

Review Essay: Brock's Word Against Hers

The Real Anita Hill: The Untold Story. By David Brock. New York: The Free Press, 1993. Pp. ix, 424.

Jesselyn Alicia Brown[†]

[Editors' Note: This October marks the second anniversary of the Clarence Thomas-Anita Hill hearings before the Senate Judiciary Committee. In the wake of those hearings, the war of words has intensified following the publication of *The Real Anita Hill*. First, in early April, the *Wall Street Journal* published an excerpt of the book on its editorial page.¹ Days later *Newsweek* published a laudatory piece by George Will ("assembles an avalanche of evidence that Hill lied").² Fellow conservative Mona Charen also touted the book in her syndicated column ("if this book is buried or ignored, Justice Thomas will have been raped twice").³

The counterattack has been just as aggressive. The May 24 issue of *The New Yorker* weighed in with a rejoinder to the Brock book entitled "The Surreal Anita Hill." Its authors, Jill Abramson and Jane Mayer of the *Wall Street Journal*, are in the process of writing their own book about the Hill/Thomas hearings.⁴ As the *Washington Post* reported, "Brock demanded equal time, sending the magazine an eight-page rebuttal. *The New Yorker* almost never prints replies, but Editor Tina Brown called in the magazine's famed fact-checking department, which produced a 48-point memo rebutting Brock's rebuttal."⁵ In "Sleaze With Footnotes," *New York Times* columnist Anthony Lewis

[†] Jesselyn Brown is a member of the Class of 1995, Yale Law School. In 1990, she was one of the recipients of the Feminists of the Year Awards from the Feminist Majority Foundation. Anita Hill was a recipient the following year.

I would like to dedicate this to my family, who mean more to me than anything in the world.

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1. David Brock, *The Real Anita Hill*, WALL ST. J., Apr. 9, 1993, at A10 (excerpt from the book, DAVID BROCK, *THE REAL ANITA HILL* (1993)). See also Letters to the Editor, *The Never-Ending Search for Anita Hill*, WALL ST. J., Apr. 23, 1993, at A15 (letters reacting to the April 9 excerpt).

2. George F. Will, *Anita Hill's Tangled Web*, NEWSWEEK, Apr. 19, 1993, at 74.

3. Mona Charen, *Rethinking Anita Hill Controversy*, ATLANTA J. & CONST., Apr. 20, 1993, at A13.

4. Jane Mayer & Jill Abramson, *The Surreal Anita Hill*, NEW YORKER, May 24, 1993, at 90; Howard Kurtz, *New Yorker Says No*, WASH. POST, June 28, 1993, at B1.

5. Kurtz, *supra* note 4, at B1.

called Brock's book "a farrago of the preposterous and the vicious."⁶ Fellow Times pundit Anna Quindlen wrote that Brock's book "begins to sink beneath the weight of ideological bias."⁷ Ellen Goodman ("slimy")⁸ and Molly Ivins ("a wretched piece of journalism")⁹ also excoriated Brock's book.

Comments in other magazines and newspapers have been no less divided. Nor has the public made up its mind yet on what to think of the "Thomas's word against Hill's" debate. Approximately one year after the hearings, a Gallup poll revealed that public opinion was shifting. At the conclusion of the hearings, a mere twenty-seven percent of Americans believed Anita Hill, versus fifty-four percent who believed Clarence Thomas. By October of 1992, forty-three percent supported Hill, while only thirty-nine percent of Americans believed Thomas.¹⁰ Apparently, the jury is still out.

The Yale Federalist Society recently invited David Brock to speak at the Yale Law School. In his address, Brock discussed the criticism to date of *The Real Anita Hill*, dismissing it as, for the most part, "hysterical condemnation of my book."¹¹ By using the word "hysterical," a term often invoked to criticize both women and feminists, Brock seems to imply that feminist criticism is emotional and overwrought rather than rational and well-reasoned.

We believe that Jesselyn Brown's Review Essay, Brock's Word Against Hers, represents that combination of passion and reason which characterizes the most persuasive criticism. Her well-documented critique of *The Real Anita Hill* synthesizes information about Hill and the hearings which we believe has not yet been brought together in one place.]

