

REVIEWS

THE PREDICAMENT OF DEMOCRATIC MAN. By Edmond Cahn. New York: The Macmillan Co., 1961. Pp. 194. \$3.95.

At a crucial point in his analysis, Edmond Cahn, echoing the words of the prophet Ezekiel, characterizes the role of the watchman. "The watchman is the citizen who decries an evil or a danger and does what he can to warn or admonish his fellow citizens so that they may overcome the evil or avert the danger." In a democratic society, the watchman has a special function: he must make the fullest rational use of every instance of demonstrated wrong and concrete injustice. Nothing could better epitomize the temper and method of Edmond Cahn. He has a genius for focusing on the most shocking and brutal consequences of "accepted" democratic legal procedures. Following in the prophetic tradition, he implores us to see clearly what our predicament really is and to face it with intelligence, courage and hope. "The new predicament of democratic man is his moral involvement in the misdeeds of government." If we are to come to grips with this situation, we must first understand its background.

Three major "drives" are singled out by Mr. Cahn to describe the "background" of this moral involvement. The first is the drive to discard what Cahn labels the "anthropomorphic notion of sovereignty." It is difficult to pin down Cahn's exact meaning, for throughout his essay he prefers to illustrate concretely what he intends rather than to define carefully his concepts. But the anthropomorphic fallacy which has infected the writings of political philosophers and is exploited by the demagogue is illustrated whenever we liken the state to a human figure or primitive tribe. As long as we are victims of this fallacy we will be unable to understand the moral dimensions of democratic citizenship. Discarding crude anthropomorphism is the first step in becoming politically mature and evolving a working philosophy for free men.

Once we have depersonalized the state and realize that it is "only an improvised arrangement charged with the performance of certain social functions and manned with certain more or less competent workers" who are basically no different from the rest of us, then we are at the threshold of developing a true democratic temper. Such a temper involves a "firm respect for oneself displayed as sort of a briny irreverence toward officials." This temper may be expressed only negatively, but when it becomes constructive, it impels men to look at government from a consumer perspective. Here we touch on the second major drive that Mr. Cahn uses to set the stage for our new predicament. Cahn sees the eventual triumph of democracy as the complete victory of the consumer perspective over the old imperial or official perspective. From the consumer perspective the fundamental issue is always how a particular institution, act or law affects individual human lives, while from the outworn imperial

perspective our main considerations are the order, dignity and tranquility of the state. The choice of perspective makes a decisive practical difference, and Cahn charges most lawyers, judges, politicians and businessmen with accepting the imperial or official perspective.

Just as ridding ourselves of the anthropomorphic fallacy leads to the development of a democratic temper which is expressed by the consumer perspective, so the consumer perspective leads us to a proper understanding of the relation between the Given and the Created. For if we are primarily concerned with the uniqueness of each human being, his needs and rights, then we can properly evaluate the role of historical events and documents—the Given. We must always respect the significant events and documents which are the very substance of our tradition. But we must always understand and evaluate them from the point of view of the present situation and the conceived future. One who has adopted the consumer perspective realizes that the inherited *given* is the very stuff out of which we create new *concrete* social values.

With this grasp of the background of our predicament, we can ask: What are the responsibilities of the democratic citizen? Or more incisively: What is the extent of our responsibility for the wrongful acts of officials? Our first task is to dissipate the vagueness of vicarious responsibility. When we do this we will know what precisely are our individual and collective responsibilities. Once again, using the method of concrete illustration, Cahn eloquently pleads that while we are not as electors automatically implicated in the guilt of official misconduct, we do have a collective responsibility to foster the processes of prevention, reparation, and protest. To the extent that we fail to encourage these processes, we are failing to assume our minimum collective responsibility. But we also have individual responsibilities and Cahn proposes a series of questions¹ which each citizen ought to ask and honestly answer to test his possible accessory guilt.

