

and artful presentation. They are not only instructive but fascinating, especially where troublesome problems of the present day are clarified through the tracing of their history or the use of historical parallels. High points in this respect are the chapters on agency and the discussion of covenants of title, quiet enjoyment, etc., whose intricacies are brilliantly elucidated by apt references to Greek, Roman and Germanic law.

A book which is composed in such manner differs from the usual legal text, which is usually meant as a reference work to be consulted for case information on some particular point, or as a survey of existing law for purposes of review by examination candidates. Rabel's book may well be used as a vast storehouse of information and reference, but it is primarily meant to be read as a coherent whole and thus to serve as a stimulant for thought and creative development. That it has been completely neglected in the preparation of the conflicts provisions of so important a work as the Draft Uniform Commercial Code, is an almost unbelievable illustration of our disdain of the accumulated wisdom and experience of the past and of other parts of the world. We are the country of bold experiments, but every scientist or inventor knows that, if he is to take a step forward, he must be familiar with the present "state of the art." The scientist would dismally fail if he began his investigations without drawing upon the experiences of those who had performed the earlier experiments. The analogous attempt of the Draft Code will equally fail, but until that failure becomes apparent it will have immeasurably increased the confusion in a field which has already been sufficiently confused by our consistent refusal to look at it in any fashion other than piecemeal. It will also constitute a puzzle to foreign observers, for whom it will be difficult to understand how rules of such plain impracticability could have been enacted in a country which had at its disposal Rabel's work, not to speak of its rich and eminent older literature.

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PUBLIC AND REPUBLIC: POLITICAL REPRESENTATION IN AMERICA. By Alfred de Grazia.* New York: Alfred A. Knopf, Inc., 1951. Pp. xiii, 262. \$3.50.

Representation is the crux of the relationship between public and republic; between the people and their government. It is, therefore, rather surprising, and unfortunate, that so little has been done by way of a systematic analysis of the theory and practice of representation in the United States. Alfred de Grazia has made a significant contribution toward the filling of this gap. His stated purpose is to "isolate clusters of ideas on representation, to discover

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their genealogy and report their birth, to trace their family history, to point out where some weakened and others grew strong, and where some elements married into other groups and other elements died out," and finally, to "attempt a forecast of things to come."

For purposes of this study, representation is defined as "a condition that exists when the characteristics and acts of one vested with public functions are in accord with the desires of one or more persons to whom the functions have objective or subjective importance." Representation exists on three distinctive levels: community, discussion, and administration. The first of these involves symbolic or expressive representation, and is common to all types of government since it concerns the consensus between ruler and ruled. Discussion includes legislation and the bargaining part of the political process. In administration, general acts are brought to bear on the individuals in the community.

Within the context of this purpose and definition, the principal elements of representation in this country are traced by de Grazia from the English ideas in early colonial times to the present. The English background derives from the theory of "virtual representation" as advocated by the Crown and later taken over by the parliamentary oligarchy, in contrast to the claims of the Levellers ("the first modern direct democrats") and the radicals who were in the same tradition during the latter part of the 18th century.

American colonial development was characterized by three different but interacting approaches to representation, namely, tendencies toward direct democracy, the theological conservatives, and the commercial interests. Revolutionary and constitutional representation in large measure revolved around questions of state and nation, a problem which made it easier for the aristocratic theory to dominate the formation of the new federal system. Before long, however, ideas of direct representation were established through the widening suffrage, increased use of direct rather than indirect elections, multiple administrative responsibility, short tenure and rotation in office, the doctrine that officials are agents bound by instructions, rise of nominating and constitutional conventions, legislative detail in state constitutions, and others. Calhoun formulated the theory of the "concurrent majority," which was essentially a doctrine of the representation of minorities. Other new tendencies were the further development of political parties and "bargaining" representation, lobbies, socialistic experiments, and idealistic individualism.

After the Civil War, three main currents of thought were discernible. First, there was new emphasis in direct representation. The recall, the initiative, and the referendum reached their heyday in the late 19th and early 20th centuries. Public opinion polls came to be considered by some as a device to let the officials know the desires of the constituents. The spirit of insurgency, as manifested in populism and various minor parties, was predi-

cated on popular control over the bosses and the interests. In this category also belong ideas of representation as reflecting a compromise and adjustment among groups; this was, of course, a fresh application of the Madisonian concept of distilling the national interest from the rivalry of competing factions.

Another post-bellum trend was that of enlightened individualism, which found congenial theories in representation of the whole people by the executive and in the movement for proportional representation. The third major trend was one toward pluralism. This took several forms, including that of the party system, professional and business representation, corporatism, and administrative pluralism. Each of these forms is analyzed in terms of its genesis and role in the development of American political society.

