William & Mary Law Review

May 1969

Book Review of Representation

Charles E. Bednar

REPRESENTATION. ·Edited by J. ROLAND PENNOCK and JOHN W. CHAPMAN. New York: Atherton Press, 1968. Pp. 317.

The concept of representation is a ubiquitous one, for it is involved, explicitly or implicitly, in all discussions of power and decision-making. At the present time militant groups and student movements have made the discussions of representation and participation in the decision-making processes anything but academic. The hallmark of today's protests against the establishment is the minimum demand for representation within the establishment and the maximum demand for the destruction of the establishment and its replacement with more representative decision-making structures. This demand for new and, according to its proponents, more democratic forms of representation is not confined to radical students and militants. The same demand is being made by academicians who look beyond reforms in political representation alone:

> To locate the forces that devitalize the political order by taking people and politics out of decision-making, by destroying self-control and self-government, we will have to be hospitable to facts conventionally relegated to the periphery of social analysis. We will have to be open to matters said to belong to private life, to society, and the economy. . . . We are properly concerned with *all* public policy effectively made by committees, boards, authorities, councils, and trustees, by elites who make or veto policies within an untested, amorphous consensus.[1]

The concept of representation is just as intimately involved in the academically fashionable Parsonian structural-functional analysis of society[2] as a system maintained in its integrity, *i.e.*, equilibrium, by mechanisms for the setting of goals, adaptation of means to goals, integration of subsystems, and pattern maintenance. While the Parsonian model does not explicitly deal with the concept of representation, the concept is, in fact, implied in the discussion of the inputs into the

---

1. H. S. KARIEL, THE PROMISE OF POLITICS 101-02 (1966).

2. *See* C. G. MAYO and B. L. CROWE, AMERICAN POLITICAL PARTIES: A SYSTEMATIC PERSPECTIVE 1-37 (1967).

system and the interest articulation and aggregation of these inputs to form policy. The input is composed of the demands of a multi-bonded class structure, expressed through associational, non-associational, institutional, and anomic groups; the prevailing value system; and the operating personality or behavior system.[3] The processing of the input occurs through the parties, the legislature, the executive, and the administrative structures.[4] What keeps the system in equilibrium is the articulation (the identification of and response to specific expressions of need and interest) and aggregation (the more inclusive combination of expressed needs and interests) of the interest input by the mechanisms of party, legislature, and executive. Translating the Parsonian terminology, it is evident that what keeps any social system in equilibrium is the ability to respond to the more pressing and vocal interests, to identify those interests which should be given consideration, and to adjust as many of these interests to one another as possible in the formulation of a broad-scoped policy, *i.e.*, public policy. However sociologically formulated, the articulation and aggregation of interests refers to the process of recognizing and satisfying social interests, and this process is what, in a democratic system, is referred to as representation.

What contemporary socio-political analyses frequently omit is a consideration of the representative forms needed for effective identification, articulation, and aggregation of interests. The more traditional discussion of the loyal party delegate, Burkean, and instructed delegate forms of representation, illustrated in the articles by J. Roland Pennock, B. J. Diggs, Hanna Pitkin, Julius Cohen, and W. R. Frankena, does touch on such questions as whether an elected representative is obligated to present his constituency's views faithfully whether or not those views are correct and, if correct, compatible with broader or national interests. Unlike the Parsonian approach, comparison of the Burkean and instructed delegate forms of representation does invite a discussion concerning actual versus apparent interests of individuals and groups. This discussion leads to at least an adumbration of the criteria that might be invoked in deciding what are real and what are apparent interests, a distinction that could be of some importance when choices are to be made among competing social interests. Given the multi-bonded class structure and the egalitarian dimension of the society, it is difficult to see how the Burkean model of representation can be seriously offered as

3. *Id.* at 4.
4. *Id.* at 8-9.

descriptive of contemporary American practice, unless it is specified
that the insulation of the representative from the constituency, as called
for in the Burkean model, exists today only when the representative's
position on an issue does not touch on the existing social interest of any
sizable and aware group.[5] In the latter case, it can hardly be said that
the representative is free to represent what he considers to be the real
and enduring interests of his constituency. It is equally doubtful that
the loyal party delegate concept of representation serves either as an
accurate description[6] of how the representative process functions today
in America or as a norm to which we should make our representative
practice conform. If, as Harvey C. Mansfield, Jr. says in his article on
Modern and Medieval Representation, representative government re-
flects culture and society, we shall have to examine the possibilities for
the more direct and effective instruction of an elected representative by
his constituents, as well as the possibilities for making the party organi-
zation more representative of various activist elements in the general
party membership.[7]