If you seek an answer to one of the nation's most titillating unsolved political mysteries, *The Real Anita Hill* does not provide it. But the book is worthy of attention because many people will take it seriously. This review is a first step in amassing and synthesizing the vast amount of exculpatory information that has come to light since the publication of the Hill-bashing treatise. Most editorials and reviews have pointed out only two or three misrepresentations or fallacies—that Catharine MacKinnon never prepped Anita Hill for the Senate hearings, for example—without illuminating Brock's

6. Anthony Lewis, *Sleaze With Footnotes*, N.Y. TIMES, May 21, 1993, at A27.

7. Anna Quindlen, *The Real Anita Hill?*, N.Y. TIMES, Apr. 25, 1993, § 4, at 17.

8. Ellen Goodman, *Anita Hill—The Untrue Story*, BOSTON GLOBE, May 20, 1993, at 15.

9. Molly Ivins, *Interested in the New Book on Anita Hill? Save Yourself \$24.95. 'The Real Anita Hill' is a Fake*, ATLANTA J. & CONST., May 22, 1993, at A19.

10. Larry Tye, *New Book on Anita Hill Raises Row*, BOSTON GLOBE, April 25, 1993, at 2.

11. David Brock, Address to the Yale Federalist Society, Yale Law School (Oct. 7, 1993).

systemic pattern of misinformation and disinformation.¹ Dismissing Brock's book without detailing his theory of what "really" happened and explaining its inconsistencies does not demonstrate just how paranoid, biased, and absurd his analysis is.

The Real Anita Hill is an extended version of the misogynist article with the same title that Brock wrote for the March 1992 *American Spectator*. In that article, Brock called Hill "a bit nutty and a bit slutty," castigating her for "her uneven temperament, her underwhelming intellect, her political and sexual prejudices, her weird relations with men, her history of frivolously charging sexual harassment, and . . . her petty dishonesty."² But readers with concerns that Brock was biased when he wrote *The Real Anita Hill* should rest assured. In the author's note to the recent book Brock reminds us that he was "fully prepared," had the evidence pointed in the other direction, "to write a book that questioned Thomas's credibility and character and redeemed Hill's."³

Brock's revisionist history of the Hill/Thomas affair builds an entire theory around the fact that Judge Susan Hoerchner, a friend to whom Anita Hill complained about sexual harassment, was off by nearly a year when she testified that Hill confided to her in the spring of 1981.⁴ It is clear to most of us that Hoerchner meant to refer to the spring of 1982. But Brock thinks her mistake reveals the true secret—the harasser must have been somebody at Wald, Harkrader & Ross, the law firm where Hill worked prior to joining Clarence Thomas at the Department of Education in late August of 1981.⁵

Janet Napolitano, one of Hoerchner's two lawyers, recently debunked Brock's theory:

Brock says . . . that Hoerchner had committed herself to the position that a critical conversation with Anita Hill took place in September 1981, which was before Professor Hill went to work for Clarence Thomas. In fact, Hoerchner never committed herself to remembering exactly the date of a phone conversation, which, after all, had occurred 10 years before the Senate interview. She repeatedly said—and if you are interested, I will show you chapter, line, and verse in the actual interview transcript—that she could only "guess" at the time; that she

1. See, e.g., Caryn James, *Hill and Thomas Testify Again for \$24.95*, N.Y. TIMES, July 4, 1993, § 2, at 26; Anthony Lewis, *Sleaze With Footnotes*, N.Y. TIMES, May 21, 1993, at A27; Clarence Page, *Still More Salvos Are Fired in the Debate That Won't Die*, PHOENIX GAZETTE, May 25, 1993, at A9. Most of the reviews to date have appeared in newspapers, which have understandably limited the number of factual corrections due to space limitations.

2. David Brock, *The Real Anita Hill*, AMERICAN SPECTATOR, Mar. 1992, at 27.

3. DAVID BROCK, *THE REAL ANITA HILL* viii (1993) [hereinafter referred to by page number only].

4. P. 211 ("If the call took place in the spring of 1981, as Hoerchner told [Senator Joseph Biden's staffer] Harriet Grant, then it occurred six months *before* Hill went to work for Thomas at the Department of Education, and eight to ten months *before* Hill told the Senate she first started being harassed.")

