

Towards Efficient Democracy: The Question of Governmental Organization (Book Review)

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BOOK REVIEWS

TOWARDS EFFICIENT DEMOCRACY: THE QUESTION OF GOVERNMENTAL ORGANIZATION. By Arthur C. Millspaugh. Washington, D. C.: The Brookings Institution, 1949. Pp. viii, 307. \$3.50.

Never before has our nation been so potentially powerful for united, successful action at home and abroad. Yet never have our problems—economic and social, domestic and foreign—been more complex and apparently insolvable. It is our practice to seek causes for these difficulties in persons, places and forces far removed from fundamentals and first principles. We are, as a people, particularly disinclined to examine our traditionally revered institutions for possible and significant contributions to our difficulties.

Dr. Millspaugh is an exception among us. His book presents us with a challenging study—a revealing diagnosis and radical prescription. It is his claim that the United States is by no means as powerful as we are led to believe. We are far less prepared to solve the intricate and urgent problems confronting us than we should be—or need to be. Indeed, our culture at home and influence abroad have been placed in the greatest jeopardy. He sees the root cause of our predicament in substantial deficiencies in our national Constitution.

True, he does not conclude the Constitution has been totally invalidated by necessities thrust upon us in this Atomic Age. Much of it must be retained for the protection and promotion of our personal, social and national welfare. States and their governments, limitations on government power, constitutional prohibitions, national and state, civil right guaranties, and our national judicial institution must remain untouched. In this book the author is concerned with aspects of our Constitution which he sees as obsolete in our age. He deals with features he is convinced are paralyzing efforts made in pursuit of general interests and values. Our legislative and executive institutions must be reorganized radically. Division of national governmental power, presently attendant upon their structure and mechanism, must be totally abandoned. However valuable and necessary were the principles of separation and checks and balances at the inception of the Constitution, modern culture has rendered them outmoded.

The real worth of our Constitution, from 1787 to the present, must be measured by how well it has promoted the values of the people who have lived under it. Millspaugh sees our present governmental organization as a prime barrier to the attainment of the highest values current in the United States. It is a premise in this study, that the core of our values is best expressed in the term "efficient democracy." The American people, he maintains, are devoted to the principle of the rights of all, in the rule of the majority. We worship efficiency. Yet our national legislative and executive organizations are inherently incapable of serving us either democratically or efficaciously.

The notion of majority rule was abhorrent to the aristocratic-minded, philosopher-statesmen who framed our Constitution. In substance, this Con-

stitution reflects the environment—physical and cultural—of our founding fathers. Its machinery was constructed by their choices and necessities, devised for the promotion of their objectives. How different our environment, evaluations, aspirations and requirements! What they feared, we revere; what they highly esteemed, we often tend to disdain; what they could not foresee we are compelled to face. The measure of these inadequacies in our Constitution is the many fundamental differences between their world and ours, between our values and theirs. Millspaugh observes that our founding fathers did not retain an outmoded governmental form, the Confederation. They were too radical, too practical, too wise. He insists we can ill afford to fail to emulate them. Their undemocratic, complicated, slow-gearred structure and mechanism must be scrapped for an instrument appropriate for the needs of our age.

Numerous and substantial alterations have been made, of course, in the original Constitution, partially through amendment, more through expansion of functions and judicial interpretation. This flexibility, however, has been quite confined to the power of government as such, and to its distribution in national and state jurisdictions. The rigidity of basic legislative-executive structure and machinery is very much as marked today as in 1787. The author sees inflexibility in this area as the underlying cause of current constitutional defects. A considerable part of this study is devoted to a detailed presentation of these defects. Of course, his sharp criticism of these deficiencies is predicated upon his devotion to the value of "efficient democracy."

Perhaps, the nature and consequences of our governmental defects can be suggested, in a small way, in this review, by enumerating ten cardinal principles which our present form partially or wholly lacks, and which, Millspaugh insists, must be incorporated in a thorough reorganization. Our legislative and executive instruments must be so reconstructed as to give the national government: (1) Concentrated power. (2) Efficient leadership. (3) Adaptability for a dynamic world. (4) National representation. (5) Majority rule. (6) Exclusive majority party control. (7) Minority party participation. (8) Fixed responsibility to the national electorate. (9) Publicized action. (10) Continuity of policy. Failure to include these principles in a reorganized governmental form, in the face of the exigencies of the Atomic Age, might well prove disastrous; for our constitutional defects will be increasingly obstructive. Here is a corner-stone of the author's thesis.