A "new synthesis" presented in the concluding chapter starts with the assumption that "the chief problem of representation arises naturally out of the division of labor in society." Successful representation, therefore, must satisfy both the feeling for social solidarity and the need to give recognition to the specialized characteristics of the society. Historically and psychologically, the concept of direct representation has dominated American thought. It has served a useful purpose, and remains the best scheme for representation in its community or expressive aspects. However, it is not adequate for modern conditions. It would seem that a more effective scheme might be sought by the skillful use of interest representation. Some tendencies which point in this direction are the reduction of the sphere of theoretical competence of the whole electorate to the central representative offices, growing acceptance of the idea of "expert leadership," the use of voluntary constituencies to supplement fixed-interest representation, and considerations related to the reconciliation of opposing groups within particular areas of government.

Public and Republic is an excellent scholarly study and is to be highly recommended to everyone interested in the theory and practice of the American representative system. Although written in a lucid style, the habit of shifting back and forth between the first and third persons is somewhat disconcerting. The chief contribution lies in the emphasis given to an important but neglected factor in the political process. The old beads of American governmental ideas, ideals, and practices are strung in a new fashion upon the thread of the concept of representation. Also, some of the beads have been repolished with new facets. The result is pleasing, interesting, and useful.

It cannot be said, however, that this book represents a definitive or comprehensive account of political representation in America. The first reason lies in the nature of the author's definition of representation. This basic concept is framed in terms of consensus, frame of mind, and correspondence of acts with desires. This places the emphasis upon the subjective and psychological factors. It is true that objective techniques and processes are considered, but this part of the discussion is pitched at a secondary or derivative

level in terms of how the consensus of representation is implemented. Another aspect of representation occurs when officials, in the name of the public, make decisions which are binding upon the public and perform acts which have consequences for the public. Laws passed by Congress are enforced without regard to whether or not they are "in accord with the desires" of the persons concerned, except, of course, for the practical consideration of wholesale resistance to unpopular measures. Administrative acts press upon all alike, regardless of their "frame of mind." Foreign policy determined by the President is taken as "representative" of the United States in world affairs and dissenting members of the population have little chance of dissociating themselves from it or of escaping the effects. Under de Grazia's definition, representation would occur as long as even one person was "in accord." But what is the situation of the others? Are not minorities which disapprove of current national policies nevertheless represented by the existing Government? Is it not true that events and conditions force people to assume responsibility for their Government, whether they want to or not?

It would seem that even a "consensus" or psychological theory of representation in the United States must face the problem of the feeling of non-representation or contra-representation. One of the strongest political traditions in this country has been suspicion of government, the idea that the least government is the best government, or the assumption that democracy means that "government must not interfere with my rights" rather than that "government represents me." Inquiry along these lines might lead to some investigation of the implications of non-voting. If American political processes are predicated upon the basic essential of representation, what is the significance of the fact that it is unusual for as much as sixty per cent of the adult population to go to the polls even for major elections? The opening sentence of de Grazia's first chapter reads, "When an American thinks of representation, he generally thinks of his vote." Does he—always? Which American?

Admittedly, a writer is entitled to adopt his own definitions for his own purposes. Hence, the two preceding paragraphs are not intended as adverse criticisms, but as comments suggesting that a broader and richer treatment of the subject might be possible. This line of comment would, however, qualify as a pertinent criticism if *Public and Republic* were presented as a definitive work on the subject. There is some reason to gather from the preface that the study is offered as at least covering a historical and interpretative sketch of all the main elements of political representation in America. The scant attention given to negativism toward political participation seems the more surprising because it could readily be considered in connection with a modernized theory of virtual representation, a concept which is emphasized in the discussion of English ideas in colonial times. The point at issue here may be summarized by this query: Does de Grazia's definition of "representa-

tion" provide a suitable basis for a consideration of all the relevant phenomena, especially feelings of non-representation on the one hand and the objective consequences of representation on the other?¹

Another type of comment remains to be made. Within the scope of the author's definition, there are some significant gaps in the analysis. For the most part, this is a matter of degree in the sense that at some points the argument could be strengthened by considering an additional key element which is in fact neglected. Specific examples of this may be cited.

Public and Republic contains a passage² which explains the fact that ideas of direct democracy could flourish much better in the American colonies than in England. Several excellent reasons are given, such as cheap value of land in relation to movable property, mobility of population, high value of labor, the fact that ownership of land could not "completely overawe the representative system by its socioeconomic effects," etc. However, the important fact that suffrage, and therefore political power, was based on land ownership (according to English rights transferred to America) is not stated, although the context practically demands it.

Another example of a neglected factor is that the word "gerrymander" is not found in the index, and there are only two incidental references to it in the entire text. At least a paragraph or two on this distortion of representation seems necessary for a complete treatment of the subject.