5. P. 217 ("Hill's conversation with Hoerchner, if it had taken place at all, could only have been an allegation about sexual harassment at Wald, Harkrader & Ross, the law firm where she was working prior to September 1981, and before Hill ever met Clarence Thomas.")

was not certain of the date of the phone call More important, Hoerchner stated unequivocally in the interview transcript that she knew that Anita Hill was referring to Clarence Thomas when Hill told Hoerchner that she was being harassed by her boss.⁶

Brock, apparently unconvinced by his own theory, later proposes an alternative perpetrator. Hill may have been referring to harassment by Chris Riggerson, director of Congressional Affairs when Hill first arrived at the Equal Employment Opportunity Commission (EEOC) in May 1982.⁷ It is interesting to note that Brock does to Riggerson what he accuses the “borkers” of doing to Thomas. Brock paints Riggerson as a notorious sexual harasser and collector of pornography who was perfectly capable of having said and done the things that Hill ascribed to Thomas.⁸ Hill (remember, she’s not too swift) must have switched Riggerson and Thomas in her mind—after all, they were both in positions of power over her. Never mind that their positions were completely unlike. Perhaps the masochistic Anita Hill—whose “whole life revolved around racial or sexual discrimination”⁹—concluded that Thomas intended to punish her for their political disagreements vicariously through the demonic Riggerson.¹⁰

But then Brock undermines his own two theories—both of which allowed that Hill *was* sexually harassed, but not by Clarence Thomas—by stating that she has a pattern of specious complaints about harassment. He says she repeatedly used charges of sexual harassment to excuse failures that were a function of an affirmative action system that pushed her beyond her capabilities. He starts off by explaining that “Anita Hill was a black woman who knew perfectly well that she had been admitted to Yale Law School under a program of affirmative action,”¹¹ and was thus plagued by doubts. (These

6. Janet Napolitano, *Napolitano: Transcript Shows Cheshire, Author Wrong*, ARIZ. REPUBLIC, Sept. 17, 1993, at A14.

7. Pp. 249, 307-08. “It is also possible that she was referring to harassment by Chris Riggerson, rather than Thomas.” *Id.* at 308.

8. For a discussion of Riggerson’s reputation for sexual harassment and affinity for pornography, see pp. 249-50.

9. P. 338. Brock quotes a law professor and former visiting faculty member at Oklahoma University Law School (OU): “Everything was sexism or sexual harassment, she was obsessed with it I called them her ‘atrocious stories.’ Every time she walked through a crowd someone was trying to grab her breasts. When she really got going, every guy she ever worked with sexually harassed her.” In the accompanying footnote, Brock says that this professor spoke only on the condition of anonymity and explains, “This is a measure of how politically correct supporting Hill has become in university and legal circles.” P. 421 n.2.

10. P.369. Throughout the book, Brock often develops theories from suggestions, as he does here: It may thus not be too much to suggest that Hill conflated Riggerson and Thomas in her mind—all the easier since Thomas had appointed Riggerson to a position of authority over Hill, and thus was complicit in Riggerson’s presumed mistreatment of her. Hill may even have concluded that Thomas intended to punish her for their political disagreements by proxy, via Riggerson’s harassment.

Id.

11. P. 346. Yale Law School Dean Guido Calabresi, a law professor at Yale when Hill attended the school, disagrees with Brock’s characterization of admissions at Yale Law School: “I can’t imagine what

doubts apparently dissipate in minority-group members who "measure up," such as Justice Thomas).¹² Brock reiterates this unsubstantiated theme throughout the book: "[I]n her first professional undertaking, hired because she was a black woman from Yale, not because she had been an outstanding summer associate, Hill had not succeeded."¹³

Hill's alleged proclivity to use harassment as an excuse for her personal and professional failures made it easy for the so-called "Shadow Senate"—a dozen or so key operatives who Brock claims organize and facilitate the opposition to conservative judicial nominees—to manipulate her into making her charges public.¹⁴ She never really "came forward," but rather was "drawn forward" by a group of leftist Senate staffers who schemed to use her charge to defeat the Thomas nomination. She was thus helplessly sucked into the "borking machinery."¹⁵ (Brock ignores the existence of an equally committed network of right-wing interest groups and conservative Senate staffers—a network which recently used its muscle, for example, to derail Lani Guinier's Justice Department nomination.)

The book is rife with inaccuracies. Brock claims half a dozen times that feminist law professor Catharine A. MacKinnon (whose name he misspells) "advised Anita Hill before she testified."¹⁶ Although the Wall Street Journal carried MacKinnon's denial that she had ever even met Hill well before the publication of *The Real Anita Hill*, Brock apparently never checked the easily available record.¹⁷ Brock also never questioned Judge Hoerchner, but states, "I spoke with her lawyer several times."¹⁸ Ronald R. Allen, Jr., one of Hoerchner's lawyers, has since clarified Brock's grossly misleading assertion:

his basis for a statement like this is. I objected to the statement that Clarence Thomas was admitted through affirmative action for exactly the same reasons." Interview with Guido Calabresi, Dean, Yale Law School, New Haven, Conn. (Oct. 7, 1993).