Proposals for reformation of specific aspects of our legislative and executive institutions are manifold. Not a few reforms have been adopted. The scholarly familiarity Millspaugh has with the literature of these piecemeal proposals and adoptions is extensively indicated in the body of the study, in copious supplementary notes, and in his comprehensive, bibliographical references. He presents the proposition, quite convincingly, that particular deficiencies have not created current congressional and executive ineptitude. Fragmentary reforms are worse than inadequate. In fact, he sees such superficial adjustments calculated to prevent the operation of efficient democracy still further. Thorough reorganization is mandatory.

This study gives us not only a highly competent critique of root deficiencies, it presents us with a novel, radical and concrete plan of governmental reorganization. No summation of the plan can possibly do justice to its im-

portance and comprehensiveness. *Towards Efficient Democracy* must be read. It well merits most serious consideration of political scientists and their allies—professional and amateur.

Within limits set by a review of the study, it should be provocative, and somewhat revealing, to observe some of the ideas which find detailed development in the plan. (1) Government organization must be simply constructed. It must be within the capabilities of the electorate to understand its operation. (2) There should be a single authority, the National Council, small in membership, and possessed of full and final legislative-executive powers. (3) A chief executive and his assistants, and all administrators should be appointed by, removable by, and responsible to the Council. (4) The chief executive should be confined to direction and supervision of executive departments and agencies. He must be deprived of legislative initiative and obstruction. (5) Logical division of work, legislative—executive—administrative, should be continued, but division of power and responsibility must be prevented. (6) Congress as we now know it must go; the House to be replaced by the Council; the Senate, while retaining its present form, should be restricted to a reviewing function, and capable only of suspending final action on bills and treaties for a short, fixed period of time. (7) Action of the Council should be subject to judicial review of its constitutionality. (8) Election to the Council must be on a national basis. State jurisdiction must be confined to senatorial elections, and the casting and counting of ballots. Complete opportunity to fix final responsibility must rest with the national electorate. (9) There must be a union of party and government control. The national majority party must hold a clear majority on the Council. (10) The national minority party should hold the remaining seats. It must be unable to obstruct majority will, yet have full and intimate opportunity for criticism of government policy.

It is obvious that the plan, in the interests of "efficient democracy," provides for concentrated yet responsible power. It is clear that it rests upon the cardinal marks of American democratic faith. If adopted—and expectation of adoption, in anything like the immediate future, must be small indeed, in light of the almost insurmountable obstacles, which are crystal clear to the author—it seems undeniable that the United States would be empowered to act promptly and vigorously, in a manner acceptable to a national majority.

Millspaugh expects criticism of his proposals. In this study he selects some he anticipated may be made; and he offers refutations. On the whole, for those who can substantially endorse his premises, these refutations, as well as the plan itself, should prove to be quite satisfactory. For those, however, who find these premises in many respects untenable, serious challenges of the plan must be raised. American Christians ought to be extremely wary of his over-all proposals. In brief but important expansion of his conceptions of man, society and government, the author reveals his understanding of these premises of "efficient democracy." They are basically repugnant to Christian thought.

In Christian thought there is a fixed understanding of the purpose of government: it must promote the common welfare—the good of man and society. This common welfare is found only when the natural rights of man and society as measured by the natural law are able to be satisfied. All forms of

government are acceptable in Christian thought, as long as these rights are not thwarted. Majority rule is not only acceptable, it may well be preferred, when the common good can best be promoted by it. If, however, natural rights are suppressed, majority rule is an evil.