The lack of progress of proportional representation in the United States is attributed largely to apathy. In the opinion of this reviewer, the nature of our governmental system offers a much more significant and convincing explanation. Any scheme of proportional representation absolutely requires a system of multi-member elective districts, with at least three candidates to be elected from each constituency. The greatest political prize in the United States is the Presidency, which is only one office. Each state has only two Senators, elected one at a time. Single-member districts for the House of Representatives were established over a century ago, as the author points out in connection with the establishment of direct representation. In each state, there is only one Governor, and so on. Proportional representation is inherently incompatible with an elected strong executive and with a system of single-member districts. It may be questioned whether "apathy" is an adequate or necessary explanation in the circumstances.

The analysis of the persistent two-party pattern³ likewise would gain in depth if related to the nature of the presidential and single-member district system, as exhibited, for example, in E. E. Schattschneider's book, *Party*

1. It should be noted that the word "objective" in his definition refers to one basis for attributing importance to a function, and not to the overt facts as distinguished from feelings.

2. Pp. 51-52.

3. Pp. 208 *et seq.*

Government. The statement that each party "organized within itself the same pluralistic components" is true enough. But why? The answer is that it must appeal to a cross-section of the American voters in order to elect a President and thus to succeed as a political party.

Perhaps the most serious omission occurs in connection with the discussion of executive representation.⁴ There is no mention of foreign policy as a factor making for increased reliance upon the President as the representative of the whole people. Yet, this has been an important force in strengthening the role of executive leadership. In time of war, blanket controls are vested in the President. During periods of international crisis, the same necessity is present to a lesser degree. When national security and military strength are primary conditions, the commander-in-chief is in a position of exalted authority. Even when the world situation is relatively tranquil, the growing importance of organized international cooperation tends to underscore the idea of executive representation.

This statement appears in the preface: "The imminence of the Hydrogen Bomb is a threat no one can ignore. But who will say how to reconcile international and national interests?" This question is not answered, nor referred to, in the text. How the American public is to be represented among the publics of the world may be fairly considered as outside the scope of this book. In that event, one may express as a tribute to the author the wish that a second volume may be forthcoming, without violating academic courtesy by criticizing him for not writing a different book than the one he chose to write.

International aspects of representation aside, the world situation has definite implications for the theory and practice of representation within the American political system. It strengthens tendencies toward executive representation. Furthermore, it seems obvious that the need for centralized national controls and the mandate of secrecy in many vital areas increase the likelihood of some variety of elitist representation. Is there an analogy here with the fact that the centralizing tendencies at the formation of the federal system favored an aristo-democratic as contrasted with a direct democratic approach? De Grazia rightly recognizes that a rationale of representation may experience significant changes while the outer forms persist. Could it be that the conditions of the modern world will dictate that direct representation, the dominant American tradition, will be unable to implement its assumptions and will become merely symbolic and hortatory? It seems obvious that fundamental questions of emerging patterns of representation are deeply involved in the problem of foreign policy and the executive's control in that realm, subject to such influence, restraint, or control as Congress may be able to exert.

4. Pp. 175-184.

Emphasis on the national interest in a time of crisis also has important implications for pluralism. Unifying concentration of power is more difficult to resist, and competing interest groups can be put on the defensive by overriding arguments of national patriotism. On the other hand, corporatism and administrative pluralism may flourish under such circumstances. In fact, there is hardly an aspect of representation, as stated in the concluding synthesis of *Public and Republic*, which will not be deeply affected by developments in the formation and control of American foreign policy.

The only real error noticed by this reviewer involves a paragraph which seems to assume that the Congressional Apportionment Act of 1930 transferred the authority to make an apportionment from the legislative to the executive branch.⁵ Actually, this did not happen, and any attempt in this direction would be clearly unconstitutional. Congress established the policy in advance and provided that the President should certify the results of the 1930 census, on the basis of which the new apportionment automatically would go into effect unless Congress enacted a change in policy. The statement that the final election in the southern states is "always" won by the Democratic party⁶ can be dismissed as a slight exaggeration.

An anti-climax could have been avoided by omitting the last two paragraphs of the study. To say that the "dread social diseases" of imitation, formalism, exaggeration, and conformity have ruled the history of representation hardly seems in keeping with the constructive tone of the entire analysis. The recommendation for a "flexible and imaginative prescription of the appropriate remedies in the particular context" does not seem to point in any particular direction.

On the whole, however, *Public and Republic* is a thoroughly competent and significant work. It moves the literature of political science a substantial step closer to a definitive analysis of the theory and practice of political representation in America.

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5. P. 28.

6. P. 150.

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