

BOOK REVIEW

AMERICAN DEMOCRACY UNDER PRESSURE. BY DONALD C. BLAISDELL. New York: Ronald Press Company, 1957. Pp. v, 324. \$5.00.

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It ought to be said at once that Professor Blaisdell's book is not to be mistaken for other than a rather pedestrian textbook for early students of government at the college level. Its usefulness for lawyers and legal education is the glimpse it gives of our rather scandalous lack of organized knowledge about a major institutional development in modern society and politics.

Not that the state of knowledge is as chaotic as this volume would make it seem. When a field is new to scholarship the case study method is the most rewarding device to use. Enough work has been done by American political and social historians to enable an author to make provisional case studies of pressure activity over our entire history. Such groupings as these are pertinent: high degree of involvement of public attention throughout the nation; middle and low general involvement; regionally segregated concern. If a scheme of this type had been systematically used by the author to block out what he was talking about the chief contours of the development would have come into the open.

As it is we have a mish-mash of unbalanced details chosen, it appears, because of availability rather than relevance. The historical sequence of methods favored by private influencing groups is not coherently reviewed. Court records have not been sampled to supplement the episodic revelations of modern congressional investigations. Even the information supplied in Table II about the groups that positioned themselves regarding the Revenue Act of 1951 is not in perspective. The research of economic historians on promotional activity has not been exhaustively combed to provide a working estimate of the stream of national resources that has gone into operations of this kind. The definition of pressure groups does not distinguish, and then apply, gradations of persuasion and coercion that give this subject significance. The social goals put forward for the appraisal of the influencing process are stated without rigor; estimates of the future are unimaginative and dubious; proposals are relatively routine.

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Perhaps a few affirmative remarks about the problem will induce or provoke appropriate scholarly talent to deal with the analysis and appraisal of the pressure network. It is plausible to believe that the system is the twentieth century's addition to the party systems that were evolved by the mass electorate politics of the nineteenth. During earlier years the pressure role was carried out by lawyers, promoters, writers and party politicians serving in "task forces" whose relationship to the modern pressure structure is parallel to that between eighteenth century "factions" and the "political party system" that came afterwards.

Why did the pressure network become conspicuous in this country? Because a decentralized society was undergoing rapid economic development and turned to organized informal methods of influence in order to speed up the elimination of weaker components, the abolition of early crystallizations of privilege and the making of stable working arrangements among a few major groups in nearly all fields of activity. What are the future prospects? The system is becoming routinized and crippled by checks and counter-checks to such an extent that the highest pay-offs will probably shift back to private deals and party managers.

What, if anything, needs to be done about the pressure system in order to harmonize it with the goals of modern popular government and society? Undoubtedly current proposals have some limited usefulness: the network should be less coercive (where it is so), less corrupt (where a "cut" is the tactic), less invisible (where it operates in the dark of the moon of disclosure).

But many Americans are attacking "pressure groups" under the impression that they are striking a mighty blow at a graver danger. Since "pressures" reflect differences we are asked to overcome disunities on foreign and domestic policy by controlling the pressure system. This is a fundamental error. Effective politics must face up to the necessity of doing it the hard way by mobilizing the initiative and capability to dominate the present vortex of contending demands.

It may be that the national enterprise suffers mainly from the cumulative cost of the myriad of "little privileges," such as the devices invented with the aid of lawyers to defeat the tax gatherer. As a nation we are groping after a balance in which the community, acting through the channel of government, hires enough legal talent to outsmart or counter-smart the talent hired by private parties and other government agencies. It may be that we can presently state ratios to guide the apportionment of bodies and talent that will release the largest net flow of resources for public appropriation as against private diversion. Operations of the kind may extend elsewhere through the body politic on other matters. Altogether these measures can dissolve more crystals of private privilege than can be eliminated by direct reform of the by now bureaucratized associations of the lobby-propaganda system.

BOOK NOTE

VOICES IN COURT. EDITED BY WILLIAM H. DAVENPORT. New York: The Macmillan Company, 1958. Pp. x, 588. \$6.95.