Having clarified the nature of our predicament and delimited the areas of collective and individual responsibility, there is still another major issue to be confronted: What are the incentives that make these responsibilities worth bearing? Cahn's ultimate purpose is not to show that our new condition is bearable but that it is uniquely desirable. The moral incentives, the basic ideals of a democratic society, cluster about two fundamental ideas, equality and quality. We can and must achieve not only equality of rights, but active equality where each man is actually treated and respected as a unique human being. Equality is not enough. What our time needs is a clearer vision of the democratic man as a man of quality—quality which is achieved through the virtues of judgment, honor and associability. The traditional watchman sees the problems

1. Did I incite the official to commit a wrong? Did I authorize the wrong? Was I reckless in helping to install a conspicuously dangerous public instrument? Did I remain silent or passive when I might have prevented a wrong about to be perpetrated? Did I ratify the act of wrong or knowingly accept its fruits? Did I suppress the truth when it came to my notice and thus become an accessory after the fact? Before the wrong was committed, had I contributed to the vulnerability of the victim?

of present and condemns existing evils, but he also has a vision of the possibilities and hopes of the future. So Cahn concludes his essay on a triumphant note, "I see a world where no nation is accounted strong except in justice, rich except in compassion, or secure except in freedom and peace."

No one can put down this book without being impressed with Cahn's acute sense of injustice and his passionate commitment to the workings and ideals of democratic society. At a time when many are hesitant or cynical, Cahn speaks with boldness. Nevertheless, the weaknesses of this study are intimately connected with its virtues. Cahn is essentially a moralist, a man who speaks with assurance about what is right and wrong, good and evil. Despite his insistence on the democratic belief in the fallibility of human intelligence, there is an absoluteness in his own pronouncements. The moralist cannot hesitate to analyze, qualify, and explore philosophical complexities, for his compelling force results from the direct simplicity in which he states basic issues. From such a point of view careful analysis is only logic chopping. But, if we take seriously Cahn's own description of the democratic temper, then it becomes our obligation to demand the credentials and justification for any and all presuppositions. It is here that I find Cahn's study seriously deficient. Cahn rarely argues; he declares or pronounces. For example, he emphatically tells us what is and what is not the domain of collective and individual responsibility, and he effectively illustrates what he means, but there is no sustained attempt to *justify* his claims. Before outlining his program for individual self-search, he dogmatically insists that "the sole available recourse is a sincere internal search predicated on the series of questions we are about to list." But why these particular questions? Why is this the "sole recourse"? These do not even seem to be problems for Cahn.

More seriously, Cahn does not bring his own presuppositions into the open arena of searching criticism. The precise relations of political, moral, and legal obligation, indeed, the very meanings of "moral," "responsibility," and "guilt," have been intensively explored and debated in past as well as contemporary writings. It would be presumptuous to expect an exhaustive treatment of these and related topics. But considering that Cahn's main thesis is that the modern predicament of democratic man is a *moral* one, it is unfortunate that he has very little to say about the nature and meaning of morality and responsibility.

There is another feature of this work that I find disturbing. Reducing basic issues to simple terms can have the advantages of power and clarity, but apparent clarity and precision may turn out to obscure and distort hidden complexities. Too frequently Cahn is guilty of this charge; rhetoric is substituted for cogent argument. We can illustrate this by returning to Cahn's discussion of the background of our predicament.

When Cahn criticizes the anthropomorphic fallacy (it is never clear why this is a *fallacy*), his main target is the vulgar type of "Uncle Sam" or "John Bull" image. But he explicitly claims that the writings of political philosophers are shot through with anthropomorphism and cites Aristotle's claim that the good for a state is the same as the good for a man as evidence of his anthro-