On the nature of man, society and government, Millspaugh is a relativist. He specifically denies the reality of natural law and natural rights. He has blind faith that the good and the true are entirely mutable, and are necessarily whatever a majority wants, after wide and open debate. He protests his devotion to liberty for all in a government ruled by the majority; but his philosophy forces him into a conception of "freedom" untenable in Christian thought: the mere majority permission for individual and social action. He draws a verbal distinction between the objectives of government and the tools of government; yet in his development of the notion of democracy, he implies that majority rule is both end and means of government. He sees democracy merely as parliamentary rules to be used for any objective deemed "good" by majority definition. This misconception of democracy is as impossible of acceptance in Christian thought as is his limited notion of the nature of totalitarianism. This he identifies merely as government control by a minority in violation of parliamentary rules.

In his study, the author, of course, deals with government as a tool. The direct revelations of his philosophy are brief; but even a relativist cannot evaluate an instrument without exposing his philosophy by implications. His foundations of "efficient democracy" make his plan less favorable—if at all—than the "defective" form created by our Constitution. It is tragically true that modern American culture is far closer to the philosophy of relativism than it is to the philosophy of Christianity. It seems probable, however, that adoption of the proposed plan would allow for still greater application of this really fundamental defect in our culture than our present "inefficient and undemocratic" governmental system permits. We must indeed find solutions for our many intricate problems. Government must be prepared to render all possible and proper help. Our power at home and influence abroad must be increased. Our machinery must be geared for prompt, vigorous and wise action. Christians realize, however, that "solutions" of problems made at the cost of violence to the natural law are no solutions.

Dr. Millspaugh has given us a sober study of a thesis impregnated with the most serious implications. Students of the law should be particularly concerned with this thesis. Since 1787, no profession has been more intimately connected with the origin, evolution and consequences of the Constitution—our supreme law—than the legal profession. This book will be read, studied and acted upon by those students, who, like the author, are able to think beyond immediate expediencies to first principles and fundamentals. Such have been the Americans chiefly responsible for our governmental institutions as they are; such will be the Americans who can give us the institutions we ought to have.

It is unfortunate that the style in which this study is presented leaves so much to be desired. True, it is styled in the best traditions of liberal scholarship. Such a medium is not without high merit. Enlightenment of the mind can and does result, but the needs and capabilities of integral man are neglected.

The whole man possesses will as well as reason. Liberal scholarship is too often disdainful of man's will. It is not conducive to move man to action. This book is no exception; it is avid, with but the quietist call for action. Indeed, it is extremely difficult to be sure Millsbaugh really means to sound this call; perhaps, he will be satisfied with merely having made a learned contribution to the library of political literature.

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THE LAW OF ZONING AND PLANNING (2nd Ed.). By Charles A. Rathkopf.
New York: The Grosby Press, 1949. Pp. xii, 667. \$15.00.

The body of law covered in this well organized book is not treated in most law school curricula. Most lawyers, therefore, come to the Bar with scanty awareness of the numerous difficult and important problems here treated with the most thorough and copious documentation. For this reason alone, this compact volume is a priceless source of information for brief writers and judges whose task it is to interpret the statutory schemes of municipal zoning and planning across the country.

With increasing urgency, the felt necessities of the times are dictating greater and greater care in the formulation of both zoning and city planning. Not only considerations of health and safety, which in the past were almost the sole criteria of legislative and judicial action in this field, but a keener interest in aesthetics, as well as intra-city transportation, have assumed vast importance in municipal affairs. In New York City, for example, the post-war overcrowding of people and vehicles in congested areas has led to popular demand for reform. Nor are other large urban centers in any better condition. It was inevitable, therefore, that these hard facts should lead to a new judicial approach to the problems involved, to a broadening of the scope of administrative discretion, and to a tightening of the individual rights of property to which former generations had grown accustomed.

The present volume shows ample appreciation of these developments. It contains not only a reasonably complete restatement of existing rules of law, but, in addition, the citation of countless authorities, and careful analysis of many leading cases. It will probably surprise many lawyers to learn that the table of cases cited in this book occupies 67 printed pages. It is almost a certainty that most lawyers who are required to give opinion in this field will not find it necessary to go beyond this volume and then read the cases cited by the author under the many headings treated.

The author distinguishes carefully between problems of zoning and problems of city planning, pointing out that the former deals with the essential

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