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Book Review: Matthew A. Pauley, *ATHENS, ROME, AND ENGLAND: AMERICA'S CONSTITUTIONAL HERITAGE* (2104)

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In the book “Athens, Rome, and England: America’s Constitutional Heritage” the author Matthew A. Pauley takes the reader on a journey through time to investigate what he describes as America’s sacred text and provides a survey of the Constitution’s development from ancient times to the times in which the actual document was written.¹ Pauley’s work is not a definitive exposition of the history of the United States Constitution. Rather, he weaves the timeline of its evolution into a tapestry, woven for the purpose of inciting an insatiable curiosity in the constitutional neophyte, with strong enough threads to pique the interest of the less casual student of the Constitution and its history. Pauley is the director of legal studies and associate professor and chair of political science and legal studies at Manhattanville College.² A graduate of Williams College, received his JD with Honors from the Harvard Law School and his MA and PhD in government from Harvard University. He is an active teacher of courses such as Criminal Procedure, Constitutional Law, Introduction to Common Law and Civil Liberties and the author of two other books *The President’s Constitutional Oath* and *Criminal Law: Its Nature and Sources*.³

The author prepares the framework for the text by describing what he will be considering as significant ancient constitutions regardless of whether they existed as a single document or multiple documents. He determined for the purposes of this book to consider the ancient Athenian experience, the ancient Roman law, and multiple English documents and events as the

¹ Matthew A. Pauley, *ATHENS, ROME, AND ENGLAND: AMERICA’S CONSTITUTIONAL HERITAGE* xiv (2014).

² Matthew A. Pauley Profile, MANHATTANVILLE COLLEGE, <http://www.mville.edu/profile/matthew-pauley> (last visited June 11, 2015).

³ *Id.*

precursors of the American Constitution.⁴ Pauley introduces the idea that America has had a series of constitutions and a series of types of government that evolved just as the ancient constitutions evolved over time. The overarching concept of the evolving constitutional tapestry is an examination of the underlying laws that resulted from and were the results of the various trends in constitutions and governments. It is the thread of these evolving constitutions through time and through the geopolitics of the times that occupies the audience's full attention throughout the text.⁵

The author's main thesis is that the American Constitution, contrary to what most people may understand, did not just spring into a fully formed formal document, rather it is the result of ideas that have emerged and evolved over the centuries with roots in the ancient texts and even the common laws of previous governments.⁶ The purpose of the book is to uncover and explain the roots of the U.S. Constitution through a survey of those roots in Athens, Rome, and England. Pauley presents the Constitution, not as a single document, but as the "whole system of representative democracy, our court structure, our traditions of civil and criminal, public and private, law. It includes the basic ideas about representation, freedom, and equality, which are central to our constitutional experience."⁷

Threads from the past come to the surface in the American Constitution. Pauley demonstrates the influence of ancient Athenian democracy by: a) describing Athenian democracy as a model

⁴ Matthew A. Pauley, *ATHENS, ROME, AND ENGLAND: AMERICA'S CONSTITUTIONAL HERITAGE* xiv (2014).

⁵ *Id.* at xvii

⁶ *Id.* at xxi

⁷ *Id.* at xiv

for American Democratic development,⁸ b) contrasting Athenian law to American Democratic development, and⁹ c) illustrating the influence of three Greek philosophers on our constitutional system.¹⁰ Pauley demonstrates the influence of ancient Roman law by: a) depicting Roman law as a precursor to U.S. civil law from a parallel republic from ancient times,¹¹ a) showing the common grammar of legal thought between the two civilizations,¹² c) describing Roman law as a common mass of legal rules¹³ i.e. civil law, and d) portraying the idea of natural law with a genesis in Roman thought as cast by Cicero.¹⁴

The English Constitution and English Common Law gave the American system of government the common law,¹⁵ and the representative form of government.¹⁶ The Magna Carta, Pauley insists, re-establishes the concept and central tenet of the Constitution that even the King is under the law and “is bound by the law” i.e. the supremacy of law.¹⁷ This sovereignty of the law is woven throughout the Declaration of Independence and the Constitution as one of the strongest threads in the entire tapestry. In a fascinating chapter on England’s Seventeenth century

⁸ *Id.* at 11

⁹ *Id.* at 11

¹⁰ *Id.* at 23

¹¹ *Id.* at 43

¹² *Id.* at 43

¹³ *Id.* at 43

¹⁴ *Id.* at 48

¹⁵ *Id.* at 85

¹⁶ *Id.* at 48

¹⁷ *Id.* at 114, at 148

constitutional crises Pauley weaves into a history lesson the emergence of America's "balance of legislative, executive, and judicial powers"¹⁸ that are shaped by the power struggles of this century. Indeed, the author asserts that this century's events generated the ideas of "judicial review and equality before the law"¹⁹ which though ultimately rejected by England had and still do have a "huge impact on American constitutional development."²⁰

Pauley finishes the tapestry with a chapter on the American Constitution itself, a document he proclaims as "important, sacred, and supreme."²¹ He contends there are several reasons for the reverence he ascribes to the document; "it is a document of profoundly democratic origin"²², and "it is the embodiment of an essential and unchanging justice,"²³ thus we also should hold it in the highest esteem.

The writing style of the author, though academic in nature, and appropriate for his student audience, is like having a docent by your side as the weaving takes shape. The research is thorough and reliable, with fully documented and appropriate academic resources, and contains an index for ready referencing. The organization is outstanding, easily followed, though the necessary compression of English history is a bit disorienting at times. The book provides an excellent background study as a survey of constitutional history from ancient times to the current context. The book is also useful when read as a supplementary history of law text, since it traces

¹⁸ *Id.* at 156

¹⁹ *Id.* at 157

²⁰ *Id.* at 157

²¹ *Id.* at 183

²² *Id.* at 183

²³ *Id.* at 184

the evolution of common law, statutory law, references canonical law and other legal concepts (judicial review and equality before the law)²⁴ although not in explicit detail.

As a weaver manipulates a variety of threads, Pauley uses threads from varied cultures, political persuasions, events, and ages, to weave the tapestry of thoughts, ideas, and concepts into a coherent whole. Some concepts thickly developed and some thinly developed, some threads of thought strong and some delicate, but all unite in a culminating depiction of the American Constitution and its emergence over the centuries. Pauley concludes “we stand today as heirs of the great constitutional legacies of the ancient Greeks and Romans and the English.”²⁵ Perhaps with some imagination we might be persuaded by Pauley to see threaded into the text of the Constitution an image of the Coat of Arms of the United States with its culminating message – E pluribus unum, “*out of many, one*”.

²⁴ *Id.* at 157

²⁵ *Id.* at 202-203