pomorphism. But there is absolutely no warrant for inferring from this claim that Aristotle's view of the state is anthropomorphic. When we recall that for Aristotle man is essentially a social animal, we realize that it is only in the life of the community that we can fully achieve the good life. It is the state or the political community which is the highest community and has as its purpose, or *telos*, the realization of the highest good. The fact that Aristotle thought of the political community primarily on the model of the Greek *polis* does not mean that he is guilty of anthropomorphism. Furthermore, it is certainly misleading to say, as Cahn does, that for Aristotle state decisions are evaluated "according to the same criteria" as individual decisions. If this were true, Aristotle would never have needed to write a *Politics* in addition to his *Ethics*. Perhaps it will be objected that this is only a pedantic cavil, so let us grant for a moment Cahn's contention that the trouble with most older views of the state results from their anthropomorphism. Nevertheless, the conclusion that he draws from this discussion simply does not follow. He claims that once we discard crude anthropomorphism then "anyone can see that the state is only an improvised arrangement charged with the performance of certain social functions. . . ." This may be good rhetoric but it is poor logic. Cahn writes as if the *only* alternative to anthropomorphism is the view of the state he suggests. But there are other alternatives; we may think of the state as a superstructure reflecting class interests or as function of the "power elite." I am not suggesting that these are necessarily better ways of understanding the state; my point is a *logical* one. Cahn does not seriously consider alternatives, but seems to condemn them in one fell swoop by labeling them "anthropomorphic."

I find the same type of distortion in the opposition between the "official" and the "consumer" perspective. Cahn calls for due process and fair play, but the very manner in which he characterizes this opposition prejudices the issue. The official perspective is "imperial": it is "old," "outworn," "callous." I certainly do not want to defend the official perspective (who would defend this caricature?), but I do want to suggest that this way of stating the opposition obscures rather than clarifies basic issues. It is a mistake to polarize the basic issue in American political thought as an opposition between those who favor the dignity, order and tranquility of the state, and those who are champions of the individual human being. The issue which emerges, and we can see this already in the Constitutional Debates,² is the one of reconciling authority and liberty, of deciding precisely the balance between the demands of stability of government and flexibility in meeting individual needs is best for the people.

One can just as easily caricature the so-called consumer perspective as one which, although it nominally acknowledges the sacredness of inherited documents, nevertheless undermines the Given by allowing any interpretation of

2. *Madison's Notes of Debates in the Federal Convention*, in *THE FEDERAL CONVENTION AND THE FORMATION OF THE UNION OF THE AMERICAN STATES* (Solberg ed. 1958). See Solberg's discussion of reconciling liberty and authority. *Id.* at lxxxix.

it that is judged desirable for immediate purposes. Government is then no longer really a government of law but a government of men. Both caricatures are distortions, and indicate the danger of extremes. The basic issue is not between two opposed perspectives which in the language of the moralist are depicted as the forces of light versus the forces of darkness. We must decide afresh in each concrete instance precisely what is the right compromise between maintaining past political and legal institutions, and adapting this fund of wisdom to new urgencies and social values. This way of putting the issue undercuts any simple opposition between an official and consumer perspective.

Though I have concentrated on a few main points, I believe that similar criticism can be raised concerning most of the central theses in this book. My purpose is not to belittle what Cahn has done, but to show how much more must be done if we are to take seriously his own defense of the democratic temper. Such a temper is most needed in the discussion of the fundamental issues of democracy.

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SOME NEWLY ESTABLISHED ASIAN STATES AND THE DEVELOPMENT OF INTERNATIONAL LAW. By J. J. G. Syatauw. The Hague; Martinus Nijhoff, 1961. PP. xii, 240, Index.

WITH the emergence and participation of so many Asian-African countries, international society has become, for the first time in history, a true world society. Though most of these states are weak and underdeveloped, their importance to the maintenance of public order in the present tension-ridden bipolarized world can hardly be exaggerated. The process of authoritative decision called international law, inherited by the contemporary world-wide community of states, of course owes its genesis and earlier growth to the interactions among the nations of Western Europe during the last four centuries. This process is, however, no "longer the almost exclusive preserve of the peoples of European blood, 'by whose consent it exists and for the settlement of whose differences it is applied or at least invoked.'"¹ The demands of other peoples must be taken into account.

What has been the attitude of these "new" oriental states towards this "supposedly established international law" which, as we know, was developed among the Western Christian countries during the period of their hegemony? Do they accept the present law or do they follow a path which deviates from the "established practice"? Do they reject it in toto, since they did not and could not play any part in its development, or is their resentment merely directed toward particular parts of the system which are reminiscent of a past colonial age?

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1. 1 YEARBOOK OF THE INTERNATIONAL LAW COMMISSION 158 (1957) (remarks of first Vice-Chairman Pal of India).