15</sup> The Court later reversed, by a 5-4 vote, a Sixth Circuit decision that the state school districts must be ignored where their recognition would have prevented meaningful school integration in Detroit.<sup>16</sup> In doing so the Court made clear that "[b]oundary lines may be bridged where there has been a constitutional violation calling for inter-district relief. . . ."<sup>17</sup> Such relief was not granted in the Detroit situation because of the long tradition of local control of schools, the large number (54) of separate school districts, the logistical problems of large scale busing, the uncertainty as to the powers of existing school boards and the financing of the new districts. Most importantly, an inter-district remedy can be justified only where it is shown that the suburban districts were guilty of constitutional violations.<sup>18</sup> No such showing was made in *Bradley*. Whatever the present position of the Supreme Court, it seems certain that the Court will eventually recognize the unconstitutional nature of a state dividing itself into school districts that, as in Baltimore's case, results in a city school system that is 70% black and an adjoining county school system that is 4% black. Political reapportionment cases are analogous here in that states were ordered to alter voting districts including those coincident with political subdivisions.<sup>19</sup>

More directly relevant to the subject of this review are decisions dealing with the location of public housing. Recently, courts have ordered city housing authorities to construct low income housing throughout the metropolitan area in order to avoid racial and economic concentration in cities.<sup>20</sup> Significantly, the Seventh Circuit issued such an order in Chicago *after* the Supreme Court's decision in *Bradley*.<sup>21</sup> The Court's ruling on the Detroit school

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15. *Richmond School Bd. v. Board of Educ.*, 412 U.S. 92 (1973), *aff'g by an equally divided Court Bradley v. Richmond School Bd.*, 462 F.2d 1058 (4th Cir. 1972).

16. *Milliken v. Bradley*, \_\_\_ U.S. \_\_\_, 94 S.Ct. 3112 (1974), *rev'g*, 484 F.2d 215 (6th Cir. 1973).

17. \_\_\_ U.S. at \_\_\_, 94 S.Ct. at 3125.

18. *Id.* at \_\_\_, 94 S.Ct. at 3127.

19. *See Reynolds v. Sims*, 377 U.S. 533 (1964).

20. *E.g.*, *Crow v. Brown*, 332 F. Supp. 382 (N.D. Ga. 1971), *aff'd*, 457 F.2d 788 (5th Cir. 1972) (per curiam).

21. *Gautreaux v. Chicago Housing Authority*, 503 F.2d 930 (7th Cir. 1974).



situation was read as making it clear that the boundaries of political subdivisions within a state may be overridden, but not "casually ignored."<sup>22</sup> It was further pointed out in *Gautreaux* that federally assisted housing, unlike schools, has no deeply rooted tradition of local control.<sup>23</sup> Thus, it appears that, as of this writing, a federal court will order metropolitan distribution of low income housing where there is a showing of suburban racial discrimination and where failure to do so would lead to a racially impacted city surrounded by white suburbs.

Today's school integration problems arise not from laws requiring segregation, but from residential patterns. Residential de facto segregation, both along racial and economic grounds, has been encouraged by state and federal action. This problem lies at the heart of not just educational problems but the total dilemma of the metropolitan region. Until it is corrected, the trends creating crisis ghettos, and therefore housing abandonment, will not be diminished.

The first judicial decision that addresses the housing and school problems together is *Hart v. Community School Board*.<sup>24</sup> There, the court found, in sustaining a challenge to the de facto segregated pattern of certain Brooklyn public schools, that racially imbalanced housing is a contributing cause of racial segregation in schools. The court further found that: "In remedying the condition of unconstitutional racial segregation (in the schools), this court has the power and duty to require not only the School Board to act, but other agencies of the state as well."<sup>25</sup> While the order of the court only dealt with the housing and schools of a small part of the City of New York, the implications of the decision are profound. This is particularly true in Maryland where, unlike New York, the schools of the state were racially separated by law until the middle 1950's. The question that must be put to the Maryland courts, either state or federal, is whether the state can divide itself politically in such a way that one jurisdiction, called the City, has an overwhelmingly black school system, most of the state's poor population, and a property tax over twice as high as that of the surrounding jurisdictions. If it is found that such division is unconstitutional, corrective action could take several forms. One could be to redraw the boundaries of the political subdivisions so that the resulting counties are racially and

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22. *Id.* at 935.

23. *Id.* at 936.

24. 383 F. Supp. 699 (E.D.N.Y. 1974).

25. *Id.* at 748.

economically integrated. A less drastic alternative would be to redraw the boundaries of the school districts. A third would be to require the State to finance the movement of low income minority families from the City to the surrounding political jurisdictions. Redrawing school district boundaries appears to be the most acceptable alternative for two reasons. First, it can be accomplished more quickly than either of the other two possibilities. Second, poor families are often reluctant to move into suburban areas where they feel unwanted, are among people with a different life style, and are often remote from supportive institutions such as clinics, churches, public transportation, and various social service programs. Increased residential integration must be accomplished, however, if an integrated school system is to be attained without massive busing programs that are unacceptable to both black and white parents. At a minimum, partial relief might involve the prohibition of any new residential construction in suburban areas unless it is economically and racially integrated. That is, that public action in approving building permits, providing road access, zoning, sewer and water connections, trash pick up, etc., is prohibited if it permits the reinforcement of existing development trends that are producing a region which is racially and economically segregated. The *Bradley* case is certainly a barrier to a federal court decision to require a metropolitan educational solution. It contained, however, a hopeful sign in that it was the first decision to recognize the interrelationship between schools and housing segregation.<sup>26</sup> The implication of the decision, therefore, is that de facto educational segregation must be dealt with by affirmative state programs to eliminate residential segregation.

One caution to raise in considering regional reorganization is the legitimate fear of many black citizens that efforts to integrate school districts or political subdivisions by changing their boundaries will serve only to prevent the black population from attaining political power by diluting their numbers. While election of black officials in communities where blacks are a small minority, such as Los Angeles, should reduce this fear, and while some of the concern may be expressed by individuals who are more concerned with their personal power rather than the benefits to the minority population as a whole, the fear is a real one. Fifty years ago, Baltimore City had a small black population and was eco-

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26. See Comment, *Comprehensive Metropolitan Planning: A Reinterpretation of Equal Educational Opportunity*, 67 Nw. U.L. Rev. 388 (1972).

nomically strong, yet the black population did not benefit. Any regional restructuring must insure that discrimination is attacked on all fronts, particularly employment, so that the black population can obtain the economic power that is basic to the realization of decision making power in our society.

Whatever the relief, action correcting the structural inequities of our metropolitan regions is long overdue. Our legislative bodies see it in their self interest to perpetuate rather than correct a system by which the affluent, at least in the short run, are benefitting. In the words of Judge Weinstein:<sup>27</sup>

As Lincoln reminded us in the Second Inaugural Address, payment for 'the bondsman's two hundred and fifty years of unrequited toil' was made in the wealth and blood sunk in the Civil War. So too, the cost of a hundred post Civil War years of evasion of the promise of racial equality is being paid in such forms as fear of crime, welfare costs, public housing expenditures, and problems with ill-educated children, broken families and massive discontents in the ghettos of this country. The cost cannot be avoided on the ground that it is difficult or inconvenient to make the payment.

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27. *Hart v. Community School Bd.*, 383 F. Supp. at 744.

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