

Michigan Law Review

Volume 82 | Issue 4

1984

Legislature: California's School For Politics

Michigan Law Review

Follow this and additional works at: <https://repository.law.umich.edu/mlr>



Part of the [Legislation Commons](#), and the [State and Local Government Law Commons](#)

Recommended Citation

Michigan Law Review, *Legislature: California's School For Politics*, 82 MICH. L. REV. 1044 (1984).

Available at: <https://repository.law.umich.edu/mlr/vol82/iss4/51>

This Review is brought to you for free and open access by the Michigan Law Review at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Law Review by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.

LEGISLATURE: CALIFORNIA'S SCHOOL FOR POLITICS. By *William K. Muir, Jr.* Chicago and London: The University of Chicago Press. 1982. Pp. xiv, 219. \$19.

One might expect a book about a state legislature to be a muck-raking expose of one of America's worst political institutions. The study of state legislatures has, after all, traditionally been a course on political bosses, backroom dealings, and the financial influence of lobbyists.¹ Professor William Muir's² portrayal of the California legislature from 1975 through 1978³ provides a welcome relief from this negative stereotype. Professor Muir analogizes the legislature to a "school" where most members acquire what James Madison called the three competencies of democratic leadership: patriotism, love of justice, and wisdom (pp. 3-4).⁴ From 1975 to 1978, Muir contends,

1. See, e.g., W. MORRIS, NORTH TOWARD HOME 204-09 (1967).

2. William K. Muir, Jr. is Chairman of the Department of Political Science at the University of California, Berkeley. He is the author of PRAYER IN THE PUBLIC SCHOOLS: LAW AND ATTITUDE CHANGE (1967) and POLICE: STREET-CORNER POLITICIANS (1977).

3. Professor Muir served on two staff committees, business and welfare, during the 1975-76 Session of the California legislature. In 1977-78, he conducted interviews with twenty-eight legislators. The theme of the questions was, "As a legislator, how do you make the legislature intelligible to laymen?"

4. By patriotism, Madison meant an expanded sympathy for all of one's constituents; by love of justice, he implied a concern for fair play and adherence to procedures; and by wisdom, he referred to the kind of enlightened statecraft necessary to achieve enduring improvements in the general welfare. Pp. 3-4; see THE FEDERALIST NOS. 51, 53 & 63 (J. Cooke ed. 1961).

the California legislature was unusually successful in providing its "students" with an education.

Professor Muir identifies three ingredients that contributed to the quality of education during the 1975-76 "golden age" (p. 9) of the California legislature. The first ingredient was the dispersion of power. Two factors were mainly responsible for this decentralization. The first was the "author" system of shepherding bills through the legislative process. The author system allowed each legislator to maintain control of every bill he or she sponsored (p. 58). This system contrasts with that of the United States Congress, in which a committee takes control of a bill and marks it up. Control by committee fosters centralized decisionmaking, because when committees make changes without the author's concurrence, lobbyists tend to deal only with committee chairs (p. 58).⁵ The second decentralizing factor was the requirement of a roll call for every vote in committee. This requirement prevented committee chairs from arrogating excessive power to themselves by ignoring the actual votes of committee members and making unilateral decisions.

This dispersal power created a need for the dissemination of information to all members of the legislature. California's effective "system of support," the mechanism by which information was distributed abundantly and on a nonpartisan basis, was the second ingredient contributing to the high quality of education.⁶ Information flowed to legislators from nonpartisan staff and from lobbyists. The nonpartisan support staff operated from within three independent organizations: the Committees themselves; the Office of Legislative Analysis; and a research office that provided a "Third Reading Analysis." Committee staffs conducted the basic research pertaining to the bills in their respective committees. The Office of Legislative Analysis acted as the legislature's agent in overseeing the executive branch. This Office was also responsible for analyzing the Governor's proposed annual budget. The research office provided a "Third Reading Analysis," which gave each legislator a short description and discussion of every bill that reached the floor of the legislature. The legislators thus had access to a report on a bill prepared independently of the staff of the committee that had sent the bill to the floor. Lobbyists also were a valuable source of information. With their financial clout apparently curtailed by strict disclo-

5. The Author system — under which every bill would be entitled to a hearing — would not be feasible in the United States House of Representatives, which has 435 members. In contrast, the California State Assembly has only 80 members, and the State Senate has 40 Senators.

6. Although an efficient flow of high quality information may be necessary for the effective functioning of any legislature, one must view Muir's praise for the California system with a degree of caution. Muir himself was one of those engaged in the collection and dissemination of information. His observations while so employed form the basis for his book.

sure requirements of campaign and personal contributions to legislators, lobbyists could wield influence only by providing accurate information.