The Supreme Court decisions, as in *Wesberry v. Sanders*,[8] which have
affirmed the principle of "one voter, one vote," do, as Stuart M. Brown,
Jr. insists, rest on the Court's implicit acceptance of an instructed dele-
gate concept of representation. These decisions will, as Donald E. Stokes
points out, enable a winning party to obtain a majority in both legislative
houses and thus pursue more effectively the translation of its program
into legislation. But unless the party's program represents more than
the establishment's goals and unless the voters in a redistricted area can
do more than vote for candidates previously decided upon in a party
caucus, "one voter, one vote" will not effect the changes for which
both militants and non-militants are calling. Lewis A. Dexter's article
on *Standards for Representation Selection and Apportionment* is in-
teresting because it discusses the need to take into consideration such
factors as communications, cultural and social group cohesion, and
similar factors which now operate to protect the interests of various
groups and areas, but whose operation may be seriously disturbed by a
generalized application of the "one voter, one vote" principle. In

5. Cnudde and McCrone, *The Linkage Between Constituency Attitudes and Con-
gressional Voting: A Causal Model*, 60 AM. POL. SCI. REV. 66-72 (1966).

6. Stokes and Miller, *Party Government and the Saliency of Congress*, 26 PUB.
OPINION Q. (1962).

7. The chairman of the Democratic National Committee has recently formed a
committee to study recommendations for reforms in the party organization.

8. 376 U.S. 1 (1964).

addition, as Robert C. Dixon, Jr. states, what really matters in reapportionment and redistricting is the creation of "political organization representation" which involves membership in a party that has gained control of the legislature. Political organization representation, however, is not secured merely by the "one voter, one vote" principle but by an extension of that principle, the weighted vote. The sophisticated analysis by William H. Riker and Lloyd S. Shapley demonstrates that in a system of weighted voting the voter's power to influence legislative decisions through his representative is multiplied by a factor proportional to the square root of the district population. Consequently, the voters in a large district have, under a system of weighted voting, distinctly more power than voters in a small district, in terms of the possibility of the representatives of the former exercising the pivotal or decisive vote in the legislative process. Weighted voting does not appear, therefore, to benefit the smaller districts and in practice it would not actually give the voter in the larger district any advantage unless he were able to get his representative to exercise his pivotal vote on the voter's behalf, *i.e.*, in support of a program representing the interests of the voter.

The two articles by Witold Zakrzewski and David C. Apter discuss the concept of non-democratic representation. A social system can maintain equilibrium, that is, process the inputs of the system, without utilizing what the West calls democratic representation. This equilibrium is not always or even largely achieved through force. Some interests must be given consideration and in the emerging nations these interests reflect socio-economic structures rather different than the multi-bonded class structure of the West. For Apter, the problem facing all emerging nations is the proper mode of response to increasing pluralism and the "embourgeoisment" phenomenon.[9] The possible responses, at varying degrees removed from democratic representation, he classifies as mobilization, reconciliation, theocratic, and bureaucratic systems and the analysis throughout is a typical Parsonian structural-functional one. Apter's article should be read in the context of the contemporary studies of community power[10] which depict the American political system as one in which the citizen typically fails to utilize whatever political resources he has, elites rule, consensus is maintained by a small core of activists who operate the machinery of the system, and the

---

9. The term "embourgeoisment" as used by Apter refers to the creation of the modes of industrial life within a traditional social setting.
10. *See* R. A. DAHL, WHO GOVERNS (1961).

stability of the system is its chief virtue rather than its encouragement of citizen participation in the decision-making process. Obviously, other political systems are stable—the U.S.S.R. power structure seems in no danger even after fifty years of operation—but one would want to believe that the chief thrust of a democratic political system is its qualitatively different concern to provide those forms of representation which support a truly open communication and interaction between the people and their government. Political scientists need to concern themselves with the creation of adequate devices which would encourage and support the kinds of representative processes our modern culture calls for.

CHARLES S. BEDNAR*

THE BIOGRAPHY OF A LEGAL DISPUTE. BY MARC A. FRANKLIN.[1] Mineola, New York: Foundation Press, 1968. Pp. 196.

The issue of what the aims of a sound legal education ought to be has been answered by law teachers in many ways. At the risk of oversimplification, two basic schools of thought may be identified. One camp would emphasize "practical" training in the course of a student's law study, while the other would place heavier emphasis on what might be called "legal theory." It seems to this reviewer that law school is capable only of exposing students to selected areas of the law and of doing so in such a way as to bring on care in analysis, logic in thinking, and precision in expression. A familiarity with the details of the actual practice of law is important; but a sharpening of analytical techniques is more important—especially if one considers that not every graduate intends the actual "practice" of law. Formal legal education consumes only three years; we pass this way only once; the law school graduate has the rest of his life to learn the practice of law. In short, the law school does its job if it produces a graduate who, in addition to "knowing some law," has been imbued with such analytical techniques as to be able effectively and expeditiously to learn the practice of law.

Of course such offerings as Moot Court and Trial and Appellate Court Practice should always be included in the law school curriculum. This kind of exposure brings home to the student in fairly realistic terms the type of activity (if he decides to practice law) to which he will be devoting his life. His first appearance in court eventually as

---

*Assistant Dean and Chairman, Pol. Sc. Dept., Muhlenberg College.
1. Professor of Law, Stanford University.