

Andrzej Burda, *Demokracja i praworządność* [Democracy and Rule of Law]., Wrocław-Warszawa-Kraków 1965, Ossolineum, 230 pages.

In history of the European civilization development through ages, ideas of democracy and rule of law have been shaped as advanced, humanistic political doctrines associating this civilization. Material premises for realizing democracy and rule of law was created by a system of people's power that abolished private property of production means giving a man particularly advantageous conditions of existence for himself and for a society as well. Political doctrine of socialism in contributing to further development of human mind, has adopted the postulate for democratic organizing a society and exercising a state power with the aid of law, and the content of law is to correspond to a present legal consciousness of a society or at least of its fundamental groups.

Professor Andrzej Burda taking the very assumptions as a starting point presents in his study the process by which ideas of democracy and rule of law have got into shape, focussing his attention on these periods in history and thinkers most significant in the process. The book comprises of four extensive chapters.

Chapter I, "Democracy and Rule of Law," is a point of departur for further argumentation. Of particular interest is here a genuine suggestion for determining a concept of rule of law. A. Burda accepts in principle the standpoint of those authors which as a necessary and most important element of this determination have taken exercise of a state power with the aid of law (and then respecting law by institutions exercising a state power). But he also considers the material aspect formulating the requirement of real community of fundamental principles of legal order and prevailing opinions in a society. In other words, rule of law is not said to reign when a state in its relations with the citizens strictly keeps to law, and it does reign not before the content of rules correspond to the consciousness of a society or its fundamental groups.

In the same chapter the author develops an interesting conception of integral association between the idea of democracy and rule of law. He emphasizes that autentically democratic organization of political power creates optimal conditions for formulating bylaws in accordance with the above mentioned postulate of rule of law in its material aspect.

Chapter II, "Evolution of the Idea of Democracy in the Ancient Greece," shows the genesis of democratic postulates on the lucidly pictured background of social and political turbulences parting the society of Greece. The broad humanistic erudition of

the author permitted him to show the elements with permanent importance taken out of the picture of high antiquity; these elements are of full usefulness in analysis of considerably later periods and mechanisms of political struggle (e.g. the model of a struggle between democracy and a self-constituted tyrant power). A. Burda carefully examines the Platon's system and remarks that inappreciation of democracy is here associated with non-perception of rule of law. In final interpretation and evaluation of Aristotle's views — he comes to the contrary conclusion, and says that in this case the postulate of rule of law is in close relation to recognition of moderate form of democracy.

Chapter III, "Doctrinal Bases of Bourgeois Rule of Law," gives the reinterpretation of concepts by Ch. Montesquieu and J. J. Rousseau again on the background of material conditions of societies existence at that time. As it appears, it will be of particular interest for a lawyer to get fresh look at the Montesquieu's conception of power distribution, regarded in Burda's opinion as an attempt to resolve the collision between state sovereignty and individual liberty by transferring the sovereignty to constraining one another state organs.

Discussing further the social idea of J. J. Rousseau the author gives longer consideration to the question of general will. He strongly emphasizes that it is not here the matter of empirical will, but the rational, hypothetical will that is determined by objectively existing concern of a community. And the postulate of obedience to law that expresses the so understood will of a society maintains its validity nowadays,

Chapter IV, "Rule of Law in the System of Socialist Democracy," includes problems that are just outlined and of necessity short-cut and are to be treated broadly in a next book by Andrzej Burda to appear.

Discussing the Marxist conception of socialist democracy the author shows the thread relating to the tradition of advanced political and social ideas. He also strongly emphasizes concrete evaluations and statements formulated by Karl Marx on the subject of democracy and indirectly on rule of law as well, and their dependance upon a given period in history.

Similarly A. Burda interprets the remarks and indications made on the subject by Lenin, and explains that their sense is justified by the conditions in which they were made. He comes to an end recapitulating that in a socialist state material guarantees of rule of law are of the main importance and their range determines in a final account a real significance of institutional guarantees.

A. Burda is a professor of state law. All his reasoning is marked by a characteristic approach of an expert in a structure of state authorities. That is to say an approach of a lawyer who, however, — besides a state mechanism — is also aware, as it is becoming to a profound humanist, of complex human feelings, human desires, and general need for individual liberty in a righteous society organized on democratic basis.

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