12. Brock writes:

[A]s authors Shelby Steele and Stephen Carter—the latter a professor at Yale Law School—have recently argued, the beneficiaries of affirmative action are often plagued by doubts about whether they really "belong" at the institutions that have accepted them on the basis of their color. These doubts invariably dissipate for those whose abilities are equal to a challenging environment. But for those who do *not* measure up, the doubts intensify, and may become a psychological obstacle, a presence in the mind—a ghost or demon—that demands to be explained, denied, or exorcised.

P. 346. Thus, Brock uses Stephen Carter's argument to augment his portrait of Anita Hill as a beneficiary of affirmative action who does not "measure up," see pp. 222, 346, an image with which Carter disagrees:

I knew Anita Hill well in law school. I knew her well in the early years of her professional career. And I never knew her to be plagued with doubts because of affirmative action. She always struck me as quite confident. So the image of her he presents is not accurate.

Interview with Stephen L. Carter, William Nelson Cromwell Professor of Law, Yale Law School, New Haven, Conn. (Oct. 5, 1993).

13. P. 222.

14. See pp. 38-40; see generally pp. 25-59 (Chapter 1, on "The Shadow Senate").

15. P. 108.

16. P. 385. See also pp. 163, 239, 271, 417 n.46.

17. See Catharine A. MacKinnon, *On Anita Hill Book, The Doubts Remain*, N.Y. TIMES, July 1, 1993, at A18. In a Letter to the Editor, MacKinnon writes: "I did not, as his book repeatedly states, advise Anita Hill prior to her testimony. The book's defamatory innuendo that I helped fabricate her testimony is therefore also necessarily false." *Id.* See *supra* note 1 and accompanying text.

18. David Brock, *Book on Anita Hill Greeted by Hysteria*, N.Y. TIMES, June 14, 1993, at A14.

"My only oral communication with Mr. Brock was not an interview, but rather was limited to my instructing him that all future communication should be in writing."¹⁹

At times, Brock's vitriol seems downright silly. He claims Hill's polygraph test lasted an unusually long time. It was completed at 1:15 p.m. but her lawyer wasn't notified until after 5:00 p.m. "Why the four-hour gap?" Brock asks. "Did Hill keep taking the test until she passed it?"²⁰ Polygraph examiner Paul K. Minor, in reply to Brock's question, later explained that the lie detector test lasted only two hours and 15 minutes—a not unusual length of time for such an examination.²¹

In a chapter entitled "The Myth of the Typical Case," Brock asserts that Hill "could not show that Thomas had ever been accused of sexual harassment by anyone else, much less that he had ever engaged in a pattern of abusive or lascivious behavior."²² This assertion makes the heroic assumption that Hill had a responsibility to "show" that Thomas had harassed others. Hill's responsibility was to relate *her* experiences working with Clarence Thomas and to respond to Committee members' questions. No more, no less. When Brock criticizes *Hill* for failing to meet his notion of "evidentiary test[s]" or for failing to marshal an entire "case" against Thomas, he ignores the fact that she was a witness, not a prosecutor.²³

Even if we take Brock's argument at face value, his assertion that no other women came forward with complaints about Thomas is false. Brock ignores a sixty-nine page interview with Angela Wright conducted by Judiciary Committee staff members.²⁴ Wright's testimony is similar to that of Anita Hill.²⁵ Echoing Hill's allegations that Thomas repeatedly asked her to go out

19. Ronald R. Allen, Jr., *Judge is Certain the Subject Was Thomas's Harassment of Hill*, N.Y. TIMES, July 6, 1993, at A16. Allen was a classmate of both Hill and Hoerchner at Yale Law School. If Brock *had* bothered to pursue communication with Allen, Allen could have enlightened Brock's derogatory characterizations of both women:

Both Professor Hill and Judge Hoerchner were among the most respected and liked members of our class. I was chair of the Moot Court Board. Sue Hoerchner was a director. Anita was a director of Barristers. Both women rose to positions of leadership in law school forensic groups In both Moot Court and Barristers, the way people become directors was by excelling in the program as participants first. They were the ones chosen as finalists in the previous competition. There certainly was no affirmative action there. They became directors by dint of their excellent performance.

