



BOOK REVIEW

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WILLIAM M KUNSTLER: THE MOST HATED LAWYER IN AMERICA

By David Langum

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In the turbulent 1960s in an America divided by issues of race and war William Kunstler stood out as a hero for the left and a dangerous defender of America's 'internal enemies' to the right. Kunstler not only managed to antagonise the conservatives of America, especially those opposed to desegregation and in favor of the Vietnam War, but with his abrasive, confrontational style he alienated almost everyone in the political arena at one time or another. For his fellow Jews (although he was an avowed secularist) he was too willing to defend Arabs such as those accused of bombing the World Trade Center in 1993; to his fellow lawyers he crossed the line by wholesale attacks on the legal system including the US

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Supreme Court, which he characterised as ‘an enemy ... representing the power structure’ of a corrupt white capitalist America. Kunstler loved attention and throughout his career was a favored media figure in a period in which American politics was the most divisive in its domestic history since the American Civil War.

William Moses Kunstler was born in New York City in 1919 to an affluent middle class Jewish family of German origins. His father was a successful doctor in the Upper West Side of Manhattan. Bill, the name the egalitarian radical was called by everyone throughout his life, grew up and attended local public schools in this area. He graduated dux of his De Witt Clinton High School class and went off to the Ivy League at Yale in 1937 where he studied French. He found Yale stimulating intellectually, and his abilities in the humanities, especially poetry, developed, in spite of the pervasive anti-Semitism at Yale in the Depression decade. His academic work was superb and he finished Phi Beta Kappa for his undergraduate degree. His career in law, however, starting with his first year at Yale Law School in 1941, was interrupted by the outbreak of World War 2.

At this point in Kunstler’s life, as he was off to defend America and its Constitution, the outline of his career and the character of his ideological universe were not yet clear. After winning a Bronze Star and a Purple Heart for war service in the Pacific, he returned to law studies, gaining entrance to Columbia Law School through the GI Bill. He was admitted to the New York State Bar in 1948. His clients in the 1950s included Dylan Thomas and, of all people, Senator Joe McCarthy, for whom he prepared a will at the request of Kunstler’s sometime colleague as adjunct professor at NYU Roy Cohn. Both these men were, of course, soon to be among Kunstler’s most hated targets. The turning point in Kunstler’s life, however, came in the early 1960s in the midst of the great civil rights revolution.

Kunstler began his public career on the civil rights issue which, after the *Brown v Board of Education*¹ decision by the Supreme Court in 1954, divided the body politic in America, with the Black protest movement and resistance to it by the Southern forces of segregation. In 1961 Kunstler was asked to defend the Mississippi Freedom Riders who were being

1 347 US 483 (1954).

incarcerated by the authorities in Mississippi by that most resistant of all Southern states to the *Brown* decision. After a conversation with the redneck Mississippi Governor Ross Barnett, in which the Governor asked him whether he would want his ‘daughter married [to] a dirty, kinky-headed, fieldhand nigger’, and a meeting in the same year with Martin Luther King, Kunstler’s life was forever focused on the profound central moral issue for America of a nation half free and half unfree. He was now energised by the profound racism of Jim Crow America in the 1950s and obsessed with the underdog in America as the victim of an intrinsically unjust capitalist society. His aggressive style and boundless energy were now focused on putting things right and attacking those perceived by him as the perpetrators throughout American history of an inequitable and evil system: the slave owners, the capitalists and the white Southern power structure. Relentlessly pursuing these forces would be his monomaniacal objective in life, and in the post-war decades this would earn him the appellation by *Vanity Fair* magazine as ‘the most hated lawyer in America’.

Kunstler categorised this commitment to social justice issues as ‘movement law’, that is, social activist law that combined legal representation with social objectives. One must have a dual objective in all legal actions by joining together one’s soul with the practice of law. The cause must be just and pursued with total vigor; the end object must be the moral and ethical improvement of the social order by the process that he called ‘demystification’, that is, exposing the underlying social evils of the society. Public and private morality are joined and inseparable in the career of a movement lawyer. The struggle for African-American rights was ideal for Kunstler for it offered social redemption, a fight on behalf of the most wronged people in American history (along with Native Americans) and an outlet for Kunstler’s moral and physical energy.

For four decades Kunstler was at the forefront of defending minorities and unpopular causes. War protesters, those caught up in obscenity cases, Native Americans, prisoners (most notably the Attica rioters in 1971), police brutality victims, renegade priests (the Berrigan brothers) and miscellaneous casualties of capitalist hegemonic America were all defended with the same emotional commitment that Kunstler first brought to the civil rights movement. He defended the most famous of the Black

radicals in the 1960s, such as H Rap Brown ('violence is as american [sic] as cherry pie') but became a household name for the most publicised trial of the decade of the Chicago Eight/Seven in 1969. Along with Abbie Hoffman and Jerry Rubin, Kunstler's was the face of extreme war protest which, to Nixonian America, was led by the internal subversive enemies of the state. Kunstler evolved in the 1970s into a media star and campus speaker in great demand by the radical New Left; to them he was a charismatic opponent of the system, a macho activist and a notorious, but very successful, womaniser. Kunstler 'confronted the system' and promised reform and revolution, which he claimed the old left failed to achieve.

In the 1980s and 1990s Kunstler mellowed with age but was still in the vanguard of left litigation and politics in America. The left split into subgroups representing gays, the environment and the disabled, and the emotional thrust of the left dimmed with the end of the war and the activist phase of civil rights. America jerked to the right under Reagan and Kunstler suffered depression from this change in his political fortunes and the nature of America. But until his death he defended the oppressed and unloved, including cases in which he incurred opprobrium from Jews and his fellow libertarians, such as his defence of Arab clients and the Mafia boss John Gotti. In his final years he became a minor media figure with appearances in film and television; on the latter the high point was an appearance playing himself in the popular NBC legal drama *Law and Order*. He died of heart failure in 1995.

Langum's biography is inspired by his civil libertarian interests, which he shares with Kunstler, but he is by no means unaware of Kunstler's professional or personal shortcomings which he declares are substantial. This is certainly no hagiography. Langum concentrates on Kunstler's life and the social and political context of the period, which he comprehends with an impressive grasp of the intense emotions of the era. His style, however, is sometimes rather choppy and the reader could probably be spared some of the detail of the litigation involving Kunstler.

Even if one is consonant with Kunstler's objectives he is not an easy man to like. Vain, exhibitionist, with a private life full of lies and exploitation, he is a man about whom one has a deep suspicion that personal self-aggrandisement may have been as, if not more, important than his perhaps

too often proclaimed social goals. He raises the most difficult questions for the historical biographer of how to judge the life and work of a man: by the totality of his life or by the flaws in his character and actions. Langum in the end is not judgemental and asks the reader to take the man's entire career into account as a libertarian, activist and important figure in this crucial period in the evolution of hegemonic America.

If one were to raise a shortcoming in this biography it would be the relatively shallow analysis of the left in this period. Kunstler's importance for the history of left law is clear but very little is concluded about left activism in America: in the end did it matter? Why was there no left political party? Did Kunstler ever think one should be developed and if not why not? Why has the American left always failed politically except during a national crisis such as the Great Depression? These are the questions a historian of the period would look for in such a political biography. In short, did Kunstler's life make a difference as he declared it must and why did the left, to which he gave his life, end up as a miserably failed movement in the hegemonic, market-obsessed, Wall Street-dominated America of President George W Bush? Professor Langum has given us a splendid biography of a larger-than-life figure in left law, but as an insight into the political evolution of America in the second half of the twentieth century it would not be at the top of my reading list.