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To Run A Constitution: The Legitimacy Of The Administrative State



Synopsis

In 1887, the centennial year of the American Constitution, Woodrow Wilson wrote that "it is getting to be harder to run a constitution than to frame one." The context for Wilson's comment was an essay calling for sound principles of administration that would enable government officials to "run" a constitution well. Wilson and his fellow civil-service reformers had a profound influence on the development of American administrative institutions. Unfortunately, the reformers paid more attention to the exigencies of running a constitution than to the Constitution itself. They and their intellectual progeny developed a theory of administration that was at odds with the theory of the Constitution. As a result, we find ourselves living today in what we often call an "administrative state"—a state seemingly bereft of legitimating principles grounded in the political thought of the framers of the Constitution. In *To Run a Constitution*, John A. Rohr takes seriously two basic premises: de Tocqueville's belief that citizens are corrupted by obeying powers they believe to be illegitimate, and the view that, despite present political sentiment, the administrative state is here to stay. The book focuses on the important question of whether the administrative state, an abiding presence in American politics, can be justified in terms of the American constitutional tradition. In addressing this question, Rohr goes beyond considerations of case law to examine the principles of the Constitution both at its founding and in its subsequent development. Relying on the normative character of political "foundings," Rohr analyzes three significant founding periods: 1) the founding of the Republic, 1787-1795; 2) the founding of public administration, 1883-1899; and 3) the founding of the administrative state, 1933-1941. He judges the last two foundings by the first in developing his argument that the modern administrative state can be justified in terms of the kind of government the framers of the Constitution envisaged. On the eve of the bicentennial of the Constitution, Rohr's argument advances a new, normative theory of public administration that is intended to "support and defend the Constitution of the United States," in accordance with the oath of office taken by public administrators. It is critical reading for scholars in the fields of public administration, political science, and constitutional studies.

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Customer Reviews

John Rohr has put together a short yet insightful book about the origins and evolution of the administrative regulatory state in the United States. Beginning with the Federalist Papers and other writings of the Framers, working his way through the writings of Woodrow Wilson, Frank Goodnow, and Judge Cooley, and finally looking at works of New Dealers such as Kenneth Culp Davis, Rohr superbly traces the intellectual history of administration. Every senior and mid-level government employee ought to read it. The key theme of this book is legitimacy. Rohr believes (with reason) that while administrative agencies have been found "legal" by the courts, they are not in fact "legitimate" parts of the American constitutional tradition in the eyes of many citizens. This he blames for the most part on Wilson, Goodnow and other Progressive-Era founders of public administration as an academic discipline because of their preference for British Parliamentary rule over the Constitution. Rohr tries to come up with an alternative history of public administration, one that derives from the Framers themselves. I subtract 1 star because of an analytical flaw in the argument. In warming to his argument, Rohr characterizes Federal bureaucracy as fulfilling the promise of the Constitution because (1) it acts like the Senate in that it deliberates and develops expertise and (2) it acts like the House of Representatives in that, through its sheer size it is more broadly representative of the people than the House could ever be. I have been a federal employee for seven-odd years and I can tell you that the civil service is not a knightly caste or a senatorial order or a broadly representative swathe of "the People."

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