Telephone Interview with Ronald R. Allen, Jr. (Oct. 11, 1993).

20. P. 284 (citation omitted).

21. Paul K. Minor, *Polygraphs and 'The Real Anita Hill'*, WASH. TIMES, June 18, 1993, at F2.

22. P. 242.

23. See p. 242. Brock complains that "Hill's case met not one evidentiary test," yet fails to define which evidentiary tests he believes witnesses must satisfy. *Id.* Brock seems to suggest that a *witness* should produce "contemporaneous corroboration," demonstrate that she exhibited "the demeanor of a sexual harassment victim," and show that there were multiple harassment victims. *Id.* Setting aside the issue of whether Brock's requirements are necessary to prove sexual harassment under Title VII, witnesses generally are not responsible for producing evidence to corroborate their own testimony.

24. Andrew Rosenthal, *The Thomas Nomination: Thomas's Edge Steady, Vote Due Today*, N.Y. TIMES, Oct. 15, 1991, at A1.

25. *The Clarence Thomas Hearings: Excerpts*, ATLANTA CONST., Oct. 12, 1991, at A11. Anita Hill testified:

with him, Wright said Thomas pressured her for dates, questioned her about her breast size, commented on her anatomy and that of other women in his employ at the EEOC, and once showed up at her apartment unannounced and uninvited.²⁶ Brock attacks Angela Wright, saying that she refused to be interviewed by the FBI²⁷ and that her statement was unsworn.²⁸ But according to her attorney James G. Middlebrooks, she was interviewed by two FBI agents on October 12, 1991, and her statement was sworn. Brock never even asked to speak with her.²⁹

Rose Jourdain's thirty-nine page interview corroborates Angela Wright's and was also made part of the hearing record:

When Ms. Wright first came in, she was very enthusiastic about her job. She was very happy to be there. As time went on she confided [in] me increasingly that she was a little uneasy and then grew more uneasy with the chairman, because of comments she told me that he was making concerning her figure, her body, her breasts, her legs, how she looked in certain suits and dresses.³⁰

Brock mentions Jourdain only in a footnote: "Jourdain, whom Wright later referred to as a 'mother figure,' did not, however, corroborate any of Wright's specific charges. The details in Jourdain's statement . . . were not contained in Wright's own statement."³¹ This is simply untrue. Jourdain's statement is perfectly consistent with Wright's complaints that Thomas "made comments about my anatomy,"³² "said 'What size are your breasts?'"³³ and

[S]tarting with the insisting on dates—I believe that once I gave a response to the question about dating, that my answer showed him that any further insisting was unwarranted and not desired by me. I believe that the conversations about sex and the constant pressuring about dating, which I objected to . . . was enough for him to understand that I was unappreciative and did not desire this kind of attention in the workplace. I think that my constantly saying to him . . . that because he was in a supervisory position, that this would jeopardize my ability to do my job, that that should have given him notice.

Id.

26. *Thomas vs. Hill; Surprise Witnesses' Stories Are Diametrically Opposed*, HOUSTON CHRON., Oct. 15, 1991, at A19 [hereinafter *Thomas vs. Hill*].

27. P. 264.

28. Pp. 255-56 ("Ordinarily, one would not credit such unsworn statements as Wright's by publicizing them further.")

29. Jane Mayer & Jill Abramson, *The Surreal Anita Hill*, NEW YORKER, May 24, 1993, at 96. See also Debbie Howlett & Jessica Lee, *Bush Turns Up the Pro-Thomas Volume*, USA TODAY, Oct. 15, 1991, at 3A ("Another woman charging harassment by Thomas, Angela Wright, did not testify Sunday, but the committee accepted her *sworn statement* and an *interview with investigators* early Monday to save time")(emphasis added).

30. *The Thomas Nomination; Excerpts From an Interview With Another Thomas Accuser*, N.Y. TIMES, Oct. 15, 1991, at A21 [hereinafer *Excerpts From an Interview*].

31. P. 415 n.26. In the same footnote, Brock further tries to dismiss Jourdain: "[L]ike Wright, Jourdain was a disgruntled former employee of Thomas."

32. *Excerpts From an Interview*, *supra* note 30.

33. Michael Wines, *The Thomas Nomination; Compelling Evidence on Both Sides, But Only One Can Be Telling Truth*, N.Y. TIMES, Oct. 15, 1991, at A20.

“commented on the dress I was wearing.”³⁴

Sukari Hardnett, who worked at the EEOC from 1985 to 1986, also submitted a letter to the Judiciary Committee. As with Jourdain, Brock relegates Hardnett to a single footnote, writing her off in just a couple of sentences:

Hardnett, a former legal assistant to Chairman Thomas, submitted an affidavit to the Judiciary Committee on October 14, the day before the Senate vote on the nomination. “Women know when there are sexual dimensions to the attention they are receiving. And there was never any doubt about that dimension in Clarence Thomas’s office,” Hardnett wrote. She provided no specifics to describe this “dimension,” however.³⁵

In point of fact, Hardnett did provide specifics about the undue attention Thomas gave to attractive female employees as director of the agency. “If you were young, black, female and reasonably attractive, you knew full well you were being inspected and auditioned as a female,” she explained.³⁶ “You were always at his beck and call, being summoned constantly, tracked down where ever you were in the agency and given special deference by others because of his interest.”³⁷ Brock’s casual dismissal of Wright and his failure to mention Jourdain and Hardnett except in two footnotes call into question his repeated claim that “Anita Hill remains Thomas’s sole accuser.”³⁸

Hill’s testimony included a startling account of Thomas as having spoken of his sexual prowess and penis size; of his having given women pleasure with oral sex; as well as the infamous Long Dong Silver and “pubic hair” remarks. Brock turns each of these accusations against Hill. He quotes numerous detractors, most of them *unnamed*, who describe Hill as “temperamental,”³⁹ “militantly anti-male and obsessively concerned with race and gender issues,”⁴⁰ “a full-fledged campus radical,”⁴¹ “untrustworthy, selfish, and

34. Howlett & Lee, *supra* note 29.

35. P. 416 n.36.

36. *Thomas vs. Hill*, *supra* note 26, at A19.

37. Stephanie Saul, *Panel to Weigh Wright Testimony*, NEWSDAY, Oct. 15, 1991, at 19.

38. P. 21. *See also* p. 253 (“Hill’s inability to show a pattern of harassing behavior by Thomas was another atypical aspect of her case. . . . Anita Hill . . . remains Thomas’s lone accuser.”)

39. P. 345.

40. P. 342. Brock quotes Oklahoma University (OU) student Todd Cone:

“First, during class, when a student would use the pronoun ‘he,’ Prof. Hill would jump all over the student and question how they knew it was a man.

Second, several male students recounted . . . that they attempted to write their tests in a fashion that made the writing appear to be written by a woman. They also used only the pronoun ‘she’ in their tests.

Third . . . a white male and a friend of mine . . . put his hand on her shoulder. He intended nothing. Prof. Hill became irate. She yelled at him to get his hand off her shoulder and proceeded to let him have a piece of her mind.”

Pp. 343-44. It is interesting to speculate whether Cone believes that putting a hand on the shoulder of a male professor would be as acceptable.

41. P. 348. (“More than anything, Hill’s activities as the head of an effort to ban so-called ‘hate

extremely bitter,"⁴² "a bitch,"⁴³ and "the world's kinkiest law professor."⁴⁴ Brock alleges that Hill and her girlfriends would "talk about heterosexual anal sex, different positions for it, and rape fantasies. They talked about bestiality. . . . Anita would describe the size of men's penises, and talk about firm butts. She was obsessed with oral sex. They also had magazines, and they had sexual devices."⁴⁵ The source of this statement, like so many others, conveniently declined to be identified so as not to jeopardize *the source's* career.⁴⁶

The ideologically loaded icing on the cake comes when Brock suggests that Hill was the one who had a pubic hair fetish because two students of hers claimed to have found hairs in their corrected exam books. In a recent interview, however, Jeff Londoff, the student who corroborated a "pubic hair" affidavit filed with the Judiciary Committee, gave a different story: "The whole thing was just a joke—how the hell would anyone know whether it was pubic hair or not? The lady's black, you know."⁴⁷

Stephen Carter, a professor at the Yale Law School and a former classmate of Hill's, reacted to Brock's characterizations of Hill:

Anita Hill was, in law school, a person who was warm, thoughtful, compassionate, and a person of deep spiritual substance. No one who knew her well would subscribe to that list of adjectives that Brock uses. So those sources are either people who didn't know her well or sources that were manufactured. Since Brock says he's a journalist, I'll give him the benefit of the doubt and assume that he was misled by his sources. He never asked to interview me or any of her supporters.⁴⁸

Guido Calabresi, present Dean of Yale Law School, and a professor when Hill attended, also disagreed with Brock's portrayal: "Anita Hill, when she was here, was a solid, very able, quite conservative student. She was rather shy, but extremely popular with all her classmates. One of the most interesting things is the degree to which her classmates almost universally cannot conceive

speech' on the OU campus clearly identified her ideological sympathies and marked her coming of age as a full-fledged campus radical.").

42. P. 317 (quoting Armstrong Williams, a staffer under Thomas at the EEOC).

43. Pp. 350, 351. Brock quoted a Tulsa attorney, Mary Constance Matthies, in her letter to the Senate Judiciary Committee, as saying that some of Hill's former female students "characterized her as a 'bitch' Ms. Hill also reportedly was considered to be overly ambitious and a vicious in-fighter by these women." *Id.* at 350 (citation omitted). Brock repeats the characterization of Hill as a "bitch" on p. 351.

44. P. 356 (quoting an unidentified former student.) Brock relates an interview with this former student of Hill: "Handsome, and roughly the same age as Hill, the student told Simpson that Hill had approached him in the law school at ORU [Oral Roberts University] . . . and said, in a suggestive manner, 'I know your favorite flavor is chocolate.' On another occasion, Hill allegedly asked the student, teasingly, 'Who do you think you are, Long Dong Silver?'" *Id.*

45. Pp. 357-58.

46. P. 423 n.34. In one of his typical footnotes, Brock writes: "He is now a professor at another law school, and a well-respected member of his state bar and local community. He declined to be identified so as not to jeopardize his career." *Id.*

47. Mayer & Abramson, *supra* note 29, at 93.

48. Interview with Stephen Carter, *supra* note 12.

that she would ever lie."⁴⁹

Brock reveals the shallowness of his approach with amusing references to such characters as Nina Totenberg, portrayed as the Wicked Witch of the Left, and an array of Yale Law School personalities.⁵⁰ He trashes Susan Hoerchner, Hill's main corroborating witness, as "something of a professional student" who allegedly took Valium and—gasp—married three times.⁵¹ Thomas is the innocent political moderate whose controversial defense of natural law came about because he was "open to new ideas—some of which were voiced merely as trial balloons."⁵² Brock portrays Senator Arlen Specter, the Pennsylvania Republican, as a helpless victim of post-Hill/Thomas retaliation by Emily's List which "heavily backed" Senator Specter's Democratic challenger, Lynn Yeakel, in 1992.⁵³ But Arlen Specter, who was the "top recipient of funds from political action committees last year and spent \$2 million more than Ms. Yeakel in his successful bid for re-election,"⁵⁴ is hardly a political victim.

One colorful character about whom the book does not provide much information is author David Brock. He worked for the Washington Times, one of the nation's most conservative newspapers, and is now a writer for the American Spectator, an acerbic journal of the American right. He is a former fellow at the right-wing Heritage Foundation. The book was funded by the John M. Olin Foundation, a right-wing group headed by William Simon, who served as finance chair of the Citizens' Committee to Confirm Clarence Thomas. Given the source of the book's funding and its factual inconsistencies, it is doubtful that Brock "tuned into the Thomas-Hill hearings with an open mind."⁵⁵ Yet he constantly reminds us of his investigative objectivity.⁵⁶

Brock criticizes Hill for having originally asked the Judiciary Committee staff for anonymity in her charge,⁵⁷ yet throughout the book he quotes

49. Interview with Guido Calebresi, *supra* note 11.

50. Ronald Allen, James Brudney, Stephen Carter, Bill Clinton, John Danforth, John Doggett, Gil Hardy, Anita Hill, Susan Hoerchner, Catharine MacKinnon, Timothy Phelps, Pat Robertson, Arlen Specter, and Clarence Thomas are among the many Yale Law School alumni mentioned.

51. Pp. 207-08. Brock quotes a former classmate of Hoerchner: "Sue Hoerchner was ditzzy . . . It was the same Sue Hoerchner we saw testify years later." P. 207. The accompanying footnote reads: "Interviews with former Yale classmates of Susan Hoerchner, on the condition of anonymity." P. 412 n.1. Ronald R. Allen, Jr., who served as Hoerchner's attorney during the Hill-Thomas hearings, was also a classmate and refuted this "anonymous" classmate's assessment: "Judge Hoerchner came to the law school with a Ph.D. and college teaching experience. . . . She is funny and has a great sense of humor. 'Ditzzy' is the last word anyone would use to describe her." Interview with Ronald R. Allen, Jr., *supra* note 19.

52. P. 72.

53. See p. 163 ("Emily's List . . . would later reap the contributions from [Hill's] testimony"); p. 170 ("Specter had won re-election in a close race with a candidate heavily backed by Emily's List").

54. Signe Wilkinson, *The Case Against Anita Hill*, N.Y. TIMES, May 23, 1993, §7 (Book Review Desk), at 11.

55. P. vii.

56. See, e.g., p. 23 ("Until now, there has been no effort to examine Hill's account on the evidence and to 'reconstruct a narrative' dispassionately, and from a factual foundation.").

57. See, e.g., p. 117 ("Anonymity, of course, meant that the deed could be accomplished at no risk to Hill herself."); p. 139 ("The only way the sexual harassment charge could have been taken more seriously would have been for Hill to lift her confidentiality demand, which she evidently had no intention

anonymous sources who attack Hill⁵⁸ and never publicly released "documents obtained by the author."⁵⁹ Brock accuses liberal interest groups of irretrievably ruining the reputation of Clarence Thomas, but his book is the very model of the character assassination he so adamantly decries. Brock condemns the one-sided reporting during the Hill/Thomas hearings,⁶⁰ but his repeated references to disgruntled students⁶¹ and Federalist Society speeches⁶² betray the disinterested inquiry that he pretends to make.

Brock manages to buy into every negative stereotype that could possibly be applied to a woman alleging sexual harassment. At worst, readers are left with the notion that if we can prove Hill lied—or was trying to win attention for herself, or was seeking revenge, or was covering up her own regretted promiscuous behavior, or was having emotional problems, or was fantasizing, or was asking for it, or hates men, or all of the above—then *ipso facto*, we somehow prove that sexual harassment does not happen. At best, Brock's attempt to turn the stalemate of "her word against his" into a logically argued and conclusively solved whodunit mystery leads us to nothing more than Brock's word against hers, putting us right back where we started.

Is there anything positive we can take away from the publication of *The Real Anita Hill*? The Yale Federalist Society's recent invitation to David Brock to speak at the Yale Law School stirred up quite a controversy. As the "real" Anita Hill commented:

An ongoing debate here points out how much more significant the issue of sexual harassment is than Brock would have us believe. Brock is keeping attention *focused* on these issues, even if it brings negative attention and threatens to set us back. I doubt very seriously whether the Yale Law School Federalist Society would have entertained a discussion of sexual harassment, but for Brock's book.⁶³

of doing.").

58. See, e.g., p. 419 n.19 ("Interview with former Hill classmate"); 419 n.20 ("Interview with former EEOC staffer"). I counted 24 references to anonymous sources in Brock's footnotes.

59. See, e.g., p. 399 n.38 ("The report, a draft of which was also obtained by the author, was never publicly released."); p. 412 n.32 ("This document was sealed by the committee and not made part of the public record. It was obtained independently by the author."). I counted 9 references to documents never made public, but obtained independently by the author.

60. See, e.g., p. 7 ("Why did a press corps that spent months delving into the most intimate aspects of the life of Clarence Thomas make no effort to report even the most basic facts about Hill?"); p. 136 ("The media also helped whip up the feminist frenzy."); p. 265 ("further evidence of the media's tilt in the Thomas affair generally").

61. See pp. 342-44 (quoting OU law student Todd Cone); pp. 344-45 (quoting OU law student Christopher Wilson); p. 347 (quoting Jim Wagoner, a student in Hill's OU commercial law class); p. 355 (quoting former ORU student Lawrence Shiles); p. 356 (quoting former ORU law student Jeff Londoff).

62. See p. 393 n.18 (citing a speech delivered at a Federalist Society conference on June 13, 1992); p. 396 n.51 (citing a 1992 Federalist Society speech); p. 405 n.21 (citing a speech to the Federalist Society in Washington, D.C. on Oct. 16, 1992).

63. Telephone Interview with Anita F. Hill, Professor, University of Oklahoma College of Law, (Sept. 22, 1993).