The third and final ingredient that contributed to the success of the California legislature was that it required its members to acquire specialized knowledge. Muir argues that the structure of California's system, rather than the desire for reelection, provided the incentive for legislators to obtain specialized knowledge. Although the time that the legislators spent acquiring knowledge in the state capital reduced the time available for essential reelection activities in their home districts, two features of California's system provided counter-incentives that favored the acquisition of knowledge. The first was the author system, which placed primary responsibility for a bill in the hands of its author. Only an author expert in the subject matter of his bill could defend it successfully. The second feature was the "Buddy System Rule." This "rule" required members to vote against a bill only on its merits and not for other reasons such as vote swapping or inertia. Thus, the burden of explaining a vote fell on the naysayers. To justify a negative vote, a legislator had to state his understanding of the bill and his reasons for voting no. Such a justification obviously required an understanding of the bill.

These incentives produced two benefits. First, they made the legislature a place where high-quality information was assimilated and disseminated. This information provided the foundation for innovative and successful policymaking. Second, the development of specialization facilitated effective oversight of the state bureaucracy.

Having set forth the three ingredients that made the California State Legislature particularly productive, Muir turns his attention to "the universal rules, the general principles about mankind and society, that governed the legislative systems so as to produce a superior education in political competency" (p. 101). Muir does not view competition between the two major parties as the primary process that made the legislature tick. The power of political parties and of patronage was relatively insignificant in the California legislature. Primary elections, instead of party leaders, determined a party's nominee for every elective office. Few jobs were filled by virtue of patronage, since civil service was the only route to all but the highest level political appointments (p. 117). Legislators from both parties obtained information from nonpartisan support staffs (p. 113).⁷

7. Although the presence of a nonpartisan support staff assures all legislators of access to information, the political parties are not irrelevant sources of knowledge. Since legislators in the same party often act as if they were teammates, each party develops its own specialists within the parameters of its philosophical viewpoints. P. 134. Thus, the presence of a Democratic specialist in one area does not prevent a young Republican member from developing a similar expertise. Additionally, the threat of resourceful partisan competition keeps the non-

In addition, the speaker could select as committee chairs legislators who were not members of the majority party (p. 150).

Muir argues that the legislature operates by the principle of reciprocity rather than inter-party competition. By "reciprocity," Muir means mutually-beneficial exchanges between two persons, which leave both persons better off as a result. Thus, reciprocity is a means by which Person A can influence Person B to do something of value for A that B would not otherwise do (p. 107). Reciprocity, unlike coercion and manipulation, can operate on a voluntary basis because both sides benefit from the exchange (p. 107).

Of course, for a system of reciprocity to work, individuals must have something of value to exchange with others. In the case of the California legislature, Muir suggests, that "something" was knowledge, the information that members had obtained as a result of specializing. Muir's description of the exchange of knowledge among legislators reminds the reader of the economist's classical market: here, one member bartered his knowledge about one problem in exchange for another member's knowledge about something else. Knowledge was both the currency of the legislature and the commodity that it traded.⁸ Members specialized so that they could acquire something that others both lacked and valued. "Monopolies" of knowledge in certain areas did not last, because the barriers to the acquisition of knowledge were low and alternative sources of information were readily available (p. 129). In short, the legislative system Muir describes had all of the trappings of an efficiently operating barter economy.

After showcasing the effectiveness of the California legislature and explaining the principles on which it ran, Muir evaluates a number of "reforms" advanced by various groups to improve the functioning of state legislatures (pp. 192-98). His reactions to these proposals and to some of his own proposals are the most provocative part of the book. Muir rejects increasing party discipline, limiting legislators' contacts with lobbyists, making legislative electoral districts more competitive, and more frequent elections as misguided. In the end, Muir stands firm in his support for a system similar to the one in which he participated during his stay in California.

Although Muir offers some provocative ideas on which reforms would work and which would not, the reader is left with some nag-

partisan support system energetic, balanced in its analyses, and as fair as humanly possible. P. 135.

8. Although knowledge is necessary for legislative reciprocity, the legislators' will to learn goes beyond the desire of each individual to influence another. Each California legislator is, by ambition and circumstance, a full-time politician. Job security is not among the many benefits of political life. Thus, the legislator must internalize the benefits of the legislative experience in order to carry his acquired knowledge on to the next stage of his public career. P. 116.

ging doubts. First, one suspects that Muir's enthusiasm at having been a staff member for two committees during the "golden years" of the California legislature may have biased his vision. Muir admits that by 1980, the state legislature seemed "shaky and fragile" (p. 11). Additionally, he notes that legislatures seem to run in cycles, from high points of effective operation to low points, from abuses to reform. These admissions lead one to wonder whether the system is the solution or whether forces external to the system propel the cycles. Second, Muir glosses over the question of the extent to which legislators are beholden to the groups with the most money. He seems to assume that disclosure requirements sufficiently limit the financial influence of lobbyists. Many would no doubt challenge this assumption.

Despite these flaws, Professor Muir has offered a ray of hope for effective state government. *Legislature* is an excellent book for the student of government and for those interested in legislative reform. Muir's study also has a broader appeal. *Legislature* is a public monument to the notion that good government is possible, even in the state legislature. The education of the public is critical if we are to be governed by the educated. The key to the success of the "golden age" of the California legislature was that it educated its members, tomorrow's leaders. A study of the conditions under which an institution fosters knowledge of effective government is a study of the circumstances under which democracy will remain a viable political system. Herein lies the value of *Legislature*.