

Book Review: Review of Lawyers in Politics - A Study in Professional Convergence by Eulau, Heinz and Sprague

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Repository Citation

Quentin L. Quade, *Book Review: Review of Lawyers in Politics - A Study in Professional Convergence by Eulau, Heinz and Sprague*, 48 Marq. L. Rev. (1965).
Available at: <http://scholarship.law.marquette.edu/mulr/vol48/iss4/13>

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BOOK REVIEWS

Lawyers in Politics—A Study in Professional Convergence: By Eulau, Heinz, and Sprague, John D. Indianapolis: Bobbs-Merrill Co. 1964. Pp. xii, 164. \$5.00.

Among students of politics there is a continuing controversy over the value and uses of behavioral examinations of political reality. To some, behavioralism is the Devil Incarnate, based as it is on methods of quantifying and enumerating supposedly destructive of the real nature of man. To others, these same techniques offer salvation to political study because the kind of results they produce have the communicability and reliability of things "scientific." By still others, including this reviewer, behavioralism is accepted as a worthwhile device, though of a strictly limited character. Insofar as behavioral methods conform to the reality of politics, they are justified, but there are many aspects of politics which require other approaches; *e.g.*, philosophical analysis, non-behavioral empiricism.

But there is another limitation on the value of behavioral studies in politics. Before its techniques can be applied meaningfully, a non-behavioral act must be performed: a relevant problem must be defined, and this is the task of normative judgment. This is just another way of saying that behavioralism is not self-justifying, that each behavioral study requires a justification outside the method.

This suggests a fear that many have had about the use of behavioralism in studying politics: since behavioral techniques produce relatively concrete results, results which are manageable—and publishable—might not some be tempted to employ them indiscriminately; *i.e.*, permit the method to dictate the subject matter, ignoring questions of relevance, and thus producing studies which pass the methodological muster but which are substantively insignificant if not contentless?

The volume under review comes close to this condition. On this point, the authors are exceedingly candid: "This study of lawyers as politicians is a *by-product* of a much larger project. . . ." (p. vii.) (Emphasis added.) The necessary result of this is that the categories and questions of this book are incidental derivatives, not controlled by a beginning pursuit of the question of relevance. Indeed, the "problem" to which the book is addressed—how to explain the apparent fact that lawyers as legislators do not differ substantially from non-lawyers as legislators—did not generate the study but was found along the way: "Our problem *became* one of explaining the lack of differences between lawyers and non-lawyers in politics. . . ." (p. 3.) (Emphasis added.)

If one finds that particular problem to be interesting or worthwhile, this volume will be of value to him. Using statistical evidence obtained

in direct interviews with state legislators who were lawyers and their non-lawyer counterparts, the authors proceed as follows: In chapter I, they shoot down a number of familiar straw men concerning lawyers in politics; chapter II examines several traditional explanations for the high incidence of lawyers in politics and finds them wanting.

The remaining three chapters contain the primary new contributions of the authors. Essentially, the authors show that law and politics are converging professions, and use this as a theoretical explanation for (a) the large number of politicians who are lawyers, and (b) for the fact that lawyer-politicians and non-lawyer-politicians tend to act similarly in the political arena.

Since this volume's validity rests more on statistical demonstration than on argument as such, it is essential that the reader be able to appraise the methods of data-collection used in the study. For this purpose, the authors have an appendix on method which is highly useful.

QUENTIN L. QUADE*

How High Is Up: Space Age Law and Other Legal Marvels. By David Loth and Morris L. Ernst. Indianapolis: Bobbs Merrill Co., Inc. 1964. Pp. 275. \$4.50.

This book is written for the most part by a layman at the law and is candidly for laymen; it is, perhaps, not inappropriate therefore that it be reviewed by a layman. There is probably little, if anything, here for the lawyer. Yet the book has achieved what its authors intended, and that was a service to the law. Its theme—and it adds interest to a fast-paced account—is a summary of some problems that face the courts because of our rapidly advancing technology and the attendant social conditions it inspires. The initial chapter loans its title to the book and traces the development of law regarding the question: Who owns the air above us and how much of it? It is inevitable that the second chapter be entitled: "And How Deep is Down?" Little is said about advertising but the rights to privacy and publicity in commercial endorsements are considered. There is a chapter on the legal status of so-called test-tube babies. There are descriptions of the development and status of law touching atomic power, sonic booms, rain-making, flood control, and community expropriation. The description of the change from a nearly absolute *caveat emptor* to a socially sensitive *caveat vendor* reflects the complexity of modern merchandising. Most of the decisions cited occurred in civil courts but criminal law is incidentally mentioned in the last chapter which discusses the legal problems of new methods of uncovering evidence, especially the mechanical and chemical truth tests.

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