Ordinarily a volume designed to meet the peculiar teaching needs of the law school is of scant interest to the practitioner, and virtually unintelligible to the layman. Casebooks and collections of legal materials, designed to be used in connection with courses of study, are the more familiar products of the unique requirements of legal education. *Voices in Court* is a significant exception. It is an anthology of "legal literature" compiled by a professor of English at the University of Southern California, and designed to be used as a teaching tool in connection with an experimental course aimed at meeting the need to provide "a broader cultural base for students specializing in law." (p. v).

With a book of this sort, it is worth asking whether the larger enterprise out of which it evolved is itself well adapted to the achievement of its stated ends. The need to provide a broader cultural base would seem to call, at the very least, more for a study of the forces that move without the law, influencing it at the periphery, than for a collection of writings about the law and lawyers. If the principal danger is in fact professional provincialism, can an excursion into the lore of the advocate's craft be accepted as an appropriate antidote? The orientation of this volume is toward depth, not breadth; its impact on the law student is to make him look *back* over the history of his profession, rather than *out* into a world where law is merely one of many professions.

In fact, there seems to be a more modest goal evident in this book, as there would have to be. Law school is no time for fostering a broad cultural outlook in a student; this is the function of the liberal arts college. But there is a danger that the student who has developed catholic tastes and interests will, because of the press of purely legal reading which he must do, fall out of the habit of reading books not immediately connected with his day-to-day work. This is a species of illiteracy with which legal educators should properly be concerned. Viewed in this light, *Voices in Court*, and the course in "legal literature" out of which it evolved, appear as a benevolent plot designed to keep law students reading books.

Because the device chosen was a course presumably to be given in a law school, the cullings were, of necessity, from "good books" with legal themes. But it is worth pointing out that other alternatives were, and are, available. Any law school which is a part of a university, and which has within reach the resources of a liberal arts college, could simply release

sufficient time from the law school curriculum to permit law students to take one of a number of selected graduate or undergraduate courses. This would incorporate the chief virtue of the Harvard Seven-Year Plan (in which legal and non-legal undergraduate courses were combined and spread over a single continuous program of study) without its chief defect, that is, dissipating the effect of the unique character of each separate educational experience. And, above all, it would foster the continued growth of the student's general intellectual curiosity through a most trying time.

The Southern California experimental course, and *Voices in Court*, since they exist as accomplished facts, demand an evaluation on the merits. Mr. Davenport has collected some forty odd pieces, among them, essays, biographical excerpts, letters, opinions, short stories, transcripts of trials, historical writings and lectures. All of it is well written, and much of it is good racy reading as well. Macauley tells us of the infamous Lord Jeffreys, the hanging judge, from the pages of his *History of England*. Coke's shameful vituperation at the treason trial of Sir Walter Raleigh is lucidly presented in an excerpt from Mrs. Bowen's distinguished book, *The Lion and the Throne*. No dry philosophical moralizing could so successfully convince the reader of the necessity of safeguarding the protections of fair criminal procedure, even in times of national hysteria, as does this brutally vivid narrative.

The great American jurists and advocates are revealed in selections distinguished both by amiable intimacy and profound insight. The youthful Holmes is glimpsed on the threshold of his career in *Holmes Prepares for the Bar*, from Mrs. Bowen's *Yankee From Olympus*; Lincoln emerges as the advocate, ably though reluctantly representing a client on a pro-slavery issue, in an excerpt from Sandburg's *Life of Lincoln*. Biographical excerpts are also used, in a very intelligent way, to probe the great decisions in American constitutional law: a section from Beveridge's, *The Life of John Marshall*, describes the great jurist's courage in deciding the issue of judicial review in *Marbury v. Madison*, and Swisher's comment on the *Charles River Bridge* decision in his biography of Chief Justice Taney stands as a welcome effort to restore a much maligned judge to appropriate stature. Less than a quarter of the selections are fiction, but they include such rewarding morsels as the delightful *Bardell v. Pickwick* from Dickens' *Pickwick Papers*, and Benet's classic, *The Devil and Daniel Webster*.

This recitation is sufficient to indicate several things about *Voices in Court*: that it is far more than a selection of materials of unique interest to students; that its appeal may be as great to the layman as to the practitioner; and that, by virtue of the well-chosen selections it contains, it amply fulfills what must have been a prime object of its editor—to lead the reader beyond the covers of his book into the books from which he has borrowed.

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