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AMERICA'S UNWRITTEN CONSTITUTION: SCIENCE, RELIGION, AND POLITICAL RESPONSIBILITY. By *Don K. Price*. Baton Rouge: Louisiana State University Press. 1983. Pp. xvi, 202. \$19.95.

Don K. Price¹ has arrived at a time of life when he could be forgiven for indulging an impulse to recapitulate or even simply to reprint previously published views, perhaps prefacing such a work with a brief essay highlighting the continuing relevance of any relatively dated theories and placing the various pieces in proper historical context. In

1. Emeritus professor of government and of public management, Kennedy School of Government, Harvard University.

this volume,² Price has done both more and less than this. On the one hand, he has reappraised virtually all of the major issues encountered in a long career of service to government, private foundations, and universities, and has forged them into a thoughtful analysis of American political policymaking. On the other hand, he has done all this in a single concise and readable volume that bespeaks a greater concern with reaching and influencing a contemporary audience than with preserving the form of past publications.

The conciseness of his work is suitable in that Price's main concern is the "roots of the incoherence of policy which lead[s] many critics to wish to amend the U.S. Constitution" (p. 9).³ The "incoherence of policy" itself Price generally takes to be self-evident; the nature of the perceived problem must be inferred from the proposed solutions.⁴ The focus of the book is rather the underlying intellectual and social structures which determine whether our governmental institutions are capable of formulating coherent, unified policies. Price asks: "[H]ow can we know what we should do and how we should do it and how we may hold government responsible? That is to say, what is the authoritative source of truth on which we should rely" (p. 4)? These questions raise broad and inherently amorphous issues, which it would be only too easy to talk around at great length without achieving useful insight or reform. Accordingly, Price dispenses with an extensive analytic and bibliographic apparatus, saying, "The issues here are too broad to be dealt with by the precise methods of the scientific study of politics and society, but the stakes are high enough to discourage professional timidity" (p. 14). To strike at the roots of incoherence, in other words, one must at times run the risk of appearing opinionated and conclusory.

In Price's case, any such appearance would be somewhat deceptive, for the groundwork for these opinions and conclusions has in fact been laid by his previously published works, spanning more than four decades. The thesis, for example, that America's "unwritten constitution" — "the fixed political customs that have developed without formal Constitutional amendment, but that have been authorized by statute or frozen, at least temporarily, in tradition" (p. 9) — ought to be the focus of reform, derives significant support from Price's early work. In the late 1930's, Price coauthored a series of studies on the efficacy of the "city manager" form of government in selected cities.

2. This book has also been reviewed by Genuth, Book Review, *BULLETIN OF THE ATOMIC SCIENTISTS*, Mar. 1984, at 43.

3. An extreme manifestation of this tendency is the ongoing effort to call a constitutional convention in order to pass a balanced budget amendment. See *The Constitution as Cudgel*, N.Y. Times, Feb. 6, 1982, at 22, col. 1.

4. Price's proposals presume that a coherent policy is not simply one that leads to cost-effective or nonduplicative programs. It also sets forth clear and specific goals with which voters can agree or disagree so that the act of voting is as meaningful as possible.

The city manager was seen at the time "as America's most promising illustration of the need to separate management cleanly from policy interests in the interest of economy and efficiency" (p. 172). Yet, detailed empirical study at times turned up cases such as that of Jackson, Michigan: "The theory of the city manager plan has never been generally understood in Jackson. . . . Old political habits continued unchanged from one form of government to the other, making it impossible under either for the electorate to exercise much control over the policies of the administration."⁵

Price was already well-educated to perceive the importance of "old political habits" by study (begun as a Rhodes Scholar in the early 1930's) of the United Kingdom's unwritten parliamentary constitution.⁶ The central lesson derived from these early studies is that new written rules alone will never change "old political habits," and that the key to political reform is "to command a consensus between the major political parties . . . [that] would amount to an agreement on how the unwritten constitution of the United States should operate" (p. 128).

These and other earlier studies are incorporated by reference in the instant work, primarily by the device of prefacing each chapter's footnotes with "reminiscences of the personal experiences which were responsible . . . for the opinions and prejudices that show through any scholarly work" (p. 153). The result is two books bound in one cover — the first a scholarly discourse, the second, in essence, Price's (abbreviated) memoirs. The use of this device reveals not only the sort of authority ultimately relied upon in this book, but, in a sense, the sort of authority Price suggests ought ultimately to be relied upon by government itself. Thus, a central conclusion of the book is that decisions on "[t]he more important issues that arise at the higher levels of the governmental hierarchy . . . ought to be controlled in the end not by scientific data or predetermined rules but by moral and political judgment, guided in turn by a concern for the general welfare" (p. 143).

Readers may perhaps be satisfied by less rigorous documentation when their author's "moral and political judgment" seems sound. It is less clear that citizens in a democracy should be encouraged to defer in a comparable way to government officials by entrusting a select cadre of them with the "substance of policy" (p. 80). By analogy to the British civil service, however, Price proposes just such an institution:⁷ "a career service heading the major departments of a government, with lifetime commitments and a common outlook or education and at

5. H. STONE, D. PRICE & K. STONE, *CITY MANAGER GOVERNMENT IN JACKSON (MICHIGAN)* 48 (Pub. Admin. Serv. No. SP.13, 1939).

6. See Price, *The Parliamentary System*, 3 *PUB. AD. REV.* 317 (1943).

7. An especially formative experience with regard to this proposal was Price's service on former President Hoover's Commission on the Organization of the Executive Branch.

least partly beyond political control" (p. 76). By "common education," he means that these civil servants would be "generalists" as opposed to legal and scientific experts.⁸ Price's suggestions for creating this establishment within government include decreasing the number and type of congressional checks on agencies and programs, creating cabinet committees with genuine authority to formulate policy away from the media spotlight, decreasing the numbers of political appointees, and reducing staff size in Congress and the Executive Office of the President.

In Price's view, giving the executive more freedom to act is the best way to make government more accountable to the people. His new version of the unwritten constitution would call for a disciplined Congress, in which party leaders are able to deliver or withhold support and maintain a firm party line, to delegate to the president enough authority to carry out and coordinate the laws. A streamlined executive office, in turn, sets the overall goals of policy and delegates authority, through the cabinet, to a cadre of depoliticized professionals who independently work out and execute the government's programs. Accountability is assured both by the more direct causal link between voters and government action and by the more coherent manner in which the business of government is carried out: "In ideal terms, this is the more democratic and responsible arrangement since it focuses the attention of the electorate and Congress as a whole on the main general issues, which they are interested in and competent to decide, rather than on technical or procedural details, which they are not" (p. 141).

Thus, Price's direct answers to the difficult question he poses are quite striking. The "authoritative source of truth on which we should rely" in setting national policy is not religion (the *written* Constitution prevents this), not science (which the unwritten constitution has relegated to a role similar to that of religion), and not law (which is not a *source* of truth at all, but at best a codification of truths arrived at by other means). It may be objected that the "moral and political judgment" Price posits instead as the ultimate policymaking guide is not an "authoritative source of truth" either, but rather a name for the kind of comprehensive and disinterested review of goals and anticipated effects that ideally takes place before any government program is implemented. Nonetheless, Price argues that it is a failure to defer to expertise in this mode of analysis which has fostered, in recent years, a "partly scientific and partly legalistic" (p. 93) approach to lawmaking that precludes coherent and responsible government.

8. Nonetheless, it would probably not be unreasonable to envision this elite corps as people very much like Price's students at the Kennedy School of Government. In terms of existing governmental structures, the recently instituted Senior Executive Service is positioned to become such a corps, but would have to be expanded and modified significantly to meet Price's criteria.

Attempts to legislate scientific goals directly, without tempering the scientists' "abstract and specialized view of the truth" (p. 58) with a measured sense of priorities, results in programs that are liable to be partially or wholly counterproductive.⁹ At the same time, the legalistic tendency to curb abuse of power through extensive congressional oversight of agencies and programs splinters democratic responsibility in the legislature and removes accountability from the president and the departments.

The American voters' manifest preference for the genial generalist Ronald Reagan over both the scrupulous scientist Jimmy Carter and Washington lawyer Walter Mondale illustrates the timeliness, if not necessarily the accuracy, of Price's critique. The voters' acceptance of a president who seems to rely upon his own moral and political judgment in preference to detailed technical knowledge in his decisionmaking does not, however, indicate a willingness to permit an unelected bureaucracy similarly to set its own policy. On the contrary, at present there appears to be a durable consensus *against* the creation of a new and powerful entrenched establishment within the federal government. Price confronts this objection directly, acknowledging the existence of a deep-seated American "prejudice against establishments" and loathing for bureaucracy (p. 77). He goes even further, and sets up an analogy between our theological past, with its antiestablishment bias, and our scientific present, typified by a deep attachment to academic freedom. In this scheme, absolute, unyielding truths may motivate political action so long as religious and scientific institutions are not part of the government, nor so closely allied with government as to dictate results inconsistent with democracy and justice. Having ratified this American prejudice insofar as it extends to established religion and science,¹⁰ Price maintains that we should not carry our prejudice against establishments to the extreme of banishing policy-making expertise from government. Rather, we should see to it that there is an institution firmly implanted in the government which can preserve coherence, fairness, and continuity in the execution of the laws.

Once a viable solution is paired in the public's mind with a pressing need, a consensus that changes the unwritten constitution may well arise with surprising speed. While it may be easier to command a consensus upon some of Price's proposals than others, they are all worthy of consideration, and their presentation serves to make them appear neither more nor less significant than they actually are.

9. The original and detailed form of this argument may be found in D. PRICE, *GOVERNMENT AND SCIENCE: THEIR DYNAMIC RELATION IN AMERICAN DEMOCRACY* (1954); D. PRICE, *THE SCIENTIFIC ESTATE* (1965).

10. An example of established science is the Soviet Academy of Sciences, which, Price observes, "in its complete dependence on government authority and support and its dedication to a quasi-scientific ideology that justifies absolute authority, is rather like the old Russian Orthodox church in its relation to the czars." Pp. 11-12.

As a final point, it is perhaps also significant that Price's thought is characterized by a pervasive, unpolarized dualism: Though fond of thinking in two's, Price never thinks in opposites. As a youth, he was driven to inquire into the necessity of having two Methodist Episcopal churches in one small Virginia town, and was gratified to be told, "Why, of course, we have to have one church for the Republican Methodists and one for the Democrat Methodists" (p. 154). In a field whose broadest conceivable distinction seems to be that often elusive contrast between Republican and Democrat, this fascination with contemplating the profound differences between two things that are very much alike — mayors and city managers, British and American government, personal prejudice and scholarly predilection — is surely a valuable trait. Imagine his intellectual thrill when his Oxford tutor told him: "You American students never seem to understand. . . . Merton College has no rule against climbing into the college after midnight. It has a very strict rule against getting caught climbing into the college after midnight" (p